
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 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 712-1200, 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 to:

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

16 (b) Payment of a fine of no less than \$200,000 but no more
17 than \$500,000, pursuant to section 706-640; provided
18 further that the fine proceeds shall be credited to
19 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) A person who reports to a law enforcement officer that
15 the person has been trafficked under this section shall not be
16 subject to any criminal liability under this section.

17 (6) As used in this section:

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

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



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

3 "Threat" means any of the actions listed in section
4 707-764(1)."

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

7 **"§712-1207 Street prostitution and commercial sexual**
8 **exploitation; designated areas.** (1) It shall be unlawful for
9 any person within the boundaries of Waikiki and while on any
10 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) Provide, agree to provide, or offer to provide a fee
15 or anything of value to another person to engage in
16 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) Provide, agree to provide, or offer to provide a fee
5 or anything of value to another person to engage in
6 sexual conduct.

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

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

13 (b) Alters the boundaries of any existing area under
14 paragraph (a);

15 provided that not more than four areas may be designated within
16 the State.

17 (4) Notwithstanding any law to the contrary, any person
18 violating this section shall be guilty of a petty misdemeanor
19 and shall be sentenced to a mandatory term of thirty days
20 imprisonment[-]; provided that if the person who commits the
21 offense under subsection (1) (a) is a minor, street prostitution



1 is a violation. The term of imprisonment shall be imposed
2 immediately, regardless of whether the defendant appeals the
3 conviction, except as provided in subsection (5).

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

18 (6) Any person charged under this section may be admitted
19 to bail, pursuant to section 804-4, subject to the mandatory
20 condition that the person observe geographic restrictions that
21 prohibit the defendant from entering or remaining on public



1 property, in Waikiki and other areas in the State designated by
2 county ordinance during the hours from 6 p.m. to 6 a.m.
3 Notwithstanding any other provision of law to the contrary, any
4 person who violates these bail restrictions shall have the
5 person's bail revoked after hearing and shall be imprisoned
6 forthwith. Nothing contained in this subsection shall be
7 construed as prohibiting the imposition of stricter geographic
8 restrictions under section 804-7.1.

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

16 (8) A minor may be taken into custody by any police
17 officer without order of the judge when there are reasonable
18 grounds to believe that the minor has violated subsection
19 (1) (a). The minor shall be released, referred, or transported
20 pursuant to section 571-31(b). The minor shall be subject to
21 the jurisdiction of the family court pursuant to section



1 571-11(1), including for the purposes of custody, detention,
2 diversion, and access to services and resources.

3 (9) A person who reports to a law enforcement officer that
4 the person has been trafficked under section 712-1202 shall not
5 be subject to any criminal liability under this section.

6 [~~8~~] (10) For purposes of this section:

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

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

12 "Public property" includes any street, highway, road,
13 sidewalk, alley, lane, bridge, parking lot, park, or other
14 property owned or under the jurisdiction of any governmental
15 entity or otherwise open to the public.

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

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

20 [~~9~~] (11) This section shall apply to all counties;
21 provided that if a county enacts an ordinance to regulate street



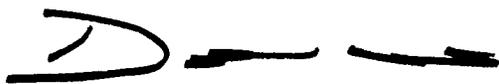
1 prostitution and commercial sexual exploitation, other than an
2 ordinance designating an area as a zone of significant
3 prostitution-related activity, the county ordinance shall
4 supersede this section and no person shall be convicted under
5 this section in that county."

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

9 SECTION 6. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 7. This Act shall take effect upon its approval.

12

INTRODUCED BY: 

JAN 25 2023



H.B. NO. 1437

Report Title:

Sex Trafficking; Penalty; Protection of Trafficked Persons

Description:

Specifies that the penalty for sex trafficking shall be payment of a fine of no less than \$200,000 but no more than \$500,000, 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". Specifies that a minor who commits an offense under section 712-1207(1)(a), HRS, shall be guilty of a violation instead of a petty misdemeanor. Provides that a person who reports that the person is a victim of sex trafficking shall not be subject to criminal liability for an offense involving sex trafficking or prostitution.

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