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# 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 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 refining the definition of "profits from  
15      prostitution," establishing an affirmative defense to these  
16      offenses for certain lawful transactions, and making technical  
17      and other housekeeping amendments.

## H.B. NO. 2251

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

"Child abuse or neglect" means:

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

(A) When the child exhibits evidence of:

- (i) Substantial or multiple skin bruising or any other internal bleeding;
- (ii) Any injury to skin causing substantial bleeding;
- (iii) Malnutrition;
- (iv) Failure to thrive;

H.B. NO. 2251

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

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

- 17 (B) When the child has been the victim of sexual  
18 contact or conduct, including but not limited to  
19 sexual assault as defined in the Penal Code,  
20 molestation, sexual fondling, incest, or  
21 prostitution; obscene or pornographic  
22 photographing, filming, or depiction; or other

H.B. NO. 2251

1 similar forms of sexual exploitation, including  
2 but not limited to acts that constitute an  
3 offense pursuant to section [~~712-1202(1)(b),~~]  
4 712-1202(1)(c);

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

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

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

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

H.B. NO. 2251

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

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

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

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

## H.B. NO. 2251

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

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

6       ~~"Minor" means a person who is less than eighteen years of~~  
7 ~~age.~~

8       ~~"Seeks medical or law enforcement assistance" includes but~~  
9 ~~is not limited to making, or assisting someone who is making, a~~  
10 ~~report to the 911 system, a poison control center, a medical~~  
11 ~~provider, a reproductive health provider, or any law enforcement~~  
12 ~~agency or providing care to someone who is awaiting the arrival~~  
13 ~~of medical or law enforcement personnel.~~

14       ~~"Sexual conduct" means "sexual penetration", "deviate~~  
15 ~~sexual intercourse", or "sexual contact", as those terms are~~  
16 ~~defined in section 707-700, or "sodomasochistic abuse" as~~  
17 ~~defined in section 707-752.~~

18       ~~(3)]~~ (2) Prostitution shall be a petty misdemeanor;  
19 provided that if the person who commits the offense under  
20 subsection (1) is a minor, prostitution shall be a violation.

H.B. NO. 2251

1        [~~4~~] (3) A person convicted of committing the offense of  
2 prostitution as a petty misdemeanor shall be sentenced as  
3 follows:

4        (a) For the first offense, when the court has not deferred  
5 further proceedings pursuant to chapter 853, a fine of  
6 no less than \$500 but no more than \$1,000 and the  
7 person may be sentenced to a term of imprisonment of  
8 no more than thirty days or probation; provided that  
9 in the event the convicted person defaults in payment  
10 of the fine, and the default was not contumacious, the  
11 court may make an order converting the unpaid portion  
12 of the fine to community service as authorized by  
13 section 706-605(1);

14        (b) For any subsequent offense, a fine of no less than  
15 \$500 but no more than \$1,000 and a term of  
16 imprisonment of thirty days or probation, without  
17 possibility of deferral of further proceedings  
18 pursuant to chapter 853 and without possibility of  
19 suspension of sentence; and

20        (c) For the purpose of this subsection, if the court has  
21 deferred further proceedings pursuant to chapter 853,  
22 and notwithstanding any provision of chapter 853 to

H.B. NO. 2251

1           the contrary, the defendant shall not be eligible to  
2           apply for expungement pursuant to section 831-3.2  
3           until three years following discharge. A plea  
4           previously entered by a defendant under section 853-1  
5           for a violation of this section shall be considered a  
6           prior offense.

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



## H.B. NO. 2251

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

3 ~~[(7)]~~ (6) Notwithstanding this section or any other law to  
4 the contrary, a person who in good faith seeks medical or law  
5 enforcement assistance for themselves or another person, or is  
6 the subject of another person's good faith act seeking medical  
7 or law enforcement assistance, shall not:

8 (a) Be arrested, charged, prosecuted, or convicted;

9 (b) Have their property be subject to civil forfeiture; or

10 (c) Otherwise be penalized,

11 pursuant to this section if the probable cause or evidence for  
12 the arrest, charge, prosecution, conviction, seizure, or penalty  
13 was gained as a result of seeking medical or law enforcement  
14 assistance; provided that this subsection shall not apply to any  
15 other criminal offense."

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

18 "[~~+~~]**§712-1200.5**[~~+~~] **Commercial sexual exploitation.** (1) A  
19 person commits the offense of commercial sexual exploitation if  
20 the person provides, agrees to provide, or offers to provide a  
21 fee or anything of value to another to engage in sexual conduct.

H.B. NO. 2251

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

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

6       ~~[(4)]~~ (3) Commercial sexual exploitation ~~[is]~~ shall be a  
7 class C felony if the person who commits the offense under  
8 subsection (1) does so in reckless disregard of the fact that  
9 the person exploited is a victim of sex trafficking.

10       ~~[(5)]~~ (4) A person convicted of committing the offense of  
11 commercial sexual exploitation as a petty misdemeanor shall be  
12 sentenced as follows:

13       (a) For the first offense, a fine of no less than \$500 but  
14       no more than \$1,000 and the person may be sentenced to  
15       a term of imprisonment of no more than thirty days or  
16       probation; provided that in the event the convicted  
17       person defaults in payment of the fine, and the  
18       default was not contumacious, the court may order  
19       conversion of the unpaid portion of the fine to  
20       community service as authorized by section 706-605(1);

21       (b) For any subsequent offense, a fine of no less than  
22       \$500 but no more than \$1,000 and a term of

H.B. NO. 2251

1 imprisonment or probation of no more than thirty days,  
2 without possibility of suspension of sentence; and

3 (c) For purposes of this subsection, the court may impose  
4 as a condition of probation that the defendant  
5 complete a course of exploitation intervention  
6 classes; provided that the court shall only impose the  
7 condition for one term of probation.

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

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

19 "§712-1201 ~~[Advancing prostitution; profiting from~~  
20 ~~prostitution; definition]~~ Definitions of terms[-] in this part.  
21 In ~~[sections 712-1202 and 712-1203: (1) A person "advances]~~  
22 this part, unless a different meaning is required or specified:

H.B. NO. 2251

1        "Advances prostitution" ~~[if]~~ means that the person  
2        knowingly causes or aids ~~[a]~~ another person to commit or engage  
3        in prostitution, procures or solicits patrons for prostitution,  
4        provides persons for prostitution purposes, permits premises to  
5        be regularly used for prostitution purposes, operates or assists  
6        in the operation of a house of prostitution or a prostitution  
7        enterprise, or engages in any other conduct designed to  
8        institute, aid, or facilitate an act or enterprise of  
9        prostitution~~[+]~~.

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

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

21       ~~[(3) — The definitions in subsections (1) and (2) shall not~~  
22       ~~include those engaged in conduct outlined in section 712-1200 as~~

## H.B. NO. 2251

1 ~~the prostituted person or section 712-1200.5 as the person~~  
2 ~~engaged in commercial sexual exploitation.]~~

3 "Seeks medical or law enforcement assistance" includes but  
4 is not limited to making, or assisting someone who is making, a  
5 report to the 911 system, a poison control center, a medical  
6 provider, a reproductive health provider, or any law enforcement  
7 agency or providing care to someone who is awaiting the arrival  
8 of medical or law enforcement personnel.

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

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

15 **"§712-1202 Sex trafficking.** (1) A person commits the  
16 offense of sex trafficking if the person knowingly:

17 (a) Advances prostitution by compelling or inducing a  
18 person by force, threat, fraud, coercion, or  
19 intimidation to engage in prostitution~~[, or profits~~  
20 ~~from such conduct by another; or]~~;

21 (b) Profits from prostitution that is the result of  
22 another person compelling or inducing a person by

H.B. NO. 2251

1           force, threat, fraud, coercion, or intimidation to  
2           engage in prostitution; or

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

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

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

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

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

11       "Threat" means any of the actions listed in section  
12      707-764(1).

13       (4) The state of mind requirement for the offense under  
14      subsection ~~[(1)(b) is]~~ (1)(c) shall not be applicable to the  
15      fact that the victim was a minor. A person ~~[is]~~ shall be  
16      strictly liable with respect to the attendant circumstances that  
17      the victim was a minor.

18       (5) It shall be an affirmative defense to a prosecution  
19      under subsection (1)(b) or (c) that the person received funds, a  
20      thing of value, or property in the ordinary course of a lawful  
21      business, where the source of funds, the thing of value, or

## H.B. NO. 2251

1 property was immaterial to the transaction, and without intent  
2 to facilitate or benefit from prostitution.

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

6 (a) Prostitution as a prostituted person as provided in  
7 section 712-1200; or

8 (b) Commercial sexual exploitation as provided in section  
9 712-1200.5."

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

12 **"§712-1203 Promoting prostitution.** (1) A person commits  
13 the offense of promoting prostitution if the person knowingly  
14 advances prostitution or profits from prostitution.

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

16 (3) It shall be an affirmative defense to a prosecution  
17 under this section that the person received funds, a thing of  
18 value, or property in the ordinary course of a lawful business,  
19 where the source of funds, the thing of value, or property was  
20 immaterial to the transaction, and without intent to facilitate  
21 or benefit from prostitution.

## H.B. NO. 2251

1        (4) 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[+]**

13       ~~"Public]~~, "public place" means any street, sidewalk,  
14       bridge, alley or alleyway, plaza, park, driveway, parking lot or  
15       transportation facility or the doorways and entrance ways to any  
16       building that fronts on any of the aforesaid places, or a motor  
17       vehicle in or on any such place.

18       ~~["Seeks medical or law enforcement assistance" includes but~~  
19       ~~is not limited to making, or assisting someone who is making, a~~  
20       ~~report to the 911 system, a poison control center, a medical~~  
21       ~~provider, a reproductive health provider, or any law enforcement~~



## H.B. NO. 2251

~~agency or providing care to someone who is awaiting the arrival  
of medical or law enforcement personnel.]~~

(2) Any person who remains or wanders about in a public  
place and repeatedly:

(a) Beckons to, stops, or attempts to stop or engage  
passers-by in conversation;

(b) Stops or attempts to stop motor vehicles; or

(c) Interferes with the free passage of other persons,  
for the purpose of committing the crime of prostitution as ~~[that~~  
~~term is defined]~~ provided in section 712-1200 shall be guilty of  
a violation.

(3) Any person who remains or wanders about in a public  
place and repeatedly:

(a) Beckons to, stops, or attempts to engage passers-by in  
conversation;

(b) Stops or attempts to stop motor vehicles; or

(c) Interferes with the free passage of other persons,  
for the purpose of ~~[committing the crime of]~~ advancing  
prostitution ~~[as that term is defined in section 712-1201(1)]~~  
shall be guilty of a petty misdemeanor.

(4) Notwithstanding this section or any other law to the  
contrary, a person who in good faith seeks medical or law

## H.B. NO. 2251

1 enforcement assistance for themselves or another person, or is  
2 the subject of another person's good faith act seeking medical  
3 or law enforcement assistance, shall not:

4 (a) Be arrested, charged, prosecuted, or convicted;

5 (b) Have their property be subject to civil forfeiture; or

6 (c) Otherwise be penalized,

7 pursuant to this section if the probable cause or evidence for  
8 the arrest, charge, prosecution, conviction, seizure, or penalty  
9 was gained as a result of seeking medical or law enforcement  
10 assistance; provided that this subsection shall not apply to any  
11 other criminal offense."

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.

## H.B. NO. 2251

1       ~~["Seeks medical or law enforcement assistance" includes but~~  
2       ~~is not limited to making, or assisting someone who is making, a~~  
3       ~~report to the 911 system, a poison control center, a medical~~  
4       ~~provider, a reproductive health provider, or any law enforcement~~  
5       ~~agency or providing care to someone who is awaiting the arrival~~  
6       ~~of medical or law enforcement personnel.~~

7       ~~"Sexual conduct" has the same meaning as in section 712-~~  
8       ~~1200(2).]~~

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

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

13       "(3) For purposes of this section[+

14       ~~"School"]~~, "school" has the same meaning as in section 712-  
15       1249.6(6).

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

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

20       **"§712-1209.1 Commercial sexual exploitation of a minor.**

21       (1) A person eighteen years of age or older commits the offense

## H.B. NO. 2251

1 of commercial sexual exploitation of a minor if the person  
2 intentionally, knowingly, or recklessly:

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

7 (b) Provides anything of value to a minor or third person  
8 as compensation for having engaged in sexual conduct  
9 with a minor;

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

13 (d) Solicits, offers to engage in, or requests to engage  
14 in sexual conduct with a minor in return for anything  
15 of value.

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

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

## H.B. NO. 2251

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

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

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

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

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

21           ~~"Sexual conduct" has the same meaning as in section~~  
22 ~~712-1200(2).]~~ "

## H.B. NO. 2251

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

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

5       (1) Set forth in section 707-730(1), 707-731(1),  
6       707-732(1), 707-733(1)(a), 707-733.6, [~~712-1200.5(4),~~]  
7       712-1200.5(3), 712-1202(1), or 712-1203(1), but

8       excludes conduct that is criminal only because of the  
9       age of the victim, as provided in section

10       707-730(1)(b), or section 707-732(1)(b) if the

11       perpetrator is under the age of eighteen;

12       (2) An act defined in section 707-720 if the charging  
13       document for the offense for which there has been a  
14       conviction alleged intent to subject the victim to a  
15       sexual offense;

16       (3) An act that consists of:

17       (A) Criminal sexual conduct toward a minor, including  
18       but not limited to an offense set forth in  
19       section 707-759;

20       (B) Solicitation of a minor who is less than fourteen  
21       years old to engage in sexual conduct;

22       (C) Use of a minor in a sexual performance;

## H.B. NO. 2251

- 1 (D) Production, distribution, or possession of child  
2 pornography chargeable as a felony under section  
3 707-750, 707-751, or 707-752;
- 4 (E) Electronic enticement of a child chargeable under  
5 section 707-756 or 707-757 if the offense was  
6 committed with the intent to promote or  
7 facilitate the commission of another covered  
8 offense as defined in this section; or
- 9 (F) Commercial sexual exploitation of a minor in  
10 violation of section 712-1209.1;
- 11 (4) A violation of privacy under section 711-1110.9;
- 12 (5) An act, as described in chapter 705, that is an  
13 attempt, criminal solicitation, or criminal conspiracy  
14 to commit one of the offenses designated in paragraphs  
15 (1) through (4);
- 16 (6) A criminal offense that is comparable to or that  
17 exceeds a sexual offense as defined in paragraphs (1)  
18 through (5); or
- 19 (7) Any federal, military, out-of-state, tribal, or  
20 foreign conviction for any offense that under the laws  
21 of this State would be a sexual offense as defined in  
22 paragraphs (1) through (6)."

H.B. NO. 2251

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

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

6           SECTION 16. This Act, upon its approval, shall take effect  
7 on July 1, 2026.

INTRODUCED BY:

Melanie K. Proctor

BY REQUEST

JAN 26 2026



# H.B. NO. 2251

**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 refining the definition of "profits from prostitution," establishing an affirmative defense to these offenses for certain lawful transactions, and making technical and other housekeeping amendments.

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

JUSTIFICATION SHEET

DEPARTMENT: ATTORNEY GENERAL

TITLE: A BILL FOR AN ACT RELATING TO OFFENSES  
AGAINST PUBLIC HEALTH AND MORALS.

PURPOSE: To clarify and update the sex trafficking  
and promoting prostitution criminal offense  
statutes by refining the definition of  
"profits from prostitution," establishing an  
affirmative defense to these offenses for  
certain lawful transactions, and making  
technical and other housekeeping amendments.

MEANS: Amend sections 350-1, 588-2, 712-1200, 712-  
1200.5, 712-1201, 712-1202, 712-1203, 712-  
1206, 712-1207(8), 712-1209(3), 712-1209.1,  
and 846E-1, Hawaii Revised Statutes (HRS).

JUSTIFICATION: The Supreme Court of Hawaii's decision in  
*State v. Ibarra*, 153 Hawai'i 50, 526 P.3d 575  
(2023), underscored the need to clarify the  
Penal Code provisions on sex trafficking and  
promoting prostitution. This bill meets  
that need by removing ambiguities and  
ensuring the law is clear and consistent.

This bill amends the definition of "profits  
from prostitution" to eliminate a statutory  
safe harbor that could allow sex traffickers  
or pimps to evade prosecution. In *Ibarra*,  
the court held that under current law,  
traffickers who receive money or property  
from victims as loan repayments or  
reimbursements, rather than as excesses of  
returns over expenditures, may claim they  
have not "profited" and are therefore not  
criminally liable. The amendment clarifies  
that "profiting" includes any money or  
property received from victims as proceeds  
of prostitution, regardless of whether it  
exceeds expenses or represents reimbursement  
or repayment of debt.

The bill also establishes an affirmative  
defense to these offenses when money or

property is received in the ordinary course of lawful business, the source is immaterial, and there is no intent to facilitate or benefit from prostitution.

Additionally, the bill restructures provisions that define terms or establish exemptions for part I of chapter 712, HRS, to streamline the statutory framework and clarify who should not be prosecuted under those statutes.

Impact on the public: This bill will strengthen the public's and Legislature's efforts to combat sex trafficking and promoting prostitution by clarifying the law that prohibits those activities.

Impact on the department and other agencies: This bill will greatly assist prosecutions of sex traffickers and pimps by removing ambiguities that hinder enforcement.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: None.

OTHER AFFECTED  
AGENCIES: The City and County of Honolulu's Department of Prosecuting Attorney; the County of Hawai'i Office of the Prosecuting Attorney; the Department of Prosecuting Attorney for the County of Maui; the County of Kaua'i Office of the Prosecuting Attorney.

EFFECTIVE DATE: July 1, 2026.