

JAN 21 2022

A BILL FOR AN ACT

RELATING TO SEX TRAFFICKING.

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

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

4 "§706- Term of imprisonment for sex trafficking.
5 Notwithstanding section 706-659 and any other law to the
6 contrary, a person who is convicted of sex trafficking under
7 section 712-1202 shall be sentenced to a definite term of
8 imprisonment not exceeding twenty years, to be determined by the
9 court, without the possibility of suspension of sentence,
10 probation, or parole."

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

13 "**§712-1202 Sex trafficking.** (1) A person commits the
14 offense of sex trafficking if the person knowingly:

15 (a) Advances prostitution by compelling or inducing a
16 person by force, threat, fraud, coercion, or



1 intimidation to engage in prostitution, or profits
2 from such conduct by another; or

3 (b) Advances prostitution or profits from prostitution of
4 a minor.

5 (2) Sex trafficking is a class A felony~~[=]~~; provided that
6 a person convicted under this section shall be sentenced to:

7 (a) Imprisonment, in accordance with section 706- ; and

8 (b) Payment of a fine of no less than \$50,000 but no more
9 than \$100,000, pursuant to section 706-640; provided

10 further that the fine shall be credited to the general
11 fund.

12 ~~[(3) As used in this section:~~

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

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

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

19 (3) Consent to sexual conduct shall not constitute a
20 defense to prosecution for any offense described in this
21 section.



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

(5) A minor who reports to a law enforcement officer that the minor has been trafficked under this section shall not be subject to any criminal liability; provided that the minor may be charged under section 712-1200 or section 712-1207, as applicable, where the severity of the offense for a minor offender is reduced to a violation.

(6) As used in this section:

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

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

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

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

SECTION 3. Section 712-1207, Hawaii Revised Statutes, is 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[-]; provided that if the person who commits the
9 offense under subsection (1)(a) is a minor, street solicitation
10 of prostitution is a violation. The term of imprisonment shall
11 be imposed immediately, regardless of whether the defendant
12 appeals the conviction, except as provided in subsection (5).

13 (5) As an option to the mandatory term of thirty days
14 imprisonment, if the court finds the option is warranted based
15 upon the defendant's record, the court may place the defendant
16 on probation for a period not to exceed six months, subject to
17 the mandatory condition that the defendant observe geographic
18 restrictions that prohibit the defendant from entering or
19 remaining on public property, in Waikiki and other areas in the
20 State designated by county ordinance during the hours from 6
21 p.m. to 6 a.m. Upon any violation of the geographic



1 restrictions by the defendant, the court, after hearing, shall
2 revoke the defendant's probation and immediately impose the
3 mandatory thirty-day term of imprisonment. Nothing contained in
4 this subsection shall be construed as prohibiting the imposition
5 of stricter geographic restrictions under section 706-624(2)(h).

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

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

18 (7) Notwithstanding any other law to the contrary, a
19 police officer, without warrant, may arrest any person when the
20 officer has probable cause to believe that the person has
21 committed a violation of subsection (5) or (6), and the person



1 shall be detained, without bail, until the hearing under the
2 appropriate subsection can be held, which hearing shall be held
3 as soon as reasonably practicable.

4 (8) 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 subsection
7 (1)(a). The minor shall be released, referred, or transported
8 pursuant to section 571-31(b). The minor shall be subject to
9 the jurisdiction of the family court pursuant to section
10 571-11(1), including for the purposes of custody, detention,
11 diversion, and access to services and resources.

12 [~~8~~] (9) For purposes of this section:

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

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

18 "Public property" includes any street, highway, road,
19 sidewalk, alley, lane, bridge, parking lot, park, or other
20 property owned or under the jurisdiction of any governmental
21 entity or otherwise open to the public.



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

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

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

12 SECTION 4. This Act does not affect rights and duties that
13 matured, penalties that were incurred, and proceedings that were
14 begun before its effective date.

15 SECTION 5. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 6. This Act shall take effect upon its approval.

18

INTRODUCED BY: Kurt Fevelka



S.B. NO. 2454

Report Title:

Sex Trafficking; Penalty; Protection of Minors

Description:

Specifies that the penalty for sex trafficking shall be payment of a fine of no less than \$50,000 but no more than \$100,000, and a definite term of imprisonment of up to 20 years without the possibility of a suspended sentence, probation, or parole. Provides that consent to sexual conduct is not a defense. Defines "sexual conduct". Provides that a minor who reports that the minor is a victim of sex trafficking shall not be subject to criminal liability.

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

