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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, it is estimated that one of  
5 every eleven adult male residents of Hawaii are online sex  
6 shoppers. The report also estimated that there were 74,362  
7 potential sex buyers in Hawaii. Moreover, Imua Alliance, a  
8 victim service provider for survivors of sex trafficking and  
9 sexual violence, estimates that one hundred fifty establishments  
10 participate in the commercial sex trade in the State, increasing  
11 the high risk for sex trafficking. During the coronavirus  
12 disease 2019 pandemic, a service provider for sex trafficking  
13 victims in Hawaii reported seeing a three hundred per cent  
14 increase in demand for services.

15           The legislature additionally finds that Native Hawaiians  
16 and Pacific Islanders are disproportionately overrepresented in  
17 the State's sex trafficking survivor population. In a survey



1 conducted by the Hawaii state commission on the status of women  
 2 and Arizona State University, sixty-four per cent of individuals  
 3 identified as victims of sexual exploitation possessed at least  
 4 partial Native Hawaiian ancestry. According to the report,  
 5 "[t]he overutilization of Native Hawaiians to meet sex buyer  
 6 demand may be directly linked to structural economic coercion  
 7 and vulnerabilities connected to land dispossession, exposure to  
 8 sexual violence, hypersexualization, incarceration, cultural  
 9 dislocation, intergenerational trauma, mental and emotional  
 10 distress, racism, poverty, and ongoing inequities."

11 Accordingly, the purpose of this Act is to support  
 12 survivors of sex trafficking by authorizing civil claims to be  
 13 made against a business, owner of a business, or operator of a  
 14 business that profits from sexual exploitation.

15 SECTION 2. Chapter 663J, Hawaii Revised Statutes, is  
 16 amended by amending its title to read as follows:

17 " [†]CHAPTER 663J[†]

18 **LIABILITY FOR COERCION INTO [~~PROSTITUTION~~] SEX TRAFFICKING AND**  
 19 **SEXUAL EXPLOITATION**"

20 SECTION 3. Section 663J-1, Hawaii Revised Statutes, is  
 21 amended to read as follows:



1           "**§663J-1 Title.** This chapter may be cited as the Sex  
2 Trafficking and [~~Prostitution~~] Sexual Exploitation Coercion  
3 Liability Act."

4           SECTION 4. Section 663J-2, Hawaii Revised Statutes, is  
5 amended to read as follows:

6           "**§663J-2 Definitions.** As used in this chapter:

7           "Coerce" means to use or threaten to use any form of  
8 domination, restraint, or control for the purpose of causing an  
9 individual to engage in or remain in [~~prostitution~~] sexual  
10 exploitation or to relinquish earnings derived from  
11 [~~prostitution.~~] sexual exploitation. Coercion exists if the  
12 totality of the circumstances establish the existence of  
13 domination, restraint, or control that would have the reasonably  
14 foreseeable effect of causing an individual to engage in or  
15 remain in [~~prostitution~~] sexual exploitation or to relinquish  
16 earnings derived from [~~prostitution.~~] sexual exploitation.

17           ~~["Promoting prostitution" means promoting prostitution as~~  
18 ~~provided in section 712-1203.~~

19           ~~"Prostitution" has the same meaning as provided in section~~  
20 ~~712-1200.]~~



1 "Sex trafficking" [~~has the same meaning as provided in~~  
2 means any act included under section 712-1202[-] or 712-1203.

3 "Sexual exploitation" has the same meaning as  
4 "prostitution" as that offense is described in section 712-  
5 1200."

6 SECTION 5. Section 663J-3, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 **"§663J-3 Cause of action for coercion into [~~prostitution~~]**  
9 **sexual exploitation or sex trafficking.** An individual has a  
10 cause of action against a person, business, an owner of a  
11 business, or an operator of a business who:

12 (1) Coerced the individual into [~~prostitution~~] sexual  
13 exploitation or to remain in [~~prostitution,~~] sexual  
14 exploitation, or subjected the individual to sex  
15 trafficking;

16 (2) Used coercion to collect or receive any of the  
17 individual's earnings derived from [~~prostitution~~]  
18 sexual exploitation or from being the subject of sex  
19 trafficking; [~~or~~]

20 (3) Hired, or attempted to hire the individual to engage  
21 in [~~prostitution,~~] sexual exploitation, when a



1 reasonable person would believe that the individual  
2 was coerced into [~~prostitution~~] sexual exploitation by  
3 another person or was being subjected to sex  
4 trafficking[-]; or

5 (4) Profited from the coercion of the individual into  
6 sexual exploitation or subjection of the individual to  
7 sex trafficking.

8 For the purposes of this section, "business" includes a  
9 transient accommodation or other commercial activity."

10 SECTION 6. Section 663J-4, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 "[~~§~~§663J-4[~~§~~] **Evidence.** Acts that may serve as evidence  
13 in support of a claim under section 663J-3 include but are not  
14 limited to:

- 15 (1) Physical force or threats of physical force;  
16 (2) Physical or mental torture;  
17 (3) Leading an individual to believe that the individual  
18 will be protected from violence or arrest;  
19 (4) Kidnapping;  
20 (5) Blackmail;  
21 (6) Extortion;



- 1 (7) Threat of criminal prosecution for any violation of  
2 the law;
- 3 (8) Threat of interference with parental rights;
- 4 (9) Restriction or interference with speech or  
5 communication with others;
- 6 (10) Isolation;
- 7 (11) Exploitation of pornographic performance;
- 8 (12) Interference with opportunities for education;
- 9 (13) Destroying property of the individual;
- 10 (14) Restriction of movement; [~~or~~]
- 11 (15) In the case of a person coerced while a minor:
- 12 (A) Exploiting needs for food, shelter, safety,  
13 affection, or intimate relationship;
- 14 (B) Exploiting a condition of developmental  
15 disability, cognitive limitation, affective  
16 disorder, or substance dependency;
- 17 (C) Promise of legal benefit, such as posting bail,  
18 procuring an attorney, protecting from arrest, or  
19 promising unionization;
- 20 (D) Promise of financial rewards; or



1 (E) Defining the terms of an individual's employment  
 2 or working conditions in a manner that is likely  
 3 to lead to the individual's use in  
 4 [~~prostitution.~~] sexual exploitation; or

5 (16) Disregarding notification or other indications that an  
 6 individual is being coerced into sexual exploitation  
 7 or sex trafficking on premises controlled by the  
 8 person, the business, an owner of the business, or an  
 9 operator of the business.

10 For the purposes of this section, "business" includes a  
 11 transient accommodation or other commercial activity."

12 SECTION 7. Section 663J-5, Hawaii Revised Statutes, is  
 13 amended to read as follows:

14 "**§663J-5 Damages.** An individual entitled to bring an  
 15 action under section 663J-3 may recover all of the following  
 16 damages:

17 (1) Economic damages proximately caused by coercion into  
 18 [~~prostitution~~] sexual exploitation or being the  
 19 subject of sex trafficking;



- 1 (2) Noneconomic damages proximately caused by coercion  
2 into [~~prostitution~~] sexual exploitation or being the  
3 subject of sex trafficking;
- 4 (3) Exemplary damages;
- 5 (4) Reasonable attorney's fees; and
- 6 (5) Costs of suit, including reasonable expenses for  
7 expert testimony."

8 SECTION 8. Section 663J-6, Hawaii Revised Statutes, is  
9 amended by amending subsection (a) to read as follows:

10 "(a) In the discretion of the court, two or more  
11 individuals may join in one action under this chapter as  
12 plaintiffs if their respective actions involve a person,  
13 business, an owner of a business, or an operator of a business  
14 who [~~engages in promoting prostitution by coercion or~~  
15 ~~subjecting~~] subjects or profits from the subjection of the  
16 individuals to sexual exploitation or sex trafficking.

17 For the purposes of this section, "business" includes a  
18 transient accommodation or other commercial activity."

19 SECTION 9. Section 663J-7, Hawaii Revised Statutes, is  
20 amended to read as follows:



1           "**§663J-7 Statute of limitations.** [~~(a)~~] A claim under  
2 this chapter may [~~not~~] be brought against a person [~~more than~~  
3 ~~six years after an act of promoting prostitution by coercion or~~  
4 ~~sex trafficking by that person.~~], business, an owner of a  
5 business, or an operator of a business at any time.

6           ~~[(b) The limitation period provided for in this chapter is~~  
7 ~~tolled:~~

8           ~~(1) During the minority of the individual who engages in~~  
9           ~~prostitution; or~~

10          ~~(2) Any time there is a criminal offense investigation~~  
11          ~~being actively conducted against the defendant by a~~  
12          ~~governmental agency or there is a criminal offense~~  
13          ~~charge, information, or indictment pending against the~~  
14          ~~defendant.]~~

15          For the purposes of this section, business includes a  
16 transient accommodation or other commercial activity."

17          SECTION 10. Section 663J-8, Hawaii Revised Statutes, is  
18 amended to read as follows:

19          "**§663J-8 Stay of action.** On motion by a governmental  
20 agency involved in an investigation or prosecution for  
21 [~~promoting prostitution~~] sexual exploitation or sex trafficking,



1 an action brought under this chapter shall be stayed until the  
2 completion of the criminal investigation or prosecution that  
3 gave rise to the motion for a stay of the action."

4 SECTION 11. Section 663J-9, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "**§663J-9 Other remedies preserved.** The remedies provided  
7 under this chapter do not restrict the right of any individual  
8 to bring an action under other law, including common law, to  
9 recover damages arising out of the use of the individual in  
10 [~~prostitution,~~] sexual exploitation, or subjecting the  
11 individual to sex trafficking, or the coercion incident to the  
12 individual being used in [~~prostitution~~] sexual exploitation or  
13 sex trafficking; nor does this chapter limit or restrict the  
14 liability of any person, business, owner of a business, or  
15 operator of a business under other law.

16 For the purposes of this section, "business" includes a  
17 transient accommodation or other commercial activity."

18 SECTION 12. 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 13. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 14. This Act shall take effect upon its approval.



**Report Title:**

Prostitution; Sexual Exploitation; Sex Trafficking; Civil Claims

**Description:**

Authorizes civil claims to be made against a business, owner of a business, or operator of a business that profits from sexual exploitation. (SD1)

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

