
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
16 legislature finds that services should be created to meet the
17 needs of these children outside of the justice system. Sexually
18 exploited children deserve the protection of child welfare



1 services, including diversion, crisis intervention, counseling,
2 and 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 granting exemption from certain prosecution to
8 sexually exploited children and creating programs and services
9 to meet their specific needs. It should be the priority of the
10 department of human services to establish family reunification
11 where possible, without conflict with the child's health and
12 safety. In determining the need for and capacity for services
13 that may be provided under this chapter, the department of human
14 services shall recognize that sexually exploited children have
15 separate and distinct service needs according to gender, and
16 appropriate services shall be made available while ensuring that
17 an 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 shall develop a
19 victim services program to address the needs of sexually
20 exploited children and minors at risk of becoming sexually
21 exploited.

22 (b) The victim services program shall:



- 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 shall:
- 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, shall be available to all sexually exploited children.

15 (e) The department shall submit a report to the
16 legislature, no later than twenty days prior to the convening of
17 each regular session, 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 **Safe house for sexually exploited children.** The
2 department, to the extent funds are available, shall operate or
3 contract with an appropriate nonprofit agency with experience
4 working with sexually exploited children to operate at least one
5 safe house in a geographically appropriate area of the State.
6 Each safe house shall provide safe and secure housing and
7 specialized services for sexually exploited children throughout
8 the State.

9 Nothing in this section shall be construed to preclude an
10 agency from applying for and accepting grants, gifts, and
11 bequests for funds from private individuals, foundations, and
12 the federal government for the purpose of creating or carrying
13 out the duties of a safe house for sexually exploited children.

14 § -5 **Temporary care and custody of sexually exploited**
15 **children.** (a) The department shall develop a protocol for the
16 interplay between the exemption provisions for sexually
17 exploited children established by this chapter and other
18 existing child protection statutes.

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



- 1 (1) Subject to the protective custody of a law enforcement
2 agent; provided that the child's family is unable to
3 provide for the child's health or safety; or
4 (2) Returned to the child's parents; provided that, in the
5 judgment of the law enforcement agent, it is safe to
6 do so without jeopardizing the health or safety of the
7 child."

8 SECTION 2. Chapter 346, part I, Hawaii Revised Statutes,
9 is amended by adding a new section to be appropriately
10 designated and to read as follows:

11 "§346- Minor victims of prostitution special fund. (a)
12 In addition to any disposition authorized by chapter 706 or 853,
13 any person who is:

- 14 (1) Convicted of an offense under part I of chapter 712
15 when the offense involves prostitution or promoting
16 prostitution of a person less than eighteen years old;
17 or
18 (2) Charged with an offense under part I of chapter 712
19 when the offense involves prostitution or promoting
20 prostitution of a person less than eighteen years old
21 and who has been granted a deferred acceptance of
22 guilty plea or nolo contendere plea;



1 shall be ordered to pay a monetary assessment of \$5,000.
2 Notwithstanding sections 706-640 and 706-641 and any other law
3 to the contrary, the assessments provided by this section shall
4 be in addition to and not in lieu of, and shall not be used to
5 offset or reduce, any fine authorized or required by law.

6 (b) There is established in the state treasury the minor
7 victims of prostitution special fund, to be administered by the
8 department of human services. Appropriations by the legislature
9 and all monetary assessments paid and interest accrued on funds
10 collected pursuant to subsection (a) shall be deposited into the
11 minor victims of prostitution special fund. Moneys in the minor
12 victims of prostitution special fund shall be used for the
13 provision of services and treatment, such as securing
14 residential housing, health services, and social services, to
15 sexually exploited children pursuant to chapter . The
16 department may also use the funds for grants or purchases of
17 service, consistent with chapters 42F and 103F, to provide
18 services for sexually exploited children.

19 (c) Probation services fees imposed under part III of
20 chapter 706 shall be paid before payment of the monetary
21 assessment under subsection (a)."



1 SECTION 3. Section 571-11, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§571-11 Jurisdiction; children.** Except as otherwise
4 provided in this chapter, the court shall have exclusive
5 original jurisdiction in proceedings:

6 (1) Concerning any person who is alleged to have committed
7 an act prior to achieving eighteen years of age that
8 would constitute a violation or attempted violation of
9 any federal, state, or local law or county ordinance.
10 Regardless of where the violation occurred,
11 jurisdiction may be taken by the court of the circuit
12 where the person resides, is living, or is found, or
13 in which the offense is alleged to have occurred;

14 (2) Concerning any child living or found within the
15 circuit:

16 (A) Who is neglected as to or deprived of educational
17 services because of the failure of any person or
18 agency to exercise that degree of care for which
19 it is legally responsible;

20 (B) Who is beyond the control of the child's parent
21 or other custodian or whose behavior is injurious
22 to the child's own or others' welfare;



- 1 (C) Who is neither attending school nor receiving
- 2 educational services required by law whether
- 3 through the child's own misbehavior or
- 4 nonattendance or otherwise; or
- 5 (D) Who is in violation of curfew;
- 6 (3) To determine the custody of any child or appoint a
- 7 guardian of any child;
- 8 (4) For the adoption of a person under chapter 578;
- 9 (5) For the termination of parental rights under sections
- 10 571-61 through 571-63;
- 11 (6) For judicial consent to the marriage, employment, or
- 12 enlistment of a child, when consent is required by
- 13 law;
- 14 (7) For the treatment or commitment of a mentally
- 15 defective or mentally ill child, or a child with an
- 16 intellectual disability;
- 17 (8) Under the Interstate Compact on Juveniles under
- 18 chapter 582 or the Interstate Compact for Juveniles
- 19 under chapter 582D;
- 20 (9) For the protection of any child under chapter 587A;
- 21 [and]



- 1 (10) For a change of name as provided in section
2 574-5(a)(2)(C) [-]; and
- 3 (11) Concerning any person under eighteen years of age who
4 is suspected of or charged with a violation of section
5 712-1200, 712-1206, or 712-1207(1)(a) or (2)(a), and
6 later granted exemption under section 712-1200(6),
7 712-1206(4), or 712-1207(8), respectively. Regardless
8 of where the violation occurred, jurisdiction may be
9 taken by the court of the circuit where the person
10 resides, is living, or is found, or in which the
11 offense is alleged to have occurred."

12 SECTION 4. Section 663J-7, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "[+]§663J-7[+] **Statute of limitations.** (a) A claim under
15 this chapter may not be brought against a person more than [twø]
16 six years after an act of promoting prostitution by coercion by
17 that person.

18 (b) The limitation period provided for in this chapter is
19 tolled:

20 (1) During the minority of the individual who engages in
21 prostitution; [ø#]



1 (2) Any time there is a criminal offense investigation
2 being actively conducted against the defendant by a
3 governmental agency or there is a criminal offense
4 charge, information, or indictment pending against the
5 defendant [-];

6 (3) Until the plaintiff discovers that an act of promoting
7 prostitution by coercion has occurred and that the
8 defendant caused, was responsible for, or profited
9 from the act of promoting prostitution by coercion; or

10 (4) If the plaintiff is a victim of a series of acts of
11 promoting prostitution by coercion by the same
12 defendant, until the last act of promoting
13 prostitution by coercion has occurred.

14 (c) A statute of limitations defense may not be asserted
15 if the defendant induced or attempted to induce the plaintiff to
16 delay filing a claim under this chapter."

17 SECTION 5. Section 712-1200, Hawaii Revised Statutes, is
18 amended to read as follows

19 "**§712-1200 Prostitution.** (1) A person commits the
20 offense of prostitution if the person:

21 (a) Engages in, or agrees or offers to engage in, sexual
22 conduct with another person for a fee; or



1 (b) Pays, agrees to pay, or offers to pay a fee to another
2 to engage in sexual conduct.

3 (2) As used in subsection (1), "sexual conduct" means
4 "sexual penetration," "deviate sexual intercourse," or "sexual
5 contact," as those terms are defined in section 707-700.

6 (3) Prostitution is a petty misdemeanor.

7 (4) A person convicted of committing the offense of
8 prostitution shall be sentenced as follows:

9 (a) For the first offense, when the court has not deferred
10 further proceedings pursuant to chapter 853, a
11 mandatory fine of \$500 and the person may be sentenced
12 to a term of imprisonment of not more than thirty days
13 or probation; provided that in the event the convicted
14 person defaults in payment of the \$500 fine, and the
15 default was not contumacious, the court may sentence
16 the person to perform services for the community as
17 authorized by section 706-605(1).

18 (b) For any subsequent offense, a mandatory fine of \$500
19 and a term of imprisonment of thirty days or
20 probation, without possibility of deferral of further
21 proceedings pursuant to chapter 853 and without
22 possibility of suspension of sentence.



1 (c) For the purpose of this subsection, if the court has
2 deferred further proceedings pursuant to chapter 853,
3 and notwithstanding any provision of chapter 853 to
4 the contrary, the defendant shall not be eligible to
5 apply for expungement pursuant to section 831-3.2
6 until four years following discharge. A plea
7 previously entered by a defendant under section 853-1
8 for a violation of this section shall be considered a
9 prior offense. When the court has ordered a sentence
10 of probation, the court may impose as a condition of
11 probation that the defendant complete a course of
12 prostitution intervention classes; provided that the
13 court may only impose such condition for one term of
14 probation.

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

18 (6) If it is determined, after a reasonable detention for
19 investigative purposes, that a person suspected of or charged
20 with prostitution was less than eighteen years of age at the
21 time the offense was allegedly committed, that person shall be
22 not be prosecuted under this section, and shall be subject to



1 the safe harbor provisions of chapter . Exemption from
2 prosecution under this section shall not apply to patrons of
3 prostitution or persons who procure or solicit patrons for
4 prostitution."

5 SECTION 6. Section 712-1206, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "[+]§712-1206[+] **Loitering for the purpose of engaging in**
8 **or advancing prostitution.** (1) For the purposes of this
9 section, "public place" means any street, sidewalk, bridge,
10 alley or alleyway, plaza, park, driveway, parking lot or
11 transportation facility or the doorways and entrance ways to any
12 building which fronts on any of the aforesaid places, or a motor
13 vehicle in or on any such place.

14 (2) Any person who remains or wanders about in a public
15 place and repeatedly beckons to or repeatedly stops, or
16 repeatedly attempts to stop, or repeatedly attempts to engage
17 passers-by in conversation, or repeatedly stops or attempts to
18 stop motor vehicles, or repeatedly interferes with the free
19 passage of other persons for the purpose of committing the crime
20 of prostitution as that term is defined in section 712-1200,
21 shall be guilty of a violation.



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

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

19 SECTION 7. Section 712-1207, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "§712-1207 Street solicitation of prostitution; designated
2 **areas.** (1) It shall be unlawful for any person within the
3 boundaries of Waikiki and while on any public property to:
4 (a) Offer or agree to engage in sexual conduct with
5 another person in return for a fee; or
6 (b) Pay, agree to pay, or offer to pay a fee to another
7 person to engage in sexual conduct.
8 (2) It shall be unlawful for any person within the
9 boundaries of other areas in this State designated by county
10 ordinance pursuant to subsection (3), and while on any public
11 property to:
12 (a) Offer or agree to engage in sexual conduct with
13 another person in return for a fee; or
14 (b) Pay, agree to pay, or offer to pay a fee to another
15 person to engage in sexual conduct.
16 (3) Upon a recommendation of the chief of police of a
17 county, that county may enact an ordinance that:
18 (a) Designates areas, each no larger than three square
19 miles, as zones of significant prostitution-related
20 activity that is detrimental to the health, safety, or
21 welfare of the general public; or



1 (b) Alters the boundaries of any existing area under
2 paragraph (a);
3 provided that not more than four areas may be designated within
4 the State.

5 (4) Notwithstanding any law to the contrary, any person
6 violating this section shall be guilty of a petty misdemeanor
7 and shall be sentenced to a mandatory term of thirty days
8 imprisonment. The term of imprisonment shall be imposed
9 immediately, regardless of whether the defendant appeals the
10 conviction, except as provided in subsection (5).

11 (5) As an option to the mandatory term of thirty days
12 imprisonment, if the court finds the option is warranted based
13 upon the defendant's record, the court may place the defendant
14 on probation for a period not to exceed six months, subject to
15 the mandatory condition that the defendant observe geographic
16 restrictions that prohibit the defendant from entering or
17 remaining on public property, in Waikiki and other areas in the
18 State designated by county ordinance during the hours from
19 6 p.m. to 6 a.m. Upon any violation of the geographic
20 restrictions by the defendant, the court, after hearing, shall
21 revoke the defendant's probation and immediately impose the
22 mandatory thirty-day term of imprisonment. Nothing contained in



1 this subsection shall be construed as prohibiting the imposition
2 of stricter geographic restrictions under section 706-624(2)(h).

3 (6) Any person charged under this section may be admitted
4 to bail, pursuant to section 804-4, subject to the mandatory
5 condition that the person observe geographic restrictions that
6 prohibit the defendant from entering or remaining on public
7 property, in Waikiki and other areas in the State designated by
8 county ordinance during the hours from 6 p.m. to 6 a.m.
9 Notwithstanding any other provision of law to the contrary, any
10 person who violates these bail restrictions shall have the
11 person's bail revoked after hearing and shall be imprisoned
12 forthwith. Nothing contained in this subsection shall be
13 construed as prohibiting the imposition of stricter geographic
14 restrictions under section 804-7.1.

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



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

10 ~~[(8)]~~ (9) For purposes of this section:

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

14 "Public property" includes any street, highway, road,
15 sidewalk, alley, lane, bridge, parking lot, park, or other
16 property owned or under the jurisdiction of any governmental
17 entity or otherwise open to the public.

18 "Sexual conduct" has the same meaning as in section
19 712-1200(2).

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



1 [~~9~~] (10) This section shall apply to all counties;
2 provided that if a county enacts an ordinance to regulate street
3 solicitation for prostitution, other than an ordinance
4 designating an area as a zone of significant prostitution-
5 related activity, the county ordinance shall supersede this
6 section and no person shall be convicted under this section in
7 that county."

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

11 SECTION 9. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 10. This Act shall take effect on July 1, 2050.



Report Title:

Minors; Prostitution; Family Court; Penal Code; Special Fund

Description:

Establishes a new chapter for the safe harbor of sexually exploited children. Establishes the minor victims of prostitution special fund. Grants the family court exclusive jurisdiction over any person under eighteen who is charged with certain offenses of prostitution. Amends the statute of limitations under the prostitution coercion liability act. 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 provisions of the safe harbor for sexually exploited children chapter. Effective 7/1/2050. (SD2)

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