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# A BILL FOR AN ACT

RELATING TO PROMOTING PROSTITUTION.

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

**PART I**

1  
2 SECTION 1. Section 28-101, Hawaii Revised Statutes, is  
3 amended by amending subsection (a) to read as follows:

4 "(a) The attorney general shall establish a statewide  
5 witness program through which the attorney general may fund or  
6 provide for the security and protection of a government witness  
7 or a potential government witness in an official proceeding or  
8 investigation where the attorney general determines that an  
9 offense such as those described in [~~sections~~] section 710-1071  
10 (intimidating a witness), 710-1072 (tampering with a witness),  
11 or 710-1072.2 (retaliating against a witness) is likely to be  
12 committed or which involves great public interest. The attorney  
13 general may also fund or provide for the security and protection  
14 of the immediate family of, or a person otherwise closely  
15 associated with, such witness or potential witness if the family  
16 or person may also be endangered. In determining whether [~~such~~]  
17 the security and protection or funds are to be provided, the  
18 attorney general shall give greatest priority to official



1 proceedings or investigations involving pending or potential  
2 organized crime, racketeering activity, promoting prostitution,  
3 or career criminal prosecutions."

4 **PART II**

5 SECTION 2. Section 712-1201, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 **"§712-1201 Promoting prostitution; definition of terms.**

8 In sections 712-1202 [~~7~~] and 712-1203 [~~and 712-1204~~]:

- 9 (1) A person "advances prostitution" if, acting other than  
10 as a prostitute or a patron of a prostitute, he  
11 knowingly causes or aids a person to commit or engage  
12 in prostitution, procures or solicits patrons for  
13 prostitution, provides persons for prostitution  
14 purposes, permits premises to be regularly used for  
15 prostitution purposes, operates or assists in the  
16 operation of a house of prostitution or a prostitution  
17 enterprise, or engages in any other conduct designed  
18 to institute, aid, or facilitate an act or enterprise  
19 of prostitution.
- 20 (2) A person "profits from prostitution" if, acting other  
21 than as a prostitute receiving compensation for  
22 personally-rendered prostitution services, he accepts



1 or receives money or other property pursuant to an  
2 agreement or understanding with any person whereby he  
3 participates or is to participate in the proceeds of  
4 prostitution activity."

5 SECTION 3. Section 712-1202, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 **"§712-1202 Promoting prostitution in the first degree.**

8 (1) A person commits the offense of promoting prostitution in  
9 the first degree if the person knowingly:

10 (a) Advances prostitution by compelling a person by force,  
11 threat, [~~or~~] fraud, or intimidation to engage in  
12 prostitution, or profits from such coercive conduct by  
13 another; or

14 (b) Advances or profits from prostitution of a person less  
15 than eighteen years old.

16 (2) Promoting prostitution in the first degree is a class  
17 ~~[B]~~ A felony.

18 (3) As used in this section [~~,"threat"~~]:

19 "Fraud" means making material false statements,  
20 misstatements, or omissions to induce or maintain the person  
21 being prostituted to engage in or continue to engage in  
22 prostitution.



1        "Threat" means any of the actions listed in section 707-  
2 764(1)."

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

5        "**§712-1203 Promoting prostitution in the second degree.**

6        (1) A person commits the offense of promoting prostitution in  
7 the second degree if the person knowingly advances or profits  
8 from prostitution [~~by managing, supervising, controlling, or~~  
9 ~~owning, either alone or in association with others, a house of~~  
10 ~~prostitution or a prostitution business or enterprise involving~~  
11 ~~prostitution activity by two or more prostituted persons]~~.

12        (2) Promoting prostitution in the second degree is a class  
13 [C] B felony."

14        SECTION 5. Section 853-4, Hawaii Revised Statutes, is  
15 amended to read as follows:

16        "**§853-4 Chapter not applicable; when.** This chapter shall  
17 not apply when:

18        (1) The offense charged involves the intentional, knowing,  
19 reckless, or negligent killing of another person;

20        (2) The offense charged is:

21        (A) A felony that involves the intentional, knowing,  
22 or reckless bodily injury, substantial bodily



- 1 injury, or serious bodily injury of another  
2 person; or
- 3 (B) A misdemeanor or petty misdemeanor that carries a  
4 mandatory minimum sentence and that involves the  
5 intentional, knowing, or reckless bodily injury,  
6 substantial bodily injury, or serious bodily  
7 injury of another person;
- 8 (3) The offense charged involves a conspiracy or  
9 solicitation to intentionally, knowingly, or  
10 recklessly kill another person or to cause serious  
11 bodily injury to another person;
- 12 (4) The offense charged is a class A felony;
- 13 (5) The offense charged is nonprobationable;
- 14 (6) The defendant has been convicted of any offense  
15 defined as a felony by the Hawaii Penal Code or has  
16 been convicted for any conduct that if perpetrated in  
17 this State would be punishable as a felony;
- 18 (7) The defendant is found to be a law violator or  
19 delinquent child for the commission of any offense  
20 defined as a felony by the Hawaii Penal Code or for  
21 any conduct that if perpetrated in this State would  
22 constitute a felony;



- 1 (8) The defendant has a prior conviction for a felony  
2 committed in any state, federal, or foreign  
3 jurisdiction;
- 4 (9) A firearm was used in the commission of the offense  
5 charged;
- 6 (10) The defendant is charged with the distribution of a  
7 dangerous, harmful, or detrimental drug to a minor;
- 8 (11) The defendant has been charged with a felony offense  
9 and has been previously granted deferred acceptance of  
10 guilty plea status for a prior offense, regardless of  
11 whether the period of deferral has already expired;
- 12 (12) The defendant has been charged with a misdemeanor  
13 offense and has been previously granted deferred  
14 acceptance of guilty plea status for a prior felony,  
15 misdemeanor, or petty misdemeanor for which the period  
16 of deferral has not yet expired;
- 17 (13) The offense charged is:
- 18 (A) Escape in the first degree;
- 19 (B) Escape in the second degree;
- 20 (C) Promoting prison contraband in the first degree;
- 21 (D) Promoting prison contraband in the second degree;
- 22 (E) Bail jumping in the first degree;



- 1 (F) Bail jumping in the second degree;
- 2 (G) Bribery;
- 3 (H) Bribery of or by a witness;
- 4 (I) Intimidating a witness;
- 5 (J) Bribery of or by a juror;
- 6 (K) Intimidating a juror;
- 7 (L) Jury tampering;
- 8 (M) Promoting prostitution in the first degree;
- 9 (N) Promoting prostitution in the second degree;
- 10 [~~(O)~~] ~~Promoting prostitution in the third degree;~~
- 11 ~~(P)~~] (O) Abuse of family or household members;
- 12 [~~(Q)~~] (P) Sexual assault in the second degree;
- 13 [~~(R)~~] (Q) Sexual assault in the third degree;
- 14 [~~(S)~~] (R) A violation of an order issued pursuant to
- 15 chapter 586;
- 16 [~~(T)~~] (S) Promoting child abuse in the second degree;
- 17 [~~(U)~~] (T) Promoting child abuse in the third degree;
- 18 [~~(V)~~] (U) Electronic enticement of a child in the
- 19 first degree; or
- 20 [~~(W)~~] (V) Electronic enticement of a child in the
- 21 second degree;
- 22 (14) The defendant has been charged with:



1 (A) Knowingly or intentionally falsifying any report  
2 required under chapter 11, part XIII with the  
3 intent to circumvent the law or deceive the  
4 campaign spending commission; or

5 (B) Violating section 11-352 or 11-353; or

6 (15) The defendant holds a commercial driver's license and  
7 has been charged with violating a traffic control law,  
8 other than a parking law, in connection with the  
9 operation of any type of motor vehicle.

10 The court may adopt by rule other criteria in this area."

11 SECTION 6. Section 712-1204, Hawaii Revised Statutes, is  
12 repealed.

13 [~~"§712-1204 Promoting prostitution in the third degree.~~

14 ~~(1) A person commits the offense of promoting prostitution in~~  
15 ~~the third degree if the person knowingly advances or profits~~  
16 ~~from prostitution.~~

17 ~~(2) Promoting prostitution in the third degree is a~~  
18 ~~misdemeanor." ]~~

19 PART III

20 SECTION 7. Section 712-1200, Hawaii Revised Statutes, is  
21 amended by amending subsection (1) to read as follows:





1           "(1) A person commits the offense of prostitution if the  
2 person [engages]:

3           (a) Engages in, or agrees or offers to engage in, sexual  
4 conduct with another person for a fee~~[-]~~; or

5           (b) Pays, agrees to pay, or offers to pay a fee to another  
6 to engage in sexual conduct."

7           SECTION 8. Section 712-1207, Hawaii Revised Statutes, is  
8 amended by amending subsections (1) and (2) to read as follows:

9           "(1) It shall be unlawful for any person within the  
10 boundaries of Waikiki and while on any public property~~[-to~~  
11 ~~offer]~~ to:

12           (a) Offer or agree to engage in sexual conduct with  
13 another person in return for a fee~~[-]~~; or

14           (b) Pay, agree to pay, or offer to pay a fee to another  
15 person to engage in sexual conduct.

16           (2) It shall be unlawful for any person within the  
17 boundaries of other areas in this State designated by county  
18 ordinance pursuant to subsection (3), and while on any public  
19 property~~[-to offer]~~ to:

20           (a) Offer or agree to engage in sexual conduct with  
21 another person in return for a fee~~[-]~~; or



1        (b) Pay, agree to pay, or offer to pay a fee to another  
2        person to engage in sexual conduct."

3        SECTION 9. Act 192, Session Laws of Hawaii 2008, is  
4 amended by amending section 1 to read as follows:

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

8        "**§712- Habitual solicitation of prostitution.** (1) A  
9 person commits the offense of habitual solicitation of  
10 prostitution if the person is a habitual prostitution offender  
11 and pays, agrees to pay, or offers to pay a fee to another  
12 person to engage in sexual conduct.

13        (2) For the purposes of this section, a person has the  
14 status of a "habitual prostitution offender" if the person, at  
15 the time of the conduct for which the person is charged, had two  
16 or more convictions within ten years of the instant offense for:

17        (a) Prostitution, in violation of section [~~712-1200~~] 712-  
18        1200(1)(b);

19        (b) Street solicitation of prostitution, in violation of  
20        section [~~712-1207~~] 712-1207(1)(b);

21        (c) Habitual solicitation of prostitution, in violation of  
22        this section;



- 1 (d) An offense of any other jurisdiction that is  
2 comparable to one of the offenses in [paragraphs]  
3 paragraph (a), (b), or (c); or  
4 (e) Any combination of the offenses in [paragraphs]  
5 paragraph (a), (b), (c), or (d).

6 A conviction for purposes of this section is a judgment on the  
7 verdict or a finding of guilt, or a plea of guilty or nolo  
8 contendere. The convictions must have occurred on separate  
9 dates and be for separate incidents on separate dates. At the  
10 time of the instant offense, the conviction must not have been  
11 expunged by pardon, reversed, or set aside.

12 (3) Habitual solicitation of prostitution is a  
13 [~~misdemeanor.~~] class C felony."

14 SECTION 10. Act 192, Session Laws of Hawaii 2008, section  
15 3, as amended by Act 95, Session Laws of Hawaii 2010, section 1,  
16 is amended to read as follows:

17 "SECTION 3. This Act shall take effect upon its approval[  
18 ~~and shall be repealed on June 30, 2012]~~."

19 **PART IV**

20 SECTION 11. This Act does not affect rights and duties  
21 that matured, penalties that were incurred, and proceedings that  
22 were begun before its effective date.



1 SECTION 12. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 13. This Act shall take effect on July 1, 2011.  
4



**Report Title:**

Promoting Prostitution; Witness Security and Protection

**Description:**

Makes various amendments regarding prostitution offenses. Amends section 28-101, Hawaii Revised Statutes, to give the "greatest priority" to cases involving promoting prostitution, when the attorney general is determining whether to fund or provide for witness security and protection. Increases the grade of offense for promoting prostitution in the first and second degree to a class A and B felony, respectively. Amends the elements of promoting prostitution in the second degree to include acts in violation of the offense of promoting prostitution in the third degree. Repeals the offense of promoting prostitution in the third degree. Expands the offenses of prostitution and solicitation of prostitution to cover patrons of prostitution. Makes the offense of habitual solicitation of prostitution a class C felony, and applies the law to those who habitually patronize prostitutes. Removes the sunset date of Act 192, Session Laws of Hawaii 2009. (SD1)

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

