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## A BILL FOR AN ACT

RELATING TO CRIME.

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

1           SECTION 1. Chapter 707, Hawaii Revised Statutes, is  
2 amended by adding a new section to part IV to be appropriately  
3 designated and to read as follows:

4           "§707- Human trafficking. (1) A person commits the  
5 offense of human trafficking if the person:

6           (a) Knowingly subjects or attempts to subject another  
7 person to labor or services by:

8           (i) Causing or threatening to cause serious bodily  
9 injury to any person;

10           (ii) Restraining or threatening to restrain another  
11 person;

12           (iii) Causing or threatening to cause a penal charge to  
13 be instituted against another person;

14           (iv) Knowingly destroying, concealing, removing,  
15 confiscating, or possessing any actual or  
16 purported passport or other immigrant  
17 identification document, or any other actual or



- 1                   purported government identification document, of
- 2                   another person;
- 3           (v)   Committing extortion as defined by section 707-
- 4                   764;
- 5           (vi)   Deception, as defined in section 708-800, or
- 6                   fraud, which means falsely representing a present
- 7                   or past fact, whether by words or conduct, or
- 8                   failing to disclose a present or past fact that
- 9                   causes a person to act, or fail to act, in
- 10                  reliance thereon;
- 11           (vii)   Debt bondage;
- 12           (viii)   Causing or threatening to cause financial harm to
- 13                  any person;
- 14           (ix)   Facilitating or controlling a person's access to
- 15                  an addictive controlled substance; or
- 16           (x)   Using any scheme, plan, or pattern intended to
- 17                  cause any person to believe that, if the person
- 18                  did not perform the labor or services, that
- 19                  person or another person would suffer serious
- 20                  harm or physical restraint.
- 21           (b)   Knowingly recruiting, enticing, harboring,
- 22                  transporting, providing, or obtaining by any means



1           another person under eighteen years of age, knowing  
2           that the person will engage in:

3           (i) Any form of sexual conduct within the meaning of  
4           section 707-700 or 712-1210 on account of which  
5           anything of value is given, promised to, or  
6           received by any person;

7           (ii) Activity as an erotic or nude massager or exotic  
8           or nude dancer as defined by section 712-1210; or

9           (iii) Production of child pornography as defined in  
10           section 707-750.

11       (c) Trafficks another person for labor or services by  
12       knowingly:

13       (i) Recruiting, enticing, harboring, transporting,  
14       providing, or obtaining by any means another  
15       person, intending or knowing that the person will  
16       be subjected to labor or services under paragraph  
17       (a) or (b); or

18       (ii) Benefiting, financially or by receiving anything  
19       of value, from participation in a venture that  
20       has engaged in an act involving labor or services  
21       under paragraph (a) or (b); provided that this



1                    subparagraph shall not apply to the person who is  
2                    trafficked.

3            (2) A conviction and sentence for human trafficking shall  
4 be in addition to, and not in lieu of, a conviction and sentence  
5 for any underlying offense; provided that the sentence imposed  
6 under this section may run concurrent with or consecutive to the  
7 sentence for the underlying offense.

8            (3) In this section:

9            (a) "Debt bondage" means the status or condition of a  
10 debtor arising from a pledge by the debtor of the  
11 debtor's personal services or those of a person under  
12 the debtor's control as a security for debt, if the  
13 value of those services as reasonably assessed is not  
14 applied toward the liquidation of the debt or the  
15 length and nature of those services are not  
16 respectively limited and defined.

17            (b) "Labor" means work of economic or financial value.

18            (c) "Restraint" means to restrict a person's movement by  
19 means of force as to interfere substantially with the  
20 person's liberty.

21            (d) "Services" means an ongoing relationship between a  
22 person and the actor in which the person performs



1           activities under the supervision of or for the benefit  
 2           of the actor. Prostitution-related and obscenity-  
 3           related activities as set forth in chapter 712 are  
 4           forms of "services" under this section.

5           (4) Nothing in this section shall constitute a defense to  
 6 prostitution. It shall not be a defense to a charge under  
 7 subsection (1)(b) that the actor was mistaken as to the person's  
 8 age.

9           (5) Human trafficking under subsection (1)(a) is a class A  
 10 felony. Human trafficking under subsection (1)(b) is a class B  
 11 felony. Human trafficking under subsection (1)(c) is a class C  
 12 felony."

13           SECTION 2. Section 351-32, Hawaii Revised Statutes, is  
 14 amended to read as follows:

15           "**§351-32 Violent crimes.** The crimes to which part III of  
 16 this chapter applies are the following and no other:

- 17           (1) Murder in the first degree (section 707-701);
- 18           (2) Murder in the second degree (section 707-701.5);
- 19           (3) Manslaughter (section 707-702);
- 20           (4) Negligent homicide in the first degree (section 707-
- 21           702.5);



- 1 (5) Negligent homicide in the second degree (section 707-
- 2 703);
- 3 (6) Negligent injury in the first degree (section 707-
- 4 705);
- 5 (7) Negligent injury in the second degree (section 707-
- 6 706);
- 7 (8) Assault in the first degree (section 707-710);
- 8 (9) Assault in the second degree (section 707-711);
- 9 (10) Assault in the third degree (section 707-712);
- 10 (11) Kidnapping (section 707-720);
- 11 (12) Sexual assault in the first degree (section 707-730);
- 12 (13) Sexual assault in the second degree (section 707-731);
- 13 (14) Sexual assault in the third degree (section 707-732);
- 14 (15) Sexual assault in the fourth degree (section 707-733);
- 15 (16) Abuse of family [~~+~~]or[~~+~~] household member (section
- 16 709-906); [~~and~~]
- 17 (17) Human trafficking (section 707- ); and
- 18 [~~(17)~~] (18) Terrorism, as defined in Title 18 United States
- 19 Code section 2331."

20 SECTION 3. Section 712A-4, Hawaii Revised Statutes, is

21 amended to read as follows:



1           "**§712A-4 Covered offenses.** Offenses for which property is  
2 subject to forfeiture under this chapter are:

3           (a) All offenses which specifically authorize forfeiture;

4           (b) Murder, kidnapping, human trafficking, gambling,  
5 criminal property damage, robbery, bribery, extortion,  
6 theft, unauthorized entry into motor vehicle,  
7 burglary, money laundering, trademark counterfeiting,  
8 insurance fraud, promoting a dangerous, harmful, or  
9 detrimental drug, commercial promotion of marijuana,  
10 unlawful methamphetamine trafficking, manufacturing of  
11 a controlled substance with a child present, promoting  
12 child abuse, or electronic enticement of a child which  
13 is chargeable as a felony offense under state law;

14           (c) The manufacture, sale, or distribution of a controlled  
15 substance in violation of chapter 329, promoting  
16 detrimental drugs or intoxicating compounds, promoting  
17 pornography, promoting pornography for minors, or  
18 promoting prostitution, which is chargeable as a  
19 felony or misdemeanor offense, but not as a petty  
20 misdemeanor, under state law; and



1 (d) The attempt, conspiracy, solicitation, coercion, or  
2 intimidation of another to commit any offense for  
3 which property is subject to forfeiture."

4 SECTION 4. Section 842-1, Hawaii Revised Statutes, is  
5 amended by amending the definitions of "organized crime" and  
6 "racketeering activity" to read as follows:

7 "Organized crime" means any combination or conspiracy to  
8 engage in criminal activity as a significant source of income or  
9 livelihood, or to violate, aid or abet the violation of criminal  
10 laws relating to prostitution, gambling, loan sharking, drug  
11 abuse, illegal drug distribution, counterfeiting, extortion,  
12 human trafficking, corruption of law enforcement officers or  
13 other public officers or employers.

14 "Racketeering activity" means any act or threat involving,  
15 but not limited to murder, kidnapping, human trafficking,  
16 gambling, criminal property damage, robbery, bribery, extortion,  
17 theft or prostitution, or any dealing in narcotic or other  
18 dangerous drugs which is chargeable as a crime under state law  
19 and punishable by imprisonment for more than one year."

20 SECTION 5. This Act does not affect rights and duties that  
21 matured, penalties that were incurred, and proceedings that were  
22 begun, before its effective date.



1 SECTION 6. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 7. This Act shall take effect upon its approval.  
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JAN 24 2007



**Report Title:**

Human Trafficking; Forfeiture; Organized Crime

**Description:**

Creates the offense of human trafficking, adds human trafficking to the list of offenses addressed by the crime victim compensation commission, deletes involuntary servitude as part of unlawful imprisonment in the 1st degree, adds human trafficking as a covered offense for forfeitures, and adds human trafficking as an offense involving organized crime and racketeering activity.

