

JAN 20 2010

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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 353C, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§353C-           Prostitution offender education program special  
5 fund. (a) There is established in the state treasury the  
6 prostitution offender education program special fund to be  
7 administered by the department. The fund shall consist of  
8 amounts collected from the surcharges imposed under section 712-  
9 1200.

10           (b) Proceeds of the fund shall be expended by the director  
11 for the purpose of funding and administering the prostitution  
12 offender education program.

13           (c) In administering the prostitution offender education  
14 program special fund, the director shall maintain records of all  
15 expenditures and disbursements made from the fund.

16           (d) The director shall submit to the legislature an annual  
17 report on the activities under the prostitution offender



1 education program special fund no later than twenty days prior  
2 to the convening of each regular session."

3 SECTION 2. Section 712-1200, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "§712-1200 Prostitution. (1) A person commits the  
6 offense of prostitution if the person engages in, or agrees or  
7 offers to engage in, sexual conduct with another person for a  
8 fee.

9 (2) As used in subsection (1), "sexual conduct" means  
10 "sexual penetration," "deviate sexual intercourse," or "sexual  
11 contact," as those terms are defined in section 707-700.

12 (3) Prostitution is a petty misdemeanor.

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

15 (a) For the first offense, when the court has not deferred  
16 further proceedings pursuant to chapter 853, a  
17 mandatory fine of \$500 and the person may be sentenced  
18 to a term of imprisonment of not more than thirty days  
19 or probation; provided that in the event the convicted  
20 person defaults in payment of the \$500 fine, and the  
21 default was not contumacious, the court may sentence



1 the person to perform services for the community as  
2 authorized by section 706-605(1).

3 (b) For any subsequent offense, a mandatory fine of \$500  
4 and a term of imprisonment of thirty days or  
5 probation, without possibility of deferral of further  
6 proceedings pursuant to chapter 853 and without  
7 possibility of suspension of sentence.

8 (c) For the purpose of this subsection, if the court has  
9 deferred further proceedings pursuant to chapter 853,  
10 and notwithstanding any provision of chapter 853 to  
11 the contrary, the defendant shall not be eligible to  
12 apply for expungement pursuant to section 831-3.2  
13 until four years following discharge. A plea  
14 previously entered by a defendant under section 853-1  
15 for a violation of this section shall be considered a  
16 prior offense. When the court has ordered a sentence  
17 of probation, the court may impose as a condition of  
18 probation that the defendant complete a course of  
19 prostitution intervention classes; provided that the  
20 court may only impose such condition for one term of  
21 probation.



1           (5) In addition to the penalties imposed in subsection  
 2 (4), for the first offense, or any offense not preceded within a  
 3 five-year period by a conviction for an offense under this  
 4 section, the patron of a prostitute shall be sentenced as  
 5 follows:

6           (a) An eight-hour minimum prostitution offender education  
 7 program, including education and counseling, in the  
 8 harm caused to prostituted persons by patrons who  
 9 create the demand for prostitution; and

10          (b) A surcharge of \$500 to be deposited into the  
 11 prostitution offender education program special fund.

12          [~~(5)~~] (6) 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."

15          SECTION 3. This Act does not affect rights and duties that  
 16 matured, penalties that were incurred, and proceedings that were  
 17 begun before its effective date.

18          SECTION 4. Statutory material to be repealed is bracketed  
 19 and stricken. New statutory material is underscored.

20          SECTION 5. This Act shall take effect on July 1, 2010.

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INTRODUCED BY:

Shiranne Chun Cleveland  
Randy H. Bell  
Michelle N. Kalinski  
Jim



**Report Title:**

First Offender Prostitution Program

**Description:**

Provides that patrons of prostitutes who are convicted of a first offense shall be required to pay a \$500 surcharge and complete an 8-hour educational and counseling program. Establishes a special fund to fund and administer the program.

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

