

**Testimony of the Office of the Public Defender
State of Hawaii
to the House Committee on Judiciary**

February 22, 2011

H.B. No. 44: RELATING TO PROSTITUTION

Chair Keith-Agaran and Members of the Committee:

We oppose passage of H.B. No. 44. This bill would create the new offense of solicitation of prostitution near schools or public parks. Essentially, this offense would elevate the current offense of street solicitation of prostitution from a petty misdemeanor to a misdemeanor if committed within seven hundred fifty feet of a school or public park.

We seriously question the need for this measure. Presumably, the bill is designed to protect children from being solicited for acts of prostitution. First of all, there has been no demonstrated need for this legislation. There does not appear to be a prevailing problem involving children being solicited while walking home from school. Second, if a violation were to occur, this measure would make such a solicitation more difficult to prosecute. The offense is classified as a misdemeanor which would establish the right to a jury trial for one accused of this crime. Having a child appear before a jury to recall his/her experience might not be a preferable procedure for an offense such as this. Finally, if the aim of the measure is simply to prevent children from having to see solicitations taking place near their school, there are other ways to do this under current law such as geographic exclusions for persons who are arrested or convicted for solicitation offenses.

The 750 feet zone established by this offense is also problematic. This is a large area. In certain densely populated areas of town, it is difficult to be more than 750 feet from any school or park, wherever a person is. Thus, even if a person has no intent to commit solicitation anywhere near a school or park, he/she could fall within the purview of this measure simply by being in an urban, densely populated area of the city.

Thank for the opportunity to comment on this measure.



Committee: Committee on Judiciary
Hearing Date/Time: Tuesday, February 22, 2011, 2:00 p.m.
Place: Room 325
Re: Testimony of the ACLU of Hawaii in Opposition to H.B. 44, Relating to Prostitution

Dear Chair Keith-Agaran and Members of the Committee on Judiciary:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in **opposition** to H.B. 44.

The ACLU of Hawaii opposes state regulation and punishment of prostitution as 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, Hawai'i 96801
T: 808.522-5900
F: 808.522-5909
E: office@acluhawaii.org
www.acluhawaii.org

JUDtestimony

From: Tracy A Ryan [tracyar@hawaiiantel.net]
Sent: Friday, February 18, 2011 4:23 PM
To: JUDtestimony
Subject: testimony

TESTIMONY

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

February 18, 2011

RE: HB 44 to be heard Tuesday, February 22, 2011 at 2:00 PM in conference room 302.

To the members of the House Committee on Judiciary

We oppose passage of HB 44. This is yet another attempt to address neighborhood complaints through zoning. As with the so called "prostitute free zones" it fails to deal with reality. No useful attempt to move prostitution activities can be had unless a tolerated, or legal zone is established.

This bill is just another of a long list of silly ideas aimed at curtailing the complaints of residents in areas known for street walking. If the legislature was serious at all about responding to these complaints we suggest a gutting of this bill with new language as indicated below replacing it.

Suggested Amendment to HB 44

Delete 712-1200 and replace with the following

- (1) A person commits the offense of prostitution if the person engages in, or agrees or offers to engage in, sexual conduct with another person for a fee.
- (2) As used in subsection (1), "sexual conduct" means "sexual penetration" deviate sexual intercourse," or "sexual contact," as those terms are defined in 707-700.
- (3) The offense of prostitution is a violation subject to a fine of up to \$500 if the person agrees or offers to engage in acts of prostitution in a public place which is likely to be observed by others who would be affronted or alarmed. For purposes of this section a "public place" means any street, sidewalk, bridge, ally or alleyway, plaza, driveway, parking lot, or transportation facility or the doorways and entrance ways to any building which fronts on any of the aforesaid places, or a motor vehicle in or on any such place except areas that are designated as exceptions to this section by law.
- (4) There is no penalty for engaging in, agreeing or offering to engage in acts of prostitution except as described in section (3) above.
- (5) The Legislature and or County Governments shall designate areas within their jurisdiction as exempt from the penalty provisions of section (3) above. Designated areas shall include portions of geographic areas that have a history of this offense. The designated areas may be described both by geographic boundaries and by time of day limitations.
- (6) This section shall not apply to any member of the police department, a sheriff, or a law enforcement officer acting in the course and scope of duties.

Retain 712-1201

Retain 712-1202

Delete section (a) of 712-1203

Delete 712-1204

712-1205 already repealed

Delete 712-1206

Delete 712-1207

Sincerely:

A handwritten signature in black ink, appearing to read "Tracy Ryan", with a long horizontal flourish extending to the right.

Tracy Ryan
Oahu County Chair
The Libertarian Party of Hawaii

(808) 534-1846

tracyr@hawaiiantel.net

JUDtestimony

From: Lynne Matusow [lynnehi@aol.com]
Sent: Monday, February 21, 2011 6:04 PM
To: JUDtestimony
Subject: Downtown Neighborhood Board 13 Testimony in Favor of HB 44, public hearing Tuesday Feb. 22, 2 pm

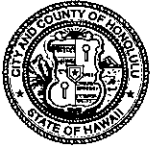
Feb. 21, 2011

Dear Chair Agaron and Committee Members:

The Downtown Neighborhood Board has supported this legislation for years and urge you to pass the bill.

Thank you for the opportunity to submit testimony.

Alvin Au, Chair
Downtown Neighborhood Board
60 N. Beretania St., #PHA-2
Honolulu, HI 96817
alvinau1945@hotmail.com
536-7997



DOWNTOWN NEIGHBORHOOD BOARD NO. 13

c/o NEIGHBORHOOD COMMISSION • 530 SOUTH KING STREET ROOM 400 • HONOLULU, HAWAII, 96813
PHONE (808) 527-5749 • FAX (808) 527-5760 • INTERNET: <http://www.honolulu.gov>

**Testimony of
Thomas Smyth, Vice Chair**

**Before the
House Committee on Judiciary
Tuesday, February 22, 2011, 2:00 pm Room 302
On
HB 44 Relating to Prostitution**

Chair Keith-Agaran, Vice Chair Rhoads and Members of the Committee:

The Downtown Neighborhood Board strongly supports HB 44 that makes it a misdemeanor offense to solicit prostitution within 750 feet of a school or public park.

Those of us who live in the Downtown and Chinatown neighborhood are very concerned with the prostitution that occurs throughout that area. We have several schools in our neighborhood, both public and private, and certainly several small and medium size parks. All of these are close to the most frequently used prostitution areas.

We feel that children who travel to and from these schools and play in these parks should not have to witness sexual activity, let alone the related assaults, robberies and dropped drug paraphernalia that is associated with this conduct.

Prostitution often involves other crime, including actions that may affect passersby. Our children should not have to be in danger from this activity. Their parents should feel comfortable with their children and their friends being in otherwise safe places.

This bill would add to the increased criminal penalties that the other related bills being heard here advocate. We need to do all we can, across a wide range of legislative actions, to help reduce the very real dangers that come from prostitution activity. This measure would help in that important effort.

Thank you for the opportunity to provide testimony.



National Association of Reformed Criminals
1765 Ala Moana Blvd. #1388
Honolulu, Hawaii, 96815
February 22, 2011

COMMITTEE ON THE JUDICIARY
Rep. Gilbert S. C. Keith-Agaran, Chair
Rep. Karl Rhoads, Vice Chair
Tuesday February 22, 2011
2:00 PM
Room 325
HB44-RELATING TO PROSTITUTION
OPPOSE

NARC opposes this bill as unnecessary and discriminatory, and has potential for abuse through entrapment. This crime targets 'Johns'(Men), who most probably can only be convicted through undercover police officers – women- who could persuade their desperado Johns closer to a school - just to get the conviction.

It's better to let ten guilty go free, then to convict one innocent man.

Mahalo,

Andy Botts



February 22, 2011

Representative Gilbert S.C. Keith-Agaran, Chair
House Judiciary Committee
State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Subject: Strong Support for HB 44, HB240, HB241, HB 242 Relating to Anti-Prostitution Measures

Dear Chair Keith-Agaran and Members of the Committee:

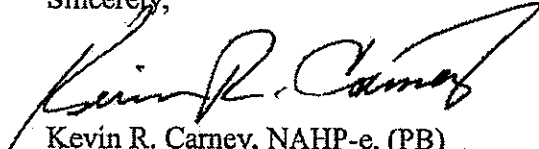
Thank you for this opportunity to submit testimony in strong support of HB 44, HB240, HB 241 and HB 242, all of which will help to discourage the promotion and solicitation of prostitution in our communities.

EAH Housing is a non-profit public benefit corporation that owns and manages 859 low-income rental apartments in the downtown Honolulu area. For those who live or work downtown, particularly in the Chinatown area, prostitution is not a hidden occupation. We see those who work in this "business" everyday on our street corners and in our alley ways. Our children see them when they leave for school in the mornings and when they come home in the afternoons. They see them when they go out to play every day. Take a drive along Aala Street, Kukui Street, Maunakea Street or River Street to name a few and you can spot them. It is nearly impossible to avoid them. And our children and young families are exposed to them every single day. No, they are not hidden. They are there every day and we need to do something about it.

These bills are not aimed at the prostitutes themselves but the human traffickers, pimps and johns that promote and support prostitution. EAH strongly believes that increased penalties are needed to help to curtail this very pervasive problem in our communities. We believe that reducing prostitution will also reduce crimes related to prostitution such as crimes involving drugs, assault, battery and robbery.

Please help us improve the living conditions in our neighborhoods and protect the children in our communities from exposure to this "business" by supporting these proposed bills.

Sincerely,



Kevin R. Carney, NAHP-e, (PB)
Vice President, Hawaii

Hawaii Regional Office
841 Bishop Street, Suite 2208
Honolulu, Hawaii 96813
808 / 523-8826 ■ Fax 808 / 523-8827

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2169 East Francisco Blvd., Suite B
San Rafael, California 94901-5531
415 / 258-1800 ■ Fax 415 / 453-4927

2-21-2011

Good afternoon Chair and Committee members:

My name is Roland Louie; I am a member of Kalihi-Palama Neighborhood Board #15 and Director of Mun Lun (Chinese Language) School. Today I am supporting HB #44. Mun Lun School is locate on the corner of Maunakea St and Kukui St. We have class Monday to Friday from 3:30pm to 5pm and Saturday from 9am to 1pm. We see prostitute walking on the street everyday soliciting customer; this is a very bad influence to our youngsters.

I suggest we should go a little further. We should publish the John name also. This way may discourage people from soliciting prostitute. Thank you very much.

Roland Louie

P.O. Box. 700443

Kapolei, Hi. 96709

E-mail: Louier001@hawaii.rr.com

Judiciary Committee
State Legislature
State Capitol
Honolulu, Hawaii 96813

Dear Committee Chair and Members:

I write in favor of House Bill 44.

There is definitely a problem with prostitution on the city sidewalks located on Kukui Street in back of Longs Drugs and in close proximity to many residential housing complexes (eg. Kukui Plaza and Maunakea Tower), schools (Mun Lun School and Central Intermediate – just a block away) and business establishments (Longs, Safeway, Borthwick Mortuary) and other local and residential and business establishments.

The presence of prostitution in the Kukui Street neighborhood is creating a quasi “red light “ district, where “johns” can cruise for prostitutes on Kukui Street. It is causing a cultural and economic blight on the neighborhood. It poses a bad influence on the children, who live and go to school in our neighborhood.

The above is just one example of the influence of prostitution is having in a residential/business neighborhood. I am the current President of Mun Lun School and the Concerned Citizens on River Street Housing and a Past President of the Chinese Chamber of Commerce. I am in favor HB 44.

Wesley F. Fong