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# 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 has been amending sections  
5       712-1202 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 further finds that the Hawaii supreme court  
9       decision in *State v. Ibarra*, 153 Hawai'i 50, 526 P.3d 575 (2023),  
10      indicates 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 and  
13      update the sex trafficking and promoting prostitution criminal  
14      offense statutes by:

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



(2) Restructuring provisions that define terms or establish exemptions for part I of chapter 712, Hawaii Revised Statutes, to enhance readability; and

(3) Making technical amendments to update statutory references to part I of chapter 712, Hawaii Revised Statutes.

SECTION 2. Section 350-1, Hawaii Revised Statutes, is amended by amending the definition of "child abuse or neglect" to read as follows:

"Child abuse or neglect" means:

(1) The acts or omissions of any person who, or legal entity [~~which,~~] that, is in any manner or degree related to the child, is residing with the child, or is otherwise responsible for the child's care, that have resulted in the physical or psychological health or welfare of the child, who is under the age of eighteen, to be harmed, or to be subject to any reasonably foreseeable, substantial risk of being harmed. The acts or omissions are indicated for the purposes of reports by circumstances that include but are not limited to:



1 (A) When the child exhibits evidence of:

2 (i) Substantial or multiple skin bruising or any  
3 other internal bleeding;

4 (ii) Any injury to skin causing substantial  
5 bleeding;

6 (iii) Malnutrition;

7 (iv) Failure to thrive;

8 (v) Burn or burns;

9 (vi) Poisoning;

10 (vii) Fracture of any bone;

11 (viii) Subdural hematoma;

12 ix) Soft tissue swelling;

13 (x) Extreme pain;

14 (xi) Extreme mental distress;

15 (xii) Gross degradation; or

16 (xiii) Death; and

17 [~~such~~] the injury is not justifiably explained,  
18 or when the history given concerning [~~such~~] the  
19 condition or death is at variance with the degree  
20 or type of [~~such~~] the condition or death, or  
21 circumstances indicate that [~~such~~] the condition



1 or death may not be the product of an accidental  
2 occurrence;

3 (B) When the child has been the victim of sexual  
4 contact or conduct, including but not limited to  
5 sexual assault as defined in the Penal Code,  
6 molestation, sexual fondling, incest, or  
7 prostitution; obscene or pornographic  
8 photographing, filming, or depiction; or other  
9 similar forms of sexual exploitation, including  
10 but not limited to acts that constitute an  
11 offense pursuant to section [~~712-1202(1)(b);~~]  
12 712-1202(1)(c);

13 (C) When there exists injury to the psychological  
14 capacity of a child as is evidenced by an  
15 observable and substantial impairment in the  
16 child's ability to function;

17 (D) When the child is not provided in a timely manner  
18 with adequate food, clothing, shelter,  
19 psychological care, physical care, medical care,  
20 or supervision;



1 (E) When the child is provided with dangerous,  
2 harmful, or detrimental drugs as defined by  
3 section 712-1240; provided that this subparagraph  
4 shall not apply when such drugs are provided to  
5 the child pursuant to the direction or  
6 prescription of a practitioner, as defined in  
7 section 712-1240; or

8 (F) When the child has been the victim of labor  
9 trafficking under chapter 707; or

10 (2) The acts or omissions of any person that have resulted  
11 in sex trafficking or severe forms of trafficking in  
12 persons; provided that no finding by the department  
13 pursuant to this chapter shall be used as conclusive  
14 evidence that a person has committed an offense under  
15 part VIII of chapter 707 or section 712-1202."

16 SECTION 3. Section 588-2, Hawaii Revised Statutes, is  
17 amended by amending the definition of "child sexual abuse" to  
18 read as follows:

19 ""Child sexual abuse" means any of the offenses described  
20 under chapter 707, part V, when committed against a person under  
21 the age of eighteen years or that damage or injure a child's



1 physical or psychological health or welfare, where the child has  
2 been the victim of sexual contact or conduct, including sexual  
3 assault; sodomy; molestation; sexual fondling; incest;  
4 prostitution; obscene or pornographic photographing, filming, or  
5 depiction; or other similar forms of sexual exploitation,  
6 including but not limited to acts that constitute an offense  
7 pursuant to section ~~[712-1202(1)(b)].~~ 712-1202(1)(c)."

8 SECTION 4. Section 712-1200, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 **"§712-1200 Prostitution.** (1) A person commits the  
11 offense of prostitution if the person engages in, or agrees or  
12 offers to engage in, sexual conduct with another person in  
13 return for a fee or anything of value.

14 ~~[(2) As used in this section:~~

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

17 ~~"Sexual conduct" means "sexual penetration", "deviate~~  
18 ~~sexual intercourse", or "sexual contact", as those terms are~~  
19 ~~defined in section 707-700, or "sodomasochistic abuse" as~~  
20 ~~defined in section 707-752.~~



1       ~~(3)~~ (2) Prostitution ~~[is]~~ shall be a petty misdemeanor;  
2 provided that if the person who commits the offense under  
3 subsection (1) is a minor, prostitution ~~[is]~~ shall be a  
4 violation.

5       ~~(4)~~ (3) A person convicted of committing the offense of  
6 prostitution as a petty misdemeanor shall be sentenced as  
7 follows:

8       (a) For the first offense, when the court has not deferred  
9 further proceedings pursuant to chapter 853, a fine of  
10 no less than \$500 but no more than \$1,000 and the  
11 person may be sentenced to a term of imprisonment of  
12 no more than thirty days or probation; provided that  
13 in the event the convicted person defaults in payment  
14 of the fine, and the default was not contumacious, the  
15 court may make an order converting the unpaid portion  
16 of the fine to community service as authorized by  
17 section 706-605(1);

18       (b) For any subsequent offense, a fine of no less than  
19 \$500 but no more than \$1,000 and a term of  
20 imprisonment of thirty days or probation, without  
21 possibility of deferral of further proceedings



1           pursuant to chapter 853 and without possibility of  
2           suspension of sentence; and

3           (c) For the purpose of this subsection, if the court has  
4           deferred further proceedings pursuant to chapter 853,  
5           ~~[and]~~ the defendant, notwithstanding any provision of  
6           chapter 853 to the contrary, ~~[the defendant]~~ shall not  
7           be eligible to apply for expungement pursuant to  
8           section 831-3.2 until three years following discharge.  
9           A plea previously entered by a defendant under section  
10          853-1 for a violation of this section shall be  
11          considered a prior offense.

12          ~~[+5+]~~ (4) This section shall not apply to any member of a  
13          police department, a sheriff, or a law enforcement officer  
14          acting in the course and scope of duties; provided that the  
15          member of a police department, sheriff, or law enforcement  
16          officer is engaging in undercover operations; provided further  
17          that under no circumstances shall sexual contact initiated by a  
18          member of a police department, sheriff, or law enforcement  
19          officer~~[+]~~ or sexual penetration~~[+]~~ or sadomasochistic abuse by  
20          a member of a police department, sheriff, or law enforcement





1 officer be considered to fall within the course and scope of  
2 duties.

3 ~~[(+6)]~~ (5) A minor may be taken into custody by any police  
4 officer without order of the judge when there are reasonable  
5 grounds to believe that the minor has violated subsection (1).  
6 The minor shall be released, referred, or transported pursuant  
7 to section 571-31(b). The minor shall be subject to the  
8 jurisdiction of the family court pursuant to section 571-11(1),  
9 including for the purposes of custody, detention, diversion, and  
10 access to services and resources."

11 SECTION 5. Section 712-1200.5, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "~~[{]}\$712-1200.5[{]}~~ **Commercial Sexual Exploitation.** (1) A  
14 person commits the offense of commercial sexual exploitation if  
15 the person provides, agrees to provide, or offers to provide a  
16 fee or anything of value to another to engage in sexual conduct.

17 ~~[(+2)] As used in this section, "sexual conduct" has the~~  
18 ~~same meaning as in section 712-1200(2).~~

19 ~~+(3)]~~ (2) Except as provided in subsection ~~[(+4)]~~ (3),  
20 commercial sexual exploitation ~~[is]~~ shall be a petty  
21 misdemeanor.



1        [~~(4)~~] (3) Commercial sexual exploitation [~~is~~] shall be a  
2 class C felony if the person who commits the offense under  
3 subsection (1) does so in reckless disregard of the fact that  
4 the person exploited is a victim of sex trafficking.

5        [~~(5)~~] (4) A person convicted of committing the offense of  
6 commercial sexual exploitation as a petty misdemeanor shall be  
7 sentenced as follows:

8        (a) For the first offense, a fine of no less than \$500 but  
9 no more than \$1,000 and the person may be sentenced to  
10 a term of imprisonment of no more than thirty days or  
11 probation; provided that in the event the convicted  
12 person defaults in payment of the fine, and the  
13 default was not contumacious, the court may order  
14 conversion of the unpaid portion of the fine to  
15 community service as authorized by section 706-605(1);

16        (b) For any subsequent offense, a fine of no less than  
17 \$500 but no more than \$1,000 and a term of  
18 imprisonment or probation of no more than thirty days,  
19 without possibility of suspension of sentence; and

20        (c) For purposes of this subsection, the court may impose  
21 as a condition of probation that the defendant



1 complete a course of exploitation intervention  
2 classes; provided that the court shall only impose the  
3 condition for one term of probation.

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

15 SECTION 6. Section 712-1201, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "§712-1201 ~~[Advancing prostitution; profiting from~~  
18 ~~prostitution; definition]~~ Definitions of terms~~[+]~~ in this part.

19 In ~~[sections 712-1202 and 712-1203: (1) A person "advances]~~

20 this part, unless a different meaning is required or specified:



1        "Advances prostitution" [if] means that the person  
2        knowingly causes or aids [a] another person to commit or engage  
3        in 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       "Minor" means a person who is less than eighteen years of  
11       age.

12       [~~(2)~~ ~~A person "profits"~~] "Profits from prostitution" [if]  
13       means that the person knowingly accepts or receives money,  
14       anything of value, or other property pursuant to an agreement or  
15       understanding with [~~any person~~] a third party whereby the person  
16       participates or is to participate in the proceeds of  
17       prostitution activity[~~;~~ ~~and~~], regardless of whether the money,  
18       thing of value, or other property is accepted or received in  
19       excess of expenditures or as reimbursement or repayment of any  
20       debt.



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

5        "Sexual conduct" means "sexual penetration", "deviate  
6        sexual intercourse", or "sexual contact", as those terms are  
7        defined in section 707-700, or "sodomasochistic abuse" as  
8        defined in section 707-752."

9        SECTION 7. Section 712-1202, Hawaii Revised Statutes, is  
10       amended to read as follows:

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

13       (a) Advances prostitution by compelling or inducing a  
14       person by force, threat, fraud, coercion, or  
15       intimidation to engage in prostitution [~~, or profits~~  
16       ~~from such conduct by another~~]; or

17       (b) Profits from prostitution that is the result of  
18       another person compelling or inducing a person by  
19       force, threat, fraud, coercion, or intimidation to  
20       engage in prostitution; or



1       ~~[(b)]~~ (c) Advances prostitution or profits from  
2               prostitution of a minor.

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

4       (3) ~~[As used in]~~ For the purposes of this section:

5       "Fraud" means making material false statements,  
6       misstatements, or omissions.

7       ~~["Minor" means a person who is less than eighteen years of~~  
8       ~~age.]~~

9       "Threat" means any of the actions listed in section 707-  
10       764(1).

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

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

19       (a) Prostitution as a prostituted person as provided in  
20       section 712-1200; or



1        (b) Commercial sexual exploitation as provided in section  
2                712-1200.5."

3        SECTION 8. Section 712-1203, Hawaii Revised Statutes, is  
4 amended to read as follows:

5        **"§712-1203 Promoting prostitution.** (1) A person commits  
6 the offense of promoting prostitution if the person knowingly  
7 advances prostitution or profits from prostitution.

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

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

12        (a) Prostitution as a prostituted person as provided in  
13                section 712-1200; or

14        (b) Commercial sexual exploitation as provided in section  
15                712-1200.5."

16        SECTION 9. Section 712-1206, Hawaii Revised Statutes, is  
17 amended to read as follows:

18        **"[~~§~~]§712-1206[~~§~~] Loitering for the purpose of engaging in**  
19 **or advancing prostitution.** (1) For the purposes of this  
20 section, "public place" means any street, sidewalk, bridge,  
21 alley or alleyway, plaza, park, driveway, parking lot or



1 transportation facility or the doorways and entrance ways to any  
2 building [~~which~~] that fronts on any of the aforesaid places, or  
3 a motor vehicle in or on any such place.

4 (2) Any person who remains or wanders about in a public  
5 place and repeatedly beckons to [~~or~~], repeatedly stops, [~~or~~]  
6 repeatedly attempts to stop, or repeatedly attempts to engage  
7 passers-by in conversation, [~~or~~] repeatedly stops or attempts to  
8 stop motor vehicles, or repeatedly interferes with the free  
9 passage of other persons for the purpose of committing the crime  
10 of prostitution as that term is defined in section 712-1200  
11 shall be guilty of a violation.

12 (3) Any person who remains or wanders about in a public  
13 place and repeatedly beckons to, [~~or~~] repeatedly stops, or  
14 repeatedly attempts to engage passers-by in conversation, [~~or~~]  
15 repeatedly stops or attempts to stop motor vehicles, or  
16 repeatedly interferes with the free passage of other persons for  
17 the purpose of [~~committing the crime of~~] advancing prostitution  
18 [~~as that term is defined in section 712-1201(1) is~~] shall be  
19 guilty of a petty misdemeanor."

20 SECTION 10. Section 712-1207, Hawaii Revised Statutes, is  
21 amended by amending subsection (8) to read as follows:





1       "(8) For purposes of this section:

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

5       "Public property" includes any street, highway, road,  
6 sidewalk, alley, lane, bridge, parking lot, park, or other  
7 property owned or under the jurisdiction of any governmental  
8 entity or otherwise open to the public.

9       ~~["Sexual conduct" has the same meaning as in section 712-~~  
10 ~~1200(2)-.]~~

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

13       SECTION 11. Section 712-1209, Hawaii Revised Statutes, is  
14 amended by amending subsection (3) to read as follows:

15       "(3) For purposes of this section:

16       "School" has the same meaning as in section 712-1249.6(6).

17       ~~["Sexual conduct" has the same meaning as in section 712-~~  
18 ~~1200(2)-.] "~~

19       SECTION 12. Section 712-1209.1, Hawaii Revised Statutes,  
20 is amended to read as follows:



1           **"§712-1209.1 Commercial Sexual Exploitation of a Minor.**

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

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

9           (b) Provides anything of value to a minor or third person  
10 as compensation for having engaged in sexual conduct  
11 with a minor;

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

15          (d) Solicits, offers to engage in, or requests to engage  
16 in sexual conduct with a minor in return for anything  
17 of value.

18       (2) Commercial sexual exploitation of a minor [~~is~~] shall  
19 be a class B felony.

20       (3) In addition to any other authorized disposition, a  
21 person convicted of committing the offense of commercial sexual



1 exploitation of a minor shall be sentenced to pay a fine of [~~no~~]  
2 not less than \$5,000.

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

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

19 (6) Consent of a minor to the sexual conduct does not  
20 constitute a defense to any offense in this section.

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



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

3       ~~"Sexual conduct" has the same meaning as in section~~  
4       ~~712-1200(2).]"~~

5       SECTION 13. Section 846E-1, Hawaii Revised Statutes, is  
6       amended by amending the definition of "sexual offense" to read  
7       as follows:

8       ""Sexual offense" means an offense that is:

9       (1) Set forth in section 707-730(1), 707-731(1),  
10       707-732(1), 707-733(1)(a), 707-733.6, [~~712-1200.5(4),~~]  
11       712-1200.5(3), 712-1202(1), or 712-1203(1), but  
12       excludes conduct that is criminal only because of the  
13       age of the victim, as provided in section  
14       707-730(1)(b), or section 707-732(1)(b) if the  
15       perpetrator is under the age of eighteen;

16       (2) An act defined in section 707-720 if the charging  
17       document for the offense for which there has been a  
18       conviction alleged intent to subject the victim to a  
19       sexual offense;

20       (3) An act that consists of:



1 (A) Criminal sexual conduct toward a minor, including  
2 but not limited to an offense set forth in  
3 section 707-759;

4 (B) Solicitation of a minor who is less than fourteen  
5 years old to engage in sexual conduct;

6 (C) Use of a minor in a sexual performance;

7 (D) Production, distribution, or possession of child  
8 pornography chargeable as a felony under section  
9 707-750, 707-751, or 707-752;

10 (E) Electronic enticement of a child chargeable under  
11 section 707-756 or 707-757 if the offense was  
12 committed with the intent to promote or  
13 facilitate the commission of another covered  
14 offense as defined in this section; or

15 (F) Commercial sexual exploitation of a minor in  
16 violation of section 712-1209.1;

17 (4) A violation of privacy under section 711-1110.9;

18 (5) An act, as described in chapter 705, that is an  
19 attempt, criminal solicitation, or criminal conspiracy  
20 to commit one of the offenses designated in paragraphs  
21 (1) through (4);



1 (6) A criminal offense that is comparable to or that  
2 exceeds a sexual offense as defined in paragraphs (1)  
3 through (5); or

4 (7) Any federal, military, out-of-state, tribal, or  
5 foreign conviction for any offense that under the laws  
6 of this State would be a sexual offense as defined in  
7 paragraphs (1) through (6)."

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

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

13 SECTION 16. This Act shall take effect on July 1, 2025.



**Report Title:**

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

**Description:**

Clarifies that the definition of "profits from prostitution" includes any money or property accepted or received from the proceeds of prostitution activity even if it is accepted or received as the reimbursement or repayment of a debt. Restructures provisions that define terms or establish exemptions for part I of chapter 712, Hawaii Revised Statutes, to enhance readability. Makes technical amendments to update statutory references to part I of chapter 712, Hawaii Revised Statutes. (SD1)

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

