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# A BILL FOR AN ACT

RELATING TO SEX TRAFFICKING.

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

1           SECTION 1. Chapter 712, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§712- Sex trafficking. (1) A person commits the  
5 offense of sex trafficking if the person intentionally or  
6 knowingly procures, provides, or obtains:

7           (a) Another person who is less than eighteen years old for  
8 the purpose of causing that person to engage in sexual  
9 services; or

10          (b) Another person who is eighteen years old or older for  
11 the purpose of causing that person to engage in sexual  
12 services by any of the following means:

13          (i) Any of the acts constituting extortion as  
14 described in section 707-764 except that for  
15 purposes of this paragraph, "labor" or  
16 "services", as used in section 707-764, shall be  
17 limited to "sexual services" as defined under  
18 this section;



- 1           (ii) Any of the acts constituting kidnapping as  
2                   described in section 707-720(1)(a) through (e);
- 3           (iii) Any of the acts described in section 707-721(1)  
4                   relating to unlawful imprisonment in the first  
5                   degree or 707-722(1) relating to unlawful  
6                   imprisonment in the second degree;
- 7           (iv) Any of the acts described in section 707-730  
8                   relating to sexual assault in the first degree,  
9                   section 707-731 relating to sexual assault in the  
10                  second degree, and section 707-732 relating to  
11                  sexual assault in the third degree;
- 12           (v) Acts of force, deadly force, or unlawful force as  
13                  defined in section 703-300;
- 14           (vi) Any of the acts described in the definition of  
15                  "deception" under section 708-800;
- 16           (vii) Act of fraud in making material false statements,  
17                  misstatements, or omissions to induce or maintain  
18                  the person to engage or continue to engage in  
19                  sexual services;



- 1           (viii) Any act that requires sexual services to be  
2                   performed to retire, repay, or service a real or  
3                   purported debt;
- 4           (ix) Any of the acts described in section 707-710  
5                   relating to assault in the first degree, section  
6                   707-711 relating to assault in the second degree,  
7                   and section 707-712 relating to assault in the  
8                   third degree;
- 9           (x) Any act that uses any scheme, plan, or pattern  
10                   intended to cause another person to believe that  
11                   if that person did not perform sexual services,  
12                   then a friend or member of that person's family  
13                   would suffer serious harm, serious financial  
14                   loss, or physical restraint; or
- 15           (xi) Any act that uses or threatens to use any form of  
16                   domination, restraint, or control over the other  
17                   person, which given the totality of the  
18                   circumstances, would have the foreseeable effect  
19                   of causing another person to engage in or remain  
20                   engaged in the sexual services.
- 21           (2) Sex trafficking is a class A felony.



1       (3) A person convicted of committing the offense of sex  
2 trafficking shall be fined an amount not more than \$50,000.

3       (4) A person who is subjected to sex trafficking shall not  
4 be liable under section 712-1200. Any charges or convictions  
5 under section 712-1200 for a person who is later determined to  
6 have been subjected to sex trafficking shall be dismissed or  
7 vacated.

8       (5) As used in this section, "sexual services" means  
9 "sexual conduct" as defined in section 712-1200 performed under  
10 the direction or supervision of the defendant for the benefit of  
11 the defendant or any other person."

12       SECTION 2. Section 28-101, Hawaii Revised Statutes, is  
13 amended by amending subsection (a) to read as follows:

14       "(a) The attorney general shall establish a statewide  
15 witness program through which the attorney general may fund or  
16 provide for the security and protection of a government witness  
17 or a potential government witness in an official proceeding or  
18 investigation where the attorney general determines that an  
19 offense such as those described in section 710-1071  
20 (intimidating a witness), 710-1072 (tampering with a witness),  
21 or 710-1072.2 (retaliating against a witness) is likely to be



1 committed or which involves great public interest. The attorney  
2 general may also fund or provide for the security and protection  
3 of the immediate family of, or a person otherwise closely  
4 associated with, such witness or potential witness if the family  
5 or person may also be endangered. In determining whether the  
6 funds or security and protection are to be provided, the  
7 attorney general shall give greatest priority to official  
8 proceedings or investigations involving pending or potential  
9 organized crime, racketeering activity, promoting prostitution,  
10 sex trafficking, or career criminal prosecutions."

11 SECTION 3. Section 351-32, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 **"§351-32 Violent crimes.** The crimes to which part III of  
14 this chapter applies are the following and no other:

- 15 (1) Murder in the first degree (section 707-701);  
16 (2) Murder in the second degree (section 707-701.5);  
17 (3) Manslaughter (section 707-702);  
18 (4) Negligent homicide in the first degree (section  
19 707-702.5);  
20 (5) Negligent homicide in the second degree (section  
21 707-703);



- 1 (6) Negligent injury in the first degree (section
- 2 707-705);
- 3 (7) Negligent injury in the second degree (section
- 4 707-706);
- 5 (8) Assault in the first degree (section 707-710);
- 6 (9) Assault in the second degree (section 707-711);
- 7 (10) Assault in the third degree (section 707-712);
- 8 (11) Kidnapping (section 707-720);
- 9 (12) Sexual assault in the first degree (section 707-730);
- 10 (13) Sexual assault in the second degree (section 707-731);
- 11 (14) Sexual assault in the third degree (section 707-732);
- 12 (15) Sexual assault in the fourth degree (section 707-733);
- 13 (16) Abuse of family [†]or[†] household member (section
- 14 709-906); [~~and~~]
- 15 (17) Terrorism, as defined in title 18 United States Code
- 16 section 2331[-]; and
- 17 (18) Sex trafficking (section 712- )."

18 SECTION 4. Section 712-1202, Hawaii Revised Statutes, is  
 19 amended by amending subsection (1) to read as follows:

20 "(1) A person commits the offense of promoting  
 21 prostitution in the first degree if the person knowingly[†]



- 1        ~~(a) Advaneees]~~ advances prostitution by compelling or  
2                    inducing a person by force, threat, fraud, or  
3                    intimidation to engage in prostitution, or profits  
4                    from such conduct by another[~~,-or~~  
5        ~~(b) Advances or profits from prostitution of a person less~~  
6                    ~~than eighteen years old]."~~

7            SECTION 5. Section 712A-4, Hawaii Revised Statutes, is  
8 amended to read as follows:

9            **"§712A-4 Covered offenses.** Offenses for which property is  
10 subject to forfeiture under this chapter are:

- 11            (a) All offenses that specifically authorize forfeiture;  
12            (b) Murder, kidnapping, labor trafficking, gambling,  
13                    criminal property damage, robbery, bribery, extortion,  
14                    theft, unauthorized entry into motor vehicle,  
15                    burglary, money laundering, trademark counterfeiting,  
16                    insurance fraud, promoting a dangerous, harmful, or  
17                    detrimental drug, commercial promotion of marijuana,  
18                    methamphetamine trafficking, manufacturing of a  
19                    controlled substance with a child present, promoting  
20                    child abuse, promoting prostitution, sex trafficking,  
21                    solicitation of a minor for prostitution, habitual



1 solicitation of prostitution, or electronic enticement  
2 of a child that is chargeable as a felony offense  
3 under state law;

4 (c) The manufacture, sale, or distribution of a controlled  
5 substance in violation of chapter 329, promoting  
6 detrimental drugs or intoxicating compounds, promoting  
7 pornography, promoting pornography for minors, or  
8 solicitation of prostitution near schools or public  
9 parks, which is chargeable as a felony or misdemeanor  
10 offense, but not as a petty misdemeanor, under state  
11 law; and

12 (d) The attempt, conspiracy, solicitation, coercion, or  
13 intimidation of another to commit any offense for  
14 which property is subject to forfeiture."

15 SECTION 6. Section 803-44, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 **"§803-44 Application for court order to intercept wire,**  
18 **oral, or electronic communications.** The attorney general of  
19 this State, or a designated deputy attorney general in the  
20 attorney general's absence or incapacity, or the prosecuting  
21 attorney of each county, or a designated deputy prosecuting





1 attorney in the prosecuting attorney's absence or incapacity,  
2 may make application to a designated judge or any other circuit  
3 court judge or district court judge, if a circuit court judge  
4 has not been designated by the chief justice of the Hawaii  
5 supreme court, or is otherwise unavailable, in the county where  
6 the interception is to take place, for an order authorizing or  
7 approving the interception of wire, oral, or electronic  
8 communications, and such court may grant in conformity with  
9 section 803-46 an order authorizing or approving the  
10 interception of wire, oral, or electronic communications by  
11 investigative or law enforcement officers having responsibility  
12 for the investigation of the offense as to which the application  
13 is made, if the interception might provide or has provided  
14 evidence of:

- 15 (1) Murder;
- 16 (2) Kidnapping;
- 17 (3) Labor trafficking in the first degree;
- 18 (4) Labor trafficking in the second degree;
- 19 (5) Felony criminal property damage involving the danger  
20 of bodily injury as defined in section 707-700;



1 (6) Distribution of dangerous, harmful, or detrimental  
2 drugs;

3 (7) Conspiracy to commit one or more of the above; or

4 (8) Involvement of organized crime and any of the  
5 following felony offenses:

6 (A) Extortion;

7 (B) Bribery of a juror, witness, or police officer;

8 (C) Receiving stolen property;

9 (D) Gambling; ~~and~~

10 (E) Money laundering~~[-]~~; and

11 (F) Sex trafficking."

12 SECTION 7. Section 846E-10, Hawaii Revised Statutes, is  
13 amended by amending subsection (c) to read as follows:

14 "(c) Tier 2 offenses. A covered offender who has  
15 maintained a clean record for the previous twenty-five years,  
16 excluding any time the offender was in custody or civilly  
17 committed, and who has substantially complied with the  
18 registration requirements of this chapter for the previous  
19 twenty-five years, or for the portion of that twenty-five years  
20 that this chapter has been applicable, and who is not a repeat  
21 covered offender may petition the court, in a civil proceeding,



1 for termination of registration requirements; provided that the  
2 covered offender's most serious covered offense is one of the  
3 following:

4 (1) Any offense set forth in section 707-730(1)(c),  
5 707-731(1)(c), 707-732(1)(c), 707-750, 707-751,  
6 [~~712-1202(1)(b)~~, or] 712-1203(1)(b), as section  
7 712-1203(1)(b) read prior to its amendment pursuant to  
8 section 9 of Act 147, Session Laws of Hawaii 2008[+],  
9 or 712- ;

10 (2) An offense set forth in section 707-720; provided that  
11 the charging document for the offense for which there  
12 has been a conviction alleged intent to subject the  
13 victim to a sexual offense;

14 (3) An offense set forth in section 707-756 that includes  
15 an intent to promote or facilitate the commission of  
16 another felony covered offense as defined in section  
17 846E-1;

18 (4) An offense that is an attempt, criminal solicitation,  
19 or criminal conspiracy to commit any of the offenses  
20 in paragraph (1), (2), or (3);



- 1 (5) Any criminal offense that is comparable to one of the
- 2 offenses in paragraph (1), (2), (3), or (4); or
- 3 (6) Any federal, military, out-of-state, tribal, or
- 4 foreign offense that is comparable to one of the
- 5 offenses in paragraph (1), (2), (3), or (4)."

6 SECTION 8. Section 853-4, Hawaii Revised Statutes, is  
7 amended by amending subsection (a) to read as follows:

- 8 "(a) This chapter shall not apply when:
- 9 (1) The offense charged involves the intentional, knowing,
- 10 reckless, or negligent killing of another person;
- 11 (2) The offense charged is:
  - 12 (A) A felony that involves the intentional, knowing,
  - 13 or reckless bodily injury, substantial bodily
  - 14 injury, or serious bodily injury of another
  - 15 person; or
  - 16 (B) A misdemeanor or petty misdemeanor that carries a
  - 17 mandatory minimum sentence and that involves the
  - 18 intentional, knowing, or reckless bodily injury,
  - 19 substantial bodily injury, or serious bodily
  - 20 injury of another person;



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



- 1       (10) The defendant is charged with the distribution of a
- 2             dangerous, harmful, or detrimental drug to a minor;
- 3       (11) The defendant has been charged with a felony offense
- 4             and has been previously granted deferred acceptance of
- 5             guilty plea status for a prior offense, regardless of
- 6             whether the period of deferral has already expired;
- 7       (12) The defendant has been charged with a misdemeanor
- 8             offense and has been previously granted deferred
- 9             acceptance of guilty plea status for a prior felony,
- 10            misdemeanor, or petty misdemeanor for which the period
- 11            of deferral has not yet expired;
- 12       (13) The offense charged is:
- 13            (A) Escape in the first degree;
- 14            (B) Escape in the second degree;
- 15            (C) Promoting prison contraband in the first degree;
- 16            (D) Promoting prison contraband in the second degree;
- 17            (E) Bail jumping in the first degree;
- 18            (F) Bail jumping in the second degree;
- 19            (G) Bribery;
- 20            (H) Bribery of or by a witness;
- 21            (I) Intimidating a witness;



- 1 (J) Bribery of or by a juror;
- 2 (K) Intimidating a juror;
- 3 (L) Jury tampering;
- 4 (M) Promoting prostitution in the second degree;
- 5 (N) Abuse of family or household member;
- 6 (O) Sexual assault in the second degree;
- 7 (P) Sexual assault in the third degree;
- 8 (Q) A violation of an order issued pursuant to
- 9 chapter 586;
- 10 (R) Promoting child abuse in the second degree;
- 11 (S) Promoting child abuse in the third degree;
- 12 (T) Electronic enticement of a child in the first
- 13 degree;
- 14 (U) Electronic enticement of a child in the second
- 15 degree;
- 16 (V) Prostitution pursuant to section 712-1200(1)(b);
- 17 (W) Street solicitation of prostitution under section
- 18 712-1207(1)(b);
- 19 (X) Solicitation of prostitution near schools or
- 20 public parks under section 712-1209;



1 (Y) Habitual solicitation of prostitution under  
2 section 712-1209.5; [~~or~~]

3 (Z) Solicitation of a minor for prostitution under  
4 section 712-1209.1; or

5 (AA) Sex trafficking under section 712- ;

6 (14) The defendant has been charged with:

7 (A) Knowingly or intentionally falsifying any report  
8 required under chapter 11, part XIII with the  
9 intent to circumvent the law or deceive the  
10 campaign spending commission; or

11 (B) Violating section 11-352 or 11-353; or

12 (15) The defendant holds a commercial driver's license and  
13 has been charged with violating a traffic control law,  
14 other than a parking law, in connection with the  
15 operation of any type of motor vehicle."

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

19 SECTION 10. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

21 SECTION 11. This Act shall take effect on January 7, 2059.





**Report Title:**

Sex Trafficking

**Description:**

Establishes the offense of sex trafficking as a class A felony. Includes offense of sex trafficking in the department of the attorney general's statewide witness program. Includes the offense of sex trafficking in the list of violent crimes for which victims may be eligible for criminal injury compensation. Amends the offense of promoting prostitution in the first degree to repeal the act of advancing or profiting from prostitution of a person less than eighteen years old. Adds the offense of sex trafficking to the list of covered offenses for which property is subject to forfeiture. Adds the offense of sex trafficking to the list of crimes for which an order to intercept wire, oral, or electronic communications is permitted. Amends the eligibility requirements for an offender of promoting prostitution in the first degree if the offender knowingly advanced or profited from prostitution of a person less than eighteen years old to be able to petition the court for termination of sex offender registration requirements. Includes the offense of sex trafficking to the list of offenses in which deferred acceptance of guilty plea or nolo contendere plea does not apply. Effective 01/07/2059. (SD1)

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

