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K Jammer <kathy@traffickjamming.org>

## Fwd: SB2575 - Support

2 messages

Thu, Feb 9, 2012 at 8:42 AM

To: K Jammer <kathy@traffickjamming.org>

just an fyi

Begin forwarded message:

**From:** Jason Fleming <[REDACTED]>  
**Date:** February 9, 2012 8:40:15 AM HST  
**To:** [REDACTED]  
**Bcc:** [REDACTED]  
**Subject:** SB2575 - Support

Dear Senator Chun,

This is a letter in strong support of SB2575. As a practicing emergency physician, and the current President of the Hawaii Chapter of the American College of Emergency Physicians, I thought I should take a moment to explain why this is an important bill to us.

Physicians are currently caught between their genuine desire to help whatever patients may come to us, and statutory requirements such as HIPAA and patient confidentiality. How this applies in the case of potential human trafficking victims, is that the victim in these cases is often initially unwilling to accept any help. Remember, these are victims who are often underage, lying about their age or identity, and in great fear of retribution from their controlling pimps, "employers" or "boyfriends" as they are taught to call them. Physicians currently do not report suspicions of human trafficking because HIPAA requires that such reporting of protected health information (their presence in the ER may apply) be disclosed to the patient, which could endanger them even further and render them immediately uncooperative. The exception in HIPAA is when such disclosure is required by statute. That is why it is important to have a statute in this case.

As with mandatory reporting of child abuse, when the physician's judgment is taken out of the equation and they are simply required to report the information by statute, we expect reporting of suspected human trafficking to increase, and opportunities for intervention and rescue will also increase. Young lives can actually be saved.

I am aware that some respected professionals who also dedicate their careers to helping victims of sexual violence have come out in opposition to this bill. Hearing about their testimony surprised me. I respect their opinion but also firmly believe that they have reached the incorrect conclusion. The Sexual Abuse Treatment Center does not currently treat this particular patient population, girls who are

victims of human trafficking. We are not talking about girls and women who present to the ER stating that they have been sexually assaulted. We are talking about women, often young girls, who present to the ER with some other complaint of injury or illness, sometimes requesting narcotic pain medicine, sometimes with unexplained injuries, often with a vigilant "boyfriend" carefully monitoring her interaction with the nurses and doctors. These women never see SATC, because SATC isn't called. They aren't called because there has been no claim of sexual violence. Currently, emergency physicians do their best, try to offer help to the patient, and when she declines (having declared she is over 18 and denied being in a dangerous situation), she is discharged back to her current reality, which unfortunately has led to worse injury and even death of the girl.

What physicians need is a statutory requirement to report suspected human trafficking, similar to the mandatory reporting of suspected child abuse. If this was in place, physicians could and would call the appropriate specially-trained authorities in such cases without fear of running afoul of patient confidentiality requirements.

Thank you very much for considering this issue. If you would like to speak to me personally about it, I am on duty today and tomorrow at the Pali Momi Emergency Department at [REDACTED]. My personal mobile number is [REDACTED] although I sometimes get a weak signal in the hospital. You are welcome to call me anytime.

Sincerely,

Jason Fleming

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Jason K. Fleming, M.D.  
Quality Director- Emergency Services  
Kapi'olani Medical Center for Women and Children  
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**Proposed Amendment: SB 2575 (IMUAlliance) – Kris Coffield – (808) 679-7454**

Enacts structural changes while also creating a *de facto* definition of "sexual exploitation."

Disaggregate the enumerated circumstances listed in §350-1(2) into a subsection (2), relating to families, and (3), relating to others, with (2) to read:

**(2) When the child has been the victim of sexual contact or conduct, including, but not limited to, sexual assault as defined in the Penal Code, molestation, sexual fondling, incest, or prostitution; obscene or pornographic photographing, filming, or depiction; or other similar forms of sexual exploitation; or**

...and (3) to read:

**(3) When the child has been the victim of sexual exploitation, meaning conduct by a child's parent or caretaker, or any person, that allows, permits, encourages, or requires that child to engage in:**

**(a) Prostitution, as defined in 712-1200; or**

**(b) Child pornography, as defined in 707-750(2).**

A corresponding change would also need to be included in the family court provisions of 587A-4, with 587A-5(1) being revised to read:

(1) In a child protective proceeding concerning any child who is or was found within the State at the time specified facts and circumstances occurred, are discovered, or are reported to the department. These facts and circumstances constitute the basis for the court's finding that the child's physical or psychological health or welfare is subject to imminent harm, has been harmed, or is subject to threatened harm by the acts or omissions of the child's family, **or acts committed by any person pursuant to 350-1(3)(a) or (3)(b);** and...

Thank you for your consideration.