
A BILL FOR AN ACT

RELATING TO OFFENSES AGAINST PUBLIC HEALTH AND MORALS.

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

1 SECTION 1. The legislature finds that it has made
2 concerted efforts since the 2010s to reduce and combat sex
3 trafficking in the State and protect those victimized by
4 prostitution. One of these efforts was amending sections 712-
5 1202 and 712-1203, Hawaii Revised Statutes, to specifically
6 target those who benefit the most from prostitution, such as sex
7 traffickers and pimps.

8 The legislature finds that the supreme court of Hawaii's
9 decision in *State v. Ibarra*, 526 P.3d 575 (Haw. 2023), indicated
10 a need for the sex trafficking and promoting prostitution
11 criminal offense statutes to be further clarified.

12 Accordingly, the purpose of this Act is to clarify the sex
13 trafficking and promoting prostitution criminal offense statutes
14 by:

15 (1) Clarifying the definition of "profits from
16 prostitution";



- 1 (2) Inserting the definitions of "advances prostitution"
- 2 and "profits from prostitution" into the statutes
- 3 establishing the substantive offenses; and
- 4 (3) Repealing section 712-1201, Hawaii Revised Statutes,
- 5 which is no longer needed after inserting its
- 6 definitions and exclusions directly into the
- 7 underlying substantive offenses.

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

10 **"§712-1202 Sex trafficking.** (1) A person commits the
11 offense of sex trafficking if the person knowingly:

12 (a) Advances prostitution by compelling or inducing a
13 person by force, threat, fraud, coercion, or
14 intimidation to engage in prostitution, or profits
15 from such conduct by another; or

16 (b) Advances prostitution or profits from prostitution of
17 a minor.

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

19 (3) As used in this section:

20 "Advances prostitution" means that the person knowingly
21 causes or aids another person to commit or engage in



1 prostitution, procures or solicits patrons for prostitution,
2 provides persons for prostitution purposes, permits premises to
3 be regularly used for prostitution purposes, operates or assists
4 in the operation of a house of prostitution or a prostitution
5 enterprise, or engages in any other conduct designed to
6 institute, aid, or facilitate an act or enterprise of
7 prostitution.

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

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

12 "Profits from prostitution" means that the person knowingly
13 accepts or receives money, anything of value, or other property
14 pursuant to an agreement or understanding with a third party
15 whereby the third party participates or is to participate in the
16 proceeds of prostitution activity, regardless of whether the
17 money, thing of value, or other property received is in excess
18 of expenditures related to the agreement or understanding or is
19 for reimbursement or repayment of debt.

20 "Threat" means any of the actions listed in section 707-
21 764(1).



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

5 (5) No person shall be convicted under this section if the
6 conduct of the person underlying the offense consists
7 exclusively of:

8 (a) The person's own acts of prostitution as a prostituted
9 person as provided in section 712-1200; or

10 (b) The person's own acts of commercial sexual
11 exploitation as provided in section 712-1200.5."

12 SECTION 3. Section 712-1203, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§712-1203 Promoting prostitution.** (1) A person commits
15 the offense of promoting prostitution if the person knowingly
16 advances prostitution or profits from prostitution.

17 (2) Promoting prostitution is a class B felony.

18 (3) As used in this section:

19 "Advances prostitution" means that the person knowingly
20 causes or aids another person to commit or engage in
21 prostitution, procures or solicits patrons for prostitution,



1 provides persons for prostitution purposes, permits premises to
2 be regularly used for prostitution purposes, operates or assists
3 in the operation of a house of prostitution or a prostitution
4 enterprise, or engages in any other conduct designed to
5 institute, aid, or facilitate an act or enterprise of
6 prostitution.

7 "Profits from prostitution" means that the person knowingly
8 accepts or receives money, anything of value, or other property
9 pursuant to an agreement or understanding with a third party
10 whereby the third party participates or is to participate in the
11 proceeds of prostitution activity, regardless of whether the
12 money, thing of value, or other property received is in excess
13 of expenditures related to the agreement or understanding or is
14 for reimbursement or repayment of debt.

15 (4) No person shall be convicted under this section if the
16 conduct of the person underlying the offense consists
17 exclusively of:

18 (a) The person's own acts of prostitution as a prostituted
19 person as provided in section 712-1200; or

20 (b) The person's own acts of commercial sexual
21 exploitation as provided in section 712-1200.5."



1 SECTION 4. Section 712-1201, Hawaii Revised Statutes, is
2 repealed.

3 ~~["§712-1201 Advancing prostitution; profiting from~~
4 ~~prostitution; definition of terms.~~ In sections 712-1202 and
5 712-1203:

6 (1) A person "advances prostitution" if the person
7 knowingly causes or aids a person to commit or engage
8 in prostitution, procures or solicits patrons for
9 prostitution, provides persons for prostitution
10 purposes, permits premises to be regularly used for
11 prostitution purposes, operates or assists in the
12 operation of a house of prostitution or a prostitution
13 enterprise, or engages in any other conduct designed
14 to institute, aid, or facilitate an act or enterprise
15 of prostitution.

16 (2) A person "profits from prostitution" if the person
17 accepts or receives money, anything of value, or other
18 property pursuant to an agreement or understanding
19 with any person whereby the person participates or is
20 to participate in the proceeds of prostitution
21 activity; and



1 ~~(3) The definitions in subsections (1) and (2) shall not~~
2 ~~include those engaged in conduct outlined in section~~
3 ~~712-1200 as the prostituted person or section 712-~~
4 ~~1200.5 as the person engaged in commercial sexual~~
5 ~~exploitation."]~~

6 SECTION 5. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

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



Report Title:

Penal Code; Offenses Against Public Health and Morals; Sex Trafficking; Promoting Prostitution

Description:

Clarifies the definition of "profits from prostitution" to include money or property received regardless of expenditures or if it was a reimbursement or repayment of a debt. Amends the sex trafficking and promoting prostitution criminal offense statutes by inserting relevant definitions in those statutes and repealing a statute that is no longer needed. (SD1)

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