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CITY AND COUNTY OF HONOLULU

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**THE HONORABLE DAVID Y. IGE, CHAIR
SENATE COMMITTEE ON WAYS AND MEANS**

**THE HONORABLE MICHELLE N. KIDANI, VICE CHAIR
SENATE COMMITTEE ON WAYS AND MEANS**

**Twenty-sixth State Legislature
Regular Session of 2012
State of Hawai`i**

February 28, 2012

RE: S.B. 2579, S.D. 1; RELATING TO MINORS

Chair Ige, and members of the Senate Committees on Ways and Means, the Department of the Prosecuting Attorney, City and County of Honolulu, submits the following testimony **in regard to Senate Bill 2579, S.D. 1**. We will provide separate comments on each Section of the Bill as some have merit, others do not, and there are some for which we will take no position.

Our Department takes no position on Section 1 of the bill except for commenting that we are not in agreement with the purpose that all minors should be automatically exempted from prosecution under H.R.S Chapter 712-1200. As to

Sections 2 and 3 of S.B. 2579 propose to amend two critical sections of the Hawaii Revised Statutes (H.R.S. Section 350-1 and H.R.S Section 453-14) which require mandatory reporting of certain types of injuries. **We oppose these Sections of the Bill.** The primary effect of the provisions in these sections is to vastly expand the coverage of these reporting mandates. This dramatic expansion creates both intended and unintended consequences that we believe are undesirable and impractical.

Section 1 of the bill proposes to amend H.R.S. 350-1 in a manner that expands child abuse reporting from its current focus on family abuse of children to any act or omission that results in harm to the physical or psychological health or welfare of a child under the age of eighteen. While we are all concerned about harm suffered by children in Hawaii, this proposed

expansion of the long standing reporting requirements for harm to children suffered in the home of family, would conceivably overwhelm the resource of both the Department of Human Services and county police departments. The broad nature of the both the types of harm and the list of mandated reporters in the current language of the statute serves to effectively insure that children at risk from family abuse do not escape the appropriate scrutiny of DHS or the police. The proposed expansion in this measure, however, would mean that any type of dispute, no matter how minor, that results in physical or psychological harm to a child, must now be reported by teachers, doctors, and the many other professionals covered by this statute. This means every playground dispute, sports related altercation, or accidental injury suffered by a minor under eighteen now fall under the province of the police or DHS. The practical implications and increased demands on these essential agencies would be both dramatic and debilitating. In addition, teachers or athletic coaches, who frequently observe children receiving injuries, may now have their entire day consumed by filing the new reports required by this bill.

Of equal concern is the removal of child and parental discretion in reporting non-family related physical or sexual abuse. While ideally we want to respond to any harm suffered by Hawaii's children, there are many legitimate concerns for both adults and youth when their ability to make critical life decisions are taken away from them. Parents, on the one hand, are legitimately concerned about the impact that the criminal justice process can have on a vulnerable child. A psychologically frail child can conceivably suffer serious harm when thrust into a criminal investigation without any ability for a parent to exercise their rights to consent to such a decision. Similarly, and of equal concern, is the potential chilling effect on teenagers seeking critical confidential care for a variety of sensitive physical injuries or sexually transmitted diseases. The net benefits of subjecting families struggling with making challenging decisions on seeking and receiving medical and psychological care for children to a mandatory reporting requirement are questionable at best.

The proposed amendments to H.R.S. Section 453-14, which involves reporting of certain types of injuries to police by medical personnel, carries risks and problems similar to those described above for expanding child abuse reporting. Our concerns again are both with the practical effect of this measure as well as the removal of the rights of an adult victim of violence to self determination. In an ideal world reporting abuse to the police would result in immediate and effective relief from harm. However, real life victims often must weigh many numerous and complex factors when deciding to report being the victim of violence. The existing provisions of this statute appropriately mandate that medical personnel report to the police when serious types of injuries, such as knife or gunshot wounds are suffered by individuals seeking medical assistance. Although the critical risk of serious injury or death to the victim or others from the perpetrator of such violence warrants a police report and investigation, we have great difficulty extending reporting requirements to any injury caused by the use of violence or sustained in a suspicious or unusual manner. Again we see a prospective exponential increase of reports to the police if this measure is enacted. And even more problematic is the removal of client/patient self determination from adult victims that this bill proposes. Many major medical providers currently have in place protocols which involve informing patients about options for law enforcement and social services intervention and assistance for victims of violence. While we understand the well intentioned purpose of this bill, providing additional resources to assist victims of violence who seek medical assistance offers a far greater likelihood that these victims will benefit than

requiring that every violent injury be reported to the police. And similar to our concern expressed above, the deterrent effect of this measure upon adult victims who need medical treatment posed by mandatory police reporting causes us additional grave concerns.

Thank you for the opportunity to testify on **S.B. 2579, S.D 1.**



POLARIS PROJECT

FOR A WORLD WITHOUT SLAVERY

**TESTIMONY IN SUPPORT OF SB 2579
PRESENTED TO THE WAYS AND MEANS COMMITTEE
FEBRUARY 28, 2012**

Mr. Chairman and members of the Ways and Means 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 45,000 calls from across the nation. We have also provided victim services to more than 450 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 2579. We greatly appreciate the Hawaii Legislature's concern for and willingness to address the crime of human trafficking, a grave violation of human rights.

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.

In the United States, the crime of human trafficking is so profitable that in recent years we have seen the emergence of organized criminal syndicates and street level gangs implicated in sex trafficking rings. I cannot impress upon members of the Human Services 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 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.

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.

SB 2579 is a critical component of Hawaii enacting a comprehensive legal framework to combat human trafficking, and more specifically child sex trafficking. There is a

shifting legal dynamic afoot across the nation in which we handle and respond to children who have been exploited through prostitution. In many states, children can still be prosecuted for being exploited through prostitution. There can be no graver human rights violation of children than to punish them for having been a victim of a crime. Under the Federal Trafficking Victims Protection Act, all children exploited through prostitution are seen as victims of a crime, not criminals themselves. There is a growing contingency of states across the country that have begun recognizing this shifting paradigm, including Washington, Connecticut, New York, Tennessee, Illinois, Minnesota, Vermont, and Massachusetts.

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 2579:

“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.”

Hawaii has the opportunity to not only join this growing list of states in treating children as victims, not criminals, but it also can set a new standard in the way in which these children are handled. The Safe Harbor bill pending before your committee would immunize children from prosecution for prostitution, as is done in Vermont, Tennessee, and Illinois, as well as provide needed services to these victims. The bill you have before you is one of the strongest, if not THE strongest safe harbor bills in the nation.

Support SB 2579

Therefore, we strongly ask you and other members of the Ways and Means Committee to vote favorably upon SB 2579 and bring justice to the children of Hawaii who have been exploited through prostitution. If you should have any questions, please feel free to call me at (202) 745-1001, ext. 132. Mahalo.

-James L. Dold, J.D.
February 28, 2012

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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DEPUTY CHIEFS

OUR REFERENCE **JM-TA**

February 28, 2012

The Honorable David Y. Ige, Chair
and Members
Committee on Ways and Means
The Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chair Ige and Members:

SUBJECT: Senate Bill No. 2579, S.D. 1, Relating to Minors

I am John McEntire, Major of the Narcotics/Vice Division of the Honolulu Police Department, City and County of Honolulu.

The Honolulu Police Department opposes Senate Bill No. 2579, S.D. 1, Relating to Minors.

Although we support the intent of providing child welfare, counseling, and other services to juveniles who have been sexually exploited, we do not feel that it is in the best interest of those juveniles, or the community in general, to issue blanket immunity from prosecution for section 712-1200, Hawaii Revised Statutes, as proposed in paragraph (6) of that section. One of the main reasons for protecting juveniles is that they often lack the maturity to make the best decisions regarding their personal welfare. The proposal has the effect of legalizing prostitution on their part; this hardly sends the right message to Hawaii's at-risk youth. Furthermore, exempting juveniles from prosecution may limit the police officer's ability to intervene on the child's behalf if there are no other apparent criminal or status offenses.

We do believe there will be cases where prosecution is not appropriate due to the victimization of the juvenile. However, this needs to be decided on a case-by-case basis, so the Family Court can make a determination of the best course of action for the juvenile.

The Honorable David Y. Ige, Chair
and Members
Page 2
February 28, 2012

We strongly urge you to oppose Senate Bill No. 2579, S.D. 1, Relating to Minors.


Thank you for the opportunity to testify.

Sincerely,



JOHN McENTIRE, Major
Narcotics/Vice Division

APPROVED:



LOUIS M. KEALOHA
Chief of Police

February 27, 2012

EQUALITY NOW

MEMORANDUM IN SUPPORT OF S.B. 2579 S.D.1

Committee: Senate Committee on Ways and Means

Hearing Date: February 28, 2012 (9:00 a.m.), Conference Room 211

Honorable Chair Ige 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 effects 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 including H.B. 2234, H.B. 2235, H.B. 1994, H.B. 1995, H.B. 2233, S.B. 2579 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. 2579. This “Safe Harbor” bill will increase protection to victims of sex trafficking, especially minors, by creating a minor victims of prostitution fund which will require \$5,000 monetary assessments against those convicted of prostituting individuals less than 18 years of age and of those who patronize them. This assessment will also be required of any individual accused of pimping or patronizing a minor even when the pimp or patron has been granted a deferred acceptance of guilty or no contest plea. These assessments will be used to provide treatment and services to minor victims of prostitution. Thus, the cost of such services will justly fall on the pimps and Johns responsible for the damages suffered by their victims.

Of critical importance to the protection of minor victims of sex trafficking are the provisions of S.B. 2579 that amend Hawaii Revised Statutes §712-1200, §712-1206, §712-1207 and §712-1209. These amendments provide that an individual less than 18 years of age charged with a prostitution offense shall be immune from prosecution and shall be subject to the child protective provisions of this bill. These amendments recognize that minor victims of sex trafficking cannot form the necessary intent to commit the crime of prostitution. It also recognizes that even when trafficking is not present minors in prostitution are almost invariably victims of other abuses or situations that prevent them from making an informed choice about the dangerous activity of prostitution. These

include sexual and physical abuse, homelessness, substance abuse and lack of education or job skills.

The amendments to HRS §712-1200, §712-1206, §712-1207 and §712-1209 will prevent children from being saddled with a criminal conviction which currently serves to further reduce their options for legitimate employment, social service programs and resuming their education. These three amendments recognize minors in prostitution as the victims that they are and place them on a road to recovery as opposed to a return to further abuse. These three amendments represent sound legal and moral judgments about children in prostitution and Equality Now enthusiastically urges their passage. Also, protected victims of trafficking, especially minors, are better prepared to assist in the prosecution of their traffickers than those without protections like those contained in H.B. 2234.

Finally, in regard to S.B. 2579, Equality Now strongly supports extending the statute of limitations for actions pursuant to HRS §663J-7 from two years to six years. This will bring the statute of limitations under the Prostitution Coercion Liability Act into consonance with the statute of limitations contained in HRS §701-108(2)(b). The extension of this statute of limitation recognizes that the recovery period for sex trafficking victims often exceed two years and that minor victims of sex trafficking especially are unlikely to be aware of their legal rights against their traffickers.

S.B. 2579 provides necessary protections for sex trafficking victims and is necessary for a holistic and effective response to sex trafficking. Equality Now strongly urges that you pass this bill.

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

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: veronica@traffickjamming.org
Subject: Testimony for SB2579 on 2/28/2012 9:00:00 AM
Date: Monday, February 27, 2012 4:46:17 PM
Attachments: [SB 2579 SD1.docx](#)

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

Conference room: 211
Testifier position: Support
Testifier will be present: Yes
Submitted by: Veronica Garcia
Organization: Individual
E-mail: veronica@traffickjamming.org
Submitted on: 2/27/2012

Comments:

February 27, 2012

To: Chair David Ige and Vice Chari Michelle Kidani

RE: SB2579 SD1 – RELATING TO MINORS

Hearing: February 28, 2012 9:00 am

Conference Rm 211

Thank you Senators Ige and Kidani for hearing this measure. I am an employee of the John A. Burns Medical School National Children's Study and an active volunteer with the Pacific Alliance to Stop Slavery. I am writing in support of SB 2579 with amendments.

The prevention, response, and follow-up of children who are commercially sexually exploited remains inadequate though there have been strong measures to reform Hawaii's protocol when handling sex trafficking cases of minors. I have heard Senator Slom's and many others' concerns about establishing a special fund for minor victims of prostitution. I suggest that your committee supports an amendment to direct funds from minor victims of prostitution monetary assessments to the domestic violence and sexual assault special fund and to be used by the Department of Human Services to provide services and treatment for commercially sexually exploited children. The Department can also use funds to enter into contracts with non-governmental agencies to provide services for such victims, and to use funds for training Department staff regarding the response and treatment of commercially sexually exploited children.

Thank you for this opportunity to testify and I hope you urge your committee to take steps to address this highly complex and under-investigated issue.

Sincerely,

Veronica Garcia

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

Senator David Y. Ige, Chair

Senator Michelle N. Kidani, Vice Chair

COMMITTEE ON WAYS AND MEANS

Tuesday, February 28, 2012 9:00 a.m.

State Capitol, 415 South Beretania Street, Conference Room 329

RE: SB2579 SD1 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. Effective July 1, 2050. (SD1)

Aloha Committee on Ways and Means:

My name is Christopher Yanuaria, a graduate student at Myron B. Thompson School of Social Work and a resident of Oahu. I am testifying in **STRONG SUPPORT OF SB2579 SD1 with amendments.**

System-wide misidentification of children as status offenders or juvenile delinquents runs rampant in Hawaii, which results in the further victimization of child victims of sex trafficking by those who should be tasked to help them. Hawaii must enact laws that automatically protect child victims of sex-trafficking such as HB2234 proposes. I agree with the amendments proposed by Imua Alliance with a few minor changes to their amendments. In partnership with Imua Alliance, we recommend replacing the current contents of Section 1 of HB2234 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~~ of \$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.

Furthermore, language should be revised accordingly to reflect the changes proposed above, on page 21, Section 9, (4)(c), lines 3-7.

I also 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, promoting prostitution in the first degree as defined by HRS 712-1202 1(a) and 1(b), or and human sex-trafficking as defined in title 22 United States Code, section 7102, as amended."

Mahalo,

Christopher Yanuaria