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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 our community. As traffickers change tactics to  
5 avoid accountability, our 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 our understanding of sex trafficking in the criminal  
16 justice system and in our 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) Add sex trafficking to offenses that can be prosecuted  
9 at any time;
- 10 (3) Create strict liability for the crime of sex  
11 trafficking, where the victim is a minor;
- 12 (4) Change the name of the crime of solicitation of a  
13 minor for prostitution to commercial sexual  
14 exploitation of a minor;
- 15 (5) Increase the grade of offense of commercial sexual  
16 exploitation of a minor to a class B felony;
- 17 (6) Expand the types of compensation for purposes of  
18 commercial sexual exploitation offenses to include  
19 "anything of value"; and
- 20 (7) Remove sexual contact initiated by a law enforcement  
21 officer from exemptions from commercial sexual



1 exploitation and prostitution-related offenses for law  
2 enforcement officers in the course and scope of duty,  
3 and specifying that the exemption only applies when a  
4 law enforcement officer is engaged in undercover  
5 operations.

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

9 "§712- Commercial sexual exploitation. (1) A person  
10 commits the offense of commercial sexual exploitation if the  
11 person provides, agrees to provide, or offers to provide a fee  
12 or anything of value to another to engage in sexual conduct.

13 (2) As used in this section:

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

16 (3) Commercial sexual exploitation is a petty misdemeanor;  
17 provided that commercial sexual exploitation is a class C felony  
18 if the person who commits the offense under subsection (1) does  
19 so in reckless disregard of the fact that the person exploited  
20 is a victim of sex trafficking.



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

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

12       (b) For any subsequent offense, a fine of no less than  
13 \$500 but no more than \$1,000 and a term of  
14 imprisonment or probation of no more than thirty days,  
15 without possibility of suspension of sentence; and

16       (c) For purposes of this subsection, the court may impose  
17 as a condition of probation that the defendant  
18 complete a course of exploitation intervention  
19 classes; provided that the court shall only impose the  
20 condition for one term of probation.



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

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

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

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

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



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

3           ~~(a) Engages]~~ engages in, or agrees or offers to engage in,  
4           sexual conduct with another person in return for a  
5           fee [~~+~~or

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

8           2. By amending subsections (3) through (5) to read:

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

10          ~~(a) If]~~ if the person who commits the offense under  
11          subsection (1) [~~(a)~~] is a minor, prostitution is a  
12          violation[~~+~~and

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

17          (4) A person convicted of committing the offense of  
18 prostitution as a petty misdemeanor shall be sentenced as  
19 follows:

20          (a) For the first offense, when the court has not deferred  
21          further proceedings pursuant to chapter 853, a fine of



1           ~~[not]~~ no less than \$500 but ~~[not]~~ no more than \$1,000  
2           and the person may be sentenced to a term of  
3           imprisonment of ~~[not]~~ no more than thirty days or  
4           probation; provided that in the event the convicted  
5           person defaults in payment of the fine, and the  
6           default was not contumacious, the court may ~~[sentence~~  
7           ~~the person to perform services for the community]~~ make  
8           an order converting the unpaid portion of the fine to  
9           community service as authorized by  
10          section 706-605(1) ~~[=]~~ ;

11          (b) For any subsequent offense, a fine of ~~[not]~~ no less  
12          than \$500 but ~~[not]~~ no more than \$1,000 and a term of  
13          imprisonment of thirty days or probation, without  
14          possibility of deferral of further proceedings  
15          pursuant to chapter 853 and without possibility of  
16          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



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

10           (5) This section shall not apply to any member of a police  
 11          department, a sheriff, or a law enforcement officer acting in  
 12          the course and scope of duties [~~, unless engaged in~~]; provided  
 13          that the member of a police department, sheriff, or law  
 14          enforcement officer is engaging in undercover operations;  
 15          provided further that under no circumstances shall sexual  
 16          contact initiated by a member of a police department, sheriff,  
 17          or law enforcement officer; sexual penetration; or  
 18          sadomasochistic abuse[-] be considered to fall within the course  
 19          and scope of duties."

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

1           "§712-1201 Advancing prostitution; profiting from  
2 prostitution; definition of terms. In sections 712-1202  
3 and 712-1203:

4           (1) A person "advances prostitution" if [~~acting other~~  
5 ~~than as a prostitute or a patron of a prostitute,~~] the  
6 person knowingly causes or aids a person to commit or  
7 engage in prostitution, procures or solicits patrons  
8 for prostitution, provides persons for prostitution  
9 purposes, permits premises to be regularly used for  
10 prostitution purposes, operates or assists in the  
11 operation of a house of prostitution or a prostitution  
12 enterprise, or engages in any other conduct designed  
13 to institute, aid, or facilitate an act or enterprise  
14 of prostitution[-];

15           (2) A person "profits from prostitution" if [~~acting~~  
16 ~~other than as a prostitute receiving compensation for~~  
17 ~~personally rendered prostitution services,~~] the person  
18 accepts or receives money, anything of value, or other  
19 property pursuant to an agreement or understanding  
20 with any person whereby the person participates or is



1 to participate in the proceeds of prostitution  
 2 activity[-]; and  
 3 (3) The definitions in subsections (1) and (2) do not  
 4 include those engaged in conduct outlined in  
 5 section 712-1200 as the prostituted person, or in  
 6 conduct outlined in section 712- as the person  
 7 engaged in commercial sexual exploitation."

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

10 "§712-1202 Sex trafficking. (1) A person commits the  
 11 offense of sex trafficking if the person knowingly:

12 (a) Advances prostitution by compelling or inducing a  
 13 person by force, threat, fraud, coercion, or  
 14 intimidation to engage in prostitution, or profits  
 15 from such conduct by another; or

16 (b) Advances or profits from prostitution of a minor[-  
 17 ~~provided that with respect to the victim's age, the~~  
 18 ~~prosecution shall be required to prove only that the~~  
 19 ~~person committing the offense acted negligently].~~

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

21 (3) As used in this section:



1 "Fraud" means making material false statements,  
2 misstatements, or omissions.

3 "Minor" means a person who is less than eighteen years of  
4 age.

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

7 (4) The state of mind requirement for the offense under  
8 subsection (1)(b) is not applicable to the fact that the victim  
9 was a minor. A person is strictly liable with respect to the  
10 attendant circumstances that the victim was a minor."

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

13 1. By amending its title and subsections (1) and (2) to  
14 read:

15 "~~§712-1207 Street [solicitation of] prostitution[+] and~~  
16 commercial sexual exploitation; designated areas. (1) It shall  
17 be unlawful for any person within the boundaries of Waikiki and  
18 while on any public property to:

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



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

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

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

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

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

15 "(9) This section shall apply to all counties; provided  
16 that if a county enacts an ordinance to regulate street  
17 [~~solicitation for prostitution,~~] prostitution and commercial  
18 sexual exploitation, other than an ordinance designating an area  
19 as a zone of significant prostitution-related activity, the  
20 county ordinance shall supersede this section and no person  
21 shall be convicted under this section in that county."



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

4 "~~[§] 712-1209 [§] Solicitation of prostitution~~ Commercial  
5 sexual exploitation near schools or public parks. (1) A person  
6 commits the offense of [~~solicitation of prostitution~~] commercial  
7 sexual exploitation near schools or public parks if, within  
8 seven hundred fifty feet of a school or public park, the person  
9 [~~offers or agrees to pay~~] provides, agrees to provide, or offers  
10 to provide a fee or anything of value to another person to  
11 engage in sexual conduct.

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

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

16 "§712-1209.1 [~~Solicitation~~] Commercial sexual exploitation  
17 of a minor [~~for prostitution~~]. (1) A person eighteen years of  
18 age or older commits the offense of [~~solicitation~~] commercial  
19 sexual exploitation of a minor [~~for prostitution~~] if the person  
20 intentionally, knowingly, or recklessly [~~offers~~]:



1       (a) Offers or agrees to [~~pay a fee to a minor or~~] provide  
2            anything of value to a member of a police department,  
3            a sheriff, or a law enforcement officer who represents  
4            that person's self as a minor to engage in sexual  
5            conduct [-];

6       (b) Provides anything of value to a minor or third person  
7            as compensation for having engaged in sexual conduct  
8            with a minor;

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

12       (d) Solicits, offers to engage in, or requests to engage  
13           in sexual conduct with a minor in return for anything  
14           of value.

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

17       (3) [A] In addition to any other authorized disposition, a  
18 person convicted of committing the offense of [~~solicitation~~]  
19 commercial sexual exploitation of a minor [~~for prostitution~~]  
20 shall be [~~imposed~~] sentenced to pay a fine of [net] no less than



1 \$5,000 [~~;~~ ~~provided that \$5,000 of the imposed fine shall be~~  
2 ~~credited to the general fund~~].

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

13 (5) The state of mind requirement for [~~this~~] the offense  
14 under subsection (1)(a) is not applicable to the fact that the  
15 [~~person solicited~~] victim was a minor. A person is strictly  
16 liable with respect to the attendant circumstance that the  
17 [~~person solicited~~] victim was a minor, provided that the person  
18 had a reasonable opportunity to observe the victim.

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

21 [~~(6)~~] (7) For purposes of this section:



1 "Minor" means a person who is less than eighteen years of  
2 age.

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

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

7 "[+]§712-1209.5[+] Habitual [~~solicitation of~~  
8 ~~prostitution.~~] commercial sexual exploitation. (1) A person  
9 commits the offense of habitual [~~solicitation of prostitution~~]  
10 commercial sexual exploitation if the person is a habitual  
11 [~~prostitution~~] commercial sexual exploitation offender and  
12 [~~pays, agrees to pay, or offers to pay~~] provides, agrees to  
13 provide, or offers to provide a fee or anything of value to  
14 another person to engage in sexual conduct.

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

20 (a) [~~Prostitution,~~] Commercial sexual exploitation, in  
21 violation of section [~~712-1200(1)(b),~~] 712- ;



- 1 (b) Street [~~solicitation of~~] prostitution[~~;~~] and
- 2 commercial sexual exploitation, in violation of
- 3 section 712-1207(1) (b) [~~;~~] or (2) (b);
- 4 (c) Habitual [~~solicitation of prostitution;~~] commercial
- 5 sexual exploitation, in violation of this section;
- 6 (d) An offense of this jurisdiction or any other
- 7 jurisdiction that is comparable to one of the offenses
- 8 in paragraph (a), (b), or (c); or
- 9 (e) Any combination of the offenses in paragraph (a), (b),
- 10 (c), or (d).

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

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

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



1           "§712-1209.6   Prostitution; motion to vacate conviction.

2   (1)   A person convicted of committing the offense of  
3   prostitution under section 712-1200[~~(1)(a)~~], loitering for the  
4   purpose of engaging in or advancing prostitution under  
5   section 712-1206(2), street [~~solicitation of~~] prostitution and  
6   commercial sexual exploitation in designated areas under  
7   section 712-1207(1)(a) or [~~712-1207~~](2)(a), or convicted of a  
8   lesser offense when originally charged with a violation of  
9   section 712-1200[~~(1)(a)~~], 712-1206(2), or 712-1207(1)(a)  
10   or [~~712-1207~~](2)(a), may file a motion to vacate the conviction  
11   if the defendant is not subsequently convicted of any offense  
12   under the Hawaii Penal Code within three years after the date of  
13   the original conviction.

14       (2)   The court shall hold a hearing on a motion filed under  
15   this section to review the defendant's record over the three  
16   years after the date of the original conviction under  
17   section 712-1200[~~(1)(a)~~], 712-1206(2), or 712-1207(1)(a)  
18   or (2)(a) or conviction of a lesser offense when originally  
19   charged with a violation of any of those sections, and if the  
20   court finds that the defendant has not been convicted of any



1 offense under the [~~penal code~~] Hawaii Penal Code within this  
2 three year period, the court shall vacate the conviction."

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

5 "**§712A-4 Covered offenses.** Offenses for which property is  
6 subject to forfeiture under this chapter are:

7 (a) All offenses that specifically authorize forfeiture;

8 (b) Murder[~~τ~~]i; kidnapping[~~τ~~]i; labor trafficking[~~τ~~]i;  
9 unlicensed sale of liquor[~~τ~~]i; unlicensed manufacture  
10 of liquor[~~τ~~]i; gambling[~~τ~~]i; criminal property  
11 damage[~~τ~~]i; robbery[~~τ~~]i; bribery[~~τ~~]i; extortion[~~τ~~]i;  
12 theft[~~τ~~]i; unauthorized entry into motor vehicle[~~τ~~]i;  
13 burglary[~~τ~~]i; money laundering[~~τ~~]i; trademark  
14 counterfeiting[~~τ~~]i; insurance fraud[~~τ~~]i; promoting a  
15 dangerous, harmful, or detrimental drug[~~τ~~]i; commercial  
16 promotion of marijuana[~~τ~~]i; methamphetamine  
17 trafficking[~~τ~~]i; manufacturing of a controlled  
18 substance with a child present[~~τ~~]i; promoting child  
19 abuse[~~τ~~]i; promoting prostitution[~~τ~~]i; sex  
20 trafficking[~~τ~~]i; [~~solicitation~~] commercial sexual  
21 exploitation of a minor [~~for prostitution~~]i; habitual



1           ~~[solicitation of prostitution,]~~ commercial sexual  
2           exploitation; or electronic enticement of a child that  
3           is chargeable as a felony offense under state law;

4           (c) The manufacture, sale, or distribution of a controlled  
5           substance in violation of chapter 329, promoting  
6           detrimental drugs or intoxicating compounds, promoting  
7           pornography, promoting pornography for minors, or  
8           ~~[solicitation of prostitution]~~ commercial sexual  
9           exploitation near schools or public parks, which is  
10          chargeable as a felony or misdemeanor offense, but not  
11          as a petty misdemeanor, under state law; and

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

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

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

20                 (1) Section 159-28 (bribery related to the Hawaii Meat  
21                 Inspection Act);



- 1 (2) Section 161-28 (bribery related to the Hawaii Poultry  
2 Inspection Act);
- 3 (3) Section 707-712.5 (assault against a law enforcement  
4 officer in the first degree);
- 5 (4) Section 707-716 (terroristic threatening in the first  
6 degree);
- 7 (5) Section 707-732 (sexual assault in the third degree);
- 8 (6) Section 707-741 (incest);
- 9 (7) Section 707-752 (promoting child abuse in the third  
10 degree);
- 11 (8) Section 708-880 (commercial bribery);
- 12 (9) Section 709-904.5 (compensation by an adult of  
13 juveniles for crimes);
- 14 (10) Section 710-1026.9 (resisting an order to stop a motor  
15 vehicle in the first degree);
- 16 (11) Section 710-1070 (bribery of or by a witness);
- 17 (12) Section 710-1071 (intimidating a witness);
- 18 (13) Section 710-1072.2 (retaliating against a witness);
- 19 (14) Section 710-1073 (bribery of or by a juror);
- 20 (15) Section 710-1075 (jury tampering);
- 21 (16) Section 710-1075.5 (retaliating against a juror);



- 1 (17) Section 711-1106.4 (aggravated harassment by  
2 stalking);
- 3 (18) Section 711-1110.9 (violation of privacy in the first  
4 degree);
- 5 (19) Section 712-1208 (promoting travel for prostitution);
- 6 [~~(20)~~] ~~Section 712-1209.1 (solicitation of a minor for~~  
7 ~~prostitution);~~
- 8 [~~(21)~~] (20) Section 712-1209.5 (habitual [~~solicitation of~~  
9 ~~prostitution);~~] commercial sexual exploitation);
- 10 [~~(22)~~] (21) Section 712-1215 (promoting pornography for  
11 minors);
- 12 [~~(23)~~] (22) Section 712-1218 (failure to maintain age  
13 verification records of sexual performers);
- 14 [~~(24)~~] (23) Section 712-1218.5 (failure to maintain age  
15 verification records of sexually exploited  
16 individuals); and
- 17 [~~(25)~~] (24) Section 712-1219 (failure to affix information  
18 disclosing location of age verification records of  
19 sexual performers)."



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

4 "Sexual offense" means an offense that is:

5 (1) Set forth in section 707-730(1), 707-731(1),  
6 707-732(1), 707-733(1)(a), 707-733.6, 712- (4),  
7 712-1202(1), or 712-1203(1), but excludes conduct that  
8 is criminal only because of the age of the victim, as  
9 provided in section 707-730(1)(b), or  
10 section 707-732(1)(b) if the perpetrator is under the  
11 age of eighteen;

12 (2) An act defined in section 707-720 if the charging  
13 document for the offense for which there has been a  
14 conviction alleged intent to subject the victim to a  
15 sexual offense;

16 (3) An act that consists of:  
17 (A) Criminal sexual conduct toward a minor, including  
18 but not limited to an offense set forth in  
19 section 707-759;  
20 (B) Solicitation of a minor who is less than fourteen  
21 years old to engage in sexual conduct;



- 1 (C) Use of a minor in a sexual performance;
- 2 (D) Production, distribution, or possession of child
- 3 pornography chargeable as a felony under
- 4 section 707-750, 707-751, or 707-752;
- 5 (E) Electronic enticement of a child chargeable under
- 6 section 707-756 or 707-757 if the offense was
- 7 committed with the intent to promote or
- 8 facilitate the commission of another covered
- 9 offense as defined in this section; or
- 10 (F) [~~Solicitation~~] Commercial sexual exploitation of
- 11 a minor [~~for prostitution~~] in violation of
- 12 section 712-1209.1;
- 13 (4) A violation of privacy under section 711-1110.9;
- 14 (5) An act, as described in chapter 705, that is an
- 15 attempt, criminal solicitation, or criminal conspiracy
- 16 to commit one of the offenses designated in
- 17 paragraphs (1) through (4);
- 18 (6) A criminal offense that is comparable to or that
- 19 exceeds a sexual offense as defined in paragraphs (1)
- 20 through (5); or



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

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

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

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

10          (2) The offense charged is:

11           (A) A felony that involves the intentional, knowing,  
12           or reckless bodily injury, substantial bodily  
13           injury, or serious bodily injury of another  
14           person; or

15           (B) A misdemeanor or petty misdemeanor that carries a  
16           mandatory minimum sentence and that involves the  
17           intentional, knowing, or reckless bodily injury,  
18           substantial bodily injury, or serious bodily  
19           injury of another person;



1 provided that the prohibition in this paragraph shall  
2 not apply to offenses described in  
3 section 709-906(18);

4 (3) The offense charged involves a conspiracy or  
5 solicitation to intentionally, knowingly, or  
6 recklessly kill another person or to cause serious  
7 bodily injury to another person;

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

9 (5) The offense charged is nonprobationable;

10 (6) The defendant has been convicted of any offense  
11 defined as a felony by the Hawaii Penal Code or has  
12 been convicted for any conduct that if perpetrated in  
13 this State would be punishable as a felony;

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

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



1 (9) A firearm was used in the commission of the offense  
2 charged;

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

5 (11) The defendant has been charged with a felony offense  
6 and has been previously granted deferred acceptance of  
7 guilty plea or no contest plea for a prior offense,  
8 regardless of whether the period of deferral has  
9 already expired;

10 (12) The defendant has been charged with a misdemeanor  
11 offense and has been previously granted deferred  
12 acceptance of guilty plea or no contest plea for a  
13 prior felony, misdemeanor, or petty misdemeanor for  
14 which the period of deferral has not yet expired;

15 (13) The offense charged is:

16 (A) Escape in the first degree;

17 (B) Escape in the second degree;

18 (C) Promoting prison contraband in the first degree;

19 (D) Promoting prison contraband in the second degree;

20 (E) Bail jumping in the first degree;

21 (F) Bail jumping in the second degree;



- 1 (G) Bribery;
- 2 (H) Bribery of or by a witness;
- 3 (I) Intimidating a witness;
- 4 (J) Bribery of or by a juror;
- 5 (K) Intimidating a juror;
- 6 (L) Jury tampering;
- 7 (M) Promoting prostitution;
- 8 (N) Abuse of family or household member except as
- 9 provided in paragraph (2) and
- 10 section 709-906(18);
- 11 (O) Sexual assault in the second degree;
- 12 (P) Sexual assault in the third degree;
- 13 (Q) A violation of an order issued pursuant to
- 14 chapter 586;
- 15 (R) Promoting child abuse in the second degree;
- 16 (S) Promoting child abuse in the third degree;
- 17 (T) Electronic enticement of a child in the first
- 18 degree;
- 19 (U) Electronic enticement of a child in the second
- 20 degree;



- 1 (V) [~~Prostitution~~] Commercial sexual exploitation
- 2 pursuant to section [~~712-1200(1)(b)~~] 712-\_\_\_\_\_;
- 3 (W) Street [~~solicitation of~~] prostitution and
- 4 commercial sexual exploitation under
- 5 section 712-1207(1)(b) [~~+~~] or (2)(b);
- 6 (X) [~~Solicitation of prostitution~~] Commercial sexual
- 7 exploitation near schools or public parks under
- 8 section 712-1209;
- 9 (Y) Habitual [~~solicitation of prostitution~~]
- 10 commercial sexual exploitation under
- 11 section 712-1209.5; or
- 12 (Z) [~~Solicitation~~] Commercial sexual exploitation of
- 13 a minor [~~for prostitution~~] under
- 14 section 712-1209.1;
- 15 (14) The defendant has been charged with:
- 16 (A) Knowingly or intentionally falsifying any report
- 17 required under [~~chapter 11,~~] part XIII of
- 18 chapter 11, with the intent to circumvent the law
- 19 or deceive the campaign spending commission; or
- 20 (B) Violating section 11-352 or 11-353; or



1           (15) The defendant holds a commercial driver's license and  
2                    has been charged with violating a traffic control law,  
3                    other than a parking law, in connection with the  
4                    operation of any type of motor vehicle."

5           SECTION 16. This Act does not affect rights and duties  
6 that matured, penalties that were incurred, and proceedings that  
7 were begun, before the effective date of this Act.

8           SECTION 17. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10          SECTION 18. This Act shall take effect upon its approval.



**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. Adds sex trafficking to offenses that can be prosecuted at any time. Makes a person strictly liable for sex trafficking of a minor in terms of the victim's age. Changes the name of the crime of solicitation of a minor for prostitution to commercial sexual exploitation of a minor. Increases the grade of the offense of commercial sexual exploitation of a minor to a class B felony. Adds "anything of value" as a type of compensation for purposes of engaging in commercial sexual exploitation. Establishes good faith exemption to the crime of commercial sexual exploitation for individuals who seek law enforcement or medical assistance for themselves and others. (SD2)

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

