



# HAWAII

Legal System	Constitution	Bill of Rights	Form of Government
Common Law Statutory Law	Written	Yes	Republic

## A. Criminal Statutes

### 1. Human Trafficking and Related Offenses

#### a. Haw. Rev. Stat. Ann. § 712-1202 (2021) – Sex Trafficking

##### i. Summary

A person commits the offense of sex trafficking if the person knowingly (a) advances prostitution by compelling or inducing a person by force, threat, fraud, coercion, or intimidation to engage in prostitution, or profits from such conduct by another; or (b) advances prostitution or profits from prostitution of a minor. Haw. Rev. Stat. Ann. § 712-1202(1). The state of mind requirement for the offense specified under subsection (1)(b) is not applicable to the fact that the victim was a minor who is less than 18 years of age. A person is strictly liable with respect to the attendant circumstances that the victim was a minor. Haw. Rev. Stat. Ann. § 712-1202(4).<sup>1</sup>

A person “advances prostitution” if “the person knowingly causes or aids a person to commit or engage in prostitution, procures or solicits patrons for prostitution, provides persons for prostitution purposes, permits premises to be regularly used for prostitution purposes, operates or assists in the operation of a house of prostitution or a prostitution enterprise, or engages in any other conduct designed to institute, aid, or facilitate an act or enterprise of prostitution.” Haw. Rev. Stat. Ann. § 712-1201(1).

A person “profits from prostitution” if the person accepts or receives money, anything of value, or other property from prostitution activity. Haw. Rev. Stat. Ann. § 712-1201(2).

##### ii. Sentencing

Sex trafficking is a class A felony. Haw. Rev. Stat. Ann. § 712-1202(2). Class A felonies are punishable by an indeterminate term of imprisonment for 20 years, without the possibility of suspension of sentence or probation. Haw. Rev. Stat. Ann. § 706-659. The minimum length of imprisonment is determined by the Hawaii paroling authority. Haw. Rev. Stat. Ann. §§ 706-659, 669. A person convicted of a class A felony may also be sentenced to a fine of up to USD 50,000 or any higher amount equal to double the pecuniary gain derived from the offense by defendant. Haw. Rev. Stat. Ann. § 706-640(1)(a) and (f).

In addition to any other penalty, a person convicted of a class A felony shall be ordered to pay a USD 5,000 fee to the human trafficking victim services fund. Haw. Rev. Stat. Ann. § 706-650.5.

A court shall order a convicted person to make restitution for reasonable and verified losses suffered by the victim or victims because of the defendant’s offense, when requested by the victim. Haw. Rev. Stat. Ann. § 706-646(2). The restitution ordered shall not affect the right of a victim to recover an award of compensation to eligible victims by the Hawaii Criminal Injuries Compensation Commission as provided by Haw. Rev. Stat. Ann. § 351-33 or in any matter

<sup>1</sup> This text and the following text reflects the amendments made to this statute in 2021 Hawaii House Bill No. 887. This bill was passed by the Senate and House and signed into law by the Governor on June 24, 2021. See <https://legiscan.com/HI/bill/HB887/2021>.

provided by law; provided that any amount of restitution actually recovered by the victim under this section shall be deducted from any award under section 351-33. Haw. Rev. Stat. Ann. § 706-646(5). In ordering restitution, the court shall not consider the defendant's ability to make restitution in determining the amount of restitution to order. Restitution shall be a dollar amount that is sufficient to reimburse any victim fully for losses, including, but not limited to: (a) the full value of stolen or damaged property, as determined by replacement costs of like property, or the actual or estimated cost of repair, if repair is possible; (b) medical expenses, which shall include mental health treatment, counseling, and therapy; (c) funeral and burial expenses; and (d) lost earnings, which shall include paid leave. Haw. Rev. Stat. Ann. § 706-646(3).

### iii. Statute of Limitations

A prosecution for sex trafficking may be commenced at any time. Haw. Rev. Stat. Ann. § 701-108(1). Class A felonies have a statute of limitations of six years. Haw. Rev. Stat. Ann. § 701-108(2)(b). The period of limitation does not run during any time while the accused is continuously absent from the state or has no reasonably ascertainable place of abode or work within the state, but this provision cannot extend the period of limitation by more than four years. Haw. Rev. Stat. Ann. § 701-108(6)(a).

## b. Haw. Rev. Stat. Ann. § 712-\_\_\_ (2021) – Commercial Sexual Exploitation

### i. Summary

A person commits the offense of commercial sexual exploitation if the person provides, agrees to provide, or offers to provide a fee of anything of value to another to engage in sexual conduct. Haw. Rev. Stat. Ann. § 712-\_\_\_.<sup>2</sup>

“Sexual conduct” means “sexual penetration,” “deviate sexual intercourse,” or “sexual contact,” as those terms are defined in section 707-700, or “sodomasochistic abuse” as defined in section 707-752. Haw. Rev. Stat. Ann. §§ 712-(2); 712-1200(2).

### ii. Sentencing

Commercial sexual exploitation is a petty misdemeanor but can be a class C felony if the person who commits the offense does so in reckless disregard of the fact that the person exploited is a victim of sex trafficking. Haw. Rev. Stat. Ann. § 712-\_\_\_.

A person who has been convicted of a class C felony may be sentenced to an indeterminate term of imprisonment up to five years. Haw. Rev. Stat. Ann. § 706-660(1)(b). The minimum length of imprisonment shall be determined by the Hawaii paroling authority. Haw. Rev. Stat. Ann. §§ 706-660(1), 669. A person convicted of a class C felony may also be sentenced to a fine of up to USD 10,000 or any higher amount equal to double the pecuniary gain derived from the offense by defendant. Haw. Rev. Stat. Ann. § 706-640(1)(c) and (f). Haw. Rev. Stat. Ann. § 706-640(1)(a).

In addition to any other penalty, a person convicted of a class C felony shall be ordered to pay a USD 1,000 fee to the human trafficking victim services fund. Haw. Rev. Stat. Ann. § 706-650.5.

A court shall order a convicted person to make restitution for reasonable and verified losses suffered by the victim or victims because of the defendant's offense, when requested by the victim. Haw. Rev. Stat. Ann. § 706-646(2). The restitution ordered shall not affect the right of a victim to recover an award of compensation to eligible victims by the Hawaii Criminal Injuries Compensation Commission as provided by Haw. Rev. Stat. Ann. § 351-33 or in any matter provided by law; provided that any amount of restitution actually recovered by the victim under this section shall be deducted from any award under section 351-33. Haw. Rev. Stat. Ann. § 706-646(5). In ordering restitution, the court shall not consider the defendant's ability to make restitution in determining the amount of restitution to order. Restitution shall be a dollar amount that is sufficient to reimburse any victim fully for losses, including, but not limited

<sup>2</sup> See footnote 1. Under the enacted legislation, Chapter 712, Hawaii Revised Statutes, was amended by adding a new section “to be appropriately designated.”

to: (a) the full value of stolen or damaged property, as determined by replacement costs of like property, or the actual or estimated cost of repair, if repair is possible; (b) medical expenses, which shall include mental health treatment, counseling, and therapy; (c) funeral and burial expenses; and (d) lost earnings, which shall include paid leave. Haw. Rev. Stat. Ann. § 706-646(3).

### iii. Statute of Limitations

Class C felonies have a statute of limitations of three years. Haw. Rev. Stat. Ann. § 701-108(2)(d). The period of limitation does not run during any time while the accused is continuously absent from the state or has no reasonably ascertainable place of abode or work within the state, but this provision cannot extend the period of limitation by more than four years. Haw. Rev. Stat. Ann. § 701-108(6)(a).

## c. Haw. Rev. Stat. Ann. § 712-1203 (2016) – Promoting Prostitution

### i. Summary

A person commits the offense of promoting prostitution if the person knowingly advances or profits from prostitution. Haw. Rev. Stat. Ann. § 712-103(1).

### ii. Sentencing

Promoting prostitution is a class B felony. Haw. Rev. Stat. Ann. § 712-103(2). A person who has been convicted of a class B felony may be sentenced to an indeterminate term of imprisonment up to 10 years. Haw. Rev. Stat. Ann. § 706-660(1)(a). The minimum length of imprisonment is determined by the Hawaii paroling authority. Haw. Rev. Stat. Ann. §§ 706-659(1), 669. A person convicted of a class B felony may also be sentenced to a fine of up to USD 10,000 or any higher amount equal to double the pecuniary gain derived from the offense by defendant. Haw. Rev. Stat. Ann. § 706-640(1)(b) and (f).

In addition to any other penalty, a person convicted of a class B felony shall be ordered to pay an additional USD 2,500 to the human trafficking victim services fund. Haw. Rev. Stat. Ann. § 706-650.5.

A court shall order a convicted person to make restitution for reasonable and verified losses suffered by the victim or victims because of the defendant's offense, when requested by the victim. Haw. Rev. Stat. Ann. § 706-646(2). The restitution ordered shall not affect the right of a victim to recover an award of compensation to eligible victims by the Hawaii Criminal Injuries Compensation Commission as provided by Haw. Rev. Stat. Ann. § 351-33 or in any matter provided by law; provided that any amount of restitution actually recovered by the victim under this section shall be deducted from any award under section 351-33. Haw. Rev. Stat. Ann. § 706-646(5). In ordering restitution, the court shall not consider the defendant's ability to make restitution in determining the amount of restitution to order. Restitution shall be a dollar amount that is sufficient to reimburse any victim fully for losses, including, but not limited to: (a) the full value of stolen or damaged property, as determined by replacement costs of like property, or the actual or estimated cost of repair, if repair is possible; (b) medical expenses, which shall include mental health treatment, counseling, and therapy; (c) funeral and burial expenses; and (d) lost earnings, which shall include paid leave. Haw. Rev. Stat. Ann. § 706-646(3).

### iii. Statute of Limitations

Class B felonies have a statute of limitations of three years. Haw. Rev. Stat. Ann. § 701-108(2)(d). The period of limitation does not run during any time while the accused is continuously absent from the state or has no reasonably ascertainable place of abode or work within the state, but this provision cannot extend the period of limitation by more than four years. Haw. Rev. Stat. Ann. § 701-108(6)(a).

**d. Haw. Rev. Stat. Ann. § 712-1200 (2019) – Prostitution****i. Summary**

A person who “pay, agrees to pay, or offers to pay a fee to another to engage in sexual conduct” commits the offense of prostitution. Haw. Rev. Stat. Ann. § 712-1200(1).

**ii. Sentencing**

Prostitution is a petty misdemeanor in Hawaii. However, the person commits a class C felony if they “pay, agree[] to pay, or offer[] to pay a fee to another to engage in sexual conduct” in “reckless disregard of the fact that the other person is a victim of sex trafficking.” Haw. Rev. Stat. Ann. § 712-1200(3)(b).

A person who has been convicted of a class C felony may be sentenced to an indeterminate term of imprisonment up to five years. Haw. Rev. Stat. Ann. § 706-660(1)(b). The minimum length of imprisonment shall be determined by the Hawaii paroling authority. Haw. Rev. Stat. Ann. §§ 706-660(1), 669. A person convicted of a class C felony may also be sentenced to a fine of up to USD 10,000 or any higher amount equal to double the pecuniary gain derived from the offense by defendant. Haw. Rev. Stat. Ann. § 706-640(1)(c) and (f). Haw. Rev. Stat. Ann. § 706-640(1)(a).

In addition to any other penalty, a person convicted of a class C felony shall be ordered to pay a USD 1,000 fee to the human trafficking victim services fund. Haw. Rev. Stat. Ann. § 706-650.5.

A court shall order a convicted person to make restitution for reasonable and verified losses suffered by the victim or victims because of the defendant’s offense, when requested by the victim. Haw. Rev. Stat. Ann. § 706-646(2). The restitution ordered shall not affect the right of a victim to recover an award of compensation to eligible victims by the Hawaii Criminal Injuries Compensation Commission as provided by Haw. Rev. Stat. Ann. § 351-33 or in any matter provided by law; provided that any amount of restitution actually recovered by the victim under this section shall be deducted from any award under section 351-33. Haw. Rev. Stat. Ann. § 706-646(5). In ordering restitution, the court shall not consider the defendant’s ability to make restitution in determining the amount of restitution to order. Restitution shall be a dollar amount that is sufficient to reimburse any victim fully for losses, including, but not limited to: (a) the full value of stolen or damaged property, as determined by replacement costs of like property, or the actual or estimated cost of repair, if repair is possible; (b) medical expenses, which shall include mental health treatment, counseling, and therapy; (c) funeral and burial expenses; and (d) lost earnings, which shall include paid leave. Haw. Rev. Stat. Ann. § 706-646(3).

**iii. Statute of Limitations**

Class C felonies have a statute of limitations of three years. Haw. Rev. Stat. Ann. § 701-108(2)(d). The period of limitation does not run during any time while the accused is continuously absent from the state or has no reasonably ascertainable place of abode or work within the state, but this provision cannot extend the period of limitation by more than four years. Haw. Rev. Stat. Ann. § 701-108(6)(a).

**e. Haw. Rev. Stat. Ann. § 707-720 (2008) – Kidnapping****i. Summary**

A person commits the offense of kidnapping if the person intentionally or knowingly restrains another person with intentions including to “[u]nlawfully obtain the labor or services of that person, regardless of whether related to the collection of a debt.” Haw. Rev. Stat. Ann. § 707-720(1)(g).

**ii. Sentencing**

Kidnapping is a class A felony. Haw. Rev. Stat. Ann. §§ 707–720(2). Class A felonies are punishable by an indeterminate term of imprisonment of up to 20 years, without the possibility of suspension of sentence or probation. Haw. Rev. Stat. Ann. § 706-659. The minimum length of imprisonment is determined by the Hawaii

paroling authority. Haw. Rev. Stat. Ann. § 706-659. A person convicted of a class A felony may also be sentenced to a fine of up to USD 50,000 or any higher amount equal to double the pecuniary gain derived from the offense by defendant. Haw. Rev. Stat. Ann. § 706-640(1)(a) and (f).

In addition to any other penalty, a person convicted of a class A felony shall be ordered to pay a USD 5,000 fee to the human trafficking victim services fund. Haw. Rev. Stat. Ann. § 706-650.5(1)(b), (2)(a), 4.

A court shall order a convicted person to make restitution for reasonable and verified losses suffered by the victim or victims because of the defendant’s offense, when requested by the victim. Haw. Rev. Stat. Ann. § 706-646(2). The restitution ordered shall not affect the right of a victim to recover an award of compensation to eligible victims by the Hawaii Criminal Injuries Compensation Commission as provided by Haw. Rev. Stat. Ann. § 351-33 or in any matter provided by law; provided that any amount of restitution actually recovered by the victim under this section shall be deducted from any award under section 351-33. Haw. Rev. Stat. Ann. § 706-646(5). In ordering restitution, the court shall not consider the defendant’s ability to make restitution in determining the amount of restitution to order. Restitution shall be a dollar amount that is sufficient to reimburse any victim fully for losses, including, but not limited to: (a) the full value of stolen or damaged property, as determined by replacement costs of like property, or the actual or estimated cost of repair, if repair is possible; (b) medical expenses, which shall include mental health treatment, counseling, and therapy; (c) funeral and burial expenses; and (d) lost earnings, which shall include paid leave. Haw. Rev. Stat. Ann. § 706-646(3).

**iii. Statute of Limitations**

Class A felonies have a statute of limitations of six years. Haw. Rev. Stat. Ann. § 701-108(2)(b). The period of limitation does not run during any time while the accused is continuously absent from the state or has no reasonably ascertainable place of abode or work within the state, but this provision cannot extend the period of limitation by more than four years. Haw. Rev. Stat. Ann. § 701-108(6)(a).

**f. Haw. Rev. Stat. Ann. § 707-781 (2011) – Labor Trafficking in the First Degree**

**i. Summary**

A person commits the offense of labor trafficking in the first degree if the person intentionally or knowingly provides or obtains, or attempts to provide or obtain, another person for labor or services by any of the following means:

- (a) Any of the acts constituting extortion as described in [Haw. Rev. Stat. Ann. §] 707-764, except that for purposes of this paragraph, “labor” and “services” shall be as defined in [Haw. Rev. Stat. Ann. §] 707-780;
- (b) The acts constituting kidnapping as described in [Haw. Rev. Stat. Ann. §] 707-720(1)(a)–(g), except that for purposes of this paragraph, “labor” and “services” shall be as defined in [Haw. Rev. Stat. Ann. §] 707-780;
- (c) The acts described in [Haw. Rev. Stat. Ann. §] 707-721(1) or [Haw. Rev. Stat. Ann. §] 707-722, relating to unlawful imprisonment;
- (d) The acts described in [Haw. Rev. Stat. Ann. §§] 707-730, 707-731, or 707-732, relating to sexual assault in the first, second, or third degree;
- (e) Force, deadly force, or unlawful force;
- (f) The acts described in the definition of deception pursuant to [Haw. Rev. Stat. Ann. §] 708-800, or fraud, which means making material false statements, misstatements, or omissions to induce or maintain the person to engage or continue to engage in the labor or services;
- (g) Requiring that labor or services be performed to retire, repay, or service a real or purported debt, if performing the labor or services is the exclusive method allowed to retire, repay, or service the debt and

the indebted person is required to repay the debt with direct labor in place of currency; provided that this shall not include labor or services performed by a child for the child’s parent or guardian;

- (h) The acts described in either [Haw. Rev. Stat. Ann. §§] 707-710, 707-711, or 707-712, relating to assault;
- (i) Withholding any of the person’s government-issued identification documents with the intent to impede the movement of the person;
- (j) Using any scheme, plan, or pattern intended to cause the person to believe that if the person did not perform the labor or services, then the person or a friend or a member of the person’s family would suffer serious harm, serious financial loss, or physical restraint; or
- (k) Using or threatening to use any form of domination, restraint, or control over the person which, given the totality of the circumstances, would have the reasonably foreseeable effect of causing the person to engage in or to remain engaged in the labor or services.

Haw. Rev. Stat. Ann. § 707-781(1).

“Labor” means work of economic or financial value. Prostitution-related and obscenity-related activities as set forth in chapter 712 are not forms of “labor” under this statute. Haw. Rev. Stat. Ann. § 707-780.

“Services” means a relationship between a person and the actor, in which the person performs activities under the supervision of or for the benefit of the actor or a third party. Prostitution-related and obscenity-related activities as set forth in chapter 712 are not forms of “services” under this statute. Haw. Rev. Stat. Ann. § 707-780.

## ii. Sentencing

Labor trafficking in the first degree is a class A felony. Haw. Rev. Stat. Ann. § 707-781(2). Class A felonies are punishable by an indeterminate term of imprisonment term of up to 20 years, without the possibility of suspension of sentence or probation. Haw. Rev. Stat. Ann. § 706-659. The minimum length of imprisonment is determined by the Hawaii paroling authority. Haw. Rev. Stat. Ann. §§ 706-659, 669. The defendant may also receive a fine of up to USD 50,000. Haw. Rev. Stat. Ann. § 706-640(1)(a). A person convicted of a class A felony may also be sentenced to a fine of up to USD 50,000 or any higher amount equal to double the pecuniary gain derived from the offense by defendant. Haw. Rev. Stat. Ann. § 706-640(1)(a) and (f).

In addition to any other penalty, a person convicted of a class A felony must pay a USD 5,000 fee to the human trafficking victim services fund. Haw. Rev. Stat. Ann. § 706-650.5.

A court shall order a convicted person to make restitution for reasonable and verified losses suffered by the victim or victims because of the defendant’s offense, when requested by the victim. Haw. Rev. Stat. Ann. § 706-646(2). The restitution ordered shall not affect the right of a victim to recover an award of compensation to eligible victims by the Hawaii Criminal Injuries Compensation Commission as provided by Haw. Rev. Stat. Ann. § 351-33 or in any matter provided by law; provided that any amount of restitution actually recovered by the victim under this section shall be deducted from any award under section 351-33. Haw. Rev. Stat. Ann. § 706-646(5). In ordering restitution, the court shall not consider the defendant’s ability to make restitution in determining the amount of restitution to order. Restitution shall be a dollar amount that is sufficient to reimburse any victim fully for losses, including, but not limited to: (a) the full value of stolen or damaged property, as determined by replacement costs of like property, or the actual or estimated cost of repair, if repair is possible; (b) medical expenses, which shall include mental health treatment, counseling, and therapy; (c) funeral and burial expenses; and (d) lost earnings, which shall include paid leave. Haw. Rev. Stat. Ann. § 706-646(3).

## iii. Statute of Limitations

Class A felonies have a statute of limitations of six years. Haw. Rev. Stat. Ann. § 701-108(2)(b). The period of limitation does not run while the accused is continuously absent from the state or has no reasonably ascertainable place of

abode or work within the state, but this provision cannot extend the period of limitation by more than four years. Haw. Rev. Stat. Ann. § 701-108(6)(a).

**g. Haw. Rev. Stat. Ann. § 707-782 (2011) – Labor Trafficking in the Second Degree**

**i. Summary**

A person commits the offense of labor trafficking in the second degree if the person knowingly:

- (a) Acts as an individual or uses a licensed business or business enterprise to aid another in a venture knowing that the other person in that venture is committing the offense of labor trafficking in the first degree; or
- (b) Benefits, financially or by receiving something of value, from participation in a venture knowing or in reckless disregard of the fact that another person has engaged in any act described in paragraph (a) in the course of that venture or that another person in that venture is committing the offense of labor trafficking in the first degree.

Haw. Rev. Stat. Ann. § 707-782(1).

**ii. Sentencing**

Labor trafficking in the second degree is a class B felony. Haw. Rev. Stat. Ann. § 707-782(2). A person who has been convicted of a class B felony may be sentenced to an indeterminate term of imprisonment up to 10 years. Haw. Rev. Stat. Ann. § 706-660(1)(a). The minimum length of imprisonment is determined by the Hawaii paroling authority. Haw. Rev. Stat. Ann. §§ 706-659(1), 669. A person convicted of a class B felony may also be sentenced to a fine of up to USD 10,000 or any higher amount equal to double the pecuniary gain derived from the offense by defendant. Haw. Rev. Stat. Ann. § 706-640(1)(b) and (f).

Labor trafficking in the second degree is a class A felony if the violation involves: kidnapping or an attempt to kidnap; sexual assault in the first, second, or third degree; the attempt to commit sexual assault in the first, second, or third degree; an attempt to cause the death of a person; or a death results. Haw. Rev. Stat. Ann. § 707-782(2). Class A felonies are punishable by an imprisonment term of up to 20 years, without the possibility of suspension of sentence or probation. Haw. Rev. Stat. Ann. § 706-659.

In addition to any other penalty, a person convicted of a class B felony must pay a USD 2,500 fee to the human trafficking victim services fund. Haw. Rev. Stat. Ann. § 706-650.5.

A court shall order a convicted person to make restitution for reasonable and verified losses suffered by the victim or victims because of the defendant's offense, when requested by the victim. Haw. Rev. Stat. Ann. § 706-646(2). The restitution ordered shall not affect the right of a victim to recover an award of compensation to eligible victims by the Hawaii Criminal Injuries Compensation Commission as provided by Haw. Rev. Stat. Ann. § 351-33 or in any matter provided by law; provided that any amount of restitution actually recovered by the victim under this section shall be deducted from any award under section 351-33. Haw. Rev. Stat. Ann. § 706-646(5). In ordering restitution, the court shall not consider the defendant's ability to make restitution in determining the amount of restitution to order. Restitution shall be a dollar amount that is sufficient to reimburse any victim fully for losses. Including, but not limited to: (a) the full value of stolen or damaged property, as determined by replacement costs of like property, or the actual or estimated cost of repair, if repair is possible; (b) medical expenses, which shall include mental health treatment, counseling, and therapy; (c) funeral and burial expenses; and (d) lost earnings, which shall include paid leave. Haw. Rev. Stat. Ann. § 706-646(3).

Upon conviction of labor trafficking in the second degree, the court shall order that any and all business licenses issued by the state be revoked for the business or enterprise that a defendant used to aid in the offense of labor trafficking in the second degree. The court, in its discretion, may reinstate a business license upon petition to the

court by any remaining owner or partner of the business or enterprise who was not convicted of labor trafficking in the first or second degree. Haw. Rev. Stat. Ann. § 707-782(3).

### iii. Statute of Limitations

A class A felony has a statute of limitations of six years. Haw. Rev. Stat. Ann. § 701-108(2)(b). A class B felony has a statute of limitations of three years. Haw. Rev. Stat. Ann. § 701-108(2)(d). The period of limitation does not run while the accused is continuously absent from the state or has no reasonably ascertainable place of abode or work within the state, but this provision cannot extend the period of limitation by more than four years. Haw. Rev. Stat. Ann. § 701-108(6)(a).

### h. Haw. Rev. Stat. Ann. § 712A-4 (2019) – Offenses and Property Subject to Forfeiture

Offenses for which property is subject to forfeiture include sex trafficking, labor trafficking, promoting child abuse, promoting prostitution, commercial sexual exploitation of a minor, habitual commercial sexual exploitation, and electronic enticement of a child that is chargeable as a felony offense under state law. Haw. Rev. Stat. Ann. § 712A-4. Property subject to forfeiture includes property “used or intended for use in the commission of, attempt to commit, or conspiracy to commit a covered offense, or which facilitated or assisted such activity.” Haw. Rev. Stat. Ann. § 712A-5(1)(b).

### i. Haw. Rev. Stat. Ann. § 842-2 (1972) – Ownership or Operation of Business by Certain Persons Prohibited

It is unlawful in Hawaii to receive any income derived, directly or indirectly, from a racketeering activity. Haw. Rev. Stat. Ann. § 842-2(1). “Racketeering activity” means “any act or threat involving but not limited to murder, kidnapping, gambling, criminal property damage, robbery, bribery, extortion, labor trafficking, unlicensed sale of liquor, theft, or prostitution, or any dealing in narcotic or other dangerous drugs that is chargeable as a crime under state law and punishable by imprisonment for more than one year.” Haw. Rev. Stat. Ann. § 842-1.

## 2. Online Child Sexual Exploitation and Child Pornography Offenses

Haw. Rev. Stat. Ann. § 707-733.6 – Continuous Sexual Assault of a Minor Under the Age of Fourteen Years

Haw. Rev. Stat. Ann. § 707-750 – Promoting Child Abuse in the First Degree

Haw. Rev. Stat. Ann. § 707-751 – Promoting Child Abuse in the Second Degree

Haw. Rev. Stat. Ann. § 707-752 – Promoting Child Abuse in the Third Degree

Haw. Rev. Stat. Ann. § 707-756 – Electronic Enticement of a Child in the First Degree

Haw. Rev. Stat. Ann. § 707-757 – Electronic Enticement of a Child in the Second Degree

Haw. Rev. Stat. Ann. § 708-893 – Use of a Computer in the Commission of a Separate Crime

Haw. Rev. Stat. Ann. § 708-1209.1 – Solicitation of a Minor for Prostitution

Haw. Rev. Stat. Ann. § 712-1211 – Displaying Indecent Matter

Haw. Rev. Stat. Ann. § 712-1215 – Promoting Pornography for Minors

Haw. Rev. Stat. Ann. § 712-1215.5 – Promoting Minor-Produced Sexual Images in the First Degree

Haw. Rev. Stat. Ann. § 712-1215.6 – Promoting Minor-Produced Sexual Images in the Second Degree



Haw. Rev. Stat. Ann. § 712-1218 – Failure to Maintain Age Verification Records of Sexual Performers

Haw. Rev. Stat. Ann. § 712-1219 – Failure to Affix Information Disclosing Location of Age Verification Records of Sexual Performers

**3. Haw. Rev. Stat. Ann. § 846E-2 (2021) – Sex Offender Registry**

Hawaii requires “covered offender[s]” to register as a “covered offender” with the attorney general whenever the covered offender, “whether or not a resident of this State, remains in this State for more than ten days or for an aggregate period exceeding thirty days in one calendar year.” Haw. Rev. Stat. Ann. § 846E-2. In Hawaii, covered offenders include individuals convicted of sex trafficking violations under Haw. Rev. Stat. Ann. §§ 712-1202(1), 712-1203(1), and 712-1209.1; individuals convicted of violations under Haw. Rev. Stat. Ann. §§ 707-730(1), 707-731(1), 707-732(1), 707-733(1)(a), and 707-733.6; and individuals convicted of violations of any “crimes against minors” not included in the above violations. Haw. Rev. Stat. Ann. § 846E-1.

**B. Civil Liability Statutes**

**1. Haw. Rev. Stat. Ann. § 663J-3 (2016) – Lawsuit for Coercion into Prostitution or Sex Trafficking**

**a. Summary**

An individual may bring a civil lawsuit against a person who:

- (i) Coerced the individual into prostitution or to remain in prostitution, or subjected the individual to sex trafficking;
- (ii) Used coercion to collect or receive any of the individual’s earnings derived from prostitution or from being the subject of sex trafficking; or
- (iii) Hired, or attempted to hire the individual to engage in prostitution, when a reasonable person would believe that the individual was coerced into prostitution by another person or was being subjected to sex trafficking.

Haw. Rev. Stat. Ann. § 663J-3.

Acts that may serve as evidence in support of a civil lawsuit brought under section 663J-3 include, but are not limited to: (1) physical force or threats of physical force; (2) physical or mental torture; (3) leading an individual to believe that the individual will be protected from violence or arrest; (4) kidnapping; (5) blackmail; (6) extortion; (7) threat of criminal prosecution for any violation of the law; (8) threat of interference with parental rights; (9) restriction or interference with speech or communication with others; (10) isolation; (11) exploitation of pornographic performance; (12) interference with opportunities for education; (13) destroying property of the individual; (14) restriction of movement; or (15) in the case of a person coerced while a minor: (A) exploiting needs for food, shelter, safety, affection, or intimate relationship; (B) exploiting a condition of developmental disability, cognitive limitation, affective disorder, or substance dependency; (C) promise of legal benefit, such as posting bail, procuring an attorney, protecting from arrest, or promising unionization; (D) promise of financial rewards; or (E) defining the terms of an individual’s employment or working conditions in a manner that is likely to lead to the individual’s use in prostitution.

On motion by a government agency or prosecution for promoting prostitution or sex trafficking, a civil lawsuit brought under section 663J-3 shall be stayed until the completion of the criminal investigation or prosecution that gave rise to the motion for a stay of the action. Haw. Rev. Stat. Ann. § 663J-8.

**b. Damages and Other Relief**

An individual entitled to bring a lawsuit under this section may recover all of the following: (1) economic damages proximately caused by coercion into prostitution or being the subject of sex trafficking; (2) noneconomic damages

proximately caused by coercion into prostitution or being the subject of sex trafficking; (3) exemplary damages; (4) reasonable attorney’s fees; and (5) costs of suit, including reasonable expenses for expert testimony. Haw. Rev. Stat. Ann. § 663J-5.

These remedies do not restrict the right of any individual to bring a lawsuit under other law, including common law, to recover damages arising out of the use of the individual in prostitution, or subjecting the individual to sex trafficking, or the coercion incident to the individual being used in prostitution or sex trafficking; nor does this chapter limit or restrict the liability of any person under other law. Haw. Rev. Stat. Ann. § 663J-9.

### c. Statute of Limitations

The statute of limitations for commencing a civil lawsuit under section 663J-3 is six years. The limitation period does not run during the minority of the individual who engages in prostitution, or any time a government agency is investigating a criminal offense against the defendant, or a criminal offense charge, information, or indictment is pending against the defendant. Haw. Rev. Stat. Ann. § 663J-7.

## 2. Haw. Rev. Stat. Ann. § 657-1.8(a) (2018) – Civil Lawsuit Arising from Sexual Offenses

### a. Summary

A civil lawsuit for the sexual abuse of a minor “shall be based upon sexual acts that constituted or would have constituted a criminal offense under part V or VI of chapter 707.” Haw. Rev. Stat. Ann. § 657-1.8(a). Criminal offenses in parts V and VI of chapter 707 include sexual offenses, promoting child abuse (which includes child pornography offenses), and electronic enticement of a child. *See* Haw. Rev. Stat. Ann. §§ 707-730, 707-731, 707-732, 707-750, 707-751, 707-756, 707-757.

A civil lawsuit may also be brought against a legal entity if: (1) the person who committed the act of sexual abuse against the victim was employed by an institution, agency, firm, business, corporation, or other public or private legal entity that owed a duty of care to the victim; or (2) the person who committed the act of sexual abuse and the victim were engaged in an activity over which the legal entity had a degree of responsibility or control. Haw. Rev. Stat. Ann. § 657-1.8(b).

In a civil lawsuit under this section, the plaintiff’s attorney shall file a certificate of merit that will be sealed and remain confidential. The certificate of merit shall contain a notarized statement by a licensed psychologist, marriage and family therapist, mental health counselor, or clinical social worker knowledgeable in the relevant facts and issues involved in the lawsuit and who is not a party to the civil lawsuit that sets forth the facts and opinions relied upon to conclude that there is a reasonable basis to believe that the plaintiff was subject to one or more acts that would result in the injury or condition specified in this section. Haw. Rev. Stat. Ann. § 657-1.8(d).

### b. Damages and Other Relief

Damages against the legal entity will be awarded under this subsection only if there is a finding of gross negligence on the part of the legal entity. Haw. Rev. Stat. Ann. § 657-1.8(b).

A defendant against whom a civil lawsuit is commenced may recover attorney’s fees if the court determines that a false accusation was made with no basis in fact and with malicious intent. A verdict in favor of the defendant shall not be the sole basis for a determination that an accusation had no basis in fact and was made with malicious intent. The court shall make an independent finding of an improper motive prior to awarding attorney’s fees under this section. Haw. Rev. Stat. Ann. § 657-1.8(c).

### c. Statute of Limitations

No lawsuit for the recovery of damages based on physical, psychological, or other injury or condition suffered by a minor arising from the sexual abuse of the minor by any person shall be commenced against the person who committed the act of sexual abuse more than either: (1) eight years after the eighteenth birthday of the minor or the person who committed the act of sexual abuse attains the age of majority, whichever occurs later; or (2) three years after the date the minor discovers or reasonably should have discovered that psychological injury or illness occurring after the minor's eighteenth birthday was caused by the sexual abuse, whichever comes later. Haw. Rev. Stat. Ann. § 657-1.8(b).

## C. Additional Statutes Specific to Human Trafficking

### 1. Haw. Rev. Stat. Ann. § 371-20 (2015) – National Human Trafficking Resource Center Hotline

Massage therapy establishments employing five or more persons, employers of one or more erotic or nude massagers or exotic or nude dancers, and holders of class 5 or 11 liquor licenses must post National Human Trafficking Resource Hotline information on a sign containing specified information and are subject to a civil fine of not more than USD 100 for failure to do so. Each day the violation continues shall constitute a separate offense.

### 2. Haw. Rev. Stat. Ann. § 387-2 (2014) – Minimum Wages

Employers must comply with Hawaii's minimum wage laws and notice requirements. Haw. Rev. Stat. Ann. §§ 387-2, 387-6. Employees may recover the amount of their unpaid minimum wages or unpaid overtime compensation, and in case of willful violation can recover an additional equal amount as liquidated damages. Successful employees may also recover reasonable attorney's fees and costs. An employer is subject to criminal penalties and penalties payable directly to a harmed employee for any willful violations of Hawaii's wage and hour laws. Haw. Rev. Stat. Ann. § 387-12.

More information can be found at: <https://labor.hawaii.gov/wsd/unpaid-wages/>.

### 3. Haw. Rev. Stat. Ann. § 706-650.5 (2016) – Human Trafficking Victim Services Fund

Hawaii has a special human trafficking victim services fund to be used to supplement programs, grants, or purchase of service contracts that support or provide comprehensive services to victims of trafficking crimes.

### 4. Haw. Rev. Stat. Ann. § 712-1209.6 (2019) –Prostitution; Motion to Vacate Conviction

A person convicted of prostitution or other related offenses may file a motion to vacate the conviction if the person is not convicted of any other criminal offense within three years after the date of the original conviction.

### 5. Haw. Rev. Stat. Ann. § 801G-2 (2019) – Address Confidentiality Program

This section establishes an address confidentiality program, which assigns a substitute address to victims "of domestic abuse, a sexual offense, or stalking" to protect the confidentiality of the actual address of a victim of domestic abuse, a sexual offense, or stalking and to prevent the victim's assailants or potential assailants from finding the victim through public records.

## D. Significant Cases

No significant cases regarding Hawaii's human trafficking laws were found.

## E. Academic Research/Papers

Dominique Roe-Sepowitz & Khara Jabola-Carolus, *Sex Trafficking In Hawai'i, Part I: Exploring Online Sex Buyers* (Sept. 2018):

<https://humanservices.hawaii.gov/wp-content/uploads/2018/09/Sex-Trafficking-in-Hawaii-Online-Sex-Buyers.pdf>

Dominique Roe-Sepowitz & Khara Jabola-Carolus, *Sex Trafficking In Hawai'i, Part II: The Stories of Survivors* (Jan. 2019):

<https://humanservices.hawaii.gov/wp-content/uploads/2019/01/Executive-Summary-Part-II-Sex-Trafficking-in-Hawaii-.pdf>

Dominique Roe-Sepowitz & Khara Jabola-Carolus, *Sex Trafficking In Hawai'i, Part III: Sex Trafficking Experiences Across Hawai'i* (Jan. 2020):

<https://humanservices.hawaii.gov/wp-content/uploads/2020/02/ST-in-Hawai%E2%80%98i-Executive-Summary-January-2020-FINAL-2.pdf>

## F. Resources

National Human Trafficking Hotline (Hawaii):

<https://humantraffickinghotline.org/state/hawaii>

National Human Trafficking Hotline, National Hotline 2019 Hawaii State Report (November 2020):

<https://humantraffickinghotline.org/sites/default/files/2019%20Hawaii%20State%20Report.pdf>

Shared Hope International, Hawaii Report Card (2019):

[http://sharedhope.org/PICframe9/reportcards/PIC\\_RC\\_2019\\_HI.pdf](http://sharedhope.org/PICframe9/reportcards/PIC_RC_2019_HI.pdf)

Shared Hope International, Hawaii Analysis and Recommendations (2019):

[https://sharedhope.org/PICframe9/analysis/PIC\\_AR\\_2019\\_HI.pdf](https://sharedhope.org/PICframe9/analysis/PIC_AR_2019_HI.pdf)

U.S. Department of Health & Human Services, *Hawaii: Efforts to Combat Human Trafficking* (2017):

[https://nhhtac.acf.hhs.gov/sites/default/files/2019-06/hawaii\\_profile\\_efforts\\_to\\_combat\\_human\\_trafficking.pdf](https://nhhtac.acf.hhs.gov/sites/default/files/2019-06/hawaii_profile_efforts_to_combat_human_trafficking.pdf)

Child & Family Service, Sex Trafficking in Hawai'i:

<https://www.childandfamilyservice.org/traffickinghawaii/>

State of Hawaii: Department of Human Services Info Lines:

<https://humanservices.hawaii.gov/reports/>

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