
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 has been amending sections
5 712-1202 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 further finds that the Hawaii supreme court
9 decision in *State v. Ibarra*, 153 Hawai'i 50, 526 P.3d 575 (2023),
10 indicates a need for the sex trafficking and promoting
11 prostitution criminal offense statutes to be further clarified.

12 Accordingly, the purpose of this Act is to clarify and
13 update the sex trafficking and promoting prostitution criminal
14 offense statutes by clarifying the definition of "profits from
15 prostitution" and making technical and other housekeeping
16 amendments.



1 SECTION 2. Section 350-1, Hawaii Revised Statutes, is
2 amended by amending the definition of "child abuse or neglect"
3 to read as follows:

4 ""Child abuse or neglect" means:

5 (1) The acts or omissions of any person who, or legal
6 entity [~~which,~~] that, is in any manner or degree
7 related to the child, is residing with the child, or
8 is otherwise responsible for the child's care, that
9 have resulted in the physical or psychological health
10 or welfare of the child, who is under the age of
11 eighteen, to be harmed, or to be subject to any
12 reasonably foreseeable, substantial risk of being
13 harmed. The acts or omissions [~~are~~] indicated for the
14 purposes of reports by circumstances [~~that~~] include
15 but are not limited to:

16 (A) When the child exhibits evidence of:

17 (i) Substantial or multiple skin bruising or any
18 other internal bleeding;

19 (ii) Any injury to skin causing substantial
20 bleeding;

21 (iii) Malnutrition;



- 1 (iv) Failure to thrive;
- 2 (v) Burn or burns;
- 3 (vi) Poisoning;
- 4 (vii) Fracture of any bone;
- 5 (viii) Subdural hematoma;
- 6 (ix) Soft tissue swelling;
- 7 (x) Extreme pain;
- 8 (xi) Extreme mental distress;
- 9 (xii) Gross degradation; or
- 10 (xiii) Death; and

11 [~~such~~] the injury is not justifiably explained,
 12 or when the history given concerning [~~such~~] the
 13 condition or death is at variance with the degree
 14 or type of [~~such~~] the condition or death, or
 15 circumstances indicate that [~~such~~] the condition
 16 or death may not be the product of an accidental
 17 occurrence;

18 (B) When the child has been the victim of sexual
 19 contact or conduct, including but not limited to
 20 sexual assault as defined in the Penal Code,
 21 molestation, sexual fondling, incest, or



1 prostitution; obscene or pornographic
2 photographing, filming, or depiction; or other
3 similar forms of sexual exploitation, including
4 but not limited to acts that constitute an
5 offense pursuant to section [~~712-1202(1)(b)~~]
6 712-1202(1)(c);

7 (C) When there exists injury to the psychological
8 capacity of a child as is evidenced by an
9 observable and substantial impairment in the
10 child's ability to function;

11 (D) When the child is not provided in a timely manner
12 with adequate food, clothing, shelter,
13 psychological care, physical care, medical care,
14 or supervision;

15 (E) When the child is provided with dangerous,
16 harmful, or detrimental drugs as defined by
17 section 712-1240; provided that this subparagraph
18 shall not apply when such drugs are provided to
19 the child pursuant to the direction or
20 prescription of a practitioner, as defined in
21 section 712-1240; or



1 (F) When the child has been the victim of labor
2 trafficking under chapter 707; or

3 (2) The acts or omissions of any person that have resulted
4 in sex trafficking or severe forms of trafficking in
5 persons; provided that no finding by the department
6 pursuant to this chapter shall be used as conclusive
7 evidence that a person has committed an offense under
8 part VIII of chapter 707 or section 712-1202."

9 SECTION 3. Section 588-2, Hawaii Revised Statutes, is
10 amended by amending the definition of "child sexual abuse" to
11 read as follows:

12 ""Child sexual abuse" means any of the offenses described
13 under chapter 707, part V, when committed against a person under
14 the age of eighteen years or that damage or injure a child's
15 physical or psychological health or welfare, where the child has
16 been the victim of sexual contact or conduct, including sexual
17 assault; sodomy; molestation; sexual fondling; incest;
18 prostitution; obscene or pornographic photographing, filming, or
19 depiction; or other similar forms of sexual exploitation,
20 including but not limited to acts that constitute an offense
21 pursuant to section [~~712-1202(1)(b)~~] 712-1202(1)(c)."



1 SECTION 4. Section 712-1200, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§712-1200 Prostitution.** (1) A person commits the
4 offense of prostitution if the person engages in, or agrees or
5 offers to engage in, sexual conduct with another person in
6 return for a fee or anything of value.

7 ~~[(2) As used in this section:~~

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

10 ~~"Sexual conduct" means "sexual penetration", "deviate~~
11 ~~sexual intercourse", or "sexual contact", as those terms are~~
12 ~~defined in section 707-700, or "sodomasochistic abuse" as~~
13 ~~defined in section 707-752.~~

14 ~~-(3)]~~ (2) Prostitution [~~is~~] shall be a petty misdemeanor;
15 provided that if the person who commits the offense under
16 subsection (1) is a minor, prostitution [~~is~~] shall be a
17 violation.

18 ~~[-(4)]~~ (3) A person convicted of committing the offense of
19 prostitution as a petty misdemeanor shall be sentenced as
20 follows:



- 1 (a) For the first offense, when the court has not deferred
2 further proceedings pursuant to chapter 853, a fine of
3 no less than \$500 but no more than \$1,000 and the
4 person may be sentenced to a term of imprisonment of
5 no more than thirty days or probation; provided that
6 in the event the convicted person defaults in payment
7 of the fine, and the default was not contumacious, the
8 court may make an order converting the unpaid portion
9 of the fine to community service as authorized by
10 section 706-605(1);
- 11 (b) For any subsequent offense, a fine of no less than
12 \$500 but no more than \$1,000 and a term of
13 imprisonment of thirty days or probation, without
14 possibility of deferral of further proceedings
15 pursuant to chapter 853 and without possibility of
16 suspension of sentence; and
- 17 (c) For the purpose of this subsection, if the court has
18 deferred further proceedings pursuant to chapter 853,
19 [~~and~~] the defendant, notwithstanding any provision of
20 chapter 853 to the contrary, [~~the defendant~~] shall not
21 be eligible to apply for expungement pursuant to



1 section 831-3.2 until three years following discharge.
2 A plea previously entered by a defendant under section
3 853-1 for a violation of this section shall be
4 considered a prior offense.

5 [~~(5)~~] (4) This section shall not apply to any member of a
6 police department, a sheriff, or a law enforcement officer
7 acting in the course and scope of duties; provided that the
8 member of a police department, sheriff, or law enforcement
9 officer is engaging in undercover operations; provided further
10 that under no circumstances shall sexual contact initiated by a
11 member of a police department, sheriff, or law enforcement
12 officer~~[+]~~ or sexual penetration~~[+]~~ or sadomasochistic abuse by
13 a member of a police department, sheriff, or law enforcement
14 officer be considered to fall within the course and scope of
15 duties.

16 [~~(6)~~] (5) 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 (1).
19 The minor shall be released, referred, or transported pursuant
20 to section 571-31(b). The minor shall be subject to the
21 jurisdiction of the family court pursuant to section 571-11(1),



1 including for the purposes of custody, detention, diversion, and
2 access to services and resources."

3 SECTION 5. Section 712-1200.5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~[+]§712-1200.5[+]~~ **Commercial sexual exploitation.** (1) A
6 person commits the offense of commercial sexual exploitation if
7 the person provides, agrees to provide, or offers to provide a
8 fee or anything of value to another to engage in sexual conduct.

9 ~~[(2) As used in this section, "sexual conduct" has the~~
10 ~~same meaning as in section 712-1200(2)].~~

11 ~~-(3)]~~ (2) Except as provided in subsection ~~[-(4)-]~~ (3),
12 commercial sexual exploitation ~~[is]~~ shall be a petty
13 misdemeanor.

14 ~~[-(4)]~~ (3) Commercial sexual exploitation ~~[is]~~ shall be a
15 class C felony if the person who commits the offense under
16 subsection (1) does so in reckless disregard of the fact that
17 the person exploited is a victim of sex trafficking.

18 ~~[-(5)]~~ (4) A person convicted of committing the offense of
19 commercial sexual exploitation as a petty misdemeanor shall be
20 sentenced as follows:



1 (a) For the first offense, a fine of no less than \$500 but
2 no more than \$1,000 and the person may be sentenced to
3 a term of imprisonment of no more than thirty days or
4 probation; provided that in the event the convicted
5 person defaults in payment of the fine, and the
6 default was not contumacious, the court may order
7 conversion of the unpaid portion of the fine to
8 community service as authorized by section 706-605(1);

9 (b) For any subsequent offense, a fine of no less than
10 \$500 but no more than \$1,000 and a term of
11 imprisonment or probation of no more than thirty days,
12 without possibility of suspension of sentence; and

13 (c) For purposes of this subsection, the court may impose
14 as a condition of probation that the defendant
15 complete a course of exploitation intervention
16 classes; provided that the court shall only impose the
17 condition for one term of probation.

18 [~~6~~] (5) This section shall not apply to any member of a
19 police department, a sheriff, or a law enforcement officer
20 acting in the course and scope of duties; provided that the
21 member of a police department, sheriff, or law enforcement



1 officer is engaging in undercover operations; provided further
2 that under no circumstances shall sexual contact initiated by a
3 member of a police department, sheriff, or law enforcement
4 officer[+] or sexual penetration[+] or sadomasochistic abuse by
5 a member of a police department, sheriff, or law enforcement
6 officer be considered to fall within the course and scope of
7 duties."

8 SECTION 6. Section 712-1201, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "~~§712-1201 [Advancing prostitution; profiting from~~
11 ~~prostitution; definition] Definitions of terms[-] in this part.~~

12 In [~~sections 712-1202 and 712-1203: (1) A person "advances]~~
13 this part, unless a different meaning is required or specified:

14 "Advances prostitution" [~~±f~~] means that the person
15 knowingly causes or aids [a] another person to commit or engage
16 in prostitution, procures or solicits patrons for prostitution,
17 provides persons for prostitution purposes, permits premises to
18 be regularly used for prostitution purposes, operates or assists
19 in the operation of a house of prostitution or a prostitution
20 enterprise, or engages in any other conduct designed to



1 institute, aid, or facilitate an act or enterprise of
2 prostitution[~~+~~].

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

5 [~~(2)~~—A person "~~profits~~] "Profits from prostitution" [~~is~~]
6 means that the person knowingly accepts or receives money,
7 anything of value, or other property pursuant to an agreement or
8 understanding with [~~any person~~] a third party whereby the person
9 participates or is to participate in the proceeds of
10 prostitution activity[~~+~~and], regardless of whether the money,
11 thing of value, or other property is accepted or received in
12 excess of expenditures or as reimbursement or repayment of any
13 debt.

14 [~~(3)~~—The definitions in subsections (1) and (2) shall not
15 include those engaged in conduct outlined in section 712-1200 as
16 the prostituted person or section 712-1200.5 as the person
17 engaged in commercial sexual exploitation.]

18 "Sexual conduct" means "sexual penetration", "deviate
19 sexual intercourse", or "sexual contact", as those terms are
20 defined in section 707-700, or "somasochistic abuse" as
21 defined in section 707-752."



1 SECTION 7. Section 712-1202, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§712-1202 Sex trafficking.** (1) A person commits the
4 offense of sex trafficking if the person knowingly:

5 (a) Advances prostitution by compelling or inducing a
6 person by force, threat, fraud, coercion, or
7 intimidation to engage in prostitution [~~or profits~~
8 ~~from such conduct by another; or~~];

9 (b) Profits from prostitution that is the result of
10 another person compelling or inducing a person by
11 force, threat, fraud, coercion, or intimidation to
12 engage in prostitution; or

13 [~~b~~] (c) Advances prostitution or profits from
14 prostitution of a minor.

15 (2) Sex trafficking [~~is~~] shall be a class A felony.

16 (3) [~~As used in~~] For the purposes of this section:

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

19 [~~"Minor" means a person who is less than eighteen years of~~
20 ~~age.~~]



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

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

8 (5) No person shall be convicted under this section if the
9 conduct of the person underlying the offense consists
10 exclusively of the person's own acts of:

11 (a) Prostitution as a prostituted person as provided in
12 section 712-1200; or

13 (b) Commercial sexual exploitation as provided in section
14 712-1200.5."

15 SECTION 8. Section 712-1203, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§712-1203 Promoting prostitution.** (1) A person commits
18 the offense of promoting prostitution if the person knowingly
19 advances prostitution or profits from prostitution.

20 (2) Promoting prostitution [~~is~~] shall be a class B felony.



1 (3) No person shall be convicted under this section if the
2 conduct of the person underlying the offense consists
3 exclusively of the person's own acts of:

4 (a) Prostitution as a prostituted person as provided in
5 section 712-1200; or

6 (b) Commercial sexual exploitation as provided in section
7 712-1200.5."

8 SECTION 9. Section 712-1206, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "~~+~~\$712-1206~~+~~ **Loitering for the purpose of engaging in**
11 **or advancing prostitution.** (1) For the purposes of this
12 section, "public place" means any street, sidewalk, bridge,
13 alley or alleyway, plaza, park, driveway, parking lot or
14 transportation facility or the doorways and entrance ways to any
15 building ~~[which]~~ that fronts on any of the aforesaid places, or
16 a motor vehicle in or on any such place.

17 (2) Any person who remains or wanders about in a public
18 place and repeatedly beckons to ~~[or]~~, repeatedly stops, ~~[or]~~
19 repeatedly attempts to stop, or repeatedly attempts to engage
20 passers-by in conversation, ~~[or]~~ repeatedly stops or attempts to
21 stop motor vehicles, or repeatedly interferes with the free



1 passage of other persons for the purpose of committing the crime
2 of prostitution as that term is defined in section 712-1200
3 shall be guilty of a violation.

4 (3) Any person who remains or wanders about in a public
5 place and repeatedly beckons to, [~~or~~] repeatedly stops, or
6 repeatedly attempts to engage passers-by in conversation, [~~or~~]
7 repeatedly stops or attempts to stop motor vehicles, or
8 repeatedly interferes with the free passage of other persons for
9 the purpose of [~~committing the crime of~~] advancing prostitution
10 [~~as that term is defined in section 712-1201(1) is~~] shall be
11 guilty of a petty misdemeanor."

12 SECTION 10. Section 712-1207, Hawaii Revised Statutes, is
13 amended by amending subsection (8) to read as follows:

14 "(8) 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 section 712-~~
2 ~~1200(2).]~~

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

5 SECTION 11. Section 712-1209, Hawaii Revised Statutes, is
6 amended by amending subsection (3) to read as follows:

7 "(3) For purposes of this section[~~-~~
8 "School"], "school" has the same meaning as in section 712-
9 1249.6(6).

10 ~~["Sexual conduct" has the same meaning as in section 712-~~
11 ~~1200(2).]~~"

12 SECTION 12. Section 712-1209.1, Hawaii Revised Statutes,
13 is amended to read as follows:

14 "**§712-1209.1 Commercial sexual exploitation of a minor.**

15 (1) A person eighteen years of age or older commits the offense
16 of commercial sexual exploitation of a minor if the person
17 intentionally, knowingly, or recklessly:

18 (a) Offers or agrees to provide anything of value to a
19 member of a police department, a sheriff, or a law
20 enforcement officer who represents that person's self
21 as a minor to engage in sexual conduct;



1 (b) Provides anything of value to a minor or third person
2 as compensation for having engaged in sexual conduct
3 with a minor;

4 (c) Agrees to provide or offers to provide anything of
5 value to a minor or third person for the purpose of
6 engaging in sexual conduct with a minor; or

7 (d) Solicits, offers to engage in, or requests to engage
8 in sexual conduct with a minor in return for anything
9 of value.

10 (2) Commercial sexual exploitation of a minor [~~is~~] shall
11 be a class B felony.

12 (3) In addition to any other authorized disposition, a
13 person convicted of committing the offense of commercial sexual
14 exploitation of a minor shall be sentenced to pay a fine of no
15 less than \$5,000.

16 (4) This section shall not apply to any member of a police
17 department, a sheriff, or a law enforcement officer acting in
18 the course and scope of duties; provided that the member of a
19 police department, sheriff, or law enforcement officer is
20 engaging in undercover operations; provided further that under
21 no circumstances shall sexual contact initiated by a member of a



1 police department, sheriff, or law enforcement officer[+] or
2 sexual penetration[+] or sadomasochistic abuse by a member of a
3 police department, sheriff, or law enforcement officer be
4 considered to fall within the course and scope of duties.

5 (5) The state of mind requirement for the offense under
6 subsection (1)(b) [~~is~~] shall not be applicable to the fact that
7 the victim was a minor. A person [~~is~~] shall be strictly liable
8 with respect to the attendant circumstance that the victim was a
9 minor; provided that the person had a reasonable opportunity to
10 observe the victim.

11 (6) Consent of a minor to the sexual conduct [~~does~~] shall
12 not constitute a defense to any offense in this section.

13 [~~(7) For purposes of this section:~~

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

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

18 SECTION 13. Section 846E-1, Hawaii Revised Statutes, is
19 amended by amending the definition of "sexual offense" to read
20 as follows:

21 ""Sexual offense" means an offense that is:



- 1 (1) Set forth in section 707-730(1), 707-731(1),
2 707-732(1), 707-733(1)(a), 707-733.6, [~~712-1200.5(4),~~]
3 712-1200.5(3), 712-1202(1), or 712-1203(1), but
4 excludes conduct that is criminal only because of the
5 age of the victim, as provided in section
6 707-730(1)(b), or section 707-732(1)(b) if the
7 perpetrator is under the age of eighteen;
- 8 (2) An act defined in section 707-720 if the charging
9 document for the offense for which there has been a
10 conviction alleged intent to subject the victim to a
11 sexual offense;
- 12 (3) An act that consists of:
- 13 (A) Criminal sexual conduct toward a minor, including
14 but not limited to an offense set forth in
15 section 707-759;
- 16 (B) Solicitation of a minor who is less than fourteen
17 years old to engage in sexual conduct;
- 18 (C) Use of a minor in a sexual performance;
- 19 (D) Production, distribution, or possession of child
20 pornography chargeable as a felony under section
21 707-750, 707-751, or 707-752;



- 1 (E) Electronic enticement of a child chargeable under
2 section 707-756 or 707-757 if the offense was
3 committed with the intent to promote or
4 facilitate the commission of another covered
5 offense as defined in this section; or
6 (F) Commercial sexual exploitation of a minor in
7 violation of section 712-1209.1;
8 (4) A violation of privacy under section 711-1110.9;
9 (5) An act, as described in chapter 705, that is an
10 attempt, criminal solicitation, or criminal conspiracy
11 to commit one of the offenses designated in paragraphs
12 (1) through (4);
13 (6) A criminal offense that is comparable to or that
14 exceeds a sexual offense as defined in paragraphs (1)
15 through (5); or
16 (7) Any federal, military, out-of-state, tribal, or
17 foreign conviction for any offense that under the laws
18 of this State would be a sexual offense as defined in
19 paragraphs (1) through (6)."



1 SECTION 14. This Act does not affect rights and duties
2 that matured, penalties that were incurred, and proceedings that
3 were begun before its effective date.

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

6 SECTION 16. This Act shall take effect on July 1, 2025.



Report Title:

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

Description:

Clarifies and updates the sex trafficking and promoting prostitution criminal offense statutes by clarifying the definition of "profits from prostitution" and making technical and other housekeeping amendments. (HD1)

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

