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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. The legislature finds that sex trafficking is  
2 an ever-evolving criminal enterprise in which traffickers and  
3 exploiters find various means to sexually exploit the most  
4 vulnerable in the community. As traffickers change tactics to  
5 avoid accountability, the criminal justice system and  
6 understanding of sex trafficking must continue to evolve as  
7 well.

8           The legislature further finds that protecting victims from  
9 sexual exploitation and holding offenders accountable is  
10 difficult given the disparity in power between the victims and  
11 perpetrators. Therefore, amending Hawaii's sex trafficking laws  
12 to better reflect the current reality and challenges will  
13 improve outcomes for trafficking victims and survivors.

14           The legislature additionally finds that legal terminology  
15 is vital to an understanding of sex trafficking in the criminal  
16 justice system and in the general community. Creating a  
17 separate crime for individuals who purchase people for sex,



1 changing the name of a crime from "solicitation of a minor for  
2 prostitution" to "commercial sexual exploitation of a minor",  
3 and eliminating the noun "prostitute" will further this  
4 objective.

5 The legislature also finds that, given the seriousness of  
6 the offense, the level of the offense for perpetrators who  
7 purchase children for sex should be increased to a class B  
8 felony. Additionally, due to the fear, trauma, and  
9 psychological tactics utilized by traffickers, victims are  
10 reluctant to come forward and seek justice until they feel safe  
11 and free from their exploiters. Therefore, eliminating the  
12 statute of limitation for sex trafficking is necessary to hold  
13 these offenders accountable.

14 The legislature further finds that perpetrators have  
15 escaped criminal culpability by exploiting gaps in existing law.  
16 Adding the rendering of anything of value as a means of  
17 compensation, in addition to a fee, will protect those victims  
18 who are being sexually exploited in exchange for drugs, housing,  
19 and other non-monetary compensation, while also making the law  
20 consistent with the federal definition of human trafficking.  
21 Additionally, amending the law to account for situations in



1 which a trafficker or third party is negotiating or profiting  
2 from the exploitation of a minor is necessary to hold the buyer  
3 accountable.

4 Accordingly, the purpose of this Act is to:

- 5 (1) Create a separate commercial sexual exploitation  
6 offense for those who provide anything of value to  
7 engage in sexual conduct with another;
- 8 (2) Specify that the offense of sex trafficking may be  
9 prosecuted at any time;
- 10 (3) Specify that sex trafficking includes advancing or  
11 profiting from prostitution by certain means,  
12 including through coercion;
- 13 (4) Make a person strictly liable for sex trafficking of a  
14 minor in terms of the victim's age;
- 15 (5) Rename offenses involving the solicitation of  
16 prostitution to use the more appropriate term of  
17 commercial sexual exploitation;
- 18 (6) Amend the elements for commission of the offense of  
19 commercial sexual exploitation of a minor and increase  
20 the grade of offense to a class B felony;



- 1 (7) Include anything of value as a type of compensation
- 2 for purposes of engaging in prostitution or other
- 3 offenses involving commercial sexual exploitation; and
- 4 (8) Clarify the exemption from commercial sexual
- 5 exploitation and prostitution-related offenses for law
- 6 enforcement officers acting in the course and scope of
- 7 duties.

8 SECTION 2. Chapter 712, Hawaii Revised Statutes, is  
9 amended by adding a new section to be appropriately designated  
10 and to read as follows:

11 "§712- Commercial sexual exploitation. (1) A person  
12 commits the offense of commercial sexual exploitation if the  
13 person provides, agrees to provide, or offers to provide a fee  
14 or anything of value to another to engage in sexual conduct.

15 (2) As used in this section, "sexual conduct" has the same  
16 meaning as in section 712-1200(2).

17 (3) Except as provided in subsection (4), commercial  
18 sexual exploitation is a petty misdemeanor.

19 (4) Commercial sexual exploitation is a class C felony if  
20 the person who commits the offense under subsection (1) does so



1 in reckless disregard of the fact that the person exploited is a  
2 victim of sex trafficking.

3 (5) A person convicted of committing the offense of  
4 commercial sexual exploitation as a petty misdemeanor shall be  
5 sentenced as follows:

6 (a) For the first offense, a fine of no less than \$500 but  
7 no more than \$1,000 and the person may be sentenced to  
8 a term of imprisonment of no more than thirty days or  
9 probation; provided that in the event the convicted  
10 person defaults in payment of the fine, and the  
11 default was not contumacious, the court may order  
12 conversion of the unpaid portion of the fine to  
13 community service as authorized by section 706-605(1);

14 (b) For any subsequent offense, a fine of no less than  
15 \$500 but no more than \$1,000 and a term of  
16 imprisonment or probation of no more than thirty days,  
17 without possibility of suspension of sentence; and

18 (c) For purposes of this subsection, the court may impose  
19 as a condition of probation that the defendant  
20 complete a course of exploitation intervention



1 classes; provided that the court shall only impose the  
2 condition for one term of probation.

3 (6) This section shall not apply to any member of a police  
4 department, a sheriff, or a law enforcement officer acting in  
5 the course and scope of duties; provided that the member of a  
6 police department, sheriff, or law enforcement officer is  
7 engaging in undercover operations; provided further that under  
8 no circumstances shall sexual contact initiated by a member of a  
9 police department, sheriff, or law enforcement officer; sexual  
10 penetration; or sadomasochistic abuse be considered to fall  
11 within the course and scope of duties."

12 SECTION 3. Section 701-108, Hawaii Revised Statutes, is  
13 amended by amending subsection (1) to read as follows:

14 "(1) A prosecution for murder, murder in the first and  
15 second degrees, attempted murder, [~~and~~] attempted murder in the  
16 first and second degrees, criminal conspiracy to commit murder  
17 in any degree, criminal solicitation to commit murder in any  
18 degree, sexual assault in the first and second degrees, sex  
19 trafficking, and continuous sexual assault of a minor under the  
20 age of fourteen years may be commenced at any time."



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

3 1. By amending subsection (1) to read:

4 "(1) A person commits the offense of prostitution if the  
5 person[+]

6 ~~(a) Engages]~~ engages in, or agrees or offers to engage in,  
7 sexual conduct with another person in return for a  
8 fee[; ~~or~~

9 ~~(b) Pays, agrees to pay, or offers to pay a fee to another~~  
10 ~~to engage in sexual conduct.]~~ or anything of value."

11 2. By amending subsections (3) through (6) to read:

12 "(3) Prostitution is a petty misdemeanor; provided that[+]

13 ~~(a) If]~~ if the person who commits the offense under  
14 subsection (1)[~~(a)~~] is a minor, prostitution is a  
15 violation[; ~~and~~

16 ~~(b) If the person who commits the offense under~~  
17 ~~subsection (1)(b) does so in reckless disregard of the~~  
18 ~~fact that the other person is a victim of sex~~  
19 ~~trafficking, prostitution is a class C felony].~~



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

4 (a) For the first offense, when the court has not deferred  
5 further proceedings pursuant to chapter 853, a fine of  
6 ~~[not]~~ no less than \$500 but ~~[not]~~ no more than \$1,000  
7 and the person may be sentenced to a term of  
8 imprisonment of ~~[not]~~ no more than thirty days or  
9 probation; provided that in the event the convicted  
10 person defaults in payment of the fine, and the  
11 default was not contumacious, the court may ~~[sentence~~  
12 ~~the person to perform services for the community]~~ make  
13 an order converting the unpaid portion of the fine to  
14 community service as authorized by  
15 section 706-605(1) ~~[+]~~;

16 (b) For any subsequent offense, a fine of ~~[not]~~ no less  
17 than \$500 but ~~[not]~~ no more than \$1,000 and a term of  
18 imprisonment of thirty days or probation, without  
19 possibility of deferral of further proceedings  
20 pursuant to chapter 853 and without possibility of  
21 suspension of sentence ~~[+]~~; and



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

15 (5) This section shall not apply to any member of a police  
 16 department, a sheriff, or a law enforcement officer acting in  
 17 the course and scope of duties[~~, unless engaged in~~]; provided  
 18 that the member of a police department, sheriff, or law  
 19 enforcement officer is engaging in undercover operations;  
 20 provided further that under no circumstances shall sexual  
 21 contact initiated by a member of a police department, sheriff,



1 or law enforcement officer; sexual penetration; or  
2 sadomasochistic abuse[-] be considered to fall within the course  
3 and scope of duties.

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

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

14 "**§712-1201 Advancing prostitution; profiting from**  
15 **prostitution; definition of terms.** In sections 712-1202  
16 and 712-1203:

17 (1) A person "advances prostitution" if [~~acting other~~  
18 ~~than as a prostitute or a patron of a prostitute,~~] the  
19 person knowingly causes or aids a person to commit or  
20 engage in prostitution, procures or solicits patrons  
21 for prostitution, provides persons for prostitution



1 purposes, permits premises to be regularly used for  
2 prostitution purposes, operates or assists in the  
3 operation of a house of prostitution or a prostitution  
4 enterprise, or engages in any other conduct designed  
5 to institute, aid, or facilitate an act or enterprise  
6 of prostitution[-];

7 (2) A person "profits from prostitution" if [~~acting other~~  
8 ~~than as a prostitute receiving compensation for~~  
9 ~~personally rendered prostitution services,~~] the person  
10 accepts or receives money, anything of value, or other  
11 property pursuant to an agreement or understanding  
12 with any person whereby the person participates or is  
13 to participate in the proceeds of prostitution  
14 activity[-]; and

15 (3) The definitions in subsections (1) and (2) shall not  
16 include those engaged in conduct outlined in  
17 section 712-1200 as the prostituted person or  
18 section 712- as the person engaged in commercial  
19 sexual exploitation."

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



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

3           (a) Advances prostitution by compelling or inducing a  
4           person by force, threat, fraud, coercion, or  
5           intimidation to engage in prostitution, or profits  
6           from such conduct by another; or

7           (b) Advances prostitution or profits from prostitution of  
8           a minor[~~; provided that with respect to the victim's~~  
9           ~~age, the prosecution shall be required to prove only~~  
10           ~~that the person committing the offense acted~~  
11           ~~negligently~~].

12           (2) Sex trafficking is a class A felony.

13           (3) As used in this section:

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

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

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

20           (4) The state of mind requirement for the offense under  
21           subsection (1)(b) is not applicable to the fact that the victim



1 was a minor. A person is strictly liable with respect to the  
2 attendant circumstances that the victim was a minor."

3 SECTION 7. Section 712-1207, Hawaii Revised Statutes, is  
4 amended as follows:

5 1. By amending its title and subsections (1) and (2) to  
6 read:

7 "~~§712-1207 Street [solicitation of] prostitution[+] and~~  
8 commercial sexual exploitation; designated areas. (1) It shall  
9 be unlawful for any person within the boundaries of Waikiki and  
10 while on any public property to:

11 (a) Offer or agree to engage in sexual conduct with  
12 another person in return for a fee[+] or anything of  
13 value; or

14 (b) [~~Pay, agree to pay, or offer to pay~~] Provide, agree to  
15 provide, or offer to provide a fee or anything of  
16 value to another person to engage in sexual conduct.

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



1 (a) Offer or agree to engage in sexual conduct with  
2 another person in return for a fee[+] or anything of  
3 value; or

4 (b) [~~Pay, agree to pay, or offer to pay~~] Provide, agree to  
5 provide, or offer to provide a fee or anything of  
6 value to another person to engage in sexual conduct."

7 2. By amending subsection (9) to read:

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

15 SECTION 8. Section 712-1209, Hawaii Revised Statutes, is  
16 amended by amending its title and subsections (1) and (2) to  
17 read as follows:

18 "[+]§712-1209[+] ~~Solicitation of prostitution~~] Commercial  
19 sexual exploitation near schools or public parks. (1) A person  
20 commits the offense of [~~solicitation of prostitution~~] commercial  
21 sexual exploitation near schools or public parks if, within



1 seven hundred fifty feet of a school or public park, the person  
2 ~~[offers or agrees to pay]~~ provides, agrees to provide, or offers  
3 to provide a fee or anything of value to another person to  
4 engage in sexual conduct.

5 (2) ~~[Solicitation of prostitution]~~ Commercial sexual  
6 exploitation near schools or public parks is a misdemeanor."

7 SECTION 9. Section 712-1209.1, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "§712-1209.1 [Solicitation] Commercial sexual exploitation  
10 of a minor [for prostitution]. (1) A person eighteen years of  
11 age or older commits the offense of ~~[solicitation]~~ commercial  
12 sexual exploitation of a minor ~~[for prostitution]~~ if the person  
13 intentionally, knowingly, or recklessly ~~[offers]~~:

14 (a) Offers or agrees to ~~[pay a fee to a minor or]~~ provide  
15 anything of value to a member of a police department,  
16 a sheriff, or a law enforcement officer who represents  
17 that person's self as a minor to engage in sexual  
18 conduct~~[+]~~;

19 (b) Provides anything of value to a minor or third person  
20 as compensation for having engaged in sexual conduct  
21 with a minor;



1        (c) Agrees to provide or offers to provide anything of  
2                    value to a minor or third person for the purpose of  
3                    engaging in sexual conduct with a minor; or

4        (d) Solicits, offers to engage in, or requests to engage  
5                    in sexual conduct with a minor in return for anything  
6                    of value.

7        (2) [~~Solicitation~~] Commercial sexual exploitation of a  
8 minor [~~for prostitution~~] is a class [C] B felony.

9        (3) [A] In addition to any other authorized disposition, a  
10 person convicted of committing the offense of [~~solicitation~~]  
11 commercial sexual exploitation of a minor [~~for prostitution~~]  
12 shall be [~~imposed~~] sentenced to pay a fine of [not] no less than  
13 \$5,000[; provided that \$5,000 of the imposed fine shall be  
14 credited to the general fund].

15        (4) This section shall not apply to any member of a police  
16 department, a sheriff, or a law enforcement officer [~~who offers~~  
17 ~~or agrees to pay a fee to a minor while~~] acting in the course  
18 and scope of duties[~~-~~]; provided that the member of a police  
19 department, sheriff, or law enforcement officer is engaging in  
20 undercover operations; provided further that under no  
21 circumstances shall sexual contact initiated by a member of a



1 police department, sheriff, or law enforcement officer; sexual  
2 penetration; or sadomasochistic abuse be considered to fall  
3 within the course and scope of duties.

4 (5) The state of mind requirement for [~~this~~] the offense  
5 under subsection (1)(b) is not applicable to the fact that the  
6 [~~person solicited~~] victim was a minor. A person is strictly  
7 liable with respect to the attendant circumstance that the  
8 [~~person solicited~~] victim was a minor~~[-]~~; provided that the  
9 person had a reasonable opportunity to observe the victim.

10 (6) Consent of a minor to the sexual conduct does not  
11 constitute a defense to any offense in this section.

12 [~~(6)~~] (7) For purposes of this section:

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

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

17 SECTION 10. Section 712-1209.5, Hawaii Revised Statutes,  
18 is amended to read as follows:

19 "[~~§~~]**712-1209.5**[~~]~~ **Habitual [~~solicitation of~~**  
20 **~~prostitution.~~]** **commercial sexual exploitation.** (1) A person  
21 commits the offense of habitual [~~solicitation of prostitution~~]



1 commercial sexual exploitation if the person is a habitual  
2 [~~prostitution~~] commercial sexual exploitation offender and  
3 [~~pays, agrees to pay, or offers to pay~~] provides, agrees to  
4 provide, or offers to provide a fee or anything of value to  
5 another person to engage in sexual conduct.

6 (2) For the purposes of this section, a person has the  
7 status of a "habitual [~~prostitution~~] commercial sexual  
8 exploitation offender" if the person, at the time of the conduct  
9 for which the person is charged, had two or more convictions  
10 within ten years of the instant offense for:

11 (a) [~~Prostitution,~~] Commercial sexual exploitation, in  
12 violation of section [~~712-1200(1)(b),~~] 712-\_\_\_;

13 (b) Street [~~solicitation of~~] prostitution[~~,~~] and  
14 commercial sexual exploitation, in violation of  
15 section 712-1207(1)(b) [~~,~~] or (2)(b);

16 (c) Habitual [~~solicitation of prostitution,~~] commercial  
17 sexual exploitation, in violation of this section;

18 (d) An offense of this jurisdiction or any other  
19 jurisdiction that is comparable to one of the offenses  
20 in paragraph (a), (b), or (c); or



1 (e) Any combination of the offenses in paragraph (a), (b),  
2 (c), or (d).

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

9 (3) Habitual [~~solicitation of prostitution~~] commercial  
10 sexual exploitation is a class C felony."

11 SECTION 11. Section 712-1209.6, Hawaii Revised Statutes,  
12 is amended to read as follows:

13 **"§712-1209.6 Prostitution; motion to vacate conviction.**

14 (1) A person convicted of committing the offense of  
15 prostitution under section 712-1200[~~(1)(a)~~], loitering for the  
16 purpose of engaging in or advancing prostitution under  
17 section 712-1206(2), street [~~solicitation of~~] prostitution and  
18 commercial sexual exploitation in designated areas under  
19 section 712-1207(1) (a) or [~~712-1207~~](2) (a), or convicted of a  
20 lesser offense when originally charged with a violation of  
21 section 712-1200[~~(1)(a)~~], 712-1206(2), or 712-1207(1) (a)



1 or [712-1207] (2) (a), may file a motion to vacate the conviction  
2 if the defendant is not subsequently convicted of any offense  
3 under the Hawaii Penal Code within three years after the date of  
4 the original conviction.

5 (2) The court shall hold a hearing on a motion filed under  
6 this section to review the defendant's record over the three  
7 years after the date of the original conviction under  
8 section 712-1200 [~~(1)~~-(a)], 712-1206(2), or 712-1207(1) (a)  
9 or (2) (a) or conviction of a lesser offense when originally  
10 charged with a violation of any of those sections, and if the  
11 court finds that the defendant has not been convicted of any  
12 offense under the [~~penal code~~] Hawaii Penal Code within this  
13 three year period, the court shall vacate the conviction."

14 SECTION 12. Section 712A-4, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "**§712A-4 Covered offenses.** Offenses for which property is  
17 subject to forfeiture under this chapter are:

- 18 (a) All offenses that specifically authorize forfeiture;
- 19 (b) Murder[  ]; kidnapping[  ]; labor trafficking[  ];  
20 unlicensed sale of liquor[  ]; unlicensed manufacture  
21 of liquor[  ]; gambling[  ]; criminal property



1 damage[~~τ~~]; robbery[~~τ~~]; bribery[~~τ~~]; extortion[~~τ~~];  
2 theft[~~τ~~]; unauthorized entry into motor vehicle[~~τ~~];  
3 burglary[~~τ~~]; money laundering[~~τ~~]; trademark  
4 counterfeiting[~~τ~~]; insurance fraud[~~τ~~]; promoting a  
5 dangerous, harmful, or detrimental drug[~~τ~~]; commercial  
6 promotion of marijuana[~~τ~~]; methamphetamine  
7 trafficking[~~τ~~]; manufacturing of a controlled  
8 substance with a child present[~~τ~~]; promoting child  
9 abuse[~~τ~~]; promoting prostitution[~~τ~~]; sex trafficking[~~τ~~  
10 ~~solicitation~~]; commercial sexual exploitation of a  
11 minor [~~for prostitution,τ~~]; habitual [~~solicitation of~~  
12 ~~prostitution,τ~~] commercial sexual exploitation; or  
13 electronic enticement of a child that is chargeable as  
14 a felony offense under state law;

15 (c) The manufacture, sale, or distribution of a controlled  
16 substance in violation of chapter 329, promoting  
17 detrimental drugs or intoxicating compounds, promoting  
18 pornography, promoting pornography for minors, or  
19 [~~solicitation of prostitution~~] commercial sexual  
20 exploitation near schools or public parks, which is



1 chargeable as a felony or misdemeanor offense, but not  
2 as a petty misdemeanor, under state law; and  
3 (d) The attempt, conspiracy, solicitation, coercion, or  
4 intimidation of another to commit any offense for  
5 which property is subject to forfeiture."

6 SECTION 13. Section 806-83, Hawaii Revised Statutes, is  
7 amended by amending subsection (a) to read as follows:

8 "(a) Criminal charges may be instituted by written  
9 information for a felony when the charge is a class C felony,  
10 except under:

- 11 (1) Section 159-28 (bribery related to the Hawaii Meat  
12 Inspection Act);
- 13 (2) Section 161-28 (bribery related to the Hawaii Poultry  
14 Inspection Act);
- 15 (3) Section 707-712.5 (assault against a law enforcement  
16 officer in the first degree);
- 17 (4) Section 707-716 (terroristic threatening in the  
18 first degree);
- 19 (5) Section 707-732 (sexual assault in the third degree);
- 20 (6) Section 707-741 (incest);



- 1 (7) Section 707-752 (promoting child abuse in the
- 2 third degree);
- 3 (8) Section 708-880 (commercial bribery);
- 4 (9) Section 709-904.5 (compensation by an adult of
- 5 juveniles for crimes);
- 6 (10) Section 710-1026.9 (resisting an order to stop a motor
- 7 vehicle in the first degree);
- 8 (11) Section 710-1070 (bribery of or by a witness);
- 9 (12) Section 710-1071 (intimidating a witness);
- 10 (13) Section 710-1072.2 (retaliating against a witness);
- 11 (14) Section 710-1073 (bribery of or by a juror);
- 12 (15) Section 710-1075 (jury tampering);
- 13 (16) Section 710-1075.5 (retaliating against a juror);
- 14 (17) Section 711-1106.4 (aggravated harassment by
- 15 stalking);
- 16 (18) Section 711-1110.9 (violation of privacy in the
- 17 first degree);
- 18 (19) Section 712-1208 (promoting travel for prostitution);
- 19 [~~20~~] ~~Section 712-1209.1 (solicitation of a minor for~~
- 20 ~~prostitution);~~



1       ~~(21)~~ (20) Section 712-1209.5 (habitual [~~solicitation of~~  
2                   ~~prostitution~~];] commercial sexual exploitation);  
3       ~~(22)~~ (21) Section 712-1215 (promoting pornography for  
4                   minors);  
5       ~~(23)~~ (22) Section 712-1218 (failure to maintain age  
6                   verification records of sexual performers);  
7       ~~(24)~~ (23) Section 712-1218.5 (failure to maintain age  
8                   verification records of sexually exploited  
9                   individuals); and  
10       ~~(25)~~ (24) Section 712-1219 (failure to affix information  
11                   disclosing location of age verification records of  
12                   sexual performers)."

13           SECTION 14. Section 846E-1, Hawaii Revised Statutes, is  
14 amended by amending the definition of "sexual offense" to read  
15 as follows:

16           ""Sexual offense" means an offense that is:  
17           (1) Set forth in section 707-730(1), 707-731(1),  
18                 707-732(1), 707-733(1)(a), 707-733.6, 712-\_\_\_\_\_ (4),  
19                 712-1202(1), or 712-1203(1), but excludes conduct that  
20                 is criminal only because of the age of the victim, as  
21                 provided in section 707-730(1)(b), or



1 section 707-732(1)(b) if the perpetrator is under the  
2 age of eighteen;

3 (2) An act defined in section 707-720 if the charging  
4 document for the offense for which there has been a  
5 conviction alleged intent to subject the victim to a  
6 sexual offense;

7 (3) An act that consists of:

8 (A) Criminal sexual conduct toward a minor, including  
9 but not limited to an offense set forth in  
10 section 707-759;

11 (B) Solicitation of a minor who is less than fourteen  
12 years old to engage in sexual conduct;

13 (C) Use of a minor in a sexual performance;

14 (D) Production, distribution, or possession of child  
15 pornography chargeable as a felony under  
16 section 707-750, 707-751, or 707-752;

17 (E) Electronic enticement of a child chargeable under  
18 section 707-756 or 707-757 if the offense was  
19 committed with the intent to promote or  
20 facilitate the commission of another covered  
21 offense as defined in this section; or



1 (F) [~~Solicitation~~] Commercial sexual exploitation of  
2 a minor [~~for prostitution~~] in violation of  
3 section 712-1209.1;

4 (4) A violation of privacy under section 711-1110.9;

5 (5) An act, as described in chapter 705, that is an  
6 attempt, criminal solicitation, or criminal conspiracy  
7 to commit one of the offenses designated in  
8 paragraphs (1) through (4);

9 (6) A criminal offense that is comparable to or that  
10 exceeds a sexual offense as defined in paragraphs (1)  
11 through (5); or

12 (7) Any federal, military, out-of-state, tribal, or  
13 foreign conviction for any offense that under the laws  
14 of this State would be a sexual offense as defined in  
15 paragraphs (1) through (6)."

16 SECTION 15. Section 853-4, Hawaii Revised Statutes, is  
17 amended by amending subsection (a) to read as follows:

18 "(a) This chapter shall not apply when:

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

21 (2) The offense charged is:



1 (A) A felony that involves the intentional, knowing,  
2 or reckless bodily injury, substantial bodily  
3 injury, or serious bodily injury of another  
4 person; or

5 (B) A misdemeanor or petty misdemeanor that carries a  
6 mandatory minimum sentence and that involves the  
7 intentional, knowing, or reckless bodily injury,  
8 substantial bodily injury, or serious bodily  
9 injury of another person;

10 provided that the prohibition in this paragraph shall  
11 not apply to offenses described in  
12 section 709-906(18);

13 (3) The offense charged involves a conspiracy or  
14 solicitation to intentionally, knowingly, or  
15 recklessly kill another person or to cause serious  
16 bodily injury to another person;

17 (4) The offense charged is a class A felony;

18 (5) The offense charged is nonprobationable;

19 (6) The defendant has been convicted of any offense  
20 defined as a felony by the Hawaii Penal Code or has



1           been convicted for any conduct that if perpetrated in  
2           this State would be punishable as a felony;

3           (7) The defendant is found to be a law violator or  
4           delinquent child for the commission of any offense  
5           defined as a felony by the Hawaii Penal Code or for  
6           any conduct that if perpetrated in this State would  
7           constitute a felony;

8           (8) The defendant has a prior conviction for a felony  
9           committed in any state, federal, or foreign  
10          jurisdiction;

11          (9) A firearm was used in the commission of the offense  
12          charged;

13          (10) The defendant is charged with the distribution of a  
14          dangerous, harmful, or detrimental drug to a minor;

15          (11) The defendant has been charged with a felony offense  
16          and has been previously granted deferred acceptance of  
17          guilty plea or no contest plea for a prior offense,  
18          regardless of whether the period of deferral has  
19          already expired;

20          (12) The defendant has been charged with a misdemeanor  
21          offense and has been previously granted deferred



- 1 acceptance of guilty plea or no contest plea for a  
2 prior felony, misdemeanor, or petty misdemeanor for  
3 which the period of deferral has not yet expired;
- 4 (13) The offense charged is:
- 5 (A) Escape in the first degree;
  - 6 (B) Escape in the second degree;
  - 7 (C) Promoting prison contraband in the first degree;
  - 8 (D) Promoting prison contraband in the second degree;
  - 9 (E) Bail jumping in the first degree;
  - 10 (F) Bail jumping in the second degree;
  - 11 (G) Bribery;
  - 12 (H) Bribery of or by a witness;
  - 13 (I) Intimidating a witness;
  - 14 (J) Bribery of or by a juror;
  - 15 (K) Intimidating a juror;
  - 16 (L) Jury tampering;
  - 17 (M) Promoting prostitution;
  - 18 (N) Abuse of family or household member except as  
19 provided in paragraph (2) and  
20 section 709-906(18);
  - 21 (O) Sexual assault in the second degree;



- 1 (P) Sexual assault in the third degree;
- 2 (Q) A violation of an order issued pursuant to
- 3 chapter 586;
- 4 (R) Promoting child abuse in the second degree;
- 5 (S) Promoting child abuse in the third degree;
- 6 (T) Electronic enticement of a child in the first
- 7 degree;
- 8 (U) Electronic enticement of a child in the second
- 9 degree;
- 10 (V) [~~Prostitution~~] Commercial sexual exploitation
- 11 pursuant to section [~~712-1200(1)(b)~~] 712- ;
- 12 (W) Street [~~solicitation of~~] prostitution and
- 13 commercial sexual exploitation under
- 14 section 712-1207(1)(b) [~~+~~] or (2)(b);
- 15 (X) [~~Solicitation of prostitution~~] Commercial sexual
- 16 exploitation near schools or public parks under
- 17 section 712-1209;
- 18 (Y) Commercial sexual exploitation of a minor under
- 19 section 712-1209.1; or





**Report Title:**

Crime; Sex Trafficking, Prostitution, and Related Offenses

**Description:**

Creates a separate offense for those who provide anything of value to engage in sexual conduct with another. Specifies that the offense of sex trafficking may be prosecuted at any time. Specifies that sex trafficking includes advancing or profiting from prostitution by certain means, including through coercion. Makes a person strictly liable for sex trafficking of a minor in terms of the victim's age. Renames offenses involving the solicitation of prostitution to use the more appropriate term of commercial sexual exploitation. Amends the elements for commission of the offense of commercial sexual exploitation of a minor and increases the grade of offense to a class B felony. Includes anything of value as a type of compensation for purposes of engaging in prostitution or other offenses involving commercial sexual exploitation. (CD1)

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

