

**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SIXTH LEGISLATURE, 2012**

ON THE FOLLOWING MEASURE:

S.B. NO. 2576, S.D. 1, H.D. 2, RELATING TO PROSTITUTION.

BEFORE THE:

HOUSE COMMITTEE ON FINANCE

DATE: Thursday, March 29, 2012

TIME: 4:30 p.m.

LOCATION: State Capitol, Room 308

TESTIFIER(S): David M. Louie, Attorney General, or
Lance M. Goto, Deputy Attorney General

Chair Oshiro and Members of the Committee:

The Department of the Attorney General (the "Department") appreciates the intent of this bill in trying to protect people forced into prostitution, but must oppose it due to significant legal concerns.

The purpose of this bill is to authorize a person convicted of a prostitution-related offense to file a motion to vacate the judgment of conviction under certain circumstances. It also establishes procedures for the motion to vacate judgment.

The criminal justice system already has in place processes that allow convicted defendants to appropriately challenge judgments of conviction. A convicted defendant has a right to appeal the conviction to an appellate court and challenge the lower court proceedings. After that, a convicted defendant also has the ability to challenge a conviction in a post-conviction relief proceeding, such as the one set up by Rule 40 of the Hawaii Rules of Penal Procedure. These processes have been developed and established to ensure fairness and justice for all in the criminal justice system. The process in this bill, however, to vacate prostitution convictions, is inconsistent with our criminal justice system and invites misuse and abuse.

The proposed justification for this special relief is that "the defendant's participation in the offense was the result of the person having been a victim" of promoting prostitution or a trafficking offense. The implication is that the defendant committed the offense under duress and, therefore, should not be held responsible for the crime.

PROCESS INVITES MISUSE AND ABUSE

This is a scenario that could result from this bill. A defendant is arrested for the crime of prostitution and taken into police custody. During the course of the criminal investigation, the defendant has an opportunity to tell the police investigator that the defendant was being forced to engage in prostitution by another person. If the defendant discloses this information during the investigation and the investigator is able to confirm the information, the defendant would likely be treated as a victim and witness in a case against the one promoting the prostitution activity. The defendant would likely not be prosecuted for prostitution. Under section 702-231, Hawaii Revised Statutes (HRS), duress is a defense to a penal charge. If the defendant does not disclose the information, then the investigator would have no reason to treat the defendant as a victim or witness, and would not be able to investigate the promoting prostitution offense. Defendant would be investigated and prosecuted for the prostitution activity, and could ultimately be convicted based on evidence that proves the commission of the offense beyond a reasonable doubt. Possibly a year or more later, defendant files a motion to vacate the conviction alleging that defendant participated in the prostitution conduct because defendant was forced to do so by somebody. Defendant does not even name the person involved but merely alleges being forced to engage in the activity. But the prosecutor and investigator, having had no opportunity to investigate and corroborate defendant's allegations of forced prostitution or trafficking at the time of defendant's arrest and prosecution because of defendant's failure to disclose any of these allegations at that time, have no evidence to rebut defendant's allegations. That being the case, the court would grant the motion to vacate the judgment and dismiss the matter.

The prosecution, despite following all the laws and procedure, and proving defendant's guilt beyond a reasonable doubt, is left with no ability to challenge defendant's late allegations and defend the judgment of conviction. As written, the process is unfair, unjust, and invites misuse and abuse.

The Department notes that if the motion to vacate conviction was allowed only if the case prosecutor consented to the motion, the Department's concerns of misuse and abuse of the motion would be greatly reduced. The Department recommends that subsection (2)(e) be added to page 2 of the bill, and read as follows:

Be subject to the review and written approval of the state or county department that handled the prosecution of the prostitution case that is the subject of the motion to vacate conviction.

UNCERTAINTY OF THE REQUIRED PROOF

The bill provides that a defendant's judgment of conviction for a prostitution offense may be vacated if:

[T]he person's participation in the offense was the result of the person having been a victim of:

- (a) Promoting prostitution in the first degree under section 712-1202; or
- (b) A severe form of trafficking in persons as defined in title 22 United States Code section 7102 (13).

But the bill is not clear as to what burden of proof would be required to **prove that the defendant was a victim of one of these specified crimes**. It appears that the bill simply requires the defendant, a year or more after conviction, to allege that the defendant was forced to engage in prostitution by another person, an allegation that the prosecution could not contest. The bill does not appear to require much more than a statement from defendant. It does not appear to require that a prosecution of one of these specified crimes needs to have taken place, that someone was convicted of one of these crimes, and that the person's victimization, at the time of the conduct that resulted in the prostitution conviction, was brought out and proven in the prosecution of a specified crime. It is not even clear that the identity of the alleged perpetrator of the promoting prostitution or trafficking offense needs to be disclosed or established.

THE TIME PERIOD WITHIN WHICH THE MOTION MUST BE MADE

On page 2, at lines 10-17, the bill requires that the motion to vacate judgment of conviction:

Be made within a six years of time after the person ceases to be a victim as described in subsection (1), subject to reasonable concerns for the safety of the person, family members of the person, or other victims of the trafficking that may be jeopardized by the bringing of a motion, or for other reasons consistent with the purpose of this section[.] [Emphases added.]

This provision contains a significant amount of vague and ambiguous wording. The phrases "subject to reasonable concerns" or "other reasons consistent with the purpose of this section," are unclear. A "reasonable period of time after the person ceases to be a victim" is also vague and ambiguous. It is unclear when a person ceases to be a victim of prostitution or trafficking. It is unclear, if the person leaves the alleged trafficker, but continues to engage in prostitution on their own or while working for someone else, whether the person ceased to be a victim. It is unclear, if the person who engaged in the promoting prostitution activity stopped using any force or coercion on the person, and the person continued to engage in prostitution activity, whether the person ceased to be a victim.

OFFICIAL DOCUMENTATION TO CREATE A PRESUMPTION

On page 3, at lines 1-8, the bill provides:

Official documentation of the defendant's status as a victim of trafficking or a victim of a severe form of trafficking from a federal, state, or local law enforcement agency shall create a presumption that the person's participation in the offense of prostitution was a result of having been a victim of trafficking or a victim of a severe form of trafficking, but shall not be required for granting a petition under this subsection.

The Department is concerned that this provision does not clearly establish a required nexus between the defendant's status as a victim and the prostitution crime for which defendant was convicted. The fact that the defendant may have been a victim of trafficking in an unrelated instance does not mean that defendant's participation in the offense for which defendant was convicted was due to the defendant being a victim of trafficking.

CONCLUSION

For the foregoing reasons, the Department respectfully requests that this bill be held. The Department notes that if the motion to vacate conviction was allowed only if the case prosecutor consented to the motion, the Department's concerns of misuse and abuse of the motion would be greatly reduced.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
PHONE: (808) 768-7400 • FAX: (808) 768-6552

KEITH M. KANESHIRO
PROSECUTING ATTORNEY



ARMINA A. CHING
FIRST DEPUTY PROSECUTING ATTORNEY

THE HONORABLE MARCUS R. OSHIRO, CHAIR
HOUSE COMMITTEE ON FINANCE
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawai'i

March 29, 2012

RE: S.B. 2576, S.D. 1, H.D. 2; RELATING TO PROSTITUTION.

Chair Oshiro, Vice Chair Lee, and members of the House Committee on Finance, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in opposition regarding S.B. 2576, S.D. 1, H.D. 2 that authorizes a person convicted of committing the offense of prostitution to file a motion to vacate the judgment. Appealing to a higher court or Rule 40 of the Hawaii Rules of Penal Procedure currently would be the better way to achieve the policy goal of S.B. 2576, S.D. 1, H.D. 2. Moreover, there are a number of problems in this bill, which we will point out as well.

Under Rule 40(a)(1) of the Hawaii Rules of Penal Procedure, a person may seek relief on the following grounds:

- (i) that the judgment was obtained or sentence imposed in violation of the constitution of the United States or of the State of Hawai'i;
- (ii) that the court which rendered the judgment was without jurisdiction over the person or the subject matter;
- (iii) that the sentence is illegal;
- (iv) that there is newly discovered evidence; or
- (v) any ground which is a basis for collateral attack on the judgment.

The department is aware that newly discovered evidence may come up in prostitution cases, and even if it was known to the petitioner and it was not raised before the trial, at the trial, on appeal, in a habeas corpus proceeding or any other proceeding, the petitioner can prove the existence of extraordinary circumstances to justify the petitioner's failure to raise the issue.

Moreover, a petitioner who was under “duress” to perform prostitution--where such duress continued throughout the court proceedings--has a strong basis for a collateral attack on the judgment. In the interest of justice, the Department of the Prosecuting Attorney of the City and County of Honolulu is open to hearing such issues in a Rule 40 hearing.

To date, our department has not heard of any situation where a victim of trafficking or other forms of forced prostitution have been precluded from using Rule 40 of the Hawaii Rules of Penal Procedure. We have made previous requests for advocates to send us case examples, but have not received any yet.

For these reasons, we recommend S.B. 2576, S.D. 1, H.D. 2 be deferred by the committee because of the problems we mentioned in the bill, and Rule 40 of the Hawaii Rules of Penal Procedure is currently available for persons who seek relief such as discharging a case.

However, if the committee intends to pass this bill, our department would like to amend the bill with the following suggestions listed below:

First, we recommend deleting the following language in S.B. 2576, S.D.1, H.D. 2 that is located on page 3, lines 1 to 8:

“(4) Official documentation of the defendant's status as a victim of trafficking or a victim of a severe form of trafficking from a federal, state, or local law enforcement agency shall create a presumption that the person's participation in the offense of prostitution was a result of having been a victim of trafficking or a victim of a severe form of trafficking, but shall not be required for granting a petition under this subsection.”

Also, we recommend including language requiring the prosecuting attorney of the appropriate jurisdiction to sign and consent to the motion to discharge the conviction.

We have expressed our willingness to work with advocates on this important issue and will continue to do so. Thank you for the opportunity to testify.



The PACIFIC ALLIANCE
to STOP SLAVERY

DATE: March 28, 2012

ATTN: COMMITTEE ON FINANCE

Rep. Marcus R. Oshiro, Chair
Rep. Marilyn B. Lee, Vice Chair
Rep. Isaac W. Choy
Rep. Chris Lee
Rep. Ty Cullen
Rep. Dee Morikawa
Rep. Heather Giugni
Rep. James Kunane Tokioka
Rep. Sharon E. Har
Rep. Kyle T. Yamashita
Rep. Mark J. Hashem
Rep. Barbara C. Marumoto
Rep. Linda Ichiyama
Rep. Gil Riviere
Rep. Jo Jordan
Rep. Gene Ward
Rep. Derek S.K. Kawakami

DATE: Thursday, March 29, 2012

TIME: 4:30p.m.

PLACE: Conference Room 308, State Capitol, 415 South Beretania Street

RE: TESTIMONY IN SUPPORT OF **SB 2576 SD1 HD2 WITH AMENDMENTS** -
RELATING TO PROSTITUTION

Dear Committee on Judiciary:

The Pacific Alliance to Stop Slavery (PASS) is in strong support of this bill. PASS serves victims of Human Trafficking for sex or labor in the state of Hawaii and has a support base of over 7000 persons.

This bill will allow survivors who have been intimidated, forced, or defrauded into prostitution to file motions to petition the court to vacate convictions of prostitution offenses suffered while in servitude under their pimp/traffickers. Passing this bill into law is simply the right thing to do.

Victims of sex-trafficking, when rehabilitated and ready to enter back into society, face serious repercussions, societal bias, shame, sexual harassment and other debilitating factors when having to divulge prostitution on their records when they were held in sexual slavery against their will. They are the victims not the criminals.



THE PACIFIC ALLIANCE
TO STOP SLAVERY

PASS concurs with amendment proposed by Imua Alliance and respectfully request the following amendments:

The following amendments would strengthen the measure and significantly lessen the concerns of the Attorney General as stated in the House JUD hearing on 3/22/12.

1. First, we urge you to add a subsection (e) to Section 2, subsection (2) of this bill, to read:

(e) Be subject to the review, approval, and certification of the prosecuting attorney of the county in which the conviction occurred.

2. Additionally, Section 3, subsection (4)(a) requires the following technical amendment: For the first offense, when the court has not deferred further proceedings pursuant to chapter 853, a mandatory fine of [~~\$500~~]\$1,000 and the person may be sentenced to a term of imprisonment of not more than thirty days or probation; provided that in the event the convicted person defaults in payment of the [~~\$500~~] \$1,000 fine, and the default was not contumacious, the court may sentence the person to perform services for the community as authorized by section 706-605(1).

We respectfully disagree with the Prosecutor's Office that the existing Rule 40 is an effective alternative to vacating convictions. Expungement of a conviction [as offered in Rule 40] greatly differs from a vacating of conviction. Victims are not criminals whose pass "crimes" must be expunged or pardoned. They are victims who often are re-victimized through our system which misidentifies them as somehow complicit with their own criminal exploitation. As such, these victims deserve vacating of any conviction as a result of this systemic misidentification.

Thank you very much for hearing this much needed legislation.

Sincerely,

Kathryn Xian
Executive Director
Pacific Alliance to Stop Slavery



POLARIS PROJECT

FOR A WORLD WITHOUT SLAVERY

TESTIMONY IN SUPPORT OF SB 2576 PRESENTED TO THE FINANCE COMMITTEE MARCH 29, 2012

Mr. Chairman and members of the Finance Committee:

On behalf of the more than 40,000 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 48,000 calls from across the nation. We have also provided victim services to more than 500 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 Senator Chun Oakland for introducing SB 2576. We greatly appreciate the Hawaii Legislature's concern for and willingness to address the crime of human trafficking, a grave violation of human rights.

SB 2576 – Vacating Convictions for Sex Trafficking Victims

SB 2576 is a critical component of Hawaii enacting a comprehensive legal framework to combat human trafficking. It will allow victims of human trafficking who were forced into prostitution to file a motion to have unjust convictions for prostitution vacated from their record.

Often times, victims of sex trafficking are held in conditions of slavery for months or even years. During that time they are likely to have come into contact with law enforcement and be arrested for prostitution-related offenses. Because they are not always identifiable once picked up off the street, sometimes these victims can go

through the system and be convicted or even plead guilty to having engaged in prostitution. These convictions inhibit the ability of these victims to move forward with their lives because they can no longer apply for certain jobs, loans, or go back to school as a result of the stigma that is attached to having to report a conviction for prostitution. This bill will permit these victims to seek redress in Hawaii's courts and ultimately allow them a clean slate once they have been rescued from their trafficking situation.

Polaris Project initially began working on these Vacating Convictions bills as we came to realize that the victims of trafficking we were serving in the D.C., Virginia, and Maryland areas had difficulty seeking employment or going back to school as a direct result of these convictions. This is a new, innovative tool we have to enable victims of human trafficking to move forward with their lives once they've been rescued. New York was the first state to pass this legislation in 2010 and it received strong support by the legal community. In 2011, Polaris Project helped to successfully pass additional laws in Illinois, Maryland, and Nevada. In 2012, several states have similar bills pending.

The need for this legislation cannot be over stated as we seek to create a comprehensive, victim-centered, legal framework to combat human trafficking in the great state of Hawaii. The 2007 Trafficking In Persons Report put out by the U.S. State Department endorsed this victim-centered approach that is captured by SB 2576:

“Confirmed trafficking victims should not be punished for crimes that are a direct result of being trafficked—such as not holding proper immigration documents or violation of prostitution, labor, or begging statutes. Trafficking victims should not be detained in criminal detention facilities, except in extreme circumstances. They should be treated as victims.”

It is our hope that the House Finance Committee feels the same way about victims who have been forced into prostitution. That we should seek to allow those victims redress for unjust convictions rendered against them and endeavor to ensure that their transition to living a full and healthy life is met with understanding and compassion toward the situation and horrific crimes to which they have survived.

Attorney General Concerns

Polaris Project has spoken with the Attorney General's Office and is aware of their previous concerns with this legislation. As a result, we proposed several amendments that were adopted in the Senate that hopefully will alleviate their concerns. It is our

understanding that additional amendments were also adopted in House Judiciary to further reduce any lingering concerns with SB 2123.

We believe that our prior amendments, as well as the amendments from our partner organizations, adequately addressed many of the concerns raised by the Attorney General, as similar language has been adopted in Nevada, Illinois, and New York. Some of the language has been left intentionally broad so that judges can make the ultimate determination in granting a motion under this section. For instance, in *New York vs. G.M.*, 2011 NY Slip Op 21176 – NY, a case in which the District Attorney of Queens joined the petitioner in her motion to vacate her conviction, the petitioner had been a victim of trafficking in the late 1990's, but was unable to seek redress until this law was passed. Thus, the need to emphasize a "reasonable period of time" after the person ceases to be a victim of trafficking, taking into consideration the petitioner's safety, as well as the safety of others, is an important component of the bill especially for those persons who were victimized several years ago.

In the *G.M.* case, the petitioner had been beaten and permanently disfigured by her trafficker, raped repeatedly, and imprisoned against her will. Because her trafficker was also her husband and she was a foreign national from the Dominican Republic, she was vulnerable to becoming a sex trafficking victim and going through the criminal justice system undetected as a victim of a crime. Indeed, the factual background of her case stated:

"He exercised complete control over her, physically and psychologically, such that her every move was tracked by [DS] and she was not allowed to leave the room or apartment without him."

This type of control is typical in domestic pimp controlled sex trafficking where the pimp or trafficker controls every aspect of the victim's life, as indicated by notorious pimp Iceberg Slim:

"Fast, I got to find out the secrets of pimping. I really want to control the whole whore. I want to be the boss of her life, even her thoughts. I got to control them that Lincoln never freed the slaves."

-Ice Berg Slim (pimp/sex trafficker)

This is the mentality of pimps/traffickers and the reality facing victims of sex trafficking. It is likely that in many instances victims of sex trafficking will go undetected by law enforcement and prosecutors because they don't self-identify as victims and identify more with their trafficker. In these instances, where victims of sex

trafficking are in fact slaves as a result of violence, isolation, and psychological and emotional manipulation that their traffickers use to control them, this remedy is absolutely paramount to allowing a victim to be able to move on with their life after they have been rescued or escape.

We believe that the changes that were made in the Senate and the House Judiciary Committee address the Attorney General's concern and that this bill is essential to victims of sex trafficking in Hawaii.

Positive Economic Impact

This bill will actually have a positive economic impact by allowing victims of trafficking to move on with their lives and obtain adequate employment, obtain higher education, or apply for loans. Often times, victims who have been convicted of prostitution related offenses struggle to find gainful employment because of the stigma that is attached to having a prostitution-conviction on their record. Removal of these convictions will permit victims to fully recover and apply for jobs, loans, and education that they might otherwise be ineligible for.

Support SB 2576

Therefore, we strongly ask you and other members of the Finance Committee to vote favorably upon SB 2576 and bring justice to victims who have been denied it. If you should have any questions, please feel free to call me at (202) 745-1001, ext. 132. Mahalo.

-James L. Dold, J.D.

March 28, 2012

EQUALITY NOW

MEMORANDUM IN SUPPORT OF S.B. 2576

Committee: House Committee on Finance

Hearing Date: March 29, 2012 (4:30 p.m.), Conference Room 308

Honorable Chair Oshiro and Committee Members:

Equality Now is an international human rights organization that works to protect and promote the rights of women and girls throughout the world. Among issues of concern to Equality Now are human trafficking, which disproportionately affects women and girls, sex tourism and other practices that promote the commercial sexual exploitation of women and girls. In the past we have worked with our partners at the Pacific Alliance to Stop Slavery on Hawaii's sex tourism law and last year's bills, H.B. 141 and H.B. 240, which outlawed labor trafficking and strengthened existing anti-prostitution laws respectively.

Equality Now endorses the 4 P's approach to combat human trafficking; prevention, protection, prosecution and promoting partnerships. The passage of H.B. 240 represented a significant step toward easing the prosecution of the johns that create the demand for sex trafficking and the pimps that traffic women and girls to satisfy that demand. The package of bills submitted this year; H.B. 2234, H.B. 2235, H.B. 1994, H.B. 1995, H.B. 2233 and S.B. 2122 if passed will provide the prevention, protection and partnership assistance to effectively combat sex trafficking and will make Hawaii a national model in this regard.

Equality Now strongly supports S.B. 2576. This "Vacating Convictions" bill will permit a person convicted of committing prostitution related offenses under HRS §712-1200, HRS §712-1206 or HRS §712-1207 to file a motion to vacate the conviction if the individuals participation in the offense was the result of her being a victim of sex trafficking as provided for under Hawaii or Federal law. The relief provided by S.B. 2576 would also be available to individuals convicted of a lesser offense when originally charged with a violation of either HRS §712-1200, §712-1206 or §712-1207. S.B. 2576 recognizes the reality that many women in prostitution are there as a result of force, fraud or coercion. Others are less than 18 years of age. No person in prostitution under any of these circumstances can freely decide to choose to participate in a commercial sex act. As such they lack the ability to form the necessary intent to commit the prostitution crimes for which they are often convicted.

The ability of a sex trafficking victim to free herself from that situation is often hampered by prostitution convictions obtained when she was under the control of a pimp. These criminal convictions can make a trafficking victim ineligible for public housing, education loans, many forms of employment or subject them to deportation if not U.S. citizens. Without the ability to obtain housing, to find a job or to enhance their education it is likely that a sex trafficking victim will remain under the influence of her pimp or at least remain subject to his threats and false promises. As such, she is also unlikely to be able to assist in the prosecution of her traffickers.

It must also be noted that many prostitution convictions are the result of plea bargains where the accused's attorney was provided by her trafficker. These attorneys represent the interest of the traffickers who pay them and they regard the traffickers, not their victims, as their client. Their goal when representing a trafficking victim in a prostitution case is to get her released and back into prostitution as soon as possible. Their counsel is ineffective, their legal ethics are conflicted and the trafficking victim is victimized again.

Equality Now strongly supports S.B. 2576 and urges that it be passed.

Respectfully Submitted,

Kenneth J. Franzblau
Equality Now
Director of Anti-Trafficking Initiatives
250 West 57th Street
New York, New York 10019
212-586-0906
Kenjf57@yahoo.com

Dear Finance Committee

I strongly encourage the Finance Committee to pass SB 2576. I currently work as a advocate for victims of sex trafficking in our state. This bill will allow the victims of trafficking who have been intimidated, forced, or defrauded into prostitution to file motions to petition the court to vacate convictions of prostitution offenses suffered while in servitude under their pimp/traffickers. When victims of sex trafficking are rehabilitated back into society there is serious risk for potential repercussions, harassment, social stigma and bias, shame and guilt and several other factors when having to discuss and explain their "prostitution records" when in fact they were being "forced into prostitution" and held against their wills by their traffickers. They are the victims not the criminals. The current law and system misidentifies these victims at the criminals and their "crimes" need to be pardoned. These victims deserve vacating of any conviction as a result of this systemic misidentification.

Thank you very much for hearing this measure.

Jessica Munoz
Justice Project Hawaii
Courage House Hawaii

TESTIMONY

Harm Reduction Hawaii
c/o 1658 Liholiho St #205
Honolulu, HI 96822

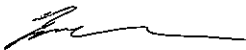
To the House Committee on Finance
Regarding SB 2576, SD1, HD2 relating to prostitution
To be heard Thursday, March 29, 2012, at 4:30 PM in conference room 308

Dear Committee Members:

Since there seems to be no effort to address the concerns we have raised in prior testimony on this bill we can only oppose it now. The bill is enormously discriminatory towards sex workers who are attempting to move on with their lives in the legal world, but are not "victims" as described by the proponents of this bill. It is particularly troubling in that transgendered women, who are about 100 times more likely to end up in prostitution than genetic women and are generally on the bottom of the social scale, will not be able to participate. No transgendered women selling sex has a pimp.

I have been involved with Kulia Na Mamo, a local non-profit organization that provides social services to transgendered women. It is a lot of work to help people move on from incarceration, drug addiction, and streetwalking. Honestly, considering the utility of this work you'd think the legislature would want to give such organizations all the help they can. Instead you choose to throw these people under the bus in a mad scramble to help a tiny number of people who may have been trafficking victims. As a transgendered woman myself, I am frankly offended.

Sincerely:



Tracy Ryan
Executive Director, Harm Reduction Hawaii

(808) 534-1846

tracyar@hawaiiantel.net

Christopher D. Yanuaria
1800 East-West Road
Honolulu, HI 96822

Rep. Marcus R. Oshiro, Chair
Rep. Marilyn B. Lee, Vice Chair

COMMITTEE ON FINANCE

Thursday, March 29, 2012 4:30 A.M.

State Capitol, 415 South Beretania Street, Conference Room 308

RE: SB2576, SD2, HD2 RELATING TO PROSTITUTION

Authorizes a person convicted of committing the offense of prostitution to file a motion to vacate the conviction under certain circumstances. Establishes procedures for the motion to vacate. Effective July 1, 2050.

Aloha Chair Rep. Marcus R. Oshiro and Vice Chair Rep. Marilyn B. Lee:

My name is Christopher Yanuaria, a graduate student at Myron B. Thompson School of Social Work and a Hawaii resident. I am testifying in **STRONG SUPPORT OF SB2576, SD2, HD2.**

SB 2576 is important because it will allow for vacating prostitution convictions where the defendant can show he or she was the victim of sex trafficking. Those who have been wrongfully convicted as "prostitutes" rather than "sex trafficking victims," after they have been rescued, have a difficult time reintegrating back into society because their criminal record stays with them. Every time he/she goes in for a job interview, fills out a loan form, credit check, or visa application, he/she must disclose his/her arrests.

Also, engaging in "prostitution" carries much stigma, which makes it very difficult when a survivor of sexual slavery tries to find work and/or apply for citizenship.

I urge you to please support SB2576, SD2, HD2

Mahalo,

Christopher Yanuaria

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 28, 2012 11:11 AM
To: FINTestimony
Cc: tanalee08@yahoo.com
Subject: Testimony for SB2576 on 3/29/2012 4:30:00 PM

Testimony for FIN 3/29/2012 4:30:00 PM SB2576

Conference room: 308
Testifier position: Support
Testifier will be present: No
Submitted by: Tana-Lee Rebhan-Kang
Organization: Individual
E-mail: tanalee08@yahoo.com
Submitted on: 3/28/2012

Comments:

Thank you for holding this hearing.

Please do not shorten the statute of limitations on this bill. PTSD has no finite duration. We all conquer traumatic experiences in our own time.

Again, if law enforcement would concentrate on arresting the johns/pimps/traffickers, much of this discussion would be moot.

_ support the intent of this bill and agree with the testimonies from Kathryn Xian (PASS) and Kris Coffield (Imua Alliance).

FINTestimony

From: mailinglist@capitol.hawaii.gov
ent: Wednesday, March 28, 2012 10:38 PM
To: FINTestimony
Cc: eskaianuhea@yahoo.com
Subject: Testimony for SB2576 on 3/29/2012 4:30:00 PM

Testimony for FIN 3/29/2012 4:30:00 PM SB2576

Conference room: 308
Testifier position: Support
Testifier will be present: No
Submitted by: elsa souza
Organization: Individual
E-mail: eskaianuhea@yahoo.com
Submitted on: 3/28/2012

Comments:

I am a teacher by trade and am currently substitute teaching. I realize there are circumstances where these children are being romanced into this life style. They have no concept of the danger or long range destructive effects it will have on their lives. I am in support of SB 2576 Vacating convictions for victims of sex trafficking.

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 28, 2012 11:12 PM
To: FINTestimony
Cc: veronica@traffickjamming.org
Subject: Testimony for SB2576 on 3/29/2012 4:30:00 PM

Testimony for FIN 3/29/2012 4:30:00 PM SB2576

Conference room: 308
Testifier position: Support
Testifier will be present: No
Submitted by: Veronica Garcia
Organization: Individual
E-mail: veronica@traffickjamming.org
Submitted on: 3/28/2012

Comments:

Dear Representative Oshiro and Representative Lee,

I thank you and your committee for hearing this bill relating to prostitution. I am writing in strong support of the vacating convictions bill. Prostitution carries one of the heaviest societal stigmas, one that continues even when girls and women leave prostitution and/or their pimp/trafficker. It is extremely challenging for women to apply for jobs and education with their previous background. Sexual harassment from strangers and prospective employers and co-workers is common. It becomes far more daunting for international persons who were formerly involved with prostitution to apply for a visa, which would generally be turned down when a prostitution offense is revealed. Now, consider that a person who is forced into prostitution. This person was involved in prostitution NOT out of her own will. However this person came into prostitution initially - whether out of survival, recruitment by a pimp or other prostitute, lured in by a boyfriend, or in some cases, abducted and outright forced to prostitute - and someone promoted her prostitution with the use of force, fraud, or coercion to keep her as a prostitute, and this person was arrested and convicted for a prostitution offense, which criminalizes the person and not the person profiting off her. This is incredibly unjust in our society, in our criminal justice system, and should be written into law. We know that people are victimized in our society and world. During a person's victimization, he or she may be forced to commit acts that are against a law, but whose actions are we criminalizing? We are not going after the source of this criminal behavior, and as a state legislature, it needs to address the source of criminal offenses and not the visible symptoms. I sincerely ask that you support this bill to give survivors of trafficking and forced prostitution an opportunity to vacate their offenses during the time of their victimization. The language is clear, specific, and solid in this bill. Let us follow the lead of several other states who have pioneered this act of justice. Thank you very much for your time.

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 28, 2012 8:50 PM
To: FINTestimony
Cc: ginaspacespace@hotmail.com
Subject: Testimony for SB2576 on 3/29/2012 4:30:00 PM
Attachments: SB2576_SD1_.pdf

Testimony for FIN 3/29/2012 4:30:00 PM SB2576

Conference room: 308
Testifier position: Support
Testifier will be present: Yes
Submitted by: Gina Snowden
Organization: PASS
E-mail: ginaspacespace@hotmail.com
Submitted on: 3/28/2012

Comments:

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 27, 2012 2:17 PM
To: FINTestimony
Cc: tadiarice@gmail.com
Subject: Testimony for SB2576 on 3/29/2012 4:30:00 PM

Testimony for FIN 3/29/2012 4:30:00 PM SB2576

Conference room: 308
Testifier position: Support
Testifier will be present: No
Submitted by: tadia rice
Organization: Individual
E-mail: tadiarice@gmail.com
Submitted on: 3/27/2012

Comments:

FINTestimony

m: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 27, 2012 6:50 PM
To: FINTestimony
Cc: launahale@yahoo.com
Subject: Testimony for SB2576 on 3/29/2012 4:30:00 PM

Testimony for FIN 3/29/2012 4:30:00 PM SB2576

Conference room: 308
Testifier position: Support
Testifier will be present: No
Submitted by: Benton Pang
Organization: Individual
E-mail: launahale@yahoo.com
Submitted on: 3/27/2012

Comments: