

**HB242,HD1**

**Testimony**



Committee: Committee on Judiciary and Labor  
Hearing Date/Time: Monday, April 4, 2011, 9:00 a.m.  
Place: Room 016  
Re: Testimony of the ACLU of Hawaii in Opposition to H.B. 242, HD1,  
Relating to Promoting Prostitution

Dear Chair Hee and Members of the Committee on Judiciary and Labor:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in opposition to H.B. 242, HD1.

The ACLU of Hawaii believes that prostitution should be decriminalized, and while that is not the issue being debated today, we certainly oppose any effort to increasing the criminal penalties associated with private sexual behavior between consenting adults.

Criminal sanctions against prostitution have traditionally represented one of the most direct forms of discrimination against women. Further, prostitution laws are a violation of the right of individual privacy because they impose penal sanctions for the private sexual conduct of consenting adults. Whether an adult chooses to engage in sexual activity for purposes of recreation, or in exchange for something of value, is a matter of individual choice, not for governmental interference.

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for over 40 years.

Thank you for this opportunity to testify.

Sincerely,

Laurie A. Temple  
Staff Attorney  
ACLU of Hawaii

American Civil Liberties Union of Hawaii  
P.O. Box 3410  
Honolulu, Hawaii 96801  
T: 808.522-5900  
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E: [office@acluhawaii.org](mailto:office@acluhawaii.org)  
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The PACIFIC ALLIANCE  
to STOP SLAVERY

**Supporters**

American Association of  
University Women

Bluewater Mission

Catholic Diocese  
of Honolulu

Equality Now

Hawaii State Commission  
on the Status of Women

Imago Dei  
Christian Community

International Justice Mission

Kumulani Chapel  
(Lahaina, Maui)

Not For Sale

Pacific Survivor Center

Soroptimists International  
of Waikiki Foundation

Women Helping Women  
(Wailuku, Maui)

DATE: Saturday, April 2, 2011

ATTN: Senate Committee on Judiciary

Senator Clayton Hee, Chair  
Senator Maile S.L. Shimabukuro, Vice Chair  
Senator Les Ihara, Jr.  
Senator Mike Gabbard  
Sendator Sam Slom

HEARING DATE: Monday, April 4, 2011

HEARING PLACE: Conference Room 016 - State Capitol –  
415 South Beretania Street

TIME: 9:00am

RE: **HB242 HD1- RELATING TO PROMOTING  
PROSTITUTION – IN OPPOSITION**

Dear Committee on Judiciary:

We are supportive of Prosecutor Kaneshiro's efforts to end the demand for prostitution. However, this bill would further criminalize women who may be victims of sex-trafficking, as this bill would put them in prison for up to 5 years as a Class C felony.

Section 1, 1(a); Section 2, 1(a); Section 2, 2(a); and Section 712- Habitual Solicitation of Prostitution Subsection 2(a) and 2(b), if passed, will condemn and further victimize victims of sex-trafficking with a stamp of approval from the state.

Please either delete the above underlined references from the bill or do not pass this bill for the sake of the victims of sex-trafficking in Hawaii.

Sincerely,

Kathryn Xian, Executive Director  
Pacific Alliance to Stop Slavery

**From:** [Tracy A Ryan](#)  
**To:** [JDLTestimony](#)  
**Subject:** Testimony for Monday  
**Date:** Friday, April 01, 2011 10:06:33 AM

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## TESTIMONY

The Libertarian Party of Hawaii  
c/o 1658 Liholiho St #205  
Honolulu, HI 96822

March 31, 2011

RE: HB 242 to be heard Monday, April 4, 2011 at 9:00 AM in conference room 016.

To the members of the Senate Committee on Judiciary and Labor

We oppose passage of HB 242. As a practical matter a successful campaign to deter johns will lead to a worsening not an improvement of the overall crime situation in areas such as Chinatown. Anyone who understands these issues knows that most women selling sex on the streets are either drug addicts, pimped, or both. Their needs to acquire funds will not disappear when prostitution related activity becomes more scarce. They will turn to other crimes such as theft and drug dealing. This is of no apparent importance to the radical feminists who promote such laws , but it is of major impact to communities. This bill is as silly and counterproductive to the problems of Chinatown as any I can imagine.

There are good professional agencies and experienced people in this community who are very familiar with the sex industry here in Hawaii. None of them seem to be consulted at any time by our legislature when considering drafting these bills. Organizations such as the Youth Outreach Project, The CHOW Project, Kulia Na Mamo, and the Life Foundation all have good people with first-hand knowledge of these issues. The Reverend Pam Vessels has known hundreds of prostitutes here. Instead of listening to us highly questionable information from an organization calling itself the Pacific Alliance to Stop Slavery is being touted and circulated.

It real problems are ever to be addressed this situation needs to change.

Sincerely:



Tracy Ryan  
Oahu County Chair  
The Libertarian Party of Hawaii

(808) 534-1846

[tracyar@hawaiiintel.net](mailto:tracyar@hawaiiintel.net)

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [JDLTestimony](#)  
**Cc:** [liuliu@hawaii.edu](mailto:liuliu@hawaii.edu)  
**Subject:** Testimony for HB242 on 4/4/2011 9:00:00 AM  
**Date:** Saturday, April 02, 2011 8:26:11 PM

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Testimony for JDL 4/4/2011 9:00:00 AM HB242

Conference room: 016  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Liu  
Organization: Individual  
Address:  
Phone:  
E-mail: [liuliu@hawaii.edu](mailto:liuliu@hawaii.edu)  
Submitted on: 4/2/2011

Comments:

I strongly oppose this Bill for the further protection of the victims. and in my opinion, the Section 1, 1(a); Section 2, 1(a); Section 2, 2(a); and Section 712- Habitual Solicitation of Prostitution I strongly oppose this Bill for the further protection of the victims as Subsection 2(a) and 2(b), if passed, will condemn and further victimize victims of sex-trafficking with a stamp of approval from the state.

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [JDLTestimony](#)  
**Cc:** [lynnehi@aol.com](mailto:lynnehi@aol.com)  
**Subject:** Testimony for HB242 on 4/4/2011 9:00:00 AM  
**Date:** Saturday, April 02, 2011 11:46:49 PM

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Testimony for JDL 4/4/2011 9:00:00 AM HB242

Conference room: 016  
Testifier position: support  
Testifier will be present: No  
Submitted by: lynne matusow  
Organization: Downtown Neighborhood Board #13  
Address:  
Phone:  
E-mail: [lynnehi@aol.com](mailto:lynnehi@aol.com)  
Submitted on: 4/2/2011

Comments:

The Downtown Neighborhood board in February voted its support of Prosecuting Attorney Keith Kaneshiro's legislative package and we urge you to pass this bill.

Alvin Au, Chair  
Lynne Matusow, Secretary

**Testimony of the Office of the Public Defender  
State of Hawaii  
to the Senate Committee on Judiciary and Labor**

April 4, 2011

H.B. No. 242 HD1: RELATING TO PROMOTING PROSTITUTION.

Chair Hee and Members of the Committee:

This bill proposes two changes to the prostitution law: 1) to enable the prosecution of the customers of prostitutes or “johns” under the current prostitution statute, H.R.S. 712-1200; and 2) to create a new offense of Habitual Solicitation of Prostitution. The first suggested change is in response to a Hawaii Intermediate Court of Appeals decision, State v. Espinosa, 120 Hawaii 478 (Hawaii App. 2009), which held that, under the current definitions, the offenses of street solicitation of prostitution and prostitution can only be committed by the recipient of the fee which is given in exchange for sex (i.e. the prostitute) and not the payor of the fee (i.e. the “john”). We do not oppose the portion of the bill which addresses this problem.

However, we have concerns about the creation of the new offense of Habitual Solicitation of Prostitution. This new offense would be a class C felony. We feel that current penalties for repeat prostitution offenders are sufficient and that valuable prison space should not be taken up by offenders of the prostitution laws which are essentially “nuisance” infractions. H.R.S. 712-1200 states that multiple prostitution offenders receive a mandatory \$500 fine and a thirty day prison term or probation. These penalties are sufficient and appropriate for repeat prostitution offenders.

Moreover, “habitual prostitution offender” is defined in the bill as a person who, at the time of the charge, had two prior convictions within the previous ten years. We believe that the ‘two previous offenses within a ten year period’ requirement is too broad. Under the current recidivist law of Habitual Property Crime (HRS 708-803), three previous offenses within a five year period are required. Habitually Operating a Vehicle Under the Influence of an Intoxicant requires three previous convictions within a ten year period. If H.B. No. 242 HD1 is passed, we believe it would be more reasonable define a habitual offender on multiple offenses within a five year duration instead of ten.

Thank you for the opportunity to comment on this legislation.