

JAN 23 2025

A BILL FOR AN ACT

RELATING TO CRIME.

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

SECTION 1. Chapter 706, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§706- Term of imprisonment for sex trafficking.
Notwithstanding section 706-659 and any other law to the contrary, a person who is convicted of sex trafficking under section 712-1202 shall be sentenced to a definite term of imprisonment not exceeding twenty years, to be determined by the court, without the possibility of suspension of sentence, probation, or parole."

SECTION 2. Section 712-1200, Hawaii Revised Statutes, is amended by amending subsection (3) to read as follows:

"(3) Prostitution is a petty misdemeanor; provided that if the person who commits the offense under subsection (1) is a minor, prostitution is a violation~~[-]~~; provided further that if the person who commits the offense under subsection (1) reports to a law enforcement officer that the person has been trafficked



under section 712-1202, the person shall not be subject to any criminal liability under this section."

SECTION 3. Section 712-1202, Hawaii Revised Statutes, is amended to read as follows:

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

(a) Advances prostitution by compelling or inducing a person by force, threat, fraud, coercion, or intimidation to engage in prostitution, or profits from such conduct by another; or

(b) Advances prostitution or profits from prostitution of a minor.

(2) Sex trafficking is a class A felony~~(-)~~; provided that a person convicted under this section shall be sentenced to:

(a) Imprisonment, in accordance with section 706- ; and

(b) Payment of a fine of no less than \$200,000 but no more than \$500,000, pursuant to section 706-640; provided further that the fine proceeds shall be credited to the general fund.

~~[(3) As used in this section:~~



1 ~~"Fraud" means making material false statements,~~
2 ~~misstatements, or omissions.~~

3 ~~"Minor" means a person who is less than eighteen years of~~
4 ~~age.~~

5 ~~"Threat" means any of the actions listed in section~~
6 ~~707-764(1).]~~

7 (3) Consent to sexual conduct shall not constitute a
8 defense to prosecution for any offense described in this
9 section.

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

14 (5) A person who reports to a law enforcement officer that
15 the person has been trafficked under this section shall not be
16 subject to any criminal liability under this section.

17 (6) As used in this section:

18 "Fraud" means making material false statements,
19 misstatements, or omissions.

20 "Minor" means a person who is less than eighteen years of
21 age.



1 "Sexual conduct" has the same meaning as in section
2 712-1200(2).

3 "Threat" means any of the actions listed in section
4 707-764(1)."

5 SECTION 4. Section 712-1207, Hawaii Revised Statutes, is
6 amended to read as follows:

7 **"§712-1207 Street prostitution and commercial sexual**
8 **exploitation; designated areas.** (1) It shall be unlawful for
9 any person within the boundaries of Waikiki and while on any
10 public property to:

11 (a) Offer or agree to engage in sexual conduct with
12 another person in return for a fee or anything of
13 value; or

14 (b) Provide, agree to provide, or offer to provide a fee
15 or anything of value to another person to engage in
16 sexual conduct.

17 (2) It shall be unlawful for any person within the
18 boundaries of other areas in this State designated by county
19 ordinance pursuant to subsection (3), and while on any public
20 property to:



1 (a) Offer or agree to engage in sexual conduct with
2 another person in return for a fee or anything of
3 value; or
4 (b) Provide, agree to provide, or offer to provide a fee
5 or anything of value to another person to engage in
6 sexual conduct.
7 (3) Upon a recommendation of the chief of police of a
8 county, that county may enact an ordinance that:
9 (a) Designates areas, each no larger than three square
10 miles, as zones of significant prostitution-related
11 activity that is detrimental to the health, safety, or
12 welfare of the general public; or
13 (b) Alters the boundaries of any existing area under
14 paragraph (a);
15 provided that not more than four areas may be designated within
16 the State.
17 (4) Notwithstanding any law to the contrary, any person
18 violating this section shall be guilty of a petty misdemeanor
19 and shall be sentenced to a mandatory term of thirty days
20 imprisonment[-]; provided that if the person who commits the
21 offense under subsection (1)(a) is a minor, street prostitution



1 is a violation. The term of imprisonment shall be imposed
2 immediately, regardless of whether the defendant appeals the
3 conviction, except as provided in subsection (5).

4 (5) As an option to the mandatory term of thirty days
5 imprisonment, if the court finds the option is warranted based
6 upon the defendant's record, the court may place the defendant
7 on probation for a period not to exceed six months, subject to
8 the mandatory condition that the defendant observe geographic
9 restrictions that prohibit the defendant from entering or
10 remaining on public property, in Waikiki and other areas in the
11 State designated by county ordinance during the hours from
12 6 p.m. to 6 a.m. Upon any violation of the geographic
13 restrictions by the defendant, the court, after hearing, shall
14 revoke the defendant's probation and immediately impose the
15 mandatory thirty-day term of imprisonment. Nothing contained in
16 this subsection shall be construed as prohibiting the imposition
17 of stricter geographic restrictions under section 706-624(2)(h).

18 (6) Any person charged under this section may be admitted
19 to bail, pursuant to section 804-4, subject to the mandatory
20 condition that the person observe geographic restrictions that
21 prohibit the defendant from entering or remaining on public



1 property, in Waikiki and other areas in the State designated by
2 county ordinance during the hours from 6 p.m. to 6 a.m.
3 Notwithstanding any other provision of law to the contrary, any
4 person who violates these bail restrictions shall have the
5 person's bail revoked after hearing and shall be imprisoned
6 forthwith. Nothing contained in this subsection shall be
7 construed as prohibiting the imposition of stricter geographic
8 restrictions under section 804-7.1.

9 (7) Notwithstanding any other law to the contrary, a
10 police officer, without warrant, may arrest any person when the
11 officer has probable cause to believe that the person has
12 committed a violation of subsection (5) or (6), and the person
13 shall be detained, without bail, until the hearing under the
14 appropriate subsection can be held, which hearing shall be held
15 as soon as reasonably practicable.

16 (8) A minor may be taken into custody by any police
17 officer without order of the judge when there are reasonable
18 grounds to believe that the minor has violated subsection
19 (1)(a). The minor shall be released, referred, or transported
20 pursuant to section 571-31(b). The minor shall be subject to
21 the jurisdiction of the family court pursuant to section



1 571-11(1), including for the purposes of custody, detention,
2 diversion, and access to services and resources.

3 (9) A person who reports to a law enforcement officer that
4 the person has been trafficked under section 712-1202 shall not
5 be subject to any criminal liability under this section.

6 ~~[(8)]~~ (10) For purposes of this section:

7 "Area" means any zone within a county that is defined with
8 specific boundaries and designated as a zone of significant
9 prostitution by this section or a county ordinance.

10 "Minor" means a person who is less than eighteen years of
11 age.

12 "Public property" includes any street, highway, road,
13 sidewalk, alley, lane, bridge, parking lot, park, or other
14 property owned or under the jurisdiction of any governmental
15 entity or otherwise open to the public.

16 "Sexual conduct" has the same meaning as in
17 section 712-1200(2).

18 "Waikiki" means that area of Oahu bounded by the Ala Wai
19 canal, the ocean, and Kapahulu avenue.

20 ~~[(9)]~~ (11) This section shall apply to all counties;
21 provided that if a county enacts an ordinance to regulate street



1 prostitution and commercial sexual exploitation, other than an
2 ordinance designating an area as a zone of significant
3 prostitution-related activity, the county ordinance shall
4 supersede this section and no person shall be convicted under
5 this section in that county."

6 SECTION 5. Section 712-1209.1, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"§712-1209.1 Commercial sexual exploitation of a minor.**

9 (1) A person eighteen years of age or older commits the offense
10 of commercial sexual exploitation of a minor if the person
11 intentionally, knowingly, or recklessly:

12 (a) Offers or agrees to provide anything of value to a
13 member of a police department, a sheriff, or a law
14 enforcement officer who represents that person's self
15 as a minor to engage in sexual conduct;

16 (b) Provides anything of value to a minor or third person
17 as compensation for having engaged in sexual conduct
18 with a minor;

19 (c) Agrees to provide or offers to provide anything of
20 value to a minor or third person for the purpose of
21 engaging in sexual conduct with a minor; or



1 (d) Solicits, offers to engage in, or requests to engage
2 in sexual conduct with a minor in return for anything
3 of value.

4 (2) Commercial sexual exploitation of a minor is a class
5 [B] A felony.

6 (3) A person convicted of committing the offense of
7 commercial sexual exploitation of a minor shall be sentenced to
8 a minimum of twenty years imprisonment, without the possibility
9 of probation or parole until at least half the sentence has been
10 served.

11 (4) A person convicted of committing the offense of
12 commercial sexual exploitation of a minor shall forfeit any
13 assets gained through an offense in violation of this section or
14 used in furtherance of an offense in violation of this section.
15 Any assets forfeited in accordance with this paragraph shall be
16 first used to compensate survivors.

17 ~~[(3)]~~ (5) In addition to any other authorized disposition,
18 a person convicted of committing the offense of commercial
19 sexual exploitation of a minor shall be sentenced to pay a fine
20 of no less than \$5,000.



1 ~~[(4)]~~ (6) This section shall not apply to any member of a
2 police department, a sheriff, or a law enforcement officer
3 acting in the course and scope of duties; provided that the
4 member of a police department, sheriff, or law enforcement
5 officer is engaging in undercover operations; provided further
6 that under no circumstances shall sexual contact initiated by a
7 member of a police department, sheriff, or law enforcement
8 officer; sexual penetration; or sadomasochistic abuse be
9 considered to fall within the course and scope of duties.

10 ~~[(5)]~~ (7) The state of mind requirement for the offense
11 under subsection (1)(b) is not applicable to the fact that the
12 victim was a minor. A person is strictly liable with respect to
13 the attendant circumstance that the victim was a minor; provided
14 that the person had a reasonable opportunity to observe the
15 victim.

16 ~~[(6)]~~ (8) Consent of a minor to the sexual conduct does not
17 constitute a defense to any offense in this section.

18 (9) Notwithstanding any law to the contrary, there shall
19 be no statute of limitation for prosecuting offenses committed
20 in violation of this section.

21 ~~[(7)]~~ (10) For purposes of this section:



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

"Sexual conduct" has the same meaning as in section 712-1200(2).

"Survivor" means any person who has been subjected to or is at risk of being subjected to sexual exploitation in accordance with this section."

SECTION 6. (a) The department of human services shall establish or expand existing programs to provide comprehensive support for survivors of human trafficking, including but not limited to:

(1) Housing assistance to include emergency shelters, transitional housing, and long-term housing solutions;

(2) Access to health care, including mental health support, trauma-informed care, and substance abuse treatment;

(3) Legal assistance for civil matters related to their trafficking experiences, including immigration support for non-citizen survivors;

(4) Job training, education grants, and employment services to facilitate economic independence; and



1 (5) A pilot program to provide basic income for one year
2 to qualified survivors to aid in their recovery and
3 reintegration.

4 (b) The department of human services shall create and
5 implement a mandatory training for law enforcement personnel on
6 identifying and addressing human trafficking cases, focusing on
7 victim sensitivity and the complexities of trafficking
8 investigations.

9 (c) Services under this program shall be trauma-informed,
10 culturally sensitive, and survivor-centered.

11 SECTION 7. There is appropriated out of the general
12 revenues of the State of Hawaii the sum of \$ or so much
13 thereof as may be necessary for fiscal year 2025-2026 and the
14 same sum or so much thereof as may be necessary for fiscal year
15 2026-2027 for the purpose of establishing and expanding sex
16 trafficking survivor support programs and services.

17 The sum appropriated shall be expended by the department of
18 education for the purposes of this Act.

19 SECTION 8. The department of human services and the
20 department of the attorney general shall jointly submit a report
21 to the legislature no later than twenty days prior to the



1 convening of the regular session of 2026 and each regular
2 session thereafter summarizing the effectiveness of the programs
3 established under this Act, including statistical data on
4 services provided, survivors assisted, and outcomes of legal
5 actions against traffickers.

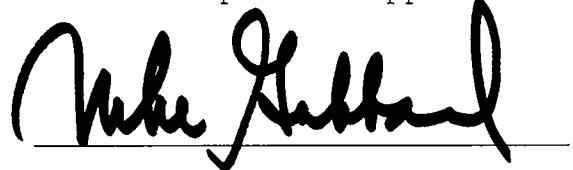
6 SECTION 9. This Act does not affect rights and duties that
7 matured, penalties that were incurred, and proceedings that were
8 begun before its effective date.

9 SECTION 10. If any provision of this Act, or the
10 application thereof to any person or circumstance, is held
11 invalid, the invalidity does not affect other provisions or
12 applications of the Act that can be given effect without the
13 invalid provision or application, and to this end the provisions
14 of this Act are severable.

15 SECTION 11. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 12. This Act shall take effect upon its approval.

18
INTRODUCED BY:





S.B. NO. 1261

Report Title:

Sex Trafficking; Penalty; Protection of Trafficked Persons

Description:

Specifies that the penalty for sex trafficking shall be payment of a fine of no less than \$200,000 but no more than \$500,000, and a definite term of imprisonment of up to 20 years without the possibility of a suspended sentence, probation, or parole. Provides that consent to sexual conduct is not a defense. Defines "sexual conduct". Specifies that a minor who commits an offense under section 712-1207(1)(a), HRS, shall be guilty of a violation instead of a petty misdemeanor. Provides that a person who reports that the person is a victim of sex trafficking shall not be subject to criminal liability for an offense involving sex trafficking or prostitution. Increases the penalties for commercial sexual exploitation of a minor. Requires DHS to implement services and programs for survivors and training for law enforcement. Appropriates funds. Requires annual report.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

