

JAN 19 2023

A BILL FOR AN ACT

RELATING TO CRIME.

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

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

4 "§706- Term of imprisonment for sex trafficking.

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

11 SECTION 2. Section 712-1202, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§712-1202 Sex trafficking.** (1) A person commits the
14 offense of sex trafficking if the person knowingly:

15 (a) Advances prostitution by compelling or inducing a
16 person by force, threat, fraud, coercion, or



1 intimidation to engage in prostitution, or profits
2 from such conduct by another; or

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

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

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

8 (b) Payment of a fine of no less than \$50,000 but no more
9 than \$100,000, pursuant to section 706-640; provided
10 further that the fine shall be credited to the general
11 fund.

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

13 ~~"Fraud" means making material false statements,~~
14 ~~misstatements, or omissions.~~

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

17 ~~"Threat" means any of the actions listed in section~~
18 ~~707-764(1).]~~

19 (3) Consent to sexual conduct shall not constitute a
20 defense to prosecution for any offense described in this
21 section.



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

5 (5) A minor who reports to a law enforcement officer that
6 the minor has been trafficked under this section shall not be
7 subject to any criminal liability; provided that the minor may
8 be charged under section 712-1200 or section 712-1207, as
9 applicable, where the severity of the offense for a minor
10 offender is reduced to a violation.

11 (6) As used in this section:

12 "Fraud" means making material false statements,
13 misstatements, or omissions.

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

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

18 "Threat" means any of the actions listed in section
19 707-764(1)."

20 SECTION 3. Section 712-1207, Hawaii Revised Statutes, is
21 amended to read as follows:



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

5 (a) Offer or agree to engage in sexual conduct with
6 another person in return for a fee or anything of
7 value; or

8 (b) Provide, agree to provide, or offer to provide a fee
9 or anything of value to another person to engage in
10 sexual conduct.

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

15 (a) Offer or agree to engage in sexual conduct with
16 another person in return for a fee or anything of
17 value; or

18 (b) Provide, agree to provide, or offer to provide a fee
19 or anything of value to another person to engage in
20 sexual conduct.



1 (3) Upon a recommendation of the chief of police of a
2 county, that county may enact an ordinance that:

3 (a) Designates areas, each no larger than three square
4 miles, as zones of significant prostitution-related
5 activity that is detrimental to the health, safety, or
6 welfare of the general public; or

7 (b) Alters the boundaries of any existing area under
8 paragraph (a);

9 provided that not more than four areas may be designated within
10 the State.

11 (4) Notwithstanding any law to the contrary, any person
12 violating this section shall be guilty of a petty misdemeanor
13 and shall be sentenced to a mandatory term of thirty days
14 imprisonment[-]; provided that if the person who commits the
15 offense under subsection (1)(a) is a minor, street prostitution
16 is a violation. The term of imprisonment shall be imposed
17 immediately, regardless of whether the defendant appeals the
18 conviction, except as provided in subsection (5).

19 (5) As an option to the mandatory term of thirty days
20 imprisonment, if the court finds the option is warranted based
21 upon the defendant's record, the court may place the defendant



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

12 (6) Any person charged under this section may be admitted
13 to bail, pursuant to section 804-4, subject to the mandatory
14 condition that the person observe geographic restrictions that
15 prohibit the defendant from entering or remaining on public
16 property, in Waikiki and other areas in the State designated by
17 county ordinance during the hours from 6 p.m. to 6 a.m.

18 Notwithstanding any other provision of law to the contrary, any
19 person who violates these bail restrictions shall have the
20 person's bail revoked after hearing and shall be imprisoned
21 forthwith. Nothing contained in this subsection shall be



1 construed as prohibiting the imposition of stricter geographic
2 restrictions under section 804-7.1.

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

10 (8) A minor may be taken into custody by any police
11 officer without order of the judge when there are reasonable
12 grounds to believe that the minor has violated subsection
13 (1) (a). The minor shall be released, referred, or transported
14 pursuant to section 571-31(b). The minor shall be subject to
15 the jurisdiction of the family court pursuant to section
16 571-11(1), including for the purposes of custody, detention,
17 diversion, and access to services and resources.

18 [~~8~~] (9) For purposes of this section:

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



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

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

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

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

11 [~~9~~] (10) This section shall apply to all counties;
12 provided that if a county enacts an ordinance to regulate street
13 prostitution and commercial sexual exploitation, other than an
14 ordinance designating an area as a zone of significant
15 prostitution-related activity, the county ordinance shall
16 supersede this section and no person shall be convicted under
17 this section in that county."

18 SECTION 4. This Act does not affect rights and duties that
19 matured, penalties that were incurred, and proceedings that were
20 begun before its effective date.



1 SECTION 5. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect upon its approval.

4

INTRODUCED BY:

Kurt Fevela



S.B. NO. 259

Report Title:

Sex Trafficking; Penalty; Protection of Minors

Description:

Specifies that the penalty for sex trafficking shall be payment of a fine of no less than \$50,000 but no more than \$100,000, 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". Provides that a minor who reports that the minor is a victim of sex trafficking shall not be subject to criminal liability.

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

