



LOCAL NEWS

Posted on: Sunday, May 3, 2009

Anti-prostitution law ruled invalid

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By Jim Dooley
Advertiser Staff Writer

A state law used by police to arrest customers of prostitutes in Waikiki and other specified areas of Honolulu is defective and can't be enforced, the state Intermediate Court of Appeals has ruled.

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Law enforcement officials pointed out that another section of the penal code can still be used by police to target both prostitutes and their customers anywhere in Hawai'i, but that statute carries a slightly lower penalty than the now-banned law.

The appeals court last week ruled in favor of Rollie Dumasig Espinosa, who was convicted last year of soliciting a prostitute in the Downtown area of Kukui and A'ala Streets, designated by the city as a "significant prostitution-activity" zone.

Waikiki also is designated as such a zone.

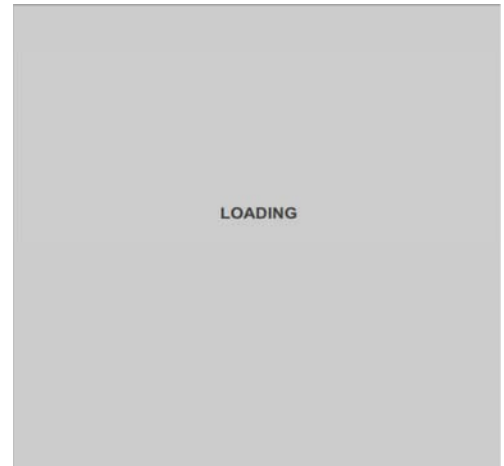
Under a law passed by the Legislature in 1998, anyone convicted of soliciting prostitution — including the customer — in such a zone must serve a mandatory 30-day jail term.

Conviction under the standard prostitution law carries a penalty of up to 30 days in jail.

In a decision written by Appellate Judge Corinne Watanabe, the court struck down the prostitution zone law when it is used against customers of prostitutes, commonly known as johns.

Because the law uses the phrase "in return for a fee," the decision said, the law can only be

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"It is only the recipient of the fee, and not the payor of the fee, who can commit the offense," the ruling said.

The more frequently used law banning prostitution used to contain the same phrase but it was removed by the Legislature in 1990.

Because the street solicitation statute used against Espinosa still contains the phrase, "We conclude that ... the Legislature intended to exclude a patron of a prostitute, such as Espinosa, from criminal liability," the court found.

Jim Fulton, executive assistant to Prosecutor Peter Carlisle, said that office will ask the Legislature next year to amend the statute.

The Public Defender's Office, which won the Espinosa appeal, said it does not keep statistics on how many cases have been brought against customers under the street solicitation statute.

Deputy public defender Ronette Kawakami said her colleagues can only recall "a few cases" where customers have been prosecuted under the law.

"The vast majority of cases involve prostitutes, not customers," she said.

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Reach Jim Dooley at jdooley@honoluluadvertiser.com.

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 **OishiSushi19** wrote:
 LOL! What kind of corrupt liberal judges does Hawaii have serving on the Hawaii State supreme court?!! This is ridiculous! All these "johns" should be serving that 30-day or MORE jail term for soliciting these dirty prostitutes. The prostitutes flourish in places like Nuuanu Ave-Kukui Ave or Waikiki (Kuhio Ave) because of the customers. Hello Corrine Watanabe! Get your head out of your okole!!
 05/03/2009 5:41:10 p.m.
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 **happyendingsdoc** wrote:
 In 1980 the same thing happened in Rhode Island, except 5 sexworkers sued the state for selective enforcement because they were only arresting the women and letting the Johns go. Now there is no law against prostitution indoors in RI. Check out Happy Endings? a documentary on Asian massage parlors in RI.
<http://www.happyendingsdoc.com>
 05/03/2009 10:29:23 a.m.
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 **retsamssa** wrote:

Replying to kamuela:

what the lawyers in the legislature could not get it right the first time?

where did they get their law degree--uh?

so sad--what a waste of tax payer dollars--what else did they screw up on?

I'll tell you what they didn't screw up on: their 31% pay raise! They took the time to make sure that was iron-clad.

05/03/2009 10:11:49 a.m.

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kamuela wrote:

what the lawyers in the legislature could not get it right the first time?

where did they get their law degree--uh?

so sad--what a waste of tax payer dollars--what else did they screw up on?

05/03/2009 3:39:48 a.m.

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Paull wrote:

Just create a "red zone" for prostitutes and make it legal. The taxes collected can stimulate the economy. it can be regulated and young teens won't be able to use a fake ID to be part of the trade. Pimps would be out of the picture completely and the beatings will stop.

05/02/2009 11:52:46 p.m.

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