



POLARIS PROJECT

FOR A WORLD WITHOUT SLAVERY

TESTIMONY IN SUPPORT OF HB577 & HB946 PRESENTED TO THE LABOR AND PUBLIC EMPLOYMENT COMMITTEE FEBRUARY 15, 2011

Mr. Chairman and members of the Labor and Public Employment Committee; on behalf of the more than 15,000 supporters of Polaris Project, thank you for providing us with an opportunity to speak about the crime of human trafficking. My name is James Dold and I am Policy Counsel for the Polaris Project.

Polaris Project is a leading national organization dedicated to combating human trafficking within the United States by serving victims, raising public awareness, and engaging in policy advocacy at both the State and Federal level. We have been selected by the U.S. Department of Health and Human Services to be its training and technical assistance provider and have operated the National Human Trafficking Resource Center and Hotline since December 2007. During this time our human trafficking call specialists have fielded over 25,000 calls from across the nation. We have also provided victim services to more than 300 survivors of human trafficking since 2004 in our D.C. and New Jersey client service offices.

I would like to take a moment to specifically thank Representative Belatti for introducing HB577, as well as Representative Awana for introducing HB946. We greatly appreciate the Hawaii Legislature's concern for and willingness to address the crime of human trafficking, a grave violation of human rights.

Labor trafficking is a crime that affects not only the fishing boys of Ghana or the domestic servants in Sudan, but also people right here in America. It is a crime that not only affects individuals in Mumbai, but also individuals in Honolulu. Human trafficking is a monstrous crime, shrouded in secrecy, often unknown except to those who remain bound by invisible chains. It is one of the great injustices of our lifetime and will continue to threaten the freedom of our children, our neighbors, and our fellow brothers and sisters until it is eradicated completely.

Human Trafficking National and Global Perspective

Human trafficking is the modern-day slavery, and it is one of the fastest growing criminal industries in the world, consisting of the subjugation, recruitment, harboring,

or transportation of people for the purpose of forced labor or services or commercial sexual exploitation. Victims of human trafficking in the United States include children and adults, as well as foreign nationals and U.S. citizens.

The United States Government estimates that between 600,000 to 800,000 people are trafficked across international borders for forced labor and sexual servitude each year, 70 percent of whom are women and over 50 percent are children. This does not include those trafficked within their own countries, which is as high as 2 to 4 million persons. Of those trafficked across international borders, up to over 60,000 individuals at a minimum are trafficked into the United States each year. These numbers suggest that the actual figure for the scope of human trafficking is much higher. Experts also estimate that between 100,000 to 300,000 American children are at high risk of being trafficked within the United States for sexual exploitation each year. The State Department estimates that there are roughly 12.3 million slaves in the world today, more than at any other time in the history of the world. Another estimate, by renowned human trafficking expert Kevin Bales, puts the total number of people trapped in modern-day slavery at an estimated 27 million. Most victims suffer a horrific life in which they are repeatedly beaten, raped, starved, chained or locked up, and psychologically tortured. For many, the only way of leaving is by means of escape, rescue, suicide, or murder.

There have been trafficking investigations in all 50 States and incidence of trafficking have been reported in 91 U.S. cities. Human trafficking is a crime that thrives in secrecy and is fed by the insatiable greed of those who see human beings as a commodity to be profited off of. Globally, human trafficking generates over \$32 billion in annual revenue.

Recently, Polaris Project served a labor trafficking victim, "Sabine," who was brought over from Rwanda by a wealthy family in the United States. Sabine was the only survivor from her family of the genocide in Rwanda, so when a wealthy family offered her a chance to move to America with them she agreed. Upon arrival, however, she quickly learned that she had been taken advantage of. She was imprisoned in the home; unable to leave, she was made to work around the clock. Anytime she had to sleep she was made to sleep on the kitchen floor. After six months of servitude she was allowed to go to church for an hour each Sunday. On one of her visits she was approached by a kindly Rwandan man. He asked if she was ok and after learning about her situation, he helped her escape. He took Sabine to one of our partner agencies and once they learned her story they immediately referred her to Polaris Project.

Unfortunately, Sabine's story is far too common in the United States. I cannot impress upon members of the Labor and Public Employment Committee enough, that human trafficking is alive and well in the United States and it affects every corner of our nation. It is also prevalent in Hawaii.

Human Trafficking in Hawaii

Every day we receive calls through the National Human Trafficking Resource Center referencing situations where men, women, and young children are subjected to violence, coercion, and fraud in order for their pimps or traffickers to profit. While we do not know how many victims there are in Hawaii, we do know that the National Hotline has received calls referencing trafficking situations in cities throughout the state of Hawaii. Some of these calls were classified as tips that human trafficking was occurring in different cities, including Honolulu, Hilo, and Wakiki Beach.

Most recently, Hawaii was home to the largest labor trafficking case in the history of the United States. On September 1, 2010, the U.S. Department of Justice brought formal charges against the President and Chief Operating Officer of Global Horizons for "engaging in a conspiracy to commit forced labor and document servitude." The case involved 400 Thai workers who were lured with false promises of high-paying farm jobs but were exploited and forced into labor, often with little or no pay. The victims were sent to 13 states including Washington, California, Florida, Colorado, Hawaii, Utah, the Carolinas, the Dakotas, Kentucky, New York, and Virginia. One of the most publicized cases came from victims who worked at 13 to 14 farms on Oahu, Kauai, Maui and the Big Island, tending to coffee, fruits and vegetables for Aloun Farms and Maui Pineapple Farm.

Human trafficking is a scourge that preys on the most vulnerable among us and exploits those who are in need of protection. And while it may be easy at times to pretend that human trafficking is not a crime that affects every day Americans, I can tell you with absolute certainty that it does. It is a crime of absolute evil. But by taking action and enacting anti-human trafficking legislation you will provide law enforcement and prosecutors in Hawaii with the tools that are needed to combat it.

Both HB577 and HB946 have provisions that would greatly advance Hawaii's response to human trafficking – specifically with regards to labor trafficking.

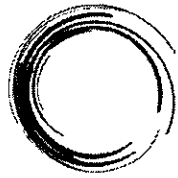
Both bills will bring Hawaii closer to eliminating labor trafficking by creating criminal provisions against this crime for the first time. However, HB577 criminalizes the non-payment of wages, as well as the destruction or confiscation of government identification. HB577 also provides victims of labor trafficking with restitution for the

wages that are rightly owed to them. Conversely, HB946 targets traditional labor “trafficking” type activities and also provides victims with a civil remedy.

It is our belief that with regards to labor trafficking in particular, HB577 is the stronger bill and will greatly advance Hawaii’s statutory response to combating human trafficking. While we fully support HB577, we are submitting amendments that we believe will make this bill even better and bring it more in-line with the current best practices by incorporating some of the provisions from HB946. By passing HB577 Hawaii will bring its laws in line with the other 45 states that have enacted some form of anti-human trafficking law.

Support HB577

Therefore, I ask that the honorable members of the Labor and Public Employment Committees act, with what Dr. Martin Luther King, Jr. referred to as “the fierce urgency of now,” by voting favorably upon HB577. If you should have any questions, please feel free to call me at (202) 745-1001, ext. 132. Mahalo.



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Proposed Amendments to HB577

Proposed Amendments will appear in ALL CAPS and underlined.

Polaris Project recommends adding the following amendment to §707-C, Labor Trafficking in the second degree:

707-C Labor trafficking in the second degree. (1) a person commits the offense of labor trafficking in the second degree if the person knowingly:

- (a) RECRUITS, ENTICES, SOLICITS, ISOLATES, HARBORS, TRANSPORTS OR MAINTAINS, OR SO ATTEMPTS, ANOTHER PERSON KNOWING THAT THE PERSON WILL BE SUBJECTED TO FORCED LABOR OR SERVICES UNDER § 707-B; OR
- (b) Either acting as an individual or using a licensed business enterprise, aids another in a venture knowing that the other person in that venture is committing the offense of labor trafficking in the first degree; or
- (c) Benefits, financially or by receiving something of value, from participation in a venture knowing or in reckless disregard of the fact that another person has engaged in any act in violation of subsection (a) OR (B) in the course of that venture or that another person in that venture is committing the offense of labor trafficking in the first degree.

(2) Labor trafficking in the second degree is a class B felony; provided that if a violation of subsection (1) involves kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to cause the death of a person, or if a death results, the offense shall be a Class A felony.

(2) Upon conviction of a defendant under subsection (1), the court shall also order that any and all business licenses issued by the State be revoked for the business or enterprise that the defendant used to aid in the offense of labor trafficking in the second degree; provided that the court, in its discretion, may reinstate the business license upon petition to the court by any remaining owner or partner of the business or enterprise who was not convicted of an offense under this section.

Polaris Project also recommends adding an additional civil remedies section that is currently found in HB946(Awana) to HB577:

§ 707-I CIVIL ACTION FOR VICTIMS OF LABOR TRAFFICKING OR UNLAWFUL CONDUCT WITH RESPECT TO DOCUMENTS. (1) A VICTIM OF LABOR TRAFFICKING AS DEFINED IN § 707-B AND C OR UNLAWFUL CONDUCT WITH

RESPECT TO DOCUMENTS AS DEFINED IN § 707-H MAY BRING A CIVIL ACTION FOR ACTUAL DAMAGES, COMPENSATORY DAMAGES, PUNITIVE DAMAGES, INJUNCTIVE RELIEF, ANY COMBINATION OF THOSE, OR ANY OTHER APPROPRIATE RELIEF. A PREVAILING PLAINTIFF MAY ALSO BE AWARDED ATTORNEY'S FEES AND COSTS.

(2) IN ADDITION TO THE REMEDIES SPECIFIED HEREIN, IN ANY ACTION UNDER SUBSECTION (1), THE PLAINTIFF MAY BE AWARDED UP TO THREE TIMES HIS OR HER ACTUAL DAMAGES, OR \$10,000, WHICHEVER IS GREATER. IN ADDITION, PUNITIVE DAMAGES MAY ALSO BE AWARDED UPON PROOF OF THE DEFENDANT'S MALICE, OPPRESSION, FRAUD, OR DURESS IN COMMITTING THE ACT OF LABOR TRAFFICKING OR UNLAWFUL CONDUCT WITH RESPECT TO DOCUMENTS.

(3) AN ACTION BROUGHT PURSUANT TO THIS SECTION SHALL BE COMMENCED WITHIN EIGHT YEARS OF THE DATE ON WHICH THE CRIME AGAINST THE VICTIM CEASED, OR IF THE VICTIM WAS A MINOR, WITHIN TWELVE YEARS AFTER THE DATE THE PLAINTIFF ATTAINS THE AGE OF MAJORITY.

(4) IF A PERSON ENTITLED TO SUE IS UNDER A DISABILITY AT THE TIME OF THE CAUSE OF ACTION, THEN THE DURATION OF THE DISABILITY IS NOT PART OF THE TIME LIMITED FOR THE COMMENCEMENT OF THE ACTION. DISABILITY WILL TOLL THE RUNNING OF THE STATUTE OF LIMITATIONS FOR THIS ACTION.

(A) DISABILITY INCLUDES BEING A MINOR, INSANITY, IMPRISONMENT, OR OTHER INCAPACITY OR INCOMPETENCE;

(B) THE STATUTE OF LIMITATIONS SHALL NOT RUN AGAINST AN INCOMPETENT OR MINOR PLAINTIFF SIMPLY BECAUSE A GUARDIAN AD LITEM HAS BEEN APPOINTED. A GUARDIAN AD LITEM'S FAILURE TO BRING A PLAINTIFF'S ACTION WITHIN THE APPLICABLE LIMITATION PERIOD WILL NOT PREJUDICE THE PLAINTIFF'S RIGHT TO DO SO AFTER HIS OR HER DISABILITY CEASES;

(C) A DEFENDANT MAY NOT ASSERT A DEFENSE OF THE STATUTE OF LIMITATIONS WHEN THE EXPIRATION OF THE STATUTE IS DUE TO CONDUCT BY THE DEFENDANT INDUCING THE PLAINTIFF TO DELAY THE FILING OF THE ACTION, OR DUE TO THREATS MADE BY THE DEFENDANT CAUSING DURESS UPON THE PLAINTIFF;

(D) THE SUSPENSION OF THE STATUTE OF LIMITATIONS DUE TO DISABILITY, LACK OF KNOWLEDGE, OR ESTOPPEL APPLIES TO OTHER RELATED CRIMES ARISING OUT OF THE TRAFFICKING SITUATION OR UNLAWFUL CONDUCT WITH RESPECT TO DOCUMENTS;

(E) THE RUNNING OF THE STATUTE OF LIMITATIONS IS POSTPONED DURING THE PENDENCY OF ANY CRIMINAL PROCEEDINGS AGAINST THE VICTIM; AND

(F) THE RUNNING OF THE STATUTE OF LIMITATIONS MAY BE SUSPENDED WHERE A PERSON ENTITLED TO SUE COULD NOT HAVE REASONABLY DISCOVERED THE CAUSE OF ACTION DUE TO CIRCUMSTANCES RESULTING FROM THE TRAFFICKING SITUATION OR UNLAWFUL CONDUCT WITH RESPECT

TO DOCUMENTS, SUCH AS PSYCHOLOGICAL TRAUMA, CULTURAL AND LINGUISTIC ISOLATION, AND THE INABILITY TO ACCESS SERVICES.

(5) A PREVAILING PLAINTIFF MAY ALSO BE AWARDED REASONABLE ATTORNEY'S FEES AND LITIGATION COSTS INCLUDING EXPERT WITNESS FEES AND EXPENSES.

(6) ANY CIVIL ACTION FILED UNDER THIS SECTION SHALL BE STAYED DURING THE PENDENCY OF ANY CRIMINAL ACTION ARISING OUT OF THE SAME OCCURRENCE IN WHICH THE CLAIMANT IS THE VICTIM.

AS USED IN THIS SECTION, A "CRIMINAL ACTION" INCLUDES INVESTIGATION AND PROSECUTION, AND IS PENDING UNTIL A FINAL ADJUDICATION IN THE TRIAL COURT, OR DISMISSAL."