

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEE ON WAYS AND MEANS
ON
SENATE BILL NO. 2579, S.D. 1

February 28, 2012

RELATING TO MINORS

Senate Bill No. 2579, S.D. 1, establishes a new chapter in the Hawaii Revised Statutes on Safe Harbor for Sexually Exploited Children; creates the Minor Victims of Prostitution Special Fund; grants the Family Court exclusive jurisdiction over a person under 18 who is charged with prostitution; and establishes that a person under 18 and suspected of or charged with prostitution shall not be prosecuted, and shall be subject to the safe harbor provisions of this bill.

While the Department of Budget and Finance takes no position on the various amendments to address the problems of minors who are victims of human trafficking, as a matter of general policy, the department does not support the creation of any special fund which does not meet the requirements of Section 37-52.3 of the Hawaii Revised Statutes. Special or revolving funds should: 1) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program; 2) provide an appropriate means of financing for the program or activity; and 3) demonstrate the capacity to be financially self-sustaining. In regards to Senate Bill No. 2579, S.D. 1, it is difficult to determine whether the fund will be self-sustaining.

I encourage the Legislature to scrutinize the fiscal and operational plan for this program to ensure that it does conform to the requirements of Section 37-52.3, Hawaii Revised Statutes.



DATE: February 27, 2012

ATTN: SENATE COMMITTEE ON WAYS AND MEANS

Sen. David Ige, Chair
Sen. Michelle Kidani, Vice-Chair
Sen. Suzanne Chun Oakland
Sen. Donna Mercado Kim
Sen. Donovan M. Dela Cruz
Sen. Ronald D. Kouchi
Sen. J. Kalani English
Sen. Pohai Ryan
Sen. Will Espero
Sen. Jill N. Tokuda
Sen. Carol Fukunaga
Sen. Glenn Wakai
Sen. Gilbert Kahele
Sen. Sam Slom

RE: TESTIMONY IN STRONG SUPPORT OF SB2579 SD1 - RELATING TO MINORS

Dear Committee on Human Services & Committee on Judiciary and Labor:

The Pacific Alliance to Stop Slavery (PASS) is in strong support of SB2579 SD1. PASS serves victims of Human Trafficking for sex or labor in the state of Hawaii and has a support base of over 7000 persons. We are in communion with Imua Alliance and Polaris Project with regard to this important bill.

Hawaii is no stranger to child sex-trafficking. During the rule of King Kamehameha III (1825-1854), the King enacted law requiring school headmasters to report missing children to authorities because children were being lured to the ports and prostituted by foreign men. This child prostitution not only traumatized victimized keiki and their families but also spread diseases that almost wiped out the entire Hawaiian population. Prior to this child-related law, in 1825, Leoiki, meaning "small voice" became the first woman of Hawaiian blood to be ascribed in the legal record as being sold for a price for one year to a foreign sailor.

Today, not much has changed and in fact the problem has gotten exponentially worse. It is critical to understand the dynamic of coercion surrounding victims of sex trafficking and promoting prostitution in the first degree. In these situations, the victim is hardly ever able to cry out for help out of fear of repercussions from the trafficker.



It is important to note the reason why child abuse, by family members, became mandatory to report— due to the nature of the crime of child abuse. The ability for the abuser to "hide" the crime and ability to "control" the child from exposing the abuse was one of the key reasons. However, there is a significant increase in child abuse at the hands of adults who are not related to the child victim. In our line of work, the abuse that children suffer at the hands of sex-traffickers is not only horrendous, it is on the rise—and for this reason non-family members must be included in Hawaii's child abuse statutes as possible abusers of children.

It is also absolutely necessary and a priority to require law enforcement to report child abuse that includes prostitution activity, in short, sex-trafficking of children. Our members have repeatedly witnessed law enforcement release patrons, without arrest or investigation, who have verbally confessed having sex with prostituted children as young as 15 years old. We have also seen law enforcement refuse to retrieve a reported endangered runaway identified on the streets of Waikiki in the company of a patron.

Federal and state law clearly defines that any prostituted child under the age of 18 is a victim of sex-trafficking. Unfortunately, they are not being treated as such with our current system.

As the only abolitionist agency doing outreach on the streets of Waikiki and downtown Honolulu, we aver that 100% of all prostituted children in Hawaii have pimp/traffickers controlling them. There is absolutely no such thing as an "independent child prostitute," and law enforcement should automatically act to protect this vulnerable population, not ignore them.

Law enforcement and social services must have a plan of response when encountering child victims of sex-trafficking, which includes creating a High Risk Identification program for repeat runaways. Unfortunately, HPD disbanded its Runaways Division in 2010 making it difficult for police to track this high risk population, which is one of the reasons this bill exists; to require an appropriate response. It is up to HPD to institute such a High Risk Identification program based on repeat runaways with a history of sexual assault, but it falls upon the legislature to enact laws to require appropriate identification and handling of child victims of sex-trafficking as King Kamehameha III once established in the mid 19th century.

It is also extremely important to raise the statute of limitations to the longest amount of time allowable by statute: six years, as opposed to just two. Child victims of trafficking sometimes take years to be able to come forward and divulge past prostitution/sex-trafficking because they spend those years in silence and shame, without counseling, actually believing that their own commercial sexual exploitation was in some way their fault.

If a person, during the course of a prostitution investigation, is discovered to be a child victim of sex-trafficking, that child should be granted immunity and recognized as a victim.

Furthermore, patrons of prostituted children must suffer a strong economic penalty for purchasing children for sex. The penalties for patrons are currently petty misdemeanors; the same penalty for riding a bicycle illegally on the sidewalk. Penalties for the demand for prostitution/sex-trafficking have not been raised since the state codified its laws over 30 years



The PACIFIC ALLIANCE
to STOP SLAVERY

ago. A \$5000 penalty for patrons of prostituted children, as proposed in SB2579, is only one step in the right direction in adequately addressing ending the demand.

For the sake of the most vulnerable victims in the state of Hawaii, we urge you to pass this measure with the stated amendments above.

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

TESTIMONY FOR SENATE BILL 2579, SENATE DRAFT 1, RELATING TO MINORS

**Senate Committee on Ways and Means
Hon. David Y. Ige, Chair
Hon. Michelle N. Kidani, Vice Chair**

**Monday, February 28, 2012, 9:00 AM
State Capitol, Conference Room 211**

Honorable Chair Ige and committee members:

I am Kris Coffield, representing the IMUAlliance, 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 SB 2579, SD1, relating to minors.

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 IMUAlliance 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 IMUAlliance strongly supports the enactment of “safe harbors” legislation that increases funding for underage trafficking survivors, requires mandatory reporting of suspected trafficking or prostitution related abuses, extends the statute of limitations under the prostitution coercion liability act, and grants immunity for underage victims of sex crimes. That said, there are several amendments that we feel would improve the proposed measure.

First, given lawmakers' attempts to better account for and manage the state's nebulous special funds network, the IMUAlliance strongly encourages your committee to revise Section 2, subsection (a), §346- of this proposal to direct the disbursement of fines collected from the Section's requested \$5,000 penalty provision into the Department of Health's Domestic Violence and Sexual Assault Special Fund (DVSASF), rather than a newly created minor victims of

prostitution special fund. Established under HRS §321-1.3, the DVSASF is used by DOH for “programs and grants or purchases of services consistent with chapter 42D that support or provide domestic violence and sexual assault intervention or prevention,” with fund monies being spent on new or existing programs in a manner that supplements any current funding such programs receive.

Many of the concerns voiced by victims' advocates revolve around public awareness, education, and the provision of medical assistance to injured persons. In the past, the DVSASF has been used for all three. For example, this fund enabled the development of an infrastructure model to address sexual violence prevention at the UH-Mānoa Women's Center. The fund was also instrumental in providing resources for JBN Solutions to craft a comprehensive evaluation of the Sex Abuse Treatment Center sexual violence prevention curricula for K-12 teachers, as well as performance-based prevention education conducted by Honolulu Theater for Youth. Finally, DOH contracted the Hawaii State Coalition Against Domestic Violence, using DVSASF funds, to implement the department's Domestic Violence Strategic Plan.

To execute the requested change, we suggest replacing the current contents of Section 2 with the following language:

Section 1. Chapter 346, part I, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

§706- Minor Victims of Prostitution Monetary Assessment. (1) In addition to any disposition authorized by chapter 706 or 853, any person who is:

(a) Convicted of an offense under part I of chapter 712 when the offense involves prostitution or promoting prostitution of a person less than eighteen years old; or

(b) Charged with an offense under part I of chapter 712 and who has been granted a deferred acceptance of guilty or no contest plea when the offense involves prostitution or promoting prostitution of a person less than eighteen years old;

shall be ordered to pay a monetary assessment not to exceed \$5,000.

Notwithstanding sections 706-640 and 706-641 and any other law to the contrary, the assessments provided by this section shall be in addition to and not in lieu of, and shall not be used to offset or reduce, any fine authorized or required by law.

- (2) Appropriations by the legislature and all monetary assessments paid and interest accrued on funds collected pursuant to this section shall be deposited into the domestic violence and sexual assault special fund administered and expended by the department of health in accordance with HRS 321-1.3, and shall be used by the Department of Human Services to make grants to non-governmental organizations to provide services for victims encountered during the course of an investigation into any violation of HRS 712-1202(1)(a) or 712-1202(1)(b), provided such victims constitute persons whose prostitution was advanced by methods as defined by HRS 712-1202(1)(a) or 712-1202(1)(b).
- (3) Probation fees imposed under part III of chapter 706 shall be paid before payment of the monetary assessment.

Relatedly, the IMUAlliance urges the committee to use this bill to amend HRS 321-1.3(d)(2), mandating the DVSASF annual report to the Legislature, to read: “Recommendations on how to improve services for victims of domestic violence, sexual assault, and human trafficking.”

Additionally, at the technical level, the last line of Section 6, subsection (4) should be amended to read: “Exemption from prosecution under this section shall not apply to patrons of prostitution or persons who procure or solicit patrons for prostitution.”

Again, the IMUAlliance thanks you for your hard work 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 this bill.

Sincerely,
Kris Coffield
Legislative Director
IMUAlliance

TAHIRIH ASSOCIATION

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February 25, 2012

David Y. Ige
Senate District 16
Hawaii State Capitol, Room 215
Honolulu, HI

COMMITTEE ON WAYS AND MEANS
Senator David Y. Ige, Chair
Senator Michelle N. Kidani, Vice Chair

DATE: Tuesday, February 7, 2012
TIME: 1:30 pm
PLACE: Conference Room 16
State Capitol

TESTIMONY IN STRONG SUPPORT OF S.B. 2579 SD1 – RELATING TO MINORS

Dear Senator Ige And Committee On Ways And Means:

As founder of the Tahirih Association (www.TahirihAssociation.org), a not-for-profit 501(c)3 membership organization that empowers girls and women around the world, we urge Hawaii lawmakers to continue their battle against human trafficking by passing bills that increase services to victims.

On behalf of our members, the Tahirih Association urges you to schedule a hearing for, and support, the measure SB 2579 SD1 that would establish a new chapter for the safe harbor of sexually exploited children; establish the minor victims of prostitution special fund; grant the family court exclusive jurisdiction over any person under eighteen who is charged with certain offenses of prostitution; amend the statute of limitations under the prostitution coercion liability act; establish that a person who is under eighteen and suspected of or charged with a certain offense of prostitution shall be not be prosecuted, and shall be subject to the provisions of the safe harbor for sexually exploited children chapter.

Thanking you in advance for your consideration.

A handwritten signature in black ink that reads "Tadia Rice". The signature is written in a cursive, flowing style.

Tadia Rice
Executive Director

DATE: February 26th, 2012

ATTN: SENATE COMMITTEE ON WAYS AND MEANS

Senator David Y. Ige, Chair

Senator Michelle N. Kidani, Vice Chair

RE: TESTIMONY IS STRONG SUPPORT OF SB 2579 – RELATING TO MINORS

Establishes a new chapter for the safe harbor of sexually exploited children. Establishes the minor victims of prostitution special fund. Grants the family court exclusive jurisdiction over any person under eighteen who is charged with certain offenses of prostitution. Amends the statute of limitations under the prostitution coercion liability act. Establishes that a person who is under eighteen and suspected of or charged with a certain offense of prostitution shall be not be prosecuted, and shall be subject to the provisions of the safe harbor for sexually exploited children chapter.

Honorable Chair Ige, Vice Chair Kidani, and Committee Members,

My name is Emily Morihara, a graduate student at the Myron B. Thompson School of Social Work at the University of Hawai'i at Manoa. **I strongly support Senate Bill 2579.**

Recently I have become aware of the existence of human sex trafficking in Hawai'i and the staggering amount of minors forced into prostitution. Being that I am just becoming familiar with this social issue, I am not as educated as other advocates. What I do know is that prosecuting a minor for sex work is completely ignorant, due to the fact that children under the age of 18 are not even able to legally consent to sex.

These individuals are not only victims of child sexual abuse, but they will carry this trauma with them for the rest of their lives. It is very unlikely that an underage child is an independent prostitute, which means that they are being exploited by an adult. By prosecuting them for something that they are not willingly consenting to, is re-victimizing/blaming the innocent and ignoring the people who are actually at fault.

Having a program available to survivors of prostitution and sexual slavery would help these individuals recover from possible substance addictions, disorders, or diseases developed while they were being exploited. These children would be able to transition into a life of freedom.

I urge the Senate Committee on Ways and Means to look at this as an opportunity to not only help the most vulnerable in our society into recovery, but also as a preventative measure for issues that could arise if ignored – substance abuse, sexually transmitted diseases/infections, mental disorders and illnesses. Please pass SB 2579. Thank you for your time and consideration.

Sincerely,
Emily M. Morihara

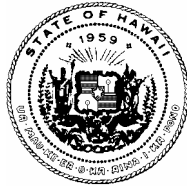
From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: launahele@yahoo.com
Subject: Testimony for SB2579 on 2/28/2012 9:00:00 AM
Date: Friday, February 24, 2012 9:15:03 AM

Testimony for WAM 2/28/2012 9:00:00 AM SB2579

Conference room: 211
Testifier position: Support
Testifier will be present: No
Submitted by: Benton Pang
Organization: Individual
E-mail: launahele@yahoo.com
Submitted on: 2/24/2012

Comments:

I fully support this measure for the safety of our keiki.



STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809

February 28, 2012

TO: The Honorable David Y. Ige, Chair
Senate Committee on Ways and Means

FROM: Patricia McManaman, Director

SUBJECT: **S.B. 2579, S.D. 1 - RELATING TO MINORS**

Hearing: Tuesday, February 28, 2012; 9:00 a.m.
Conference Room 211, State Capitol

PURPOSE: The purpose of S.B 2579, S. D. 1, is to create a new chapter for the safe harbor of sexually exploited children; establish a special fund; extend the jurisdiction of the family court; amend the statute of limitations; and exempt a minor suspect charged with prostitution from prosecution while subjecting that minor to the provision of the new safe harbor for sexually exploited children chapter.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent of the bill to provide protections and services for sexually exploited children. While the Department agrees that this is a population that needs services, we must respectfully oppose the proposal to place these services within the Department of Human Services for multiple reasons, including lack of staff with an expertise in human trafficking and services appropriate for the victims of human trafficking, lack of sufficient staff to adequately address the Department's current

mandates regarding child welfare services, and not the least of the concerns is the cost of such a project.

The proposal appears to build on the premise that these children need "child protective services" and therefore the services provided to these children should be provided by or facilitated by the DHS. The Department begs to differ with that position and offers that these the youth need services that are "protective of children", and that the needed services are not in alignment with the existing concepts and models of child protective services in Federal and State rules and statutes. Child protective services are focused on protecting children from harm by their family or caretakers with the goals for the child and family oriented services being to safely reunify a child with their family or on the other end of the spectrum, to provide an alternate safe permanent legal family for the child through adoption.

If we use the Office of Youth Services safe house, Ke Kama Pono in Honokaa, as an estimate, it would cost, conservatively, \$1,000,000 (\$500,000 each - one for male, one for female) for the gender specific safe house facilities for each geographic location. The \$500,000 per site is for 8 beds, 24/7, fully staffed and does not include lease rental costs because the State owns the building that the Honakaa safe house is located.

This bill proposes responsibilities beyond the Department's Federal and State mandates related to intrafamilial child abuse and neglect, and would place demands on the Department that could not be met with our limited resources.

Thank you for the opportunity to testify.