
A BILL FOR AN ACT

RELATING TO PROSTITUTION.

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

1 SECTION 1. The purpose of this Act is to authorize a
2 person convicted of committing the offense of prostitution to
3 file a motion to vacate the judgment under certain circumstances
4 and to establish procedures for the motion to vacate.

5 SECTION 2. Chapter 712, Hawaii Revised Statutes, is
6 amended by adding a new section to be appropriately designated
7 and to read as follows:

8 "§712- Prostitution; motion to vacate judgment. (1) A
9 person convicted of committing the offense of prostitution under
10 section 712-1200, loitering for the purpose of engaging in or
11 advancing prostitution under section 712-1206, street
12 solicitation of prostitution in designated areas under section
13 712-1207, or convicted of a lesser offense when originally
14 charged with a violation of section 712-1200, 712-1206, or
15 712-1207, may file a motion to vacate the conviction if the
16 defendant's participation in the offense was the result of the
17 person having been a victim of:



- 1 (a) Promoting prostitution in the first degree under
- 2 section 712-1202; or
- 3 (b) A severe form of trafficking as defined in title 22
- 4 United States Code section 7102(13).
- 5 (2) A motion filed under this section shall:
- 6 (a) Be in writing;
- 7 (b) Be made within a reasonable period of time after the
- 8 person ceases to be a victim as described in
- 9 subsection (1), subject to reasonable concerns for the
- 10 safety of the defendant, family members of the
- 11 defendant, or other victims of the trafficking that
- 12 may be jeopardized by the bringing of a motion, or for
- 13 other reasons consistent with the purpose of this
- 14 section; and
- 15 (c) Describe the evidence and provide copies of any
- 16 official documents showing that the defendant is
- 17 entitled to relief under this section.
- 18 (3) The court shall hold a hearing on a motion filed under
- 19 this section if the motion satisfies the requirements of
- 20 subsection (2); provided that the court may dismiss a motion
- 21 without a hearing if the court finds that the motion fails to
- 22 assert grounds on which relief may be granted.



1 (4) Official documentation of the defendant's status as a
2 victim of trafficking or a victim of a severe form of
3 trafficking from a federal, state, or local law enforcement
4 agency shall create a presumption that the person's
5 participation in the offense of prostitution was a result of
6 having been a victim of trafficking or a victim of a severe form
7 of trafficking, but shall not be required for granting a
8 petition under this subsection.

9 (5) If the court grants a motion filed under this section,
10 the court shall vacate the conviction and dismiss the accusatory
11 pleading.

12 (6) A person making a motion to vacate pursuant to this
13 section has the burden of proof by a preponderance of the
14 evidence.

15 (7) This section shall not apply to a motion to vacate a
16 conviction under this chapter for:

17 (a) Promoting prostitution; or

18 (b) A person who offers a fee to engage in sexual conduct
19 with another person.

20 (8) For the purposes of this section:



1 "Official documentation" includes a police report, court
2 record, or affidavit generated from a federal, state, or local
3 law enforcement agency.

4 "Victim of trafficking" and "victim of a severe form of
5 trafficking" shall have the same meaning as in title 22 United
6 States Code section 7102."

7 SECTION 3. This Act does not affect rights and duties that
8 matured, penalties that were incurred, and proceedings that were
9 begun before its effective date.

10 SECTION 4. New statutory material is underscored.

11 SECTION 5. This Act shall take effect on July 1, 2050.



Report Title:

Prostitution; Motion to Vacate Judgment

Description:

Authorizes a person convicted of committing the offense of prostitution to file a motion to vacate the judgment under certain circumstances; establishes procedures for the motion to vacate. Effective 07/01/50. (SD1)

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