

JAN 19 2024

A BILL FOR AN ACT

RELATING TO SEX TRAFFICKING.

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

1 SECTION 1. The legislature finds that sex trafficking is a
2 form of modern-day slavery. According to a 2018 report
3 published by Arizona State University and the Hawaii state
4 commission on the status of women, it is estimated that one of
5 every eleven adult male residents of Hawaii are online sex
6 shoppers. The report also estimated that there were 74,362
7 potential sex buyers in Hawaii. Moreover, Imua Alliance, a
8 victim service provider for survivors of sex trafficking and
9 sexual violence, estimates that one hundred fifty establishments
10 participate in the commercial sex trade in the State, increasing
11 the high risk for sex trafficking. During the COVID-19
12 pandemic, a service provider for sex trafficking victims in
13 Hawaii reported seeing a three hundred per cent increase in
14 demand for services.

15 The legislature additionally finds that Native Hawaiians
16 and Pacific Islanders are disproportionately overrepresented in
17 the State's sex trafficking survivor population. In a survey



1 conducted by the Hawaii state commission on the status of women
2 and Arizona State University, sixty-four per cent of individuals
3 identified as victims of sexual exploitation possessed at least
4 partial Native Hawaiian ancestry. According to the report,
5 "[t]he overutilization of Native Hawaiians to meet sex buyer
6 demand may be directly linked to structural economic coercion
7 and vulnerabilities connected to land dispossession, exposure to
8 sexual violence, hypersexualization, incarceration, cultural
9 dislocation, intergenerational trauma, mental and emotional
10 distress, racism, poverty, and ongoing inequities."

11 Accordingly, the purpose of this Act is to support
12 survivors of sex trafficking by authorizing civil claims to be
13 made against a business, owner, or operator of a transient
14 accommodation, or other commercial entity that profits from
15 sexual exploitation.

16 SECTION 2. Chapter 663J, Hawaii Revised Statutes, is
17 amended by amending its title to read as follows:

18 "[+]CHAPTER 663J[+]
19 LIABILITY FOR COERCION INTO [PROSTITUTION] SEX TRAFFICKING AND
20 SEXUAL EXPLOITATION"



1 SECTION 3. Section 663J-1, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§663J-1 Title.** This chapter may be cited as the Sex
4 Trafficking and [~~Prostitution~~] Sexual Exploitation Coercion
5 Liability Act."

6 SECTION 4. Section 663J-2, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"§663J-2 Definitions.** As used in this chapter:

9 "Coerce" means to use or threaten to use any form of
10 domination, restraint, or control for the purpose of causing an
11 individual to engage in or remain in [~~prostitution~~] sexual
12 exploitation or to relinquish earnings derived from
13 [~~prostitution.~~] sexual exploitation. Coercion exists if the
14 totality of the circumstances establish the existence of
15 domination, restraint, or control that would have the reasonably
16 foreseeable effect of causing an individual to engage in or
17 remain in [~~prostitution~~] sexual exploitation or to relinquish
18 earnings derived from [~~prostitution.~~] sexual exploitation.

19 [~~"Promoting prostitution" means promoting prostitution as~~
20 ~~provided in section 712-1203.~~



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1 ~~"Prostitution" has the same meaning as provided in section~~
2 ~~712-1200.]~~

3 ~~"Sex trafficking" [has the same meaning as provided in]~~
4 means any act included under section 712-1202[-] or 712-1203.

5 "Sexual exploitation" has the same meaning as
6 "prostitution" as that term is defined in section 712-1200."

7 SECTION 5. Section 663J-3, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§663J-3 Cause of action for coercion into [prostitution]**

10 **sexual exploitation or sex trafficking.** An individual has a
11 cause of action against a person, business, owner, or operator
12 of a transient accommodation, or other commercial entity who:

13 (1) Coerced the individual into [~~prostitution~~] sexual
14 exploitation or to remain in [~~prostitution,~~] sexual
15 exploitation, or subjected the individual to sex
16 trafficking;

17 (2) Used coercion to collect or receive any of the
18 individual's earnings derived from [~~prostitution~~]
19 sexual exploitation or from being the subject of sex
20 trafficking; [~~or~~]



- 1 (3) Hired, or attempted to hire the individual to engage
- 2 in [~~prostitution,~~] sexual exploitation, when a
- 3 reasonable person would believe that the individual
- 4 was coerced into [~~prostitution~~] sexual exploitation by
- 5 another person or was being subjected to sex
- 6 trafficking[~~+~~]; or
- 7 (4) Profits from the coercion of the individual into
- 8 sexual exploitation or subjection of the individual to
- 9 sex into sex trafficking."

10 SECTION 6. Section 663J-4, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "~~{}~~**S663J-4**~~{}~~ **Evidence.** Acts that may serve as evidence
13 in support of a claim under section 663J-3 include but are not
14 limited to:

- 15 (1) Physical force or threats of physical force;
- 16 (2) Physical or mental torture;
- 17 (3) Leading an individual to believe that the individual
- 18 will be protected from violence or arrest;
- 19 (4) Kidnapping;
- 20 (5) Blackmail;
- 21 (6) Extortion;



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- 1 (7) Threat of criminal prosecution for any violation of
- 2 the law;
- 3 (8) Threat of interference with parental rights;
- 4 (9) Restriction or interference with speech or
- 5 communication with others;
- 6 (10) Isolation;
- 7 (11) Exploitation of pornographic performance;
- 8 (12) Interference with opportunities for education;
- 9 (13) Destroying property of the individual;
- 10 (14) Restriction of movement; [~~or~~]
- 11 (15) In the case of a person coerced while a minor:
- 12 (A) Exploiting needs for food, shelter, safety,
- 13 affection, or intimate relationship;
- 14 (B) Exploiting a condition of developmental
- 15 disability, cognitive limitation, affective
- 16 disorder, or substance dependency;
- 17 (C) Promise of legal benefit, such as posting bail,
- 18 procuring an attorney, protecting from arrest, or
- 19 promising unionization;
- 20 (D) Promise of financial rewards; or



1 (E) Defining the terms of an individual's employment
2 or working conditions in a manner that is likely
3 to lead to the individual's use in
4 [~~prostitution.~~] sexual exploitation; or
5 (16) Neglecting notification or other indications that an
6 individual is being coerced into sexual exploitation
7 or sex trafficking on premises controlled by another
8 person, business, owner, or operator of a transient
9 accommodation, or other commercial entity."

10 SECTION 7. Section 663J-5, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§663J-5 Damages.** An individual entitled to bring an
13 action under section 663J-3 may recover all of the following
14 damages:

- 15 (1) Economic damages proximately caused by coercion into
16 [~~prostitution~~] sexual exploitation or being the
17 subject of sex trafficking;
- 18 (2) Noneconomic damages proximately caused by coercion
19 into [~~prostitution~~] sexual exploitation or being the
20 subject of sex trafficking;
- 21 (3) Exemplary damages;



- 1 (4) Punitive damages;
- 2 [~~(4)~~] (5) Reasonable attorney's fees; and
- 3 [~~(5)~~] (6) Costs of suit, including reasonable expenses for
- 4 expert testimony."

5 SECTION 8. Section 663J-6, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) In the discretion of the court, two or more
8 individuals may join in one action under this chapter as
9 plaintiffs if their respective actions involve a person,
10 business, owner, or operator of a transient accommodation, or
11 other commercial entity who [~~engages in promoting prostitution~~
12 ~~by coercion or subjecting~~] subjects or profits from the
13 subjection of the individuals to sexual exploitation or sex
14 trafficking."

15 SECTION 9. Section 663J-7, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§663J-7 Statute of limitations.** [~~(a)~~] A claim under
18 this chapter may [~~not~~] be brought against a person [~~more than~~
19 ~~six years after an act of promoting prostitution by coercion or~~
20 ~~sex trafficking by that person.~~], business, owner, or operator



1 of a transient accommodation, or other commercial entity at any
2 time.

3 ~~[(b) The limitation period provided for in this chapter is~~
4 ~~tolled:~~

5 ~~(1) During the minority of the individual who engages in~~
6 ~~prostitution; or~~

7 ~~(2) Any time there is a criminal offense investigation~~
8 ~~being actively conducted against the defendant by a~~
9 ~~governmental agency or there is a criminal offense~~
10 ~~charge, information, or indictment pending against the~~
11 ~~defendant.]"~~

12 SECTION 10. Section 663J-8, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§663J-8 Stay of action.** On motion by a governmental
15 agency involved in an investigation or prosecution for
16 ~~[promoting prostitution]~~ sexual exploitation or sex trafficking,
17 an action brought under this chapter shall be stayed until the
18 completion of the criminal investigation or prosecution that
19 gave rise to the motion for a stay of the action."

20 SECTION 11. Section 663J-9, Hawaii Revised Statutes, is
21 amended to read as follows:



1 **"§663J-9 Other remedies preserved.** The remedies provided
2 under this chapter do not restrict the right of any individual
3 to bring an action under other law, including common law, to
4 recover damages arising out of the use of the individual in
5 [~~prostitution,~~] sexual exploitation, or subjecting the
6 individual to sex trafficking, or the coercion incident to the
7 individual being used in [~~prostitution~~] sexual exploitation or
8 sex trafficking; nor does this chapter limit or restrict the
9 liability of any person, business, owner, or operator of a
10 transient accommodation, or other commercial entity under other
11 law."

12 SECTION 12. This Act does not affect rights and duties
13 that matured, penalties that were incurred, and proceedings that
14 were begun before its effective date.

15 SECTION 13. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 14. This Act shall take effect upon its approval.

18

INTRODUCED BY: _____



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Report Title:

Prostitution; Sexual Exploitation; Sex Trafficking; Civil Claims

Description:

Authorizes civil claims to be made against a business, owner, or operator of a transient accommodation, or other commercial entity that profits from sexual exploitation.

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