

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

LATE
Testimony

**ON THE FOLLOWING MEASURE:
S.B. NO. 2579, S.D. 2, RELATING TO MINORS.**

**BEFORE THE:
HOUSE COMMITTEE ON HUMAN SERVICES**

DATE: Thursday, March 15, 2012 **TIME:** 10:30 a.m.
LOCATION: State Capitol, Room 329
TESTIFIER(S): David M. Louie, Attorney General, or
Lance M. Goto, Deputy Attorney General

Chair Mizuno and Members of the Committee:

The Department of the Attorney General (the "Department") appreciates the effort this bill makes to better protect our children, but has concerns.

The purposes of this bill are to: (1) establish a new chapter for the safe harbor of sexually exploited children; (2) establish the minor victims of prostitution special fund; (3) grant the family court exclusive jurisdiction over any person under eighteen who is charged with an offense of prostitution; (4) amend the statute of limitations under the prostitution coercion liability act; and (5) establish that a person who is under eighteen and suspected of an offense of prostitution shall not be prosecuted, and shall be subject to the provisions of the safe harbor for sexually exploited children chapter.

Section 5 of the bill adds to section 712-1200, Hawaii Revised Statutes (HRS), regarding the offense of prostitution, the following provision exempting minors from prosecution:

If it is determined, after a reasonable detention for investigative purposes, that a person suspected of or charged with prostitution was less than eighteen years of age at the time the offense was allegedly committed, that person shall not be prosecuted under this section, and shall be subject to the safe harbor provisions of chapter

Sections 6 and 7 of the bill add similar provisions to sections 712-1206 and 712-1207, HRS, regarding the offenses of loitering for the purpose of engaging in or advancing prostitution, and street solicitation of prostitution. The Department is concerned about these similar provisions which exempt minors from prosecution for these three criminal offenses. The exemption for minors may create a negative impact on those individuals that this provision is intended to benefit. If minors are exempt from criminal prosecution for prostitution activity, two things could occur that would be counterproductive to the effort to address the problem of child prostitution. First, those promoting child prostitution could easily take advantage of the lack of criminal consequences for the minors, and use it to manipulate and recruit minors for prostitution activity. It may be easier to convince minors to engage in prostitution activity when the conduct

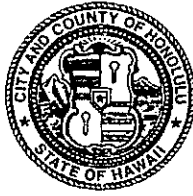
of the minors would not be subject to criminal prosecution. And second, because minors engaged in prostitution would not be subject to criminal prosecution, law enforcement could not make such conduct a priority when faced with addressing other clearly criminal offenses. Law enforcement response to minors engaged in prostitution may be compromised.

In section 3, on page 11, at lines 3-11, the bill gives the family court exclusive jurisdiction over any person under eighteen who is **suspected or charged** with certain prostitution offenses and "later granted exemption" from prosecution. But it is not clear how a juvenile who is merely suspected of prostitution activity would be formally placed under family court jurisdiction. The juvenile would not be charged with a crime and petitioned into family court because sections 5, 6, and 7 of the bill exempt minors from the prostitution offenses.

The Department respectfully requests that the Committee delete sections 3, 5, 6, and 7 from this bill.

POLICE DEPARTMENT
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OUR REFERENCE JM-TA

March 15, 2012

The Honorable John M. Mizuno, Chair
and Members
Committee on Human Services
House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chair Mizuno and Members:

SUBJECT: Senate Bill No. 2579, S.D. 2, 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. 2, Relating to Minors.

Although we support the intent of providing child welfare services, counseling, and other assistance to juveniles who have been sexually exploited, we do not feel that it is in the best interest of those juveniles or to the community in general to issue immunity from prosecution. 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 John M. Mizuno, Chair
and Members
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We strongly urge you to oppose Senate Bill No. 2579, S.D. 2, Relating to Minors.

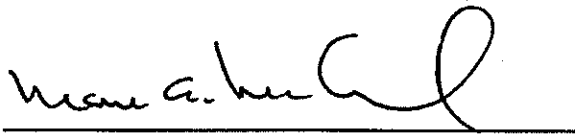
Thank you for the opportunity to testify.

Sincerely,

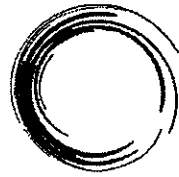


JOHN McENTIRE, Major
Narcotics/Vice Division

APPROVED:



for LOUIS M. KEALOHA
Chief of Police



POLARIS PROJECT
FOR A WORLD WITHOUT SLAVERY

**TESTIMONY IN SUPPORT OF SB 2579
PRESENTED TO THE HUMAN SERVICES COMMITTEE
MARCH 15, 2012**

Mr. Chairman and members of the Human Services 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 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 Waikiki 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 Human Services 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

LATE Testimony

Testimony for HUS 3/15/2012 10:30:00 AM SB2579

Conference room: 329
Testifier position: Support
Testifier will be present: No
Submitted by: V L
Organization: Individual
E-mail: vl@traffickjamming.org
Submitted on: 3/15/2012

Comments:

SB2579 SD2 - In Support

The issue of human trafficking does exist in Hawaii. The victims are here, and the state needs to address their restoration. Currently there are many holes in the system when it comes to victims of human trafficking, particularly for juvenile victims.

Law enforcement in Dallas, Texas also had this problem. Fortunately they discovered that the repeated runaways have a very high risk of being trafficked. Sergeant Bryon Fassett and Detective Cathy De La Paz from the Dallas Police Dept's Child Exploitation Squad spoke at the "Multidisciplinary Response to High Risk Victims" training hosted by Missing Child Center - Hawaii on March 2nd and 3rd, 2010 at Honolulu Community College. According to their stats from 2001-2004, 78-80% (depending on the year) of juveniles involved in prostitution in Dallas were reported runaways. Dallas experiences approx 5,000-6,000 runaways per year, averaging 426 per month in 2006. Hawaii sees approximately 300 runaways per month.

I have talked with many parents of juvenile sex trafficking victims in Hawaii who have run into many hurdles in the juvenile system in regards to law enforcement & the judicial system. Their children have been sex trafficked in Hawaii while being listed as runaways. These hurdles include: runaway reports being lost repeatedly, officers refusing to approach the minors - even when missing children posters are shown. On several instances the runaways have been in the presence of adult men. Law enforcement has repeatedly dismissed the adult men, without identifying them, and then neglected to inform the parents that their daughters were found in the presence of adult men. Despite all of these hurdles there have been excellent officers who have been a great help to the parents and the recovery of their children. Unfortunately, this is not the majority of cases. When children have been placed in the juvenile court system, they have continued to fall through the cracks. The juvenile court system cannot presently place a minor in DH for status offenses (runaway, truancy, curfew, etc..) even if there are multiple offenses and the court has strong reason to believe that the minor is being coerced into sex trafficking. The court does not have residential rehabilitative programs to specifically address sex trafficking victims. The residential programs that do address drug & psychological rehabilitation have very limited space. Many times the parents cannot get their kids placed in these treatment centers (pertinent information is missing from the reports so that the courts & service providers could respond better (such as: presence of adult men, areas of high prostitution, unusual attire for a minor, unusual amounts for money or condoms, etc..)). Therefore, the children are repeatedly running away and traffickers are continuing to pimp them out on the streets, profiting hundreds if not thousands of dollars a day by selling sex with kids in Hawaii.

Hawaii has a trafficking coalition that has been established for over 6 years. Hawaii law enforcement along with other members of the coalition, have been trained by other law enforcement agencies on how to address high risk victims. The coalition has been given the opportunity to develop a plan to address high risk victims, but they have failed to develop a consistent plan, consistently act on a plan, or even adequately follow through on the current protocols when dealing with basic runaway cases. Obviously, budget cuts and other factors have played into these short comings, but there has to be a way to make the issue of trafficking a priority.

It is time for more pressure to be placed on our law enforcement, judicial system, and trafficking coalition to really come up with a plan to help these victims instead of continuing to make excuses.