
A BILL FOR AN ACT

RELATING TO MINORS.

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

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

4 "§706- Minor victims of prostitution; monetary
5 assessment. (1) In addition to any disposition authorized by
6 this chapter or chapter 853, any person who is:

7 (a) Convicted of an offense under part I of chapter 712
8 when the offense involves a person less than eighteen
9 years old; or

10 (b) Charged with an offense under part I of chapter 712
11 when the offense involves a person less than eighteen
12 years old and who has been granted a deferred
13 acceptance of guilty or deferred acceptance of nolo
14 contendre plea,

15 shall be ordered to pay a monetary assessment of \$5,000.

16 Notwithstanding sections 706-640 and 706-641 and any other law
17 to the contrary, the assessment provided by this section shall



1 be in addition to and not in lieu of, and shall not be used to
2 offset or reduce, any fine authorized or required by law.

3 (2) All monetary assessments paid and interest accrued on
4 funds collected pursuant to this section shall be deposited into
5 the domestic violence and sexual assault special fund
6 administered and expended by the department of health in
7 accordance with section 321-1.3, and shall be used by the
8 department of health to make grants to non-governmental
9 organizations to provide services for persons encountered during
10 the course of an investigation into any violation of section
11 712-1202(1) (a) or (b), who were subject to conduct that
12 constitutes a violation of section 712-1202(1) (a) or (b).

13 (3) Probation fees imposed under part III of chapter 706
14 shall be paid before payment of the monetary assessment."

15 SECTION 2. Section 321-1.3, Hawaii Revised Statutes, is
16 amended as follows:

17 1. By amending subsection (b) to read:

18 "(b) The moneys in the special fund shall be reserved for
19 use by the department of health for programs and grants or
20 purchases of service consistent with chapter 42D that support or
21 provide domestic violence and sexual assault intervention or
22 prevention as authorized by law[-] and to provide services for



1 persons subject to conduct that constitutes a violation of
2 section 712-1202(1)(a) or (b), as provided by section 706- .
3 Moneys in the special fund shall be used for new or existing
4 programs and shall not supplant any other moneys previously
5 allocated to these programs."

6 2. By amending subsection (d) to read:

7 "(d) The department of health shall submit an annual
8 report to the legislature no later than twenty days prior to the
9 convening of each regular session providing the following:

10 (1) An accounting of the receipts of, and expenditures
11 from, the special fund; and

12 (2) Recommendations on how to improve services for victims
13 of domestic violence, [and] sexual assault[-],
14 promoting prostitution in the first degree as defined
15 by sections 712-1202(1)(a) or (b), or sex-trafficking
16 as defined in title 22 United States Code, section
17 7102, as amended."

18 SECTION 3. Section 350-1, Hawaii Revised Statutes, is
19 amended by amending the definition of "child abuse or neglect"
20 to read as follows:

21 "Child abuse or neglect" means the acts or omissions of
22 any person [~~who,~~] or legal entity [~~which, is in any manner or~~



1 ~~degree related to the child, is residing with the child, or is~~
2 ~~otherwise responsible for the child's care,~~] that have resulted
3 in the physical or psychological health or welfare of [~~the~~] a
4 child[~~, who is~~] under the age of eighteen[~~, to be~~] being
5 harmed[~~,~~] or [~~to be subject~~] subjected to any reasonably
6 foreseeable, substantial risk of being harmed. [~~The acts~~] Acts
7 or omissions constituting child abuse are indicated for the
8 purposes of reports by circumstances that include but are not
9 limited to:

- 10 (1) When the child exhibits evidence of:
 - 11 (A) Substantial or multiple skin bruising or any
 - 12 other internal bleeding;
 - 13 (B) Any injury to skin causing substantial bleeding;
 - 14 (C) Malnutrition;
 - 15 (D) Failure to thrive;
 - 16 (E) Burn or burns;
 - 17 (F) Poisoning;
 - 18 (G) Fracture of any bone;
 - 19 (H) Subdural hematoma;
 - 20 (I) Soft tissue swelling;
 - 21 (J) Extreme pain;
 - 22 (K) Extreme mental distress;



- 1 (L) Gross degradation; or
- 2 (M) Death; and
- 3 [~~such~~] the injury is not justifiably explained, or
- 4 when the history given concerning [~~such~~] the condition
- 5 or death is at variance with the degree or type of
- 6 [~~such~~] the condition or death, or circumstances
- 7 indicate that [~~such~~] the condition or death may not be
- 8 the product of an accidental occurrence; or
- 9 (2) When the child has been the victim of sexual contact
- 10 or conduct, including, but not limited to, sexual
- 11 assault as defined in the Penal Code, molestation,
- 12 sexual fondling, incest, or prostitution; obscene or
- 13 pornographic photographing, filming, or depiction; or
- 14 other similar forms of sexual exploitation; or
- 15 (3) When there exists injury to the psychological capacity
- 16 of a child as is evidenced by an observable and
- 17 substantial impairment in the child's ability to
- 18 function; or
- 19 (4) When the child is not provided in a timely manner with
- 20 adequate food, clothing, shelter, psychological care,
- 21 physical care, medical care, or supervision; or



1 (5) When the child is provided with dangerous, harmful, or
2 detrimental drugs as defined by section 712-1240;
3 provided that this paragraph shall not apply when such
4 drugs are provided to the child pursuant to the
5 direction or prescription of a practitioner, as
6 defined in section 712-1240."

7 SECTION 4. Section 350-1.1, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§350-1.1 Reports.** (a) Notwithstanding any other state
10 law concerning confidentiality to the contrary, the following
11 persons who, in their professional or official capacity, have
12 reason to believe that child abuse or neglect has occurred or
13 that there exists a substantial risk that child abuse or neglect
14 may occur in the reasonably foreseeable future, shall
15 immediately report the matter orally to the department or to the
16 police department:

17 (1) Any licensed or registered professional of the healing
18 arts or any health-related occupation who examines,
19 attends, treats, or provides other professional or
20 specialized services, including but not limited to
21 physicians, including physicians in training,
22 psychologists, dentists, nurses, osteopathic



1 physicians and surgeons, optometrists, chiropractors,
2 podiatrists, pharmacists, and other health-related
3 professionals;

4 (2) Employees or officers of any public or private school;

5 (3) Employees or officers of any public or private agency
6 or institution[7] or other individuals[7] providing
7 social, medical, hospital, or mental health services,
8 including financial assistance;

9 (4) Employees or officers of any law enforcement agency,
10 including but not limited to the courts, police
11 departments, department of public safety, correctional
12 institutions, and parole or probation offices;

13 (5) Individual providers of child care, or employees or
14 officers of any licensed or registered child care
15 facility, foster home, or similar institution;

16 (6) Medical examiners or coroners; and

17 (7) Employees of any public or private agency providing
18 recreational or sports activities.

19 (b) Whenever a person designated in subsection (a) is a
20 member of the staff of any public or private school, agency, or
21 institution, that staff member shall immediately report the
22 known or suspected child abuse or neglect directly to the



1 department or to the police department and also shall
2 immediately notify the person in charge or a designated delegate
3 of the report made in accordance with this chapter.

4 (c) Whenever an employee or officer of any law enforcement
5 agency suspects or charges a person under eighteen years of age
6 with a violation of sections 712-1200, 712-1207, or 712-1209,
7 that employee or officer shall immediately report the suspicion
8 or charge directly to the department.

9 [~~(e)~~] (d) The initial oral report shall be followed as soon
10 as possible by a report in writing to the department. If a
11 police department or the department of public safety is the
12 initiating agency, a written report shall be filed with the
13 department for cases that the police or the department of public
14 safety takes further action on or for active cases in the
15 department under this chapter. All written reports shall
16 contain the name and address of the child and the child's
17 parents or other persons responsible for the child's care, if
18 known, the child's age, the nature and extent of the child's
19 injuries, and any other information that the reporter believes
20 might be helpful or relevant to the investigation of the child
21 abuse or neglect. This subsection shall not be construed to



1 serve as a cause of action against the department, the police,
2 or the department of public safety.

3 ~~[(d)]~~ (e) Any person subject to subsection (a) shall, upon
4 demand of the department or any police department, provide all
5 information related to the alleged incident of child abuse or
6 neglect, including, but not limited to, medical records and
7 medical reports, which was not included in the written report
8 submitted pursuant to subsection ~~[(e)]~~ (d).

9 ~~[(e)]~~ (f) The director may adopt, amend, or repeal rules,
10 subject to chapter 91, to further define or clarify the specific
11 forms of child abuse or neglect enumerated in section 350-1 for
12 use in implementing this chapter; provided that rules adopted
13 under this subsection shall be limited to such further or
14 clarifying definitions."

15 SECTION 5. Section 571-11, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§571-11 Jurisdiction; children.** Except as otherwise
18 provided in this chapter, the court shall have exclusive
19 original jurisdiction in proceedings:

20 (1) Concerning any person who is alleged to have committed
21 an act prior to achieving eighteen years of age that
22 would constitute a violation or attempted violation of



1 any federal, state, or local law or county ordinance.
 2 Regardless of where the violation occurred,
 3 jurisdiction may be taken by the court of the circuit
 4 where the person resides, is living, or is found, or
 5 in which the offense is alleged to have occurred;

6 (2) Concerning any person under eighteen years of age who
 7 is suspected of or charged with a violation of
 8 sections 712-1200, 712-1207, or 712-1209 and later
 9 granted immunity under sections 712-1207(8) or
 10 712-1209(3); provided that regardless of where the
 11 violation occurred, jurisdiction may be exercised by
 12 the court of the circuit where the person resides, is
 13 living, or is found, or in which the offense is
 14 alleged to have occurred;

15 [~~2~~] (3) Concerning any child living or found within the
 16 circuit:

17 (A) Who is neglected as to or deprived of educational
 18 services because of the failure of any person or
 19 agency to exercise that degree of care for which
 20 it is legally responsible;



- 1 (B) Who is beyond the control of the child's parent
- 2 or other custodian or whose behavior is injurious
- 3 to the child's own or others' welfare;
- 4 (C) Who is neither attending school nor receiving
- 5 educational services required by law whether
- 6 through the child's own misbehavior or
- 7 nonattendance or otherwise; or
- 8 (D) Who is in violation of curfew;
- 9 ~~[(3)]~~ (4) To determine the custody of any child or appoint
- 10 a guardian of any child;
- 11 ~~[(4)]~~ (5) For the adoption of a person under chapter 578;
- 12 ~~[(5)]~~ (6) For the termination of parental rights under
- 13 sections 571-61 through 571-63;
- 14 ~~[(6)]~~ (7) For judicial consent to the marriage, employment,
- 15 or enlistment of a child, when consent is required by
- 16 law;
- 17 ~~[(7)]~~ (8) For the treatment or commitment of a mentally
- 18 defective or mentally ill child, or a child with an
- 19 intellectual disability;
- 20 ~~[(8)]~~ (9) Under the Interstate Compact on Juveniles under
- 21 chapter 582 or the Interstate Compact for Juveniles
- 22 under chapter 582D;



1 defendant caused, was responsible for, or profited
 2 from the act of promoting prostitution by coercion; or
 3 (4) If the plaintiff is a victim of a series of acts of
 4 promoting prostitution by coercion by the same
 5 defendant, until the last act of promoting
 6 prostitution by coercion has occurred.

7 (c) A statute of limitations defense may not be asserted
 8 if the defendant induced or attempted to induce the plaintiff to
 9 delay filing a claim under this chapter."

10 SECTION 7. Section 712-1200, Hawaii Revised Statutes, is
 11 amended to read as follows:

12 "**§712-1200 Prostitution.** (1) A person commits the
 13 offense of prostitution if the person:

14 (a) Engages in, or agrees or offers to engage in, sexual
 15 conduct with another person for a fee; or

16 (b) Pays, agrees to pay, or offers to pay a fee to another
 17 to engage in sexual conduct.

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

21 (3) Prostitution is a petty misdemeanor.



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

3 (a) For the first offense, when the court has not deferred
4 further proceedings pursuant to chapter 853, a
5 mandatory fine of \$500 and the person may be sentenced
6 to a term of imprisonment of not more than thirty days
7 or probation; provided that in the event the convicted
8 person defaults in payment of the \$500 fine, and the
9 default was not contumacious, the court may sentence
10 the person to perform services for the community as
11 authorized by section 706-605(1) [-];

12 (b) For any subsequent offense, a mandatory fine of \$500
13 and a term of imprisonment of thirty days or
14 probation, without possibility of deferral of further
15 proceedings pursuant to chapter 853 and without
16 possibility of suspension of sentence [-]; and

17 (c) For the purpose of this subsection, if the court has
18 deferred further proceedings pursuant to chapter 853,
19 and notwithstanding any provision of chapter 853 to
20 the contrary, the defendant shall not be eligible to
21 apply for expungement pursuant to section 831-3.2
22 until four years following discharge. A plea



1 previously entered by a defendant under section 853-1
2 for a violation of this section shall be considered a
3 prior offense. When the court has ordered a sentence
4 of probation, the court may impose as a condition of
5 probation that the defendant complete a course of
6 prostitution intervention classes; provided that the
7 court may only impose [~~such~~] the condition for one
8 term of probation.

9 (5) This section shall not apply to any member of a police
10 department, a sheriff, or a law enforcement officer acting in
11 the course and scope of duties.

12 (6) If it is determined, after a reasonable detention for
13 investigative purposes, that a person suspected of or charged
14 with a violation of subsection (1)(a) was less than eighteen
15 years old at the time the offense of prostitution was committed,
16 that person shall be immune to prosecution under this section,
17 and shall be subject to the child protective provisions of
18 chapter 587A. Immunity to prosecution under this section shall
19 not apply to persons suspected or charged with a violation of
20 subsection (1)(b)."

21 SECTION 8. Section 712-1207, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "§712-1207 Street solicitation of prostitution; designated

2 **areas.** (1) It shall be unlawful for any person within the
3 boundaries of Waikiki and while on any public property to:

4 (a) Offer or agree to engage in sexual conduct with
5 another person in return for a fee; or

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

8 (2) It shall be unlawful for any person within the
9 boundaries of other areas in this State designated by county
10 ordinance pursuant to subsection (3), and while on any public
11 property 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 (3) Upon a recommendation of the chief of police of a
17 county, that county may enact an ordinance that:

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



1 (b) Alters the boundaries of any existing area under
2 paragraph (a);
3 provided that not more than four areas may be designated within
4 the State.

5 (4) Notwithstanding any law to the contrary, any person
6 violating this section shall be guilty of a petty misdemeanor
7 and shall be sentenced to a mandatory term of thirty days
8 imprisonment. The term of imprisonment shall be imposed
9 immediately, regardless of whether the defendant appeals the
10 conviction, except as provided in subsection (5).

11 (5) As an option to the mandatory term of thirty days
12 imprisonment, if the court finds the option is warranted based
13 upon the defendant's record, the court may place the defendant
14 on probation for a period not to exceed six months, subject to
15 the mandatory condition that the defendant observe geographic
16 restrictions that prohibit the defendant from entering or
17 remaining on public property, in Waikiki and other areas in the
18 State designated by county ordinance during the hours from
19 6 p.m. to 6 a.m. Upon any violation of the geographic
20 restrictions by the defendant, the court, after hearing, shall
21 revoke the defendant's probation and immediately impose the
22 mandatory thirty-day term of imprisonment. Nothing contained in



1 this subsection shall be construed as prohibiting the imposition
2 of stricter geographic restrictions under section 706-
3 624(2) [~~(h)~~] (g) or (k).

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

10 Notwithstanding any other provision of law to the contrary, any
11 person who violates these bail restrictions shall have the
12 person's bail revoked after hearing and shall be imprisoned
13 forthwith. Nothing contained in this subsection shall be
14 construed as prohibiting the imposition of stricter geographic
15 restrictions under section 804-7.1.

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



1 (8) If it is determined, after a reasonable detention for
2 investigative purposes, that a person suspected of or charged
3 with a violation of subsection (1)(a) or (2)(a) was less than
4 eighteen years old at the time the violation was committed, that
5 person shall be immune to prosecution under this section, and
6 shall be subject to the child protective provisions of chapter
7 587A. Immunity to prosecution under this section shall not
8 apply to persons suspected or charged with a violation of
9 subsection (1)(b) or (2)(b).

10 ~~[+8)]~~ (9) For purposes of this section:

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

14 "Public property" includes any street, highway, road,
15 sidewalk, alley, lane, bridge, parking lot, park, or other
16 property owned or under the jurisdiction of any governmental
17 entity or otherwise open to the public.

18 "Sexual conduct" has the same meaning as in section
19 712-1200(2).

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



1 ~~[(9)]~~ (10) This section shall apply to all counties;
2 provided that if a county enacts an ordinance to regulate street
3 solicitation for prostitution, other than an ordinance
4 designating an area as a zone of significant prostitution-
5 related activity, the county ordinance shall supersede this
6 section and no person shall be convicted under this section in
7 that county."

8 SECTION 9. Section 712-1209, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "~~[(1)]~~§712-1209~~[(1)]~~ **Solicitation of prostitution near schools**
11 **or public parks.** (1) A person commits the offense of
12 solicitation of prostitution near schools or public parks if,
13 within seven hundred fifty feet of a school or public park, the
14 person offers or agrees to pay a fee to another person to engage
15 in sexual conduct.

16 (2) Solicitation of prostitution near schools or public
17 parks; which is a misdemeanor.

18 (3) If it is determined, after a reasonable detention for
19 investigative purposes, that a person suspected of or charged
20 with a violation of subsection (1) was less than eighteen years
21 old at the time the violation was committed, that person shall
22 be immune to prosecution under this section, and shall be



1 subject to the child protective provisions of chapter 587A.
2 Immunity to prosecution under this section shall not apply to
3 patrons of prostitution or persons who procure or solicit
4 patrons for prostitution.

5 [~~3~~] (4) For purposes of this section:

6 "School" has the same meaning as in section 712-1249.6(6).

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

9 SECTION 10. (a) The department of health, in partnership
10 with the department of human services, shall develop a two-year
11 victim services pilot program to address the needs of minors who
12 are victims of prostitution and minors at-risk of victimization
13 through prostitution.

14 (b) The department of health and the department of human
15 services shall:

16 (1) Coordinate with each other and with law enforcement
17 agencies, the county prosecutors' offices, child
18 protection workers, and human trafficking service
19 providers to implement the victim services pilot
20 program;



1 (2) Provide training and educational materials to
2 departmental employees regarding sex trafficking and
3 exploitation of minors through prostitution;

4 (3) Develop a public awareness campaign regarding sex
5 trafficking of minors; and

6 (4) Conduct outreach to youth identified as being at risk
7 for victimization through prostitution.

8 (c) Moneys from the domestic violence and sexual assault
9 special fund shall be administered and expended by the
10 department of health in accordance with section 321-1.3, Hawaii
11 Revised Statutes, and shall be used by the department of health
12 to make grants to non-governmental organizations to provide
13 services for victims encountered during the course of an
14 investigation into any violation of section 712-1202(1), Hawaii
15 Revised Statutes, who were subject to conduct that constitutes a
16 violation of section 712-1202(1), Hawaii Revised Statutes; the
17 department of health may also use moneys from the fund to enter
18 into contracts with organizations that can provide services to
19 minor victims of prostitution.

20 (d) The department of health shall submit a report to the
21 legislature, no later than twenty days prior to the convening of
22 the regular session of 2015, that details the implementation of



1 the victim services pilot program. The report shall include
 2 findings and recommendations, including proposed legislation and
 3 the estimated costs of implementing the pilot program on a
 4 permanent basis.

5 SECTION 11. This Act does not affect rights and duties
 6 that matured, penalties that were incurred, and proceedings that
 7 were begun before its effective date.

8 SECTION 12. Statutory material to be repealed is bracketed
 9 and stricken. New statutory material is underscored.

10 SECTION 13. This Act shall take effect on July 1, 2013.

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INTRODUCED BY:

[Handwritten signature: Helen Anderson]
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H.B. NO. 1067

Report Title:

Minors; Prostitution; Victim Services Pilot Program

Description:

Amends definition of child abuse or neglect. Amends existing requirements for reporting, prosecution, and coercion of child prostitution. Establishes a victim services pilot program. Effective July 1, 2013.

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

