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# A BILL FOR AN ACT

RELATING TO SEX TRAFFICKING.

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

1           SECTION 1. The legislature finds that sex trafficking is a  
2 form of modern-day slavery. According to a 2018 report  
3 published by Arizona State University and the Hawaii state  
4 commission on the status of women, one in every eleven male  
5 residents of Hawaii are online sex shoppers. When nonresidents  
6 are included, the report estimated that 74,362 sex shoppers are  
7 potentially active in the islands. Moreover, IMUAlliance, a  
8 local victim service provider for survivors of sexual servitude,  
9 estimates that one hundred fifty establishments participate in  
10 the commercial sex trade in the State, increasing the high risk  
11 for sex trafficking.

12           The legislature further finds that state law does not  
13 currently identify soliciting a minor for prostitution as a form  
14 of sex trafficking. However, under title 18 United States Code  
15 section 1591, federal law recognizes offering to engage in  
16 sexual activity with a minor for anything of value as a form of  
17 sex trafficking.



1           The purpose of this Act is to protect Hawaii's children  
2 from sexual exploitation by designating the solicitation of a  
3 minor for prostitution as a form of sex trafficking under state  
4 law.

5           SECTION 2. Section 706-606.6, Hawaii Revised Statutes, is  
6 amended to read as follows:

7           "**§706-606.6 Repeat violent and sexual offender; enhanced**  
8 **sentence.** (1) Notwithstanding any other provision of law to  
9 the contrary, any person who is convicted of an offense under  
10 section 707-701.5, 707-702, 707-730, 707-731, 707-732,  
11 707-733.6, 707-750, 708-840, 712-1202, or 712-1203, [~~er~~  
12 ~~712-1209.1,~~] after having been convicted on at least three prior  
13 and separate occasions of an offense under section 707-701.5,  
14 707-702, 707-710, 707-711, 707-730, 707-731, 707-732, 707-733.6,  
15 707-750, 708-840, 712-1202, or 712-1203, [~~er 712-1209.1,~~] or of  
16 an offense under federal law or the laws of another state that  
17 is comparable to an offense under section 707-701.5, 707-702,  
18 707-710, 707-711, 707-730, 707-731, 707-732, 707-733.6, 707-750,  
19 708-840, 712-1202, or 712-1203, [~~er 712-1209.1,~~] shall be  
20 sentenced to an extended term of imprisonment as provided in  
21 section 706-661.



1           (2) A conviction shall not be considered a prior offense  
2 unless the conviction occurred within the following time  
3 periods:

4           (a) For an offense under section 707-701.5, 707-702,  
5           707-730, 707-733.6, 707-750, 708-840, 712-1202, or  
6           712-1203, [~~or 712-1209.1,~~] within the past twenty  
7           years from the date of the instant offense;

8           (b) For an offense under section 707-710 or 707-731,  
9           within the past ten years from the date of the instant  
10          offense;

11          (c) For an offense under section 707-711 or 707-732,  
12          within the past five years from the date of the  
13          instant offense; or

14          (d) For an offense under federal law or the laws of  
15          another state that is comparable to an offense under  
16          section 707-701.5, 707-702, 707-710, 707-711, 707-730,  
17          707-731, 707-732, 707-733.6, 707-750, 708-840,  
18          712-1202, or 712-1203, [~~or 712-1209.1,~~] within the  
19          maximum term of imprisonment possible under the  
20          appropriate jurisdiction."



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

3 "§712-1202 Sex trafficking. (1) A person commits the  
4 offense of sex trafficking if the person knowingly:

5 (a) Advances prostitution by compelling or inducing a  
6 person by force, threat, fraud, coercion, or  
7 intimidation to engage in prostitution, or profits  
8 from such conduct by another; [~~or~~]

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

13 (c) Offers or agrees to pay a fee or anything of value to  
14 a minor or to a member of a police department, a  
15 sheriff, or a law enforcement officer who represents  
16 that person's self as a minor to engage in sexual  
17 conduct.

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

19 (3) Consent to sexual conduct shall not constitute a  
20 defense to a violation of this section.



1        (4) Subsection (1)(c) shall not apply to any member of a  
2 police department, a sheriff, or a law enforcement officer who  
3 offers or agrees to pay a fee to a minor while acting in the  
4 course and scope of duties.

5        [~~3~~] (5) As used in this section:

6        "Fraud" means making material false statements,  
7 misstatements, or omissions.

8        "Minor" means a person who is less than [~~eighteen~~] sixteen  
9 years of age.

10       "Sexual conduct" has the same meaning as in section  
11 712-1200(2).

12       "Threat" means any of the actions listed in section  
13 707-764(1)."

14       SECTION 4. Section 712-1209.5, Hawaii Revised Statutes, is  
15 amended by amending subsections (2) and (3) to read as follows:

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

20       (a) Prostitution, in violation of section 712-1200(1)(b);



- 1        (b) Sex trafficking, in violation of section
- 2                712-1202(1)(c);
- 3        [~~b~~] (c) Street solicitation of prostitution, in
- 4                violation of section 712-1207(1)(b);
- 5        [~~e~~] (d) Habitual solicitation of prostitution, in
- 6                violation of this section;
- 7        [~~d~~] (e) An offense of any other jurisdiction that is
- 8                comparable to one of the offenses in paragraph (a),
- 9                (b), [~~e~~] (c) [~~r~~], or (d); or
- 10        [~~e~~] (f) Any combination of the offenses in paragraph
- 11                (a), (b), (c), [~~e~~] (d) [~~r~~], or (e).

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

18        (3) Habitual solicitation of prostitution is a class C  
 19 felony~~r~~; provided that habitual solicitation of prostitution  
 20 is a class A felony when the instant offense is sex trafficking  
 21 under section 712-1202(1)(c)."



1 SECTION 5. Section 806-83, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

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

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

8 (2) Section 161-28 (bribery related to the Hawaii Poultry  
9 Inspection Act);

10 (3) Section 707-712.5 (assault against a law enforcement  
11 officer in the first degree);

12 (4) Section 707-716 (terroristic threatening in the first  
13 degree);

14 (5) Section 707-732 (sexual assault in the third degree);

15 (6) Section 707-741 (incest);

16 (7) Section 707-752 (promoting child abuse in the third  
17 degree);

18 (8) Section 708-880 (commercial bribery);

19 (9) Section 709-904.5 (compensation by an adult of  
20 juveniles for crimes);



- 1 (10) Section 710-1026.9 (resisting an order to stop a motor  
2 vehicle in the first degree);
- 3 (11) Section 710-1070 (bribery of or by a witness);
- 4 (12) Section 710-1071 (intimidating a witness);
- 5 (13) Section 710-1072.2 (retaliating against a witness);
- 6 (14) Section 710-1073 (bribery of or by a juror);
- 7 (15) Section 710-1075 (jury tampering);
- 8 (16) Section 710-1075.5 (retaliating against a juror);
- 9 (17) Section 711-1106.4 (aggravated harassment by  
10 stalking);
- 11 (18) Section 711-1110.9 (violation of privacy in the first  
12 degree);
- 13 (19) Section 712-1208 (promoting travel for prostitution);
- 14 [~~20~~] ~~Section 712-1209.1 (solicitation of a minor for~~  
15 ~~prostitution);~~
- 16 ~~21~~] (20) Section 712-1209.5 (habitual solicitation of  
17 prostitution);
- 18 [~~22~~] (21) Section 712-1215 (promoting pornography for  
19 minors);
- 20 [~~23~~] (22) Section 712-1218 (failure to maintain age  
21 verification records of sexual performers);





- 1 (A) Criminal sexual conduct toward a minor, including  
2 but not limited to an offense set forth in  
3 section 707-759;
- 4 (B) Solicitation of a minor who is less than fourteen  
5 years old to engage in sexual conduct;
- 6 (C) Use of a minor in a sexual performance;
- 7 (D) Production, distribution, or possession of child  
8 pornography chargeable as a felony under section  
9 707-750, 707-751, or 707-752; or
- 10 (E) Electronic enticement of a child chargeable under  
11 section 707-756 or 707-757 if the offense was  
12 committed with the intent to promote or  
13 facilitate the commission of another covered  
14 offense as defined in this section; [~~or~~
- 15 ~~(F) Solicitation of a minor for prostitution in~~  
16 ~~violation of section 712-1209.1,]~~
- 17 (4) A violation of privacy under section 711-1110.9;
- 18 (5) An act, as described in chapter 705, that is an  
19 attempt, criminal solicitation, or criminal conspiracy  
20 to commit one of the offenses designated in paragraphs  
21 (1) through (4);



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

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

8 SECTION 7. Section 846E-10, Hawaii Revised Statutes, is  
9 amended by amending subsection (d) to read as follows:

10 "(d) Tier 1 offenses. A covered offender who has  
11 maintained a clean record for the previous ten years, excluding  
12 any time the offender was in custody or civilly committed, and  
13 who has substantially complied with the registration  
14 requirements of this chapter for the previous ten years, or for  
15 the portion of that ten years that this chapter has been  
16 applicable, and who is not a repeat covered offender may  
17 petition the court, in a civil proceeding, for termination of  
18 registration requirements; provided that the covered offender's  
19 most serious covered offense is one of the following:



- 1 (1) Any offense set forth in section 707-732(1)(d) or (e),  
2 707-733(1)(a), 707-752, 707-759, 711-1110.9, or  
3 712-1203(1) [~~or 712-1209.1;~~];
- 4 (2) An offense set forth in section 707-721 or 707-722;  
5 provided that the offense involves unlawful  
6 imprisonment of a minor by someone other than a  
7 parent;
- 8 (3) An offense set forth in section 707-757 that includes  
9 an intent to promote or facilitate the commission of  
10 another covered offense as defined in section 846E-1;
- 11 (4) An offense that is an attempt, criminal solicitation,  
12 or criminal conspiracy to commit any of the offenses  
13 in paragraph (1), (2), or (3);
- 14 (5) Any criminal offense that is comparable to one of the  
15 offenses in paragraph (1), (2), (3), or (4);
- 16 (6) Any federal, military, out-of-state, tribal, or  
17 foreign offense that is comparable to one of the  
18 offenses in paragraph (1), (2), (3), or (4); or
- 19 (7) Any other covered offense that is not specified in  
20 subsection (a) or (c) or paragraph (1), (2), (3), (4),  
21 (5), or (6)."



1 SECTION 8. Section 853-4, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

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

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

6 (2) The offense charged is:

7 (A) A felony that involves the intentional, knowing,  
8 or reckless bodily injury, substantial bodily  
9 injury, or serious bodily injury of another  
10 person; or

11 (B) A misdemeanor or petty misdemeanor that carries a  
12 mandatory minimum sentence and that involves the  
13 intentional, knowing, or reckless bodily injury,  
14 substantial bodily injury, or serious bodily  
15 injury of another person;

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

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





1           regardless of whether the period of deferral has  
2           already expired;

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

8           (13) The offense charged is:

9           (A) Escape in the first degree;

10          (B) Escape in the second degree;

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

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

13          (E) Bail jumping in the first degree;

14          (F) Bail jumping in the second degree;

15          (G) Bribery;

16          (H) Bribery of or by a witness;

17          (I) Intimidating a witness;

18          (J) Bribery of or by a juror;

19          (K) Intimidating a juror;

20          (L) Jury tampering;

21          (M) Promoting prostitution;



- 1 (N) Abuse of family or household member;
- 2 (O) Sexual assault in the second degree;
- 3 (P) Sexual assault in the third degree;
- 4 (Q) A violation of an order issued pursuant to
- 5 chapter 586;
- 6 (R) Promoting child abuse in the second degree;
- 7 (S) Promoting child abuse in the third degree;
- 8 (T) Electronic enticement of a child in the first
- 9 degree;
- 10 (U) Electronic enticement of a child in the second
- 11 degree;
- 12 (V) Prostitution pursuant to section 712-1200(1)(b);
- 13 (W) Street solicitation of prostitution under section
- 14 712-1207(1)(b);
- 15 (X) Solicitation of prostitution near schools or
- 16 public parks under section 712-1209; or
- 17 (Y) Habitual solicitation of prostitution under
- 18 section 712-1209.5 [~~7-07~~
- 19 ~~(Z) Solicitation of a minor for prostitution under~~
- 20 ~~section 712-1209.17];~~
- 21 (14) The defendant has been charged with:



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

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

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

10 SECTION 9. Section 712-1209.1, Hawaii Revised Statutes, is  
11 repealed.

12 [~~"§712-1209.1 Solicitation of a minor for prostitution.~~

13 ~~(1) A person eighteen years of age or older commits the offense~~  
14 ~~of solicitation of a minor for prostitution if the person~~  
15 ~~intentionally, knowingly, or recklessly offers or agrees to pay~~  
16 ~~a fee to a minor or to a member of a police department, a~~  
17 ~~sheriff, or a law enforcement officer who represents that~~  
18 ~~person's self as a minor to engage in sexual conduct.~~

19 ~~(2) Solicitation of a minor for prostitution is a class C~~  
20 ~~felony.~~



1       ~~(3) A person convicted of committing the offense of~~  
2       ~~solicitation of a minor for prostitution shall be imposed a fine~~  
3       ~~of not less than \$5,000, provided that \$5,000 of the imposed~~  
4       ~~fine shall be credited to the general fund.~~

5       ~~(4) This section shall not apply to any member of a police~~  
6       ~~department, a sheriff, or a law enforcement officer who offers~~  
7       ~~or agrees to pay a fee to a minor while acting in the course and~~  
8       ~~scope of duties.~~

9       ~~(5) The state of mind requirement for this offense is not~~  
10       ~~applicable to the fact that the person solicited was a minor. A~~  
11       ~~person is strictly liable with respect to the attendant~~  
12       ~~circumstance that the person solicited was a minor.~~

13       ~~(6) For purposes of this section:~~

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

16       ~~"Sexual conduct" has the same meaning as in section~~  
17       ~~712-1200(2)."]~~

18       SECTION 10. This Act does not affect rights and duties  
19       that matured, penalties that were incurred, and proceedings that  
20       were begun before its effective date.



1           SECTION 11. If any provision of this Act, or the  
2 application thereof to any person or circumstance, is held  
3 invalid, the invalidity does not affect other provisions or  
4 applications of the Act that can be given effect without the  
5 invalid provision or application, and to this end the provisions  
6 of this Act are severable.

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

9           SECTION 13. This Act shall take effect on May 1, 2024.



**Report Title:**

Prostitution; Sex Trafficking; Minors

**Description:**

Includes coercion as a means of committing the offense of sex trafficking. Removes the criminal statute of limitations for sex trafficking and promoting prostitution. Designates solicitation of a minor for prostitution as a form of sex trafficking. Specifies that sex trafficking of a minor is a strict liability offense. Repeals the offense of solicitation of a minor for prostitution. Effective 5/1/2024. (SD1)

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