
A BILL FOR AN ACT

RELATING TO PROSTITUTION.

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

SECTION 1. Section 712-1209.6, Hawaii Revised Statutes, is amended to read as follows:

~~"§712-1209.6 Prostitution; motion to vacate conviction. (1) A~~
person convicted of committing the offense of prostitution under
section 712-1200, loitering for the purpose of engaging in or
advancing prostitution under section 712-1206, street solicitation of
prostitution in designated areas under section 712-1207, or convicted
of a lesser offense when originally charged with a violation of
section 712-1200, 712-1206, or 712-1207, may file a motion to vacate
the conviction if the [~~defendant's participation in the offense was~~
~~the result of the person having been a victim of:~~

- ~~(a) Sex trafficking under section 712-1202 or promoting
prostitution under section 712-1203; or~~
- ~~(b) A severe form of trafficking in persons as defined in title
22 United States Code section 7102(9)(A).] defendant is
not subsequently convicted of any offense under the penal~~

code within three years after the date of the original conviction of committing the offense under section 712-1200, 712-1206, or 712-1207 or a lesser offense when originally charged with a violation of section 712-1200, 712-1206, or 712-1207.

~~[(2) A motion filed under this section shall:~~

- ~~(a) Be in writing;~~
- ~~(b) Be signed and sworn to by the petitioner;~~
- ~~(c) Be made within six years after the date that the person ceases to be a victim as described in subsection (1), subject to reasonable concerns for the safety of the defendant, family members of the defendant, or other victims of the trafficking that may be jeopardized by the bringing of a motion, or for other reasons consistent with the purpose of this section;~~
- ~~(d) Describe all the grounds and evidence for vacation of a conviction which are available to the petitioner and of which the petitioner has or by the exercise of reasonable diligence should have knowledge, and provide copies of any official documents showing that the defendant is entitled to relief under this section; and~~
- ~~(e) Be subject to the review and written approval of the state agency or county prosecutor responsible for prosecuting~~

~~the offense that is the subject of the motion to vacate conviction.~~

~~(3)] (2) The court shall hold a hearing on a motion filed under this section [if the motion satisfies the requirements of subsection (2); provided that the court may dismiss a motion without a hearing if the court finds that the motion fails to assert grounds on which relief may be granted.~~

~~(4) If the court grants a motion filed under this section,] to review the defendant's record over the three years after the date of the original conviction of committing the offense under section 712-1200, 712-1206, or 712-1207 or a lesser offense when originally charged with a violation of section 712-1200, 712-1206, or 712-1207, and if the court finds that the defendant has not been convicted of any offense under the penal code within this three year period, the court shall vacate the conviction.~~

~~[(5) A person making a motion to vacate pursuant to this section has the burden of proof by a preponderance of the evidence.~~

~~(6) This section shall not apply to a motion to vacate a conviction under this chapter for:~~

- ~~(a) Sex trafficking under section 712-1202;~~
- ~~(b) Promoting prostitution under section 712-1203; or~~
- ~~(c) A person who pays, agrees to pay or offers a fee to another person to engage in sexual conduct.] "~~

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

INTRODUCED BY: _____

Report Title:

Prostitution; Motion to Vacate

Description:

Allows a defendant convicted of certain prostitution offenses to file a motion to vacate the conviction if the defendant is not subsequently convicted of any offense under the penal code within three years after the date of the original conviction. Repeals certain requirements pertaining to filing a motion to vacate, including the burden of proof, and exclusions of certain convictions of certain prostitution offenses.

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