

Honolulu, Hawaii

Feb 17, 2006

RE: H.B. No. 2051
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 2051 entitled:

"A BILL FOR AN ACT RELATING TO PROTECTION FOR VICTIMS OF HUMAN TRAFFICKING,"

begs leave to report as follows:

The purpose of this bill is to deter human trafficking by establishing, among other things:

- (1) Criminal offenses, including trafficking of persons for forced labor or services, involuntary servitude, and sexual servitude of a minor, and penalties for the offenses;
- (2) Restitution and civil remedies for victims of human trafficking;
- (3) Benefits and services for victims of human trafficking;
- (4) Provisions to assist immigrants who are victims of human trafficking to access all available federal benefits and programs;
- (5) Requirements for training and data collection related to human trafficking;



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- (6) A state interagency anti-trafficking task force to carry out various tasks related to human trafficking; and
- (7) Appropriation provisions to fund the anti-trafficking measures contained in this bill.

Catholic Charities Hawaii, Equality Now, National Asian Pacific American Women's Forum, Polaris Project, Safe Zone Foundation, Girl Fest Hawaii, Soroptimist International of Waikiki, and numerous concerned individuals supported this bill. The Department of the Attorney General (AG), Department of the Prosecuting Attorney for the City and County of Honolulu, and Na Loio supported the intent of this bill. The Office of the Public Defender opposed this measure. The Judiciary, Department of Health, and a concerned individual submitted comments.

Your Committee finds that human trafficking is a globally expansive tragedy that is finding its way to Hawaii's shores. Whether it be for sweatshop labor or sexual exploitation, trafficking victimizes women and children, the poor, and the vulnerable, in complex schemes that cross national, state, and local boundaries and that are not readily prosecuted under existing law. Even worse, victims are virtually enslaved, subjected to privation and prosecution for offenses they were forced to commit, stranded in countries in which they are illegally present, unwelcome in their countries of origin, and separated from any family or friends that might give them support.

However, your Committee finds that, while the threat posed to our state by human trafficking cannot be overestimated, the provisions contained in this bill have raised numerous concerns. The criminal provisions contained in this bill are viewed to be inconsistent with the structure and philosophy of the Hawaii Penal Code. The services to victims that would be required under the measure and the training necessary to combat trafficking are already the subject of ongoing efforts by the Hawaii Anti-Trafficking Task Force. Furthermore, the actions required of state authorities under this measure, with regard to the immigration status of trafficking victims, exceed current capabilities and may conflict with federal law.

In light of these concerns, your Committee has amended this bill by deleting its contents and inserting provisions that, among other things, integrate anti-trafficking provisions under the existing Penal Code. Specifically, this bill, as amended:



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- (1) Establishes criminal offenses, including trafficking of persons for involuntary servitude and involuntary servitude, under the Penal Code and establishes penalties commensurate to the severity of the offenses;
- (2) Provides victims of human trafficking a defense against certain offenses, involving their involuntary servitude, that they are charged with;
- (3) Makes victims of human trafficking eligible for crime victim compensation funds;
- (4) Includes trafficking of persons for involuntary servitude and involuntary servitude in the list of offenses for which property is subject to forfeiture;
- (5) Requires the AG to establish a liaison with the United States Department of Justice to harmonize the State's efforts to address human trafficking with federal efforts;
- (6) Requires the AG to submit an annual report containing data relating to cases of human trafficking;
- (7) Establishes a temporary state interagency anti-trafficking task force (Task Force) comprised of public and private members to carry out various tasks related to combating human trafficking;
- (8) Appropriates funds to support the Task Force; and
- (9) Contains an effective date of July 1, 2006, to promote further discussion on this critical matter.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2051, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2051, H.D. 1, and be referred to the Committee on Finance.



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Respectfully submitted on
behalf of the members of the
Committee on Judiciary,



SYLVIA LUKE, Chair



