
A BILL FOR AN ACT

RELATING TO CRIME.

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 term of imprisonment
8 not exceeding twenty years, to be determined by the court,
9 without the possibility of suspension of sentence, probation, or
10 parole."

11 SECTION 2. Section 712-1200, Hawaii Revised Statutes, is
12 amended by amending subsection (3) to read as follows:

13 "(3) Prostitution is a petty misdemeanor; provided that if
14 the person who commits the offense under subsection (1) is a
15 minor, prostitution is a violation[~~-~~]; provided further that if
16 the person who commits the offense under subsection (1) reports
17 to a law enforcement officer that the person has been trafficked



1 under section 712-1202, the person shall not be subject to any
2 criminal liability under this section."

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

5 "**§712-1202 Sex trafficking.** (1) A person commits the
6 offense of sex trafficking if the person knowingly:

7 (a) Advances prostitution by compelling or inducing a
8 person by force, threat, fraud, coercion, or
9 intimidation to engage in prostitution, or profits
10 from such conduct by another; or

11 (b) Advances prostitution or profits from prostitution of
12 a minor.

13 (2) Sex trafficking is a class A felony[-]; provided that
14 a person convicted under this section shall be sentenced as
15 follows:

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

17 (b) Payment of a fine of no less than \$200,000 but no more
18 than \$500,000, pursuant to section 706-640, to be
19 deposited into the general fund.

20 [~~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 section~~
6 ~~707-764(1).]~~

7 (3) Consent to sexual conduct shall not constitute a
8 defense to prosecution for any offense described in this
9 section.

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

14 (5) As used in this section:

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

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

19 "Sexual conduct" has the same meaning as in section
20 712-1200(2).



1 "Threat" means any of the actions listed in section
2 707-764(1)."

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

5 **"§712-1207 Street prostitution and commercial sexual**
6 **exploitation; designated areas.** (1) It shall be unlawful for
7 any person within the boundaries of Waikiki and while on any
8 public property to:

- 9 (a) Offer or agree to engage in sexual conduct with
10 another person in return for a fee or anything of
11 value; or
12 (b) Provide, agree to provide, or offer to provide a fee
13 or anything of value to another person to engage in
14 sexual conduct.

15 (2) It shall be unlawful for any person within the
16 boundaries of other areas in this State designated by county
17 ordinance pursuant to subsection (3), and while on any public
18 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) Provide, agree to provide, or offer to provide a fee
2 or anything of value to another person to engage in
3 sexual conduct.

4 (3) Upon a recommendation of the chief of police of a
5 county, that county may enact an ordinance that:

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

10 (b) Alters the boundaries of any existing area under
11 paragraph (a);

12 provided that not more than four areas may be designated within
13 the State.

14 (4) Notwithstanding any law to the contrary, any person
15 violating this section shall be guilty of a petty misdemeanor
16 and shall be sentenced to a mandatory term of thirty days
17 imprisonment. The term of imprisonment shall be imposed
18 immediately, regardless of whether the defendant appeals the
19 conviction, except as provided in subsection (5).

20 (5) As an option to the mandatory term of thirty days
21 imprisonment, if the court finds the option is warranted based



1 upon the defendant's record, the court may place the defendant
2 on probation for a period not to exceed six months, subject to
3 the mandatory condition that the defendant observe geographic
4 restrictions that prohibit the defendant from entering or
5 remaining on public property, in Waikiki and other areas in the
6 State designated by county ordinance during the hours from
7 6 p.m. to 6 a.m. Upon any violation of the geographic
8 restrictions by the defendant, the court, after hearing, shall
9 revoke the defendant's probation and immediately impose the
10 mandatory thirty-day term of imprisonment. Nothing contained in
11 this subsection shall be construed as prohibiting the imposition
12 of stricter geographic restrictions under section 706-624(2) (h).

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

19 Notwithstanding any other provision of law to the contrary, any
20 person who violates these bail restrictions shall have the
21 person's bail revoked after hearing and shall be imprisoned



1 forthwith. Nothing contained in this subsection shall be
2 construed as prohibiting the imposition of stricter geographic
3 restrictions under section 804-7.1.

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

11 (8) A person who reports to a law enforcement officer that
12 the person has been trafficked under section 712-1202 shall not
13 be subject to any criminal liability under this section.

14 [~~8~~] (9) For purposes of this section:

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

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
2 section 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 prostitution and commercial sexual exploitation, other than an
8 ordinance 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 5. 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 6. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 7. This Act shall take effect on June 30, 3000.



Report Title:

Sex Trafficking; Prostitution; Penalty; Exemption from Criminal Liability; Protection of Trafficked Persons

Description:

Specifies that the penalty for sex trafficking is to be a fine of no less than \$200,000 but no more than \$500,000, and a term of imprisonment of up to twenty years without the possibility of a suspended sentence, probation, or parole. Exempts from criminal liability for certain offenses involving sex trafficking or prostitution a victim of sex trafficking who reports the trafficking to law enforcement. Provides that consent to sexual conduct, as defined, is not a defense for the offense of sex trafficking. Effective 6/30/3000. (HD1)

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