



STATE OF HAWAII  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS  
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January 19, 2012

To: The Honorable Karl Rhoads, Chair  
House Committee on Labor & Public Employment

Date: Friday, January 20, 2012  
Time: 10:00 a.m.  
Place: Conference Room 309, State Capitol

From: Mila Kaahanui, MSW  
Executive Director  
Office of Community Services (OCS)

**Testimony for House Bill 1452, Relating to Services for Survivors of Human Trafficking**

**POSITION:** Offers Comments

**I. OVERVIEW OF PROPOSED LEGISLATION**

The current proposal seeks to amend Chapter 371K, Hawaii Revised Statutes, to include a direct reference to Human Trafficking Survivors as a mandated target population of OCS. The bill would also exceed Federal Standards by providing interim services to such persons, deemed “pre-certified victim(s) of human trafficking,” while the person’s case is under application for certification by the Federal Government. This is likely meant to alleviate the current gap in service for those waiting for certification by proposing State programs. Any program authorized by the current proposal would be housed in the Office of Community Services, and implemented in conjunction with a number of government partners.

**II. CURRENT LAW**

Under current law, OCS is mandated to serve the “disadvantaged, refugee, and immigrant” populations. This mandate does not prohibit OCS from serving populations under the umbrella of “disadvantaged,” and gives us some flexibility to analyze current socioeconomic and political conditions to make any such determination. OCS currently receives Federal funding from the Office of Refugee Resettlement to service human trafficking victims as certified by Federal Law. OCS also is mandated to serve a coordinating function between governmental agencies to improve efficiency of such services.

### **III. HOUSE BILL**

OCS wholeheartedly agrees, given our experience and mandate to serve the three populations mentioned above, that the service of potential victims of Human Trafficking should be under the purview of this Office.

With this in mind, OCS is pleased to offer the following comments for the committee's consideration.

HB1452 proposes to add two interrelated, but distinct, provisions. The first is the proposed mandate expansion to designate OCS to provide services for Human Trafficking survivors as defined by Federal law, or those who appear to be Human Trafficking survivors. The second set are procedures for law enforcement agencies to define the treatment and reporting requirements necessary when dealing with Human Trafficking cases.

Generally, in the case of this second set of procedures, OCS plays an advisory role in or has no primary role in these provisions. OCS is also concerned the sections currently marked 371K-C and 371K-D deal primarily with procedural requirements that mention OCS, but do not necessarily all pertain to the powers and functions of OCS alone. These may be subjects more appropriately placed in other sections or may be procedures fit to be developed through administrative rulemaking.

Regarding proposed programs and definitions, a key component of effective service of any victimized individual is the ability of the State or provider to rapidly respond. It is, therefore, advantageous for the State to develop a mechanism to serve potential victims while they are waiting for the sometimes interminably long process that is Federal certification as a trafficking victim.

Our first specific concern is two-fold and lies with the standard beginning on Page 1, Line 12 that a pre-certified victim is defined as a person who "has not yet obtained such certification, or a person who has reported a crime to law enforcement and it reasonably appears to law enforcement that the person is such a victim." In the case of the former definition, the application process does not automatically mean the person will eventually be certified. Also, with the uncertainty of the length of the Federal process, it will be extremely difficult to budget an appropriate per person figure to ensure OCS can service clients during the entire application process.

In the case of the latter definition, there are no criteria or evidence requirements in the bill to define a "reasonable appearance." This becomes important if law enforcement believes the potential victim may be complicit in the criminal activity, or when a potential victim accuses another party of such a crime. Although we maintain the presumption of innocence in the accuser, we may be inadvertently presuming the accused party's guilt in order to establish the potential victim's eligibility for services.

OCS regularly contracts for a variety of services similar to those requested in the bill, and contracting for the purposes of this program would pose few technical issues with the proper

support. However, determination and preliminary assessment duty, beginning on Page 3, Line 13, would be a new function for the office and not necessarily within our scope. Any new duty or function would also require proper authority and financial support, and clarification as to what areas each agency making the determination is responsible for. Currently the bill provides for the Division of Criminal Justice Services, OCS, and the referring agency or office to all be involved in such a determination.

OCS also has a concern regarding the confidentiality of client information versus the need for “persuasive evidence” in filling out the United States Custom and Immigration Services’ Form I-914 Supplement B. While we understand law enforcement should provide, in as much detail as possible, the particulars of any offense, we would like to ensure only the proper agencies have final access to this information. We suggest the State’s general responsibility be limited in this section only to the provision of the form, and specific agencies who may report on or access this information be specifically named.

Finally, this bill has some fiscal impact. We would like to have further discussions to ensure that if this bill progresses it is 1) funded at an appropriate level, 2) does not diminish from other priorities in the Supplemental Budget, and 3) OCS is given enough time to gather the appropriate stakeholder input, define roles, and implement rulemaking in order for us to accurately determine an appropriate budgetary amount. Furthermore, if this is an initiative prioritized by the Legislature, OCS would appreciate if this was made a multi-year program to ensure longitudinal, sustainable and quality programming.

OCS appreciates this timely initiative we hope will mitigate circumstances contributing to Hawaii becoming a hub for such activities given our proximity in the middle of the Pacific, and is grateful for the support and confidence the House has shown in selecting OCS to carry out such programs. We believe in customer service oriented government, and would like to end by saying we endeavor to create comprehensive programming for all our target populations. Because many trafficking victims will most likely be economically disadvantaged, if this bill or other such programs were to be passed we would of course make available our full range of programs to ensure a continuum of services for these unfortunate persons.

Thank you for the opportunity to testify.



THE PACIFIC ALLIANCE  
TO STOP SLAVERY

DATE: January 19, 2012

ATTN: COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

Rep. Karl Rhoads, Chair  
Rep. Kyle T. Yamashita, Vice Chair  
Rep. Henry J.C. Aquino  
Rep. Scott K. Saiki  
Rep. Ty Cullen  
Rep. Joseph M. Souki  
Rep. Linda Ichiyama  
Rep. Roy M. Takumi  
Rep. Marilyn B. Lee  
Rep. George R. Fontaine  
Rep. Sylvia Luke  
Rep. Aaron Ling Johanson

DATE: Friday, January 20, 2012

TIME: 10:05 a.m. – 12:00 p.m.

PLACE: Conference Room 309, State Capitol, 415 South Beretania Street

RE: **TESTIMONY IN SUPPORT OF HB1452 - RELATING TO SERVICES FOR  
SURVIVORS OF HUMAN TRAFFICKING**

Requires the Office of Community Services under the Department of Labor and Industrial Relations, in coordination with other relevant state agencies, to provide social services for survivors of human trafficking.

Submitted online via: <http://www.capitol.hawaii.gov/submittestimony.aspx>

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Dear Committee on Labor & Public Employment:

The Pacific Alliance to Stop Slavery (PASS) is in support of this bill with amendments. PASS serves victims of Human Trafficking for sex or labor.

1. We respectfully request that the definition of “Human Trafficking Survivor” as defined on page one, lines 6 through 10 be amended to read as the following:

“Human trafficking survivor” means a person who has had or now has the condition or status of debt bondage, involuntary servitude, severe forms of trafficking in persons, or



sex trafficking as defined in Section 102 of the Victims of Trafficking and Violence Protection Act of 200, 22 United States Code Chapter 78, Section 7102 as amended, or a person whose prostitution was promoted or advanced by any of the means set forth in HRS 712-1202 1a or 1b, or who was a victim of labor trafficking, as defined by HRS 707-781, who was subject to perform labor or services by another, or others, by any of the means described in HRS 707-781 (a) through (k).

2. We also respectfully request that the definition of “Pre-certified victim of human trafficking” be amended to read as follows:

“Pre-certified victim of human trafficking” means a person who has a pending application for federal certification as a victim of a severe form of trafficking in persons as defined in 22 United States Code 7102 as amended (Trafficking Victims Protection but has not yet obtained such certification, or a person who has reported a crime to law enforcement and it reasonable appears to law enforcement that the person is such a victim.

3. This measure does not require an appropriation for funding and its intent is to set up a state plan to appropriately address services for human trafficking survivors by using existing local services for victims, since the majority of human trafficking survivors are criminalized or misidentified or underserved and not given the services they need to heal. Therefore, we respectfully request the following amendment on page 2, 371-A Section (a) and 371-B Section (b) to read:

“The office of community services shall coordinate with and assist law enforcement agencies, the county prosecutors’ office, the attorney general’s office, and the department of human services to access appropriate existing services for human trafficking survivors.”

“In providing such assistance, the office of community services may enter into contracts with non-government organizations for providing services to human trafficking survivors or pre-certified victims of human trafficking as defined in section 371K-A, insofar as funds are available for that purpose. Such services may include, case management, emergency temporary housing, health care, mental health counseling, drug addiction screening and treatment, language instruction, job training and placement assistance, post-employment services for job retention, transportation services and services to assist the individual and any of his or her family members to establish a permanent residence in the State of Hawaii or any other state in the contiguous United States. Nothing in this section shall preclude the office of community services, or any local social services agency, from providing ~~human trafficking victims who are United States citizens~~ or human trafficking survivors, as defined in this part, with any benefits and services for which they may otherwise be eligible. All funds and services delivered through this provision shall be supplementary to, and shall not duplicate benefits provided by federal government programs designed to assist ~~survivors of human trafficking.~~ human trafficking survivors.”



4. The reference to “district attorney’s office” on page 3 , lines 9-10 should be deleted and replaced by “county prosecutor’s office”
5. 371K-C, Section (b) on page 3 should be amended to read:

Upon receipt of such a notification, the division of criminal justice services, in consultation with the office of community services and the referring agency of office shall make a preliminary assessment of whether such human trafficking survivor or possible human trafficking survivor appears to meet the criteria for certification as a victim of severe form of trafficking in personas as defined in 22 United States Code 7102 as amended (Trafficking Victims Protection) or appears to be otherwise eligible for any federal, state, or local benefits and services. If it is determined that the human trafficking survivor appears to meet such criteria, the office of ~~temporary disability assistance~~-community services shall report the finding to the human trafficking survivor, and to the referring law enforcement agency or the attorney general’s office, and may assist that agency or office in having such human trafficking survivor receive services from a case management provider who may be under contract with the office of community services or from any other available source. If the ~~victim~~ human trafficking survivor is under the age of eighteen, the office of community services also shall notify the department of human services of the ~~minor survivor~~ minor’s human trafficking survivor status.

6. With these revisions which would allow this measure to create a state plan or protocol with dealing with human trafficking survivors and giving them the appropriate care, without need for fiscal appropriations, we request that Section 2 on page 5, lines 8 through 15 be completely deleted.

Thank you very much for hearing this much needed legislation.

Sincerely,

Kathryn Xian  
Executive Director  
Pacific Alliance to Stop Slavery



46-063 Emepela Pl. #U101 Kaneohe, HI 96744 · (808) 679-7454 · Kris Coffield · Co-founder/Legislative Director

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## TESTIMONY FOR HOUSE BILL 1452

**House Committee on Labor and Public Employment**

**Hon. Karl Rhoads, Chair**

**Hon. Kyle T. Yamashita, Vice Chair**

**Friday, January 20, 2012, 10:05 AM**

**State Capitol, Conference Room 309**

Honorable Chair Rhoads and committee members:

I am Kris Coffield, representing the IMU Alliance, a nonpartisan political advocacy organization that currently boasts over 150 local members. On behalf of our members, we offer this testimony in support, with proposed amendments for HB 1452, relating to services for survivors of human trafficking, which boosts the state's efforts to ensure the well-being of those affected by this horrible crime.

Last year, lawmakers passed HB 141 and HB 240, the former of which outlawed labor trafficking in the islands and the latter of which strengthened existing anti-prostitution laws by expanding witness protection for victims and targeting repeat offenders, particularly pimps and johns. Both bills were important steps in rectifying Hawaii's poor image and record with regard to anti-trafficking statutes. Importantly, these new laws focus on demand for labor and sex trafficking, signaling our state's move toward combating those most responsible for trafficking violations—pimps, johns, owners and managers of prostitution houses, and traffickers themselves—while protecting those who are most vulnerable.

The IMU Alliance lauds the State Legislature's efforts, last session. At the same time, we call upon lawmakers to continue the fight against human trafficking by hearing and advancing bills that increase services afforded to victims, especially children. To that end, the IMU Alliance strongly supports the enactment of “services plan” legislation that requires the Office of Community Services under the Department of Labor and Industrial Relations, in coordination with other relevant state agencies, to provide social services for survivors of human trafficking. That said, there are several amendments that we feel would improve the proposed measure from its current form.

First, we encourage the committee to revise the definition of “human trafficking survivor” contained in §371K-A to read: “Human trafficking survivor means a person who has had or now has the condition or status of debt bondage, involuntary servitude, severe forms of trafficking in

persons, or sex trafficking as defined in Section 102 of the Victims of Trafficking and Violence Protection Act of 2000, 22 United States Code, Chapter 78, Section 7102, as amended, or a person whose prostitution was promoted or advanced by any of the means set forth in HRS 712-1202(1)(a) or HRS 712-1202(1)(b), or who was a victim of labor trafficking, as defined by HRS 707-781, who was subject to perform labor or services by any of the means described in HRS 707-781(a) through HRS 707-781(k).

Second, we urge the committee to discard the appropriation component in §371K-E, section two of the bill, as this bill predicates improved services coordination on existing facilities and resources, and does not call for the establishment and subsequent funding of new facilities or resources for victims. To clarify this, the committee might consider adding the word “existing” before the phrase “services for human trafficking survivors” in §371K-B(a), and before the phrase “benefits and services” in §371K-B(b).

Third and finally, we encourage the committee to use the phrase “human trafficking survivors” whenever possible in this bill, as doing incorporates state anti-trafficking statutes passed last year into the definition of which victims may qualify for services. Accordingly, we encourage the committee to revise the first sentence of §371K-B(b) to read, “In providing such assistance the office of community services may enter into contracts with non-government organizations for providing services to human trafficking survivors or pre-certified victims of human trafficking as defined in section 371K-A...,” and any instances of the word “survivor” contained in §371K-C(b) to instead read “human trafficking survivor,” with the phrase “minor survivor” contained in §371K-C(b) to read “minor's human trafficking survivor status.”

Again, the IMUAlliance thanks you for your hard work, in 2011, to stem human trafficking on our shores. Room for improvement remains, however, and we feel that the measure in question, with proposed amendments, will consecrate last year's momentum into a concerted movement. Mahalo for the opportunity to testify in support of HB 1452.

Sincerely,  
Kris Coffield  
*Legislative Director*  
IMUAlliance



**yamashita2 ----Aulii**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, January 19, 2012 10:38 AM  
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**Cc:** judirod@hawaii.rr.com  
**Subject:** Testimony for HB1452 on 1/20/2012 10:05:00 AM

Testimony for LAB 1/20/2012 10:05:00 AM HB1452

Conference room: 309  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Judith Rod  
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Submitted on: 1/19/2012

Comments: