

ACT 247

S.B. NO. 192

A Bill for an Act Relating to Prostitution.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 712, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§712- Solicitation of a minor for prostitution. (1) A person eighteen years of age or older commits the offense of solicitation of a minor for prostitution if the person offers or agrees to pay a fee to a minor to engage in sexual conduct.

(2) Solicitation of a minor for prostitution is a class C felony.

(3) A person convicted of committing the offense of solicitation of a minor for prostitution shall be imposed a fine of not less than \$2,000; provided that \$2,000 of the imposed fine shall be credited to the general fund.

(4) 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).”

SECTION 2. Section 663J-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A claim under this chapter may not be brought against a person more than ~~[two]~~ six years after an act of promoting prostitution by coercion by that person.”

SECTION 3. Section 712-1200, Hawaii Revised Statutes, is amended by amending subsection (4) to read as follows:

“(4) A person convicted of committing the offense of prostitution shall be sentenced as follows:

- (a) For the first offense, when the court has not deferred further proceedings pursuant to chapter 853, a ~~[minimum]~~ fine of not less than \$500 but not more than \$1,000 and the person may be sentenced to a term of imprisonment of not more than thirty days or probation; provided that in the event the convicted person defaults in payment of the ~~[\$500]~~ fine, and the default was not contumacious, the court may sentence the person to perform services for the community as authorized by section 706-605(1).
- (b) For any subsequent offense, a ~~[minimum]~~ fine of not less than \$500 but not more than \$1,000 and a term of imprisonment of thirty days or probation, without possibility of deferral of further proceedings pursuant to chapter 853 and without possibility of suspension of sentence.
- (c) For the purpose of this subsection, if the court has deferred further proceedings pursuant to chapter 853, and notwithstanding any provision of chapter 853 to the contrary, the defendant shall not be eligible to apply for expungement pursuant to section 831-3.2 until four years following discharge. A plea previously entered by a defendant under section 853-1 for a violation of this section shall be considered a prior offense. When the court has ordered a sentence of probation, the court may impose as a condition of probation that the defendant complete a course of prostitution intervention

classes; provided that the court may only impose such condition for one term of probation.”

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

“§712A-4 Covered offenses. Offenses for which property is subject to forfeiture under this chapter are:

- (a) All offenses that specifically authorize forfeiture;
- (b) Murder, kidnapping, labor trafficking, gambling, criminal property damage, robbery, bribery, extortion, theft, unauthorized entry into motor vehicle, burglary, money laundering, trademark counterfeiting, insurance fraud, promoting a dangerous, harmful, or detrimental drug, commercial promotion of marijuana, methamphetamine trafficking, manufacturing of a controlled substance with a child present, promoting child abuse, promoting prostitution, solicitation of a minor for prostitution, habitual solicitation of prostitution, or electronic enticement of a child that is chargeable as a felony offense under state law;
- (c) The manufacture, sale, or distribution of a controlled substance in violation of chapter 329, promoting detrimental drugs or intoxicating compounds, promoting pornography, promoting pornography for minors, or ~~promoting prostitution;~~ solicitation of prostitution near schools or public parks, which is chargeable as a felony or misdemeanor offense, but not as a petty misdemeanor, under state law; and
- (d) The attempt, conspiracy, solicitation, coercion, or intimidation of another to commit any offense for which property is subject to forfeiture.”

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

““Sexual offense” means an offense that is:

- (1) Set forth in section 707-730(1)(a), 707-730(1)(b), 707-730(1)(c), 707-730(1)(d) or (e), 707-731(1)(a), 707-731(1)(b), 707-731(1)(c), 707-732(1)(a), 707-732(1)(b), 707-732(1)(c), 707-732(1)(d), 707-732(1)(e), 707-732(1)(f), 707-733(1)(a), 707-733.6, 712-1202(1)(a), 712-1202(1)(b), or 712-1203(1), but excludes conduct that is criminal only because of the age of the victim, as provided in section 707-730(1)(b), or section 707-732(1)(b) if the perpetrator is under the age of eighteen;
- (2) An act defined in section 707-720 if the charging document for the offense for which there has been a conviction alleged intent to subject the victim to a sexual offense;
- (3) An act that consists of:
 - (A) Criminal sexual conduct toward a minor, including but not limited to an offense set forth in section 707-759;
 - (B) Solicitation of a minor who is less than fourteen years old to engage in sexual conduct;
 - (C) Use of a minor in a sexual performance;
 - (D) Production, distribution, or possession of child pornography chargeable as a felony under section 707-750, 707-751, or 707-752;
 - (E) Electronic enticement of a child chargeable under section 707-756 or 707-757 if the offense was committed with the intent to

promote or facilitate the commission of another covered offense as defined in this section; or

- (F) Solicitation of a minor [~~to practice~~] for prostitution[;] in violation of section 712- ;
- (4) A violation of privacy under section 711-1110.9;
- (5) A criminal offense that is comparable to or that exceeds a sexual offense as defined in paragraphs (1) through (4) or any federal, military, or out-of-state conviction for any offense that under the laws of this State would be a sexual offense as defined in paragraphs (1) through (4); or
- (6) An act, as described in chapter 705, that is an attempt, criminal solicitation, or criminal conspiracy to commit one of the offenses designated in paragraphs (1) through (5).”

SECTION 6. Section 846E-10, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Tier 1 offenses. A covered offender who has maintained a clean record for the previous ten years, excluding any time the offender was in custody or civilly committed, and who has substantially complied with the registration requirements of this chapter for the previous ten years, or for the portion of that ten years that this chapter has been applicable, and who is not a repeat covered offender may petition the court, in a civil proceeding, for termination of registration requirements; provided that the covered offender’s most serious covered offense is one of the following:

- (1) Any offense set forth in section 707-732(1)(d) or (e), 707-733(1)(a), 707-752, 707-759, 711-1110.9, 712-1202(1)(a), [~~or~~] 712-1203(1)[;]. or 712- ;
- (2) An offense set forth in section 707-721 or 707-722; provided that the offense involves unlawful imprisonment of a minor by someone other than a parent;
- (3) An offense set forth in section 707-757 that includes an intent to promote or facilitate the commission of another covered offense as defined in section 846E-1;
- (4) An offense that is an attempt, criminal solicitation, or criminal conspiracy to commit any of the offenses in paragraph (1), (2), or (3);
- (5) Any criminal offense that is comparable to one of the offenses in paragraph (1), (2), (3), or (4); or
- (6) Any federal, military, or out-of-state offense that is comparable to one of the offenses in paragraph (1), (2), (3), or (4).”

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

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 9. This Act shall take effect upon its approval.

(Approved July 1, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.