
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, one out of every eleven adult
5 male residents of Hawaii are online sex shoppers. The report
6 also estimated that there were 74,362 potential sex buyers in
7 Hawaii. Moreover, Imua Alliance, a victim service provider for
8 survivors of sex trafficking and sexual violence, estimates that
9 one hundred fifty establishments participate in the commercial
10 sex trade in the State, increasing the high risk for sex
11 trafficking. During the coronavirus disease 2019 pandemic, a
12 service provider for sex trafficking victims in Hawaii reported
13 seeing a three hundred per cent increase in demand for services.

14 The legislature additionally finds that Native Hawaiians
15 and Pacific Islanders are disproportionately overrepresented in
16 the State's sex trafficking survivor population. In a survey
17 conducted by the Hawaii state commission on the status of women



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

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

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

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

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



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

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

6 "**§663J-2 Definitions.** As used in this chapter:

7 "Business" includes a transient accommodation or other
8 commercial activity.

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.~~



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 offense is described in section 712-
7 1200."

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

10 "**§663J-3 Cause of action for coercion into [~~prostitution~~**
11 **sexual exploitation or sex trafficking**. An individual [~~has~~]
12 shall have a cause of action against a person, a business, an
13 owner of a business, or an operator of a business who:

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

18 (2) Used coercion to collect or receive any of the
19 individual's earnings derived from [~~prostitution~~]
20 sexual exploitation or from being the subject of sex
21 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) Profited from the coercion of the individual into
 8 sexual exploitation or subjection of the individual to
 9 sex trafficking."

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

12 "~~+~~**§663J-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;



- 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) Disregarding notification or other indications that an
6 individual is being coerced into sexual exploitation
7 or sex trafficking on premises controlled by the
8 person, the business, an owner of the business, or an
9 operator of the business."

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) Reasonable attorney's fees; and
2 (5) Costs of suit, including reasonable expenses for
3 expert testimony."

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

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

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

15 "**§663J-7 Statute of limitations.** (a) A claim under this
16 chapter [~~may~~] shall not be brought against a person, a business,
17 an owner of a business, or an operator of a business more than
18 [~~six~~] ten years after an act of [~~promoting prostitution by~~]
19 coercion into sexual exploitation or an act of sex trafficking
20 by that person.



1 (b) The limitation period provided for in this chapter
2 [~~is~~] shall be tolled:

3 (1) During the minority of the individual who engages in
4 [~~prostitution;~~] sexual exploitation; or

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

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

12 "**§663J-8 Stay of action.** On motion by a governmental
13 agency involved in an investigation or prosecution for
14 [~~promoting prostitution~~] sexual exploitation or sex trafficking,
15 an action brought under this chapter shall be stayed until the
16 completion of the criminal investigation or prosecution that
17 gave rise to the motion for a stay of the action."

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

20 "**§663J-9 Other remedies preserved.** The remedies provided
21 under this chapter [~~do~~] shall not restrict the right of any



1 individual to bring an action under any other law, including
2 common law, to recover damages arising out of the use of the
3 individual in [~~prostitution,~~] sexual exploitation, or subjecting
4 the individual to sex trafficking, or the coercion incident to
5 the individual being used in [~~prostitution~~] sexual exploitation
6 or sex trafficking; nor [~~does~~] shall this chapter limit or
7 restrict the liability of any person, business, owner of a
8 business, or operator of a business under any other law."

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

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

14 SECTION 14. This Act shall take effect on July 1, 3000.



Report Title:

Prostitution; Sexual Exploitation; Sex Trafficking; Civil Claims

Description:

Authorizes civil claims to be made against a business, owner of a business, or operator of a business that profits from sexual exploitation. Effective 7/1/3000. (HD1)

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