
A BILL FOR AN ACT

RELATING TO MINORS.

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

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 **"CHAPTER**

5 **SAFE HARBOR FOR SEXUALLY EXPLOITED CHILDREN**

6 § -1 **Findings and purpose.** The legislature finds that
7 arresting, prosecuting, and incarcerating victimized children
8 serves to retraumatize them and to increase their feelings of
9 low self-esteem, which only makes the process of recovery more
10 difficult. Appropriate services for sexually exploited children
11 do not exist in the juvenile justice system and both federal and
12 international law recognize that sexually exploited children are
13 the victims of crime and should be treated as such. Therefore,
14 sexually exploited children should not be prosecuted for
15 criminal acts related to prostitution. Instead, the legislature
16 finds that services should be created to meet the needs of these
17 children outside of the justice system. Sexually exploited
18 children deserve the protection of child welfare services,



1 including diversion, crisis intervention, counseling, and
2 emergency housing services.

3 The purpose of this chapter is to protect a child from
4 further victimization after the child is discovered to be a
5 sexually exploited child by ensuring that a child protective
6 response, not a criminal justice response, is in place. This is
7 accomplished by exempting from prosecution sexually exploited
8 children and creating programs and services to meet their
9 specific needs. It should be the priority of the department of
10 human services to establish family reunification where possible,
11 without compromising the child's health and safety. In
12 determining the need and capacity for services that may be
13 provided under this chapter, the department of human services
14 shall recognize that sexually exploited children have separate
15 and distinct service needs according to gender, and may make
16 appropriate services available while ensuring that an
17 appropriate continuum of services exist.

18 **§ -2 Definitions.** As used in this chapter, unless the
19 context requires otherwise:

20 "Child" means a person who is less than eighteen years of
21 age.

22 "Department" means the department of human services.



1 "Safe house" means a residential facility operated by an
2 authorized agency, including a nonprofit agency, with experience
3 in providing services to sexually exploited children and
4 approved by the department to provide shelter for sexually
5 exploited children.

6 "Sexually exploited child" means any person under the age
7 of eighteen who has been subject to sexual exploitation because
8 the person:

- 9 (1) Is a victim of the crime of promoting prostitution in
10 the first degree under section 712-1202;
- 11 (2) Is a victim of the crime of sex trafficking of
12 children under title 18 United States Code section
13 1591; or
- 14 (3) Engages in any act under section 712-1200, 712-1206,
15 712-1207(1)(a), or 712-1207(2)(a), and is granted
16 exemption pursuant to those sections.

17 **§ -3 Victim services program for sexually exploited**
18 **children established.** (a) The department may develop a victim
19 services program to address the needs of sexually exploited
20 children and minors at risk of becoming sexually exploited.

21 (b) The victim services program may:



- 1 (1) Provide for the child welfare services needs of
- 2 sexually exploited children, including but not limited
- 3 to services for sexually exploited children at the
- 4 time the child is taken into custody by law
- 5 enforcement or is identified by the department as a
- 6 sexually exploited child for the duration of any legal
- 7 or administrative proceeding in which the child is the
- 8 complaining witness or the subject child;
- 9 (2) Reunite a child with the child's family, if it is in
- 10 the best interest of the child, or place the child in
- 11 foster care; and
- 12 (3) Provide appropriate services to a child reasonably
- 13 believed to be a sexually exploited child in order to
- 14 safeguard the child's welfare.
- 15 (c) The department may:
- 16 (1) Coordinate with law enforcement agencies, the county
- 17 prosecutors' offices, the child and adolescent mental
- 18 health division of the department of health, child
- 19 protection workers of the department of human
- 20 services, and human trafficking service providers to
- 21 implement the victim services program established
- 22 under this section;



1 (2) Provide training and educational materials to its
2 employees regarding sex trafficking of children and
3 sexually exploited children;

4 (3) Develop a public awareness campaign regarding sex
5 trafficking of children; and

6 (4) Conduct outreach to youth identified as being at risk
7 for sexual exploitation.

8 For the purposes of this subsection, "human trafficking
9 service providers" means providers of services who help victims
10 of human trafficking.

11 (d) The services provided under the victim services
12 program, whether accessed voluntarily, through a court
13 proceeding, or through a referral, which may be made by any
14 person, may be made available to all sexually exploited
15 children.

16 (e) The department shall submit an annual report to the
17 legislature, no later than September 1, that:

18 (1) Details the implementation of the victim services
19 program for sexually exploited children; and

20 (2) Includes findings, recommendations, additional
21 appropriation requests, and proposed legislation, if
22 any.



1 § -4 Temporary care and custody of sexually exploited
2 children. (a) The department may develop a protocol for the
3 interplay between the exemption provisions for sexually
4 exploited children established by this chapter and other
5 existing child protection statutes.

6 (b) Sexually exploited children may be taken into custody
7 by a law enforcement agent and may be:

8 (1) Subject to no cost emergency shelter and related
9 services provided by the department of human services
10 pursuant to section 346-17.6; provided that the child
11 communicates informed consent to the rules and
12 requirements of the shelter and services; or

13 (2) Returned to the child's parents; provided that, in the
14 judgment of the law enforcement agent, it is safe to
15 do so without jeopardizing the health or safety of the
16 child."

17 SECTION 2. Section 321-1.3, Hawaii Revised Statutes, is
18 amended by amending subsection (d) to read as follows:

19 "(d) The department of health shall submit an annual
20 report to the legislature no later than twenty days prior to the
21 convening of each regular session providing the following:



- 1 (1) An accounting of the receipts of, and expenditures
2 from, the special fund; and
- 3 (2) Recommendations on how to improve services for victims
4 of domestic violence, ~~and~~ sexual assault~~[-]~~,
5 promoting prostitution in the first degree, as defined
6 by section 712-1202, or sex-trafficking as defined in
7 title 22 United States Code, section 7102, as
8 amended."

9 SECTION 3. Section 712-1200, Hawaii Revised Statutes, is
10 amended to read as follows

- 11 "§712-1200 Prostitution. (1) A person commits the
12 offense of prostitution if the person:
- 13 (a) Engages in, or agrees or offers to engage in, sexual
14 conduct with another person for a fee; or
- 15 (b) Pays, agrees to pay, or offers to pay a fee to another
16 to engage in sexual conduct.
- 17 (2) As used in subsection (1), "sexual conduct" means
18 "sexual penetration," "deviate sexual intercourse," or "sexual
19 contact," as those terms are defined in section 707-700.
- 20 (3) Prostitution is a petty misdemeanor.
- 21 (4) A person convicted of committing the offense of
22 prostitution shall be sentenced as follows:



- 1 (a) For the first offense, when the court has not deferred
2 further proceedings pursuant to chapter 853, a
3 mandatory fine of \$500 and the person may be sentenced
4 to a term of imprisonment of not more than thirty days
5 or probation; provided that in the event the convicted
6 person defaults in payment of the \$500 fine, and the
7 default was not contumacious, the court may sentence
8 the person to perform services for the community as
9 authorized by section 706-605(1).
- 10 (b) For any subsequent offense, a mandatory fine of \$500
11 and a term of imprisonment of thirty days or
12 probation, without possibility of deferral of further
13 proceedings pursuant to chapter 853 and without
14 possibility of suspension of sentence.
- 15 (c) For the purpose of this subsection, if the court has
16 deferred further proceedings pursuant to chapter 853,
17 and notwithstanding any provision of chapter 853 to
18 the contrary, the defendant shall not be eligible to
19 apply for expungement pursuant to section 831-3.2
20 until four years following discharge. A plea
21 previously entered by a defendant under section 853-1
22 for a violation of this section shall be considered a



1 prior offense. When the court has ordered a sentence
2 of probation, the court may impose as a condition of
3 probation that the defendant complete a course of
4 prostitution intervention classes; provided that the
5 court may only impose such condition for one term of
6 probation.

7 (5) This section shall not apply to any member of a police
8 department, a sheriff, or a law enforcement officer acting in
9 the course and scope of duties.

10 (6) If it is determined, after a reasonable detention for
11 investigative purposes, that a person suspected of or charged
12 with prostitution was less than eighteen years of age at the
13 time the offense was allegedly committed, that person shall not
14 be prosecuted under this section, and shall be subject to the
15 safe harbor provisions of chapter . Exemption from
16 prosecution under this section shall not apply to patrons of
17 prostitution or persons who procure or solicit patrons for
18 prostitution."

19 SECTION 4. Section 712-1206, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "[+]§712-1206[+] Loitering for the purpose of engaging in
22 or advancing prostitution. (1) For the purposes of this



1 section, "public place" means any street, sidewalk, bridge,
2 alley or alleyway, plaza, park, driveway, parking lot or
3 transportation facility or the doorways and entrance ways to any
4 building which fronts on any of the aforesaid places, or a motor
5 vehicle in or on any such place.

6 (2) Any person who remains or wanders about in a public
7 place and repeatedly beckons to or repeatedly stops, or
8 repeatedly attempts to stop, or repeatedly attempts to engage
9 passers-by in conversation, or repeatedly stops or attempts to
10 stop motor vehicles, or repeatedly interferes with the free
11 passage of other persons for the purpose of committing the crime
12 of prostitution as that term is defined in section 712-1200,
13 shall be guilty of a violation.

14 (3) Any person who remains or wanders about in a public
15 place and repeatedly beckons to, or repeatedly stops, or
16 repeatedly attempts to engage passers-by in conversation, or
17 repeatedly stops or attempts to stop motor vehicles, or
18 repeatedly interferes with the free passage of other persons for
19 the purpose of committing the crime of advancing prostitution as
20 that term is defined in section 712-1201(1) is guilty of a petty
21 misdemeanor.



1 (4) If it is determined, after a reasonable detention for
2 investigative purposes, that a person suspected of or charged
3 with a violation under subsection (2) was less than eighteen
4 years of age at the time the offense of loitering for the
5 purpose of engaging in prostitution was allegedly committed,
6 that person shall not be prosecuted under this section, and
7 shall be subject to the safe harbor provisions of chapter .
8 Exemption from prosecution under this section shall not apply to
9 patrons of prostitution or persons who procure or solicit
10 patrons for prostitution."

11 SECTION 5. Section 712-1207, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§712-1207 Street solicitation of prostitution; designated**
14 **areas.** (1) It shall be unlawful for any person within the
15 boundaries of Waikiki and while on any public property to:

16 (a) Offer or agree to engage in sexual conduct with
17 another person in return for a fee; or

18 (b) Pay, agree to pay, or offer to pay a fee to another
19 person to engage in sexual conduct.

20 (2) It shall be unlawful for any person within the
21 boundaries of other areas in this State designated by county



1 ordinance pursuant to subsection (3), and while on any public
2 property to:

3 (a) Offer or agree to engage in sexual conduct with
4 another person in return for a fee; or

5 (b) Pay, agree to pay, or offer to pay a fee to another
6 person to engage in sexual conduct.

7 (3) Upon a recommendation of the chief of police of a
8 county, that county may enact an ordinance that:

9 (a) Designates areas, each no larger than three square
10 miles, as zones of significant prostitution-related
11 activity that is detrimental to the health, safety, or
12 welfare of the general public; or

13 (b) Alters the boundaries of any existing area under
14 paragraph (a);

15 provided that not more than four areas may be designated within
16 the State.

17 (4) Notwithstanding any law to the contrary, any person
18 violating this section shall be guilty of a petty misdemeanor
19 and shall be sentenced to a mandatory term of thirty days
20 imprisonment. The term of imprisonment shall be imposed
21 immediately, regardless of whether the defendant appeals the
22 conviction, except as provided in subsection (5).



1 (5) As an option to the mandatory term of thirty days
2 imprisonment, if the court finds the option is warranted based
3 upon the defendant's record, the court may place the defendant
4 on probation for a period not to exceed six months, subject to
5 the mandatory condition that the defendant observe geographic
6 restrictions that prohibit the defendant from entering or
7 remaining on public property, in Waikiki and other areas in the
8 State designated by county ordinance during the hours from
9 6 p.m. to 6 a.m. Upon any violation of the geographic
10 restrictions by the defendant, the court, after hearing, shall
11 revoke the defendant's probation and immediately impose the
12 mandatory thirty-day term of imprisonment. Nothing contained in
13 this subsection shall be construed as prohibiting the imposition
14 of stricter geographic restrictions under section 706-624(2)(h).

15 (6) Any person charged under this section may be admitted to
16 bail, pursuant to section 804-4, subject to the mandatory
17 condition that the person observe geographic restrictions that
18 prohibit the defendant from entering or remaining on public
19 property, in Waikiki and other areas in the State designated by
20 county ordinance during the hours from 6 p.m. to 6 a.m.
21 Notwithstanding any other provision of law to the contrary, any
22 person who violates these bail restrictions shall have the



1 person's bail revoked after hearing and shall be imprisoned
2 forthwith. Nothing contained in this subsection shall be
3 construed as prohibiting the imposition of stricter geographic
4 restrictions under section 804-7.1.

5 (7) Notwithstanding any other law to the contrary, a police
6 officer, without warrant, may arrest any person when the officer
7 has probable cause to believe that the person has committed a
8 violation of subsection (5) or (6), and the person shall be
9 detained, without bail, until the hearing under the appropriate
10 subsection can be held, which hearing shall be held as soon as
11 reasonably practicable.

12 (8) If it is determined, after a reasonable detention for
13 investigative purposes, that a person suspected of or charged
14 with a violation of subsection (1)(a) or (2)(a) was less than
15 eighteen years of age at the time the violation was allegedly
16 committed, that person shall not be prosecuted under this
17 section, and shall be subject to the safe harbor provisions of
18 chapter . Exemption from prosecution under this section
19 shall not apply to patrons of prostitution or persons who
20 procure or solicit patrons for prostitution.

21 [~~8~~] (9) For purposes of this section:



1 "Area" means any zone within a county that is defined with
2 specific boundaries and designated as a zone of significant
3 prostitution by this section or a county ordinance.

4 "Public property" includes any street, highway, road,
5 sidewalk, alley, lane, bridge, parking lot, park, or other
6 property owned or under the jurisdiction of any governmental
7 entity or otherwise open to the public.

8 "Sexual conduct" has the same meaning as in section
9 712-1200(2).

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

12 [~~9~~] (10) This section shall apply to all counties;
13 provided that if a county enacts an ordinance to regulate street
14 solicitation for prostitution, other than an ordinance
15 designating an area as a zone of significant prostitution-
16 related activity, the county ordinance shall supersede this
17 section and no person shall be convicted under this section in
18 that county."

19 SECTION 6. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun before its effective date.



1 SECTION 7. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 8. This Act shall take effect on July 1, 2030.



Report Title:

Minors; Prostitution; Family Court; Penal Code

Description:

Establishes a new chapter for the safe harbor of sexually exploited children. Expands the scope of the domestic violence and sexual assault special fund annual report to the legislature. Establishes that persons who are under eighteen and suspected of or charged with certain offenses of prostitution shall not be prosecuted and shall be subject to the safe harbor program. Effective July 1, 2030. (SB2579 HD3)

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

