
A BILL FOR AN ACT

RELATING TO OFFENSES AGAINST PUBLIC HEALTH AND MORALS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that it has made
2 concerted efforts since the 2010s to reduce and combat sex
3 trafficking in the State and protect those victimized by
4 prostitution. One of these efforts was amending sections 712-
5 1202 and 712-1203, Hawaii Revised Statutes, to specifically
6 target those who benefit the most from prostitution, such as sex
7 traffickers and pimps.

8 The legislature finds that the Hawaii supreme court
9 decision in *State v. Ibarra*, 153 Hawai'i 50, 526 P.3d 575 (Haw.
10 2023), indicated a need for the sex trafficking and promoting
11 prostitution criminal offense statutes to be further clarified.

12 Accordingly, the purpose of this Act is to clarify the sex
13 trafficking and promoting prostitution criminal offense statutes
14 by:

15 (1) Clarifying the definition of "profits from
16 prostitution";



- 1 (2) Inserting the definitions of "advances prostitution"
- 2 and "profits from prostitution" into the statutes
- 3 establishing the substantive offenses; and
- 4 (3) Repealing section 712-1201, Hawaii Revised Statutes,
- 5 which is no longer needed after inserting its
- 6 definitions and exclusions directly into the
- 7 underlying substantive offenses.

8 SECTION 2. Section 712-1202, Hawaii Revised Statutes, is
 9 amended to read as follows:

10 **"§712-1202 Sex trafficking.** (1) A person commits the
 11 offense of sex trafficking if the person knowingly:

- 12 (a) Advances prostitution by, or profits from prostitution
- 13 that is the result of another person, compelling or
- 14 inducing a person by force, threat, fraud, coercion,
- 15 or intimidation to engage in prostitution [~~, or profits~~
- 16 ~~from such conduct by another~~]; or
- 17 (b) Advances prostitution or profits from prostitution of
- 18 a minor.

19 (2) Sex trafficking [~~is~~] shall be a class A felony.

20 (3) As used in this section:



1 "Advances prostitution" means that the person knowingly
2 causes or aids another person to commit or engage in
3 prostitution, procures or solicits patrons for prostitution,
4 provides persons for prostitution purposes, permits premises to
5 be regularly used for prostitution purposes, operates or assists
6 in the operation of a house of prostitution or a prostitution
7 enterprise, or engages in any other conduct designed to
8 institute, aid, or facilitate an act or enterprise of
9 prostitution.

10 "Fraud" means making material false statements,
11 misstatements, or omissions.

12 "Minor" means a person who is less than eighteen years of
13 age.

14 "Profits from prostitution" means that the person knowingly
15 accepts or receives money, anything of value, or other property
16 pursuant to an agreement or understanding with a third party
17 whereby the third party participates or is to participate in the
18 proceeds of prostitution activity, regardless of whether the
19 money, thing of value, or other property received is in excess
20 of expenditures related to the agreement or understanding or is
21 for reimbursement or repayment of debt.



1 "Threat" means any of the actions listed in section 707-
2 764(1)..

3 (4) The state of mind requirement for the offense under
4 subsection (1)(b) is not applicable to the fact that the victim
5 was a minor. A person is strictly liable with respect to the
6 attendant circumstances that the victim was a minor.

7 (5) No person shall be convicted under this section if the
8 conduct of the person underlying the offense consists
9 exclusively of the person's own acts of:

10 (a) Prostitution as a prostituted person as provided in
11 section 712-1200; or

12 (b) Commercial sexual exploitation as provided in section
13 712-1200.5."

14 SECTION 3. Section 712-1203, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§712-1203 Promoting prostitution.** (1) A person commits
17 the offense of promoting prostitution if the person knowingly
18 advances prostitution or profits from prostitution.

19 (2) Promoting prostitution [~~is~~] shall be a class B felony.

20 (3) As used in this section:



1 "Advances prostitution" means that the person knowingly
2 causes or aids another person to commit or engage in
3 prostitution, procures or solicits patrons for prostitution,
4 provides persons for prostitution purposes, permits premises to
5 be regularly used for prostitution purposes, operates or assists
6 in the operation of a house of prostitution or a prostitution
7 enterprise, or engages in any other conduct designed to
8 institute, aid, or facilitate an act or enterprise of
9 prostitution.

10 "Profits from prostitution" means that the person knowingly
11 accepts or receives money, anything of value, or other property
12 pursuant to an agreement or understanding with a third party
13 whereby the third party participates or is to participate in the
14 proceeds of prostitution activity, regardless of whether the
15 money, thing of value, or other property received is in excess
16 of expenditures related to the agreement or understanding or is
17 for reimbursement or repayment of debt.

18 (4) No person shall be convicted under this section if the
19 conduct of the person underlying the offense consists
20 exclusively of the person's own acts of:



1 [which] that fronts on any of the aforesaid places, or a motor
2 vehicle in or on any such place."

3 2. By amending subsection (3) to read:

4 "(3) Any person who remains or wanders about in a public
5 place and repeatedly beckons to, or repeatedly stops, or
6 repeatedly attempts to engage passers-by in conversation, or
7 repeatedly stops or attempts to stop motor vehicles, or
8 repeatedly interferes with the free passage of other persons for
9 the purpose of committing the crime of advancing prostitution
10 [~~as that term is defined in section 712-1201(1) is~~] shall be
11 guilty of a petty misdemeanor."

12 SECTION 5. Section 712-1201, Hawaii Revised Statutes, is
13 repealed.

14 [~~"§712-1201 Advancing prostitution; profiting from~~
15 ~~prostitution; definition of terms. In sections 712-1202 and~~
16 ~~712-1203:~~

17 (1) ~~A person "advances prostitution" if the person~~
18 ~~knowingly causes or aids a person to commit or engage~~
19 ~~in prostitution, procures or solicits patrons for~~
20 ~~prostitution, provides persons for prostitution~~
21 ~~purposes, permits premises to be regularly used for~~



1 ~~prostitution purposes, operates or assists in the~~
2 ~~operation of a house of prostitution or a prostitution~~
3 ~~enterprise, or engages in any other conduct designed~~
4 ~~to institute, aid, or facilitate an act or enterprise~~
5 ~~of prostitution.~~

6 ~~(2) A person "profits from prostitution" if the person~~
7 ~~accepts or receives money, anything of value, or other~~
8 ~~property pursuant to an agreement or understanding~~
9 ~~with any person whereby the person participates or is~~
10 ~~to participate in the proceeds of prostitution~~
11 ~~activity; and~~

12 ~~(3) The definitions in subsections (1) and (2) shall not~~
13 ~~include those engaged in conduct outlined in section~~
14 ~~712-1200 as the prostituted person or section 712-~~
15 ~~1200.5 as the person engaged in commercial sexual~~
16 ~~exploitation."]~~

17 SECTION 6. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 7. This Act shall take effect on July 1, 3000.



Report Title:

Penal Code; Offenses Against Public Health and Morals; Sex Trafficking; Promoting Prostitution

Description:

Clarifies the definition of "profits from prostitution" to include money or property received regardless of expenditures or if it was a reimbursement or repayment of a debt. Amends the sex trafficking and promoting prostitution criminal offense statutes by inserting relevant definitions in those statutes and repealing a statute that is no longer needed. Effective 7/1/3000. (HD1)

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