

ACT 130

S.B. NO. 14

A Bill for an Act Relating to Prostitution.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 712-1200, Hawaii Revised Statutes, is amended by amending subsection (4) to read as follows:

“(4) [Notwithstanding any other law to the contrary, a] A person convicted of committing the offense of prostitution shall be sentenced as follows:

- (a) For the first offense, when the court has not deferred further proceedings pursuant to chapter 853, a mandatory fine of \$500 and the person may be sentenced to a term of imprisonment of not more than thirty days; provided, in the event the convicted person defaults in payment of the \$500 fine, and the default was not contumacious, the court may sentence the person to perform services for the community as authorized by section 706-605(1).
- (b) For any subsequent offense, a fine of \$500 and a term of imprisonment of thirty days, without possibility of deferral of further proceedings pursuant to chapter 853 and without possibility of suspension of sentence or probation.

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For the purpose of this subsection, if the court has deferred further proceedings pursuant to chapter 853, and notwithstanding any provision of chapter 853 to the contrary, the defendant shall not be eligible to apply for expungement pursuant to section 831- 3.2 until four years following discharge. A plea previously entered by a defendant under section 853-1 for a violation of this section shall be considered a prior offense.

SECTION 2. Section 712-1202, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of promoting prostitution in the first degree if [he] the person knowingly:

- (a) Advances prostitution by compelling a person by criminal coercion to engage in prostitution, or profits from such coercive conduct by another; or
- (b) Advances or profits from prostitution of a person less than [fourteen] sixteen years old.”

SECTION 3. Section 712-1203, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of promoting prostitution in the second degree if [he] the person knowingly:

- (a) Advances or profits from prostitution by managing, supervising, controlling, or owning, either alone or in association with others, a house of prostitution or a prostitution business or enterprise involving prostitution activity by two or more prostitutes; or
- (b) Advances or profits from prostitution of a person less than eighteen years old.”

SECTION 4. Section 853-4, Hawaii Revised Statutes, is amended to read as follows:

“**§853-4 Chapter not applicable; when.** This chapter shall not apply when:

- (1) The offense charged involves the intentional, knowing, reckless, or negligent killing of another person;
- (2) The offense charged involves the intentional, knowing, or reckless bodily injury or serious bodily injury of another person;
- (3) The offense charged involves a conspiracy or solicitation to intentionally, knowingly, or recklessly kill another person or to cause serious bodily injury to another person;
- (4) The offense charged is a class A felony;
- (5) The offense charged is nonprobationable;
- (6) The defendant has been convicted of any offense defined as a felony by the Hawaii Penal Code or has been convicted for any conduct which if perpetrated in this State would be punishable as a felony;
- (7) The defendant is found to be a law violator or delinquent child for the commission of any offense defined as a felony by the Hawaii Penal Code or for any conduct which if perpetrated in this State would constitute a felony;
- (8) The defendant has a prior conviction for a felony committed in any state, federal, or foreign jurisdiction;
- (9) A firearm was used in the commission of the offense charged;

- (10) The defendant is charged with the distribution of a dangerous, harmful, or detrimental drug to a minor;
- (11) The defendant has been charged with a felony offense and has been previously granted deferred acceptance of guilty plea status for a prior offense, whether or not the period of deferral has already expired;
- (12) The defendant has been charged with a misdemeanor offense and has been previously granted deferred acceptance of guilty plea status for a prior felony, misdemeanor, or petty misdemeanor for which the period of deferral has not yet expired;
- (13) The offense charged is:
 - (A) Escape in the first degree;
 - (B) Escape in the second degree;
 - (C) Promoting prison contraband in the first degree;¹
 - (E) Bail jumping in the first degree;
 - (F) Bail jumping in the second degree;
 - (G) Bribery;
 - (H) Bribery of a witness;
 - (I) Intimidating a witness;
 - (J) Bribery of or by a juror;
 - (K) Intimidating a juror;
 - (L) Jury tampering[.];
 - (M) Promoting prostitution in the first degree;
 - (N) Promoting prostitution in the second degree;
 - (O) Promoting prostitution in the third degree.”²

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval; provided that Section 1 shall be retroactive for all pending cases.

(Approved May 21, 1993.)

Notes

- 1. Prior to amendment “(D) Promoting prison contraband in the second degree;” appeared here.
- 2. Prior to amendment “The court may by rule adopt other criteria in this area.” appeared here.