

# SB 2579

Measure Title: RELATING TO MINORS.

Report Title: Minors; Prostitution; Family Court; Penal Code; Special Fund; Victim Services Pilot Program

Description: Establishes the minor victims of prostitution special fund. Amends the definition of child abuse or neglect to include acts or omissions of any person or legal entity. Requires mandatory reporting when there is reasonable suspicion of child abuse or neglect. Requires law enforcement to immediately report incidents of child prostitution to DHS. Grants the family court exclusive jurisdiction over any person under eighteen who is charged with an offense 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 an offense of prostitution shall be granted immunity from prosecution, and shall be subject to the child protective provisions of chapter 587A. Establishes a two-year victim services pilot program to address the needs of minor victims of prostitution.

Companion: HB2234

Package: Women

Current Referral: HMS/JDL, WAM

Introducer(s): CHUN OAKLAND, BAKER, FUKUNAGA, KIDANI, SHIMABUKURO, TOKUDA, Ryan

NEIL ABERCROMBIE  
GOVERNOR



PATRICIA McMANAMAN  
DIRECTOR

BARBARA A. YAMASHITA  
DEPUTY DIRECTOR

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

February 13, 2012

TO: The Honorable Suzanne Chun Oakland, Chair  
Senate Committee on Human Services

The Honorable Clayton Hee, Chair  
Senate Committee on Judiciary and Labor

FROM: Patricia McManaman, Director

SUBJECT: **S.B. 2579 - RELATING TO MINORS**

Hearing: Monday, February 13, 2012; 10:00 a.m.  
Conference Room 016, State Capitol

**PURPOSE:** The purpose of the proposed legislation is to: establish the minor victims of prostitution special fund; amend the definition of child abuse or neglect to include acts or omissions of any person or legal entity; require mandatory reporting when there is reasonable suspicion of child abuse or neglect; requires law enforcement to immediately report incidents of child prostitution to the Department of Human Services; establish that a person who is under eighteen and suspected of or charged with an offense of prostitution shall be subject to the child protective provisions of chapter 587A; and establish a two-year victim services pilot within the Department of Human Services.

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) supports the intent of the proposed legislation to modify the approach to minors who are victims of human trafficking. The Department respectfully opposes the creation of a  
AN EQUAL OPPORTUNITY AGENCY

special fund for the minor victims of prostitution that would be administered by the Department for the purpose of obtaining services and treatment for the confirmed minor victims of prostitution. This type of program is beyond the scope of the Department's State and Federal mandate to provide services related to intrafamilial child abuse and neglect, and would place additional workload and fiscal demands on a system that is already stretched to the breaking point.

The Department also respectfully opposes the proposed changes to: the definition of child abuse in chapter 350, Hawaii Revised Statutes (HRS) to include violations of §§712-1200(1), 712-1207(1) and 712-1209(1), HRS, as required reports of child abuse specified in chapter 350, HRS; making minors suspected of or charged with a violation of these subsections automatically the subject of the child protective provisions of chapter 587A, HRS.

The Federal Child Abuse Prevention and Treatment Act (CAPTA) [42 U.S.C. 5106g] specifies that the term "child abuse and neglect" relates to an act or failure to act on the part of a parent or caretaker. This provision is echoed in chapter 350, HRS, Child Abuse, and chapter 587A, HRS, Child Protective Act, with their reference to persons responsible for the care of a child. To broaden the definition of child abuse to "the acts or omissions of any person or legal entity" expands the scope of child abuse and neglect beyond the Department's ability to respond.

Similarly, the modifications to chapter 350, HRS, requiring the mandatory reporting of violations of the provisions of §§712-1200, 712-1207 or 712-1209, HRS, and the modifications to chapter 712, HRS, making a minor who violates §§712-1200, 712-1207 or 712-1209, HRS, a subject of chapter 587A, HRS, would place burdens on other systems including law enforcement and the Judiciary.

The Department appreciates the intent of the two-year victim services pilot program described in Section 9, however, we must also respectfully oppose this proposal. The scope of this project is 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.

Given the importance of this issue, however, and the current limitations of the systems to respond to these changes, the Department respectfully suggests that the most appropriate action at this point would be to initiate discussion to more fully explore options that will protect child victims of human trafficking while leaving intact the essential framework required under CAPTA.

Thank you for the opportunity to testify.

WRITTEN ONLY

TESTIMONY BY KALBERT K. YOUNG  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE SENATE COMMITTEES ON HUMAN SERVICES  
AND JUDICIARY AND LABOR  
ON  
SENATE BILL NO. 2579

February 13, 2012

RELATING TO MINORS

Senate Bill No. 2579 establishes the Minor Victims of Prostitution Special Fund; amends the definition of child abuse or neglect; requires mandatory reporting when there is reasonable suspicion of child abuse or neglect; requires law enforcement to immediately report incidents of child prostitution to the Department of Human Services; and establishes that a person under 18 and suspected of or charged with an offense of prostitution shall be subject to the child protective provisions of Chapter 587A, Hawaii Revised Statutes.

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, 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.



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

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

**BEFORE THE:**

**SENATE COMMITTEES ON HUMAN SERVICES AND ON JUDICIARY AND LABOR**

**DATE:** Monday, February 13, 2012                      **TIME:** 10:00 a.m.  
**LOCATION:** State Capitol, Room 016  
**TESTIFIER(S):** David M. Louie, Attorney General, or  
Lance M. Goto, Deputy Attorney General

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Chairs Chun Oakland and Hee and Members of the Committees:

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

The purposes of this bill are to: (1) establish the minor victims of prostitution special fund; (2) amend the definition of child abuse or neglect to include acts or omissions of any person or legal entity; (3) require mandatory reporting when there is reasonable suspicion of child abuse or neglect; (4) require law enforcement to immediately report incidents of child prostitution to DHS; (5) grant the family court exclusive jurisdiction over any person under eighteen who is charged with an offense of prostitution; (6) amend the statute of limitations under the prostitution coercion liability act; (7) establish that a person who is under eighteen and suspected of or charged with an offense of prostitution shall be granted immunity from prosecution, and shall be subject to the child protective provisions of chapter 587A; and (8) establish a two-year victim services pilot program to address the needs of minor victims of prostitution.

**THE DEFINITION OF "CHILD ABUSE AND NEGLECT"**

Section 2 of this bill amends the definition of "child abuse and neglect" under chapter 350, Hawaii Revised Statutes (HRS). Under the current provisions of chapter 350, mandated reporters are required to report any act or omission by a person who is related to or is responsible for a child that causes harm or may subject the child to threatened harm. The amendment in this

bill deletes the requirement that the harm or threatened harm be by a person who is related to or is responsible for the child. The Department respectfully objects to this amendment.

Under chapter 350, mandated reporters enumerated in section 350-1.1, HRS, are required to report all incidents of "child abuse and neglect" to the Department of Human Services (DHS) and to the police department. Deleting the requirement that the abuse or neglect be committed by a person related to the child could lead to situations where a teacher would be required to call DHS and make a child abuse report if two children got into a fight in school resulting in injuries to one of the children. A probation officer or employee of the Department of Public Safety would be required to report to DHS every time a child was harmed in a correctional facility. A doctor in an emergency room would be required to report to DHS if a child came into the emergency room after being assaulted by a stranger. The challenge with these types of reports coming into DHS is that DHS cannot do anything with the reports. Pursuant to section 350-2 (a), HRS, when DHS receives a report under chapter 350, DHS must follow the provisions of chapter 587A. Pursuant to section 587A-5, HRS, however, the family court only has jurisdiction over a child who "is subject to imminent harm, has been harmed, or is subject to threatened harm by the acts or omissions of the child's family." (Emphasis added). In addition, the entire statutory scheme of chapter 587A involves attempts to reunify children with their parents when appropriate, and to terminate parental rights when those efforts fail. If the child and perpetrator are not related in some manner, it would not make sense to attempt to reunify the two of them, and there would be no parental rights to terminate.

#### MANDATORY REPORTING OF CHILD PROSTITUTION BY LAW ENFORCEMENT TO DHS

In section 3, on page 7, at lines 4-9, the bill requires law enforcement to immediately report suspected cases of child prostitution to DHS. While the Department certainly appreciates the intent of this provision, as drafted, it raises several concerns. First, if the alleged child prostitution does not involve child abuse or neglect by a family member, then DHS probably cannot take any action with respect to this report. Second, the disclosure by law enforcement of information regarding a pending investigation of child prostitution could potentially jeopardize the criminal investigation. And finally, the references to specific violations related to prostitution may require further review. The bill requires the reporting when there are suspected



violations by minors of sections “712-1200(1), 712-1207(1), or 712-1209(1).” Sections 712-1200(1) and 712-1207(1), while including the conduct of a prostitute, also include the conduct of a person who “pays, agrees to pay, or offers to pay a fee to another to engage in sexual conduct.” This means that reporting is required when the minors are customers of prostitution activity. Section 712-1209(1) creates an offense when, within seven hundred fifty feet from a school or public park, a person offers or agrees to pay a fee to another person to engage in sexual conduct. This section only focuses on customers of prostitutes.

It should be noted that these three sections, which include the conduct of customers of prostitution, are also included in section 4, on page 9, at line 8, regarding the provision for exclusive family court jurisdiction.

#### IMMUNITY FROM PROSECUTION

Sections 6, 7, and 8 of the bill add to sections 712-1200, 712-1207, and 712-1209, HRS, regarding the offenses of prostitution, street solicitation of prostitution, and solicitation of prostitution near schools or public parks, the following immunity provision:

If it is determined, after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of subsection (1) was less than eighteen years old at the time the offense of prostitution was committed, that person shall be immune to prosecution under this section, and shall be subject to the child protective provisions of chapter 587A. Immunity to prosecution under this section shall not apply to patrons of prostitution or persons who procure or solicit patrons for prostitution.

This provision proposes an inappropriate use of the term, “immunity.” Immunity from prosecution is covered by chapter 621C, HRS, Witness Immunity. The term usually relates to the grant of immunity to a witness who is being ordered to testify as to certain matters that may incriminate the witness. The provision being added to sections 6, 7, and 8 of the bill actually appears to be limiting the scope of criminal liability for those three offenses to those who are adults, eighteen years of age and older. Rather than grant immunity to minors, the offense statutes should simply be rewritten to apply to persons eighteen years of age or older. In the alternative, a provision could be added to exclude minors under the age of eighteen.

The Department respectfully requests that the Committees consider amendments to address these concerns.



# THE SEX ABUSE TREATMENT CENTER

*A Program of Kapi'olani Medical Center for Women & Children*

*Executive Director*  
Adriana Ramelli

*Advisory Board*

*President*  
Mimi Beams

*Vice President*  
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Mark J. Bennett

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Donne Dawson

Dennis Dunn

*Senator*  
Carol Fukunaga

Frank Haas

David I. Haverly

Linda Jameson

Roland Lagareta

Michael P. Matsumoto

Phyllis Muraoka

Gidget Ruscetta

Paul B.K. Wong

DATE: February 13, 2012

TO: The Honorable Suzanne Chun Oakland, Chair  
The Honorable Les Ihara, Vice Chair  
Committee on Human Services

The Honorable Clayton Hee, Chair  
The Honorable Maile S.L. Shimabukuro, Vice Chair  
Committee on Judiciary and Labor

FROM: Adriana Ramelli, Executive Director  
The Sex Abuse Treatment Center

RE: S.B. 2579  
Relating to Minors

Good afternoon Chair Chun Oakland, Chair Hee, Vice Chair Ihara, Vice Chair Shimabukuro and members of the Senate Committee on Human Services and Senate Committee on Judiciary and Labor. My name is Adriana Ramelli and I am the Executive Director of the Sex Abuse Treatment Center (SATC), a program of the Kapi'olani Medical Center for Women & Children (KMCWC), an affiliate of Hawai'i Pacific Health.

Our Center serves many young victims of sexual violence every year and we understand first hand the serious and often long term impact on their lives. While the SATC would like to support S.B. 2579's intent to protect minors from sexually assault, the scope of the bill covers many areas and is overly complex.

We oppose H. B. 2579's provision to expand the mandated reporting requirements of child abuse and neglect in Section 350 -1 (HRS). For example, under the proposed change, if a 17 year old is sexually assaulted by a date and she wants medical care and counseling she may not seek those services if she knows that by accessing that support, those providing it are required to report her assault to the authorities, something she may be unwilling or not ready to do herself. Likewise, the parent of a 12 year old who learns that his or her child was sexually assaulted by someone who used to live in their neighborhood may not seek services fearing forced involvement by the police. Sometimes extremely protective parents or caregivers have serious concerns about the impact on their child of police or CWS involvement. When this is case, where do these parents turn for critically needed professional support?

The SATC staff always discusses police reporting with clients in the situations described above; however, clients are given the choice about whether or not they want criminal justice involvement. Many subsequently report and are supported through this

process by SATC, while others choose treatment only. The proposed change will take this choice away from the victim and family, and could likely be a barrier to ensuring all who need supportive services receive them.

We believe that the current law suffices. Cases involving suspected abuse by individuals who are not related to the child, not residing with the child or are not otherwise responsible for the child's care are currently reported to CWS when there are concerns that the parent or legal guardian is not protective of the child in question. In these situations, the parent or legal guardian is investigated for neglect.

We firmly concur, however, with H. B. 2579's focus on educational programs and outreach activities to prevent youth from being lured into prostitution and its intent to expand specialized services to meet then needs of sexually victimized youth.

Thank you for this opportunity to testify.



The PACIFIC ALLIANCE  
to STOP SLAVERY

DATE: February 11, 2012

ATTN: SENATE COMMITTEE ON HUMAN SERVICES & SENATE COMMITTEE  
ON JUDICIARY AND LABOR

(HMS)

Senator Suzanne Chun Oakland, Chair

Senator Les Ihara, Jr., Vice Chair

Senator Josh Green

Senator Sam Slom

(JDL)

Senator Clayton Hee, Chair

Senator Maile Shimabukuro, Vice Chair

Senator Mike Gabbard

Senator Les Ihara, Jr.

Senator Sam Slom

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

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

The Pacific Alliance to Stop Slavery (PASS) is in strong support of SB2579 with amendments. 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 19<sup>th</sup> 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 of child abuse and have the state automatically enforce services and protections afforded by the state child abuse laws. We recognize that the language in this bill amending 350-1 and related 587A may need clarification and revision and we are open to discussion and collaboration with all interested parties in finding a mutually beneficial solution to language regarding these statutes, with



ultimately the best interests of those that would benefit in mind: the child victims of sex trafficking.

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 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.

We also highly recommend that the “two-year pilot program” headed by the Department of Human Services proposed in SB2579 (on page 20, Section 9) be established permanently and not be limited to two years.

Lastly, we agree with the amendments proposed by Imua Alliance to remove the establishment of a special fund and divert fees proposed in SB2579 to the already existing Domestic Violence and Sexual Assault special fund. Therefore, we recommend replacing the current contents of Section 1 of SB2579 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).



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(3) Probation fees imposed under part III of chapter 706 shall be paid before payment of the monetary assessment.

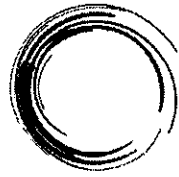
Furthermore, language should be revised accordingly to reflect the changes proposed above, on page 21, Section 9, (4)(c), lines 3-7.

PASS 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 or and human sex-trafficking as defined in title 22 United States Code, section 7102, as amended.”

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



# POLARIS PROJECT

FOR A WORLD WITHOUT SLAVERY

**TESTIMONY IN SUPPORT OF SB 2579  
PRESENTED TO THE HUMAN SERVICES AND JUDICIARY  
COMMITTEES  
FEBRUARY 13, 2012**

Madam Chair of the Human Services Committee; Mr. Chairman of the Judiciary and Labor 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:

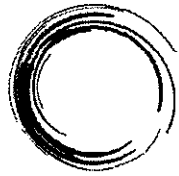
“Confirmed trafficking victims should not be punished for crimes that are a direct result of being trafficked—such as not holding proper immigration documents or violation of prostitution, labor, or begging statutes. Trafficking victims should not be detained in criminal detention facilities, except 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 draft you have before you, along with the accompanying amendments provided by Polaris Project, would make SB 2579 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 and Judiciary Committees to vote favorably upon SB 2579 with the amendments proposed by Polaris Project, 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 13, 2012



**POLARIS PROJECT**  
FOR A WORLD WITHOUT SLAVERY

**PROPOSED AMENDMENTS TO SB 2579: HAWAII'S SAFE HARBOR ACT**

In this document we have delineated between proposed amendments to language that appears in existing SB 2579, and proposed amendments that would establish new sections in the bill. Our suggested amendments to existing sections in SB 2579 appear first.

**We have included a new draft of the bill with the proposed amendments incorporated that begins on page 13.**

**AMENDMENTS THAT CHANGE EXISTING TEXT IN THE BILL**

Deletions will appear with a ~~strike~~ mark and additions will appear in all CAPS. We propose deleting the first two sections in the bill to avoid any unintended consequences. Additionally, these two sections are not necessary to ensure that a child protective response is in place:

- (1) On page 1, line 12, delete the following after "712":

~~"when the offense involves prostitution or promoting prostitution of a person less than eighteen years old and who has been granted a deferred acceptance of guilty or no contest plea;"~~

And, add the following:

**"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;"**

- (2) On page 1, line 16, delete the following after "assessment":

~~"not to exceed"~~

And, add the following:

“OF”

- (3) On page 2, line 5, delete the following after “(2)”:

~~“There is established a special fund to be known as the minor victims of prostitution special fund to be administered by the department of human services. The disbursement of money from the minor victims of prostitution special fund shall be used to provide services and treatment to persons confirmed to be minor victims of prostitution. The department may also use moneys from the fund to enter into contracts with organizations that can provide services to persons confirmed to be minor victims of prostitution.”~~

And, add the following:

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 PROVIDE SERVICES AND PROVIDE TREATMENT TO SEXUALLY EXPLOITED CHILDREN PURSUANT TO CHAPTER 589. THE DEPARTMENT MAY ALSO USE THE FUNDS TO ENTER INTO CONTRACTS WITH NON-GOVERNMENTAL ORGANIZATIONS TO PROVIDE SERVICES FOR SEXUALLY EXPLOITED CHILDREN.

- (4) On page 2, line 14, delete the following:

~~“(3) Appropriations by the legislature and all monetary assessments paid and interest accrued on funds collected pursuant to this section shall be deposited into the minor victims of prostitution special fund.”~~

- (5) On page 2, line 18, delete the following:

~~“(4)”~~

And, add the following before “Probation”:

“(3)”

(6) Delete Section 2, which begins on page 2, line 20:

~~“Child abuse or neglect” means the acts or omissions of any person [who,] or legal entity [which, is in any manner or degree related to the child, is residing with the child, or is otherwise responsible for the child's care,] that have resulted in the physical or psychological health or welfare of the child, who is under the age of eighteen, to be harmed, or to be subject to any reasonably foreseeable, substantial risk of being harmed. The acts or omissions are indicated for the purposes of reports by circumstances that include but are not limited to:~~

~~— (1) When the child exhibits evidence of:~~

~~— (A) Substantial or multiple skin bruising or any other internal bleeding;~~

~~— (B) Any injury to skin causing substantial bleeding;~~

~~— (C) Malnutrition;~~

~~— (D) Failure to thrive;~~

~~— (E) Burn or burns;~~

~~— (F) Poisoning;~~

~~— (G) Fracture of any bone;~~

~~— (H) Subdural hematoma;~~

~~— (I) Soft tissue swelling;~~

~~— (J) Extreme pain;~~

~~— (K) Extreme mental distress;~~

~~— (L) Gross degradation;~~

~~— (M) Death; and~~

~~— such injury is not justifiably explained, or when the history given concerning such condition or death is at variance with the degree or type of such condition or death, or circumstances indicate that such condition or death may not be the product of an accidental occurrence; or~~

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

~~— (3) When there exists injury to the psychological capacity of a child as is evidenced by an observable and substantial impairment in the child's ability to function; or~~

~~— (4) When the child is not provided in a timely manner with adequate food, clothing, shelter, psychological care, physical care, medical care, or supervision; or~~

~~— (5) When the child is provided with dangerous, harmful, or detrimental drugs as defined by section 712-1240; provided that this paragraph shall not~~

~~apply when such drugs are provided to the child pursuant to the direction or prescription of a practitioner, as defined in section 712-1240.~~

And add the following:

**[§587A-8] Protective custody by police officer without court order.** (a) A police officer shall assume protective custody of a child without a court order and without the consent of the child's family, if in the discretion of the police officer, the officer determines that:

- (1) The child is subject to imminent harm while in the custody of the child's family;
- (2) The child has no parent, as defined in this chapter, who is willing and able to provide a safe family home for the child;
- (3) The child has no caregiver, as defined in this chapter, who is willing and able to provide a safe and appropriate placement for the child; or
- (4) The child's parent has subjected the child to harm or threatened harm and the parent is likely to flee with the child.
- (5) THE CHILD IS A SEXUALLY EXPLOITED CHILD AS DEFINED IN CHAPTER 589 AND HAS NO PARENT WHO IS ABLE TO PROVIDE A SAFE FAMILY HOME FOR THE CHILD.

(b) The department shall assume temporary foster custody of the child when a police officer has completed the transfer of protective custody of the child to the department as follows:

- (1) A police officer who assumes protective custody of a child shall complete transfer of protective custody to the department by presenting physical custody of the child to the department; or
- (2) If the child is or will be admitted to a hospital or similar institution, the police officer shall immediately complete the transfer of protective custody to the department by notifying the department and receiving an acknowledgment from the hospital or similar institution that it has been informed that the child is under the temporary foster custody of the department.

(7) Delete Section 3, which begins on page 5, line 7:

~~**§350-1.1 Reports.** (a) Notwithstanding any other state law concerning confidentiality to the contrary, the following persons who, in their professional or official capacity, have [reason to believe] a reasonable suspicion that child abuse or neglect has occurred or that there exists a substantial risk that child abuse or neglect may occur in the reasonably foreseeable future, shall immediately report the matter orally to the department or to the police department:~~

- ~~(1) Any licensed or registered professional of the healing arts or any health-related occupation who examines, attends, treats, or provides other professional or specialized services, including but not limited to physicians, including physicians in training, psychologists, dentists, nurses, osteopathic physicians and surgeons, optometrists, chiropractors, podiatrists, pharmacists, and other health-related professionals;~~
- ~~(2) Employees or officers of any public or private school;~~
- ~~(3) Employees or officers of any public or private agency or institution, or other individuals, providing social, medical, hospital, or mental health services, including financial assistance;~~
- ~~(4) Employees or officers of any law enforcement agency, including but not limited to the courts, police departments, department of public safety, correctional institutions, and parole or probation offices;~~
- ~~(5) Individual providers of child care, or employees or officers of any licensed or registered child care facility, foster home, or similar institution;~~
- ~~(6) Medical examiners or coroners; and~~
- ~~(7) Employees of any public or private agency providing recreational or sports activities.~~

~~(b) Whenever a person designated in subsection (a) is a member of the staff of any public or private school, agency, or institution, that staff member shall immediately report the known or suspected child abuse or neglect directly to the department or to the police department and also shall immediately notify the person in charge or a designated delegate of the report made in accordance with this chapter.~~

~~(c) Whenever an employee or officer of any law enforcement agency suspects or charges a person under eighteen years of age with a violation of sections 712-1200(1), 712-1207(1), or 712-1209(1), that employee or officer shall immediately report the known or suspected child abuse or neglect directly to the department.~~

~~[(c)] (d) The initial oral report shall be followed as soon as possible by a report in writing to the department. If a police department or the department of public safety is the initiating agency, a written report shall be filed with the department for cases that the police or the department of public safety takes further action on or for active cases in the department under this chapter. All written reports shall contain the name and address of the child and the child's parents or other persons responsible for the child's care, if known, the child's age, the nature and extent of the child's injuries, and any other information that the reporter believes might be helpful or relevant to the investigation of the child abuse or neglect. This subsection shall not be construed to serve as a~~

~~cause of action against the department, the police, or the department of public safety.~~

~~[(d)] (e) Any person subject to subsection (a) shall, upon demand of the department or any police department, provide all information related to the alleged incident of child abuse or neglect, including, but not limited to, medical records and medical reports, which was not included in the written report submitted pursuant to subsection (c).~~

~~[(e)] (f) The director may adopt, amend, or repeal rules, subject to chapter 91, to further define or clarify the specific forms of child abuse or neglect enumerated in section 350-1 for use in implementing this chapter; provided that rules adopted under this subsection shall be limited to such further or clarifying definitions.~~

- (8) On page 14, line 17 strike the following after “the”:

~~“child protective provisions of Chapter 587A”~~

And add the following:

“SAFE HARBOR PROVISIONS OF CHAPTER 589”

- (9) On page 18, line 6 strike the following after “the”:

~~“child protective provisions of Chapter 587A”~~

And add the following:

“SAFE HARBOR PROVISIONS OF CHAPTER 589”

- (10) On page 20, line 1 strike the following after “the”:

~~“child protective provisions of Chapter 587A”~~

And add the following:

“SAFE HARBOR PROVISIONS OF CHAPTER 589”

- (11) On page 20, line 9, delete the following after :

~~(a) The department of human services shall develop a two-year victim services pilot program to address the needs of minor victims of prostitution and minors at risk of victimization through prostitution.~~



- ~~(b) The department shall:~~
- ~~(1) Coordinate with law enforcement agencies, the county prosecutors' offices, child protection workers, and human trafficking service providers to implement the victim services pilot program;~~
  - ~~(2) Provide training and educational materials to its employees regarding sex trafficking and exploitation of minors through prostitution;~~
  - ~~(3) Develop a public awareness campaign regarding sex trafficking of minors; and~~
  - ~~(4) Conduct outreach to youth identified as being at risk for victimization through prostitution.~~
- ~~(c) Moneys from the minor victims of prostitution special fund shall be used to develop and provide services to minor victims of prostitution; the department may also use moneys from the fund to enter into contracts with organizations that can provide services to minor victims of prostitution.~~
- ~~(d) The department shall submit a report to the legislature, no later than twenty days prior to the convening of the regular session of 2014, detailing the implementation of the pilot program. The report shall include findings and recommendations, including proposed legislation and the estimated costs of implementation of the program on a permanent basis.~~

And add the following:

TITLE 31 OF THE HAWAII REVISED STATUTES, IS AMENDED BY ADDING A NEW CHAPTER TO BE APPROPRIATELY DESIGNATED AND TO READ AS FOLLOWS:

“CHAPTER 589. SAFE HARBOR FOR SEXUALLY EXPLOITED CHILDREN.

**SECTION 589-1. PROTECTION OF SEXUALLY EXPLOITED CHILDREN; ESTABLISHMENT, PURPOSE.** THIS CHAPTER CREATES A VICTIM SERVICES PROGRAM FOR SEXUALLY EXPLOITED CHILDREN TO MAKE PARAMOUNT THE SAFETY AND HEALTH OF CHILDREN WHO HAVE BEEN EXPLOITED THROUGH PROSTITUTION OR VICTIMIZED BY CHILD SEX TRAFFICKING. FURTHERMORE, THIS CHAPTER MANDATES THE CREATION OF PROTOCOLS FOR THE INTERPLAY BETWEEN THE IMMUNITY PROVISIONS FOR SEXUALLY EXPLOITED CHILDREN AND EXISTING CHILD PROTECTION STATUTES.

THE LEGISLATURE FINDS THAT ARRESTING, PROSECUTING, AND INCARCERATING VICTIMIZED CHILDREN SERVES TO RE-TRAUMATIZE THEM AND TO INCREASE THEIR FEELINGS OF LOW

SELF-ESTEEM. THIS ONLY MAKES THE PROCESS OF RECOVERY MORE DIFFICULT. APPROPRIATE SERVICES FOR SEXUALLY EXPLOITED CHILDREN DO NOT EXIST IN THE JUVENILE JUSTICE SYSTEM AND BOTH FEDERAL AND INTERNATIONAL LAW RECOGNIZE THAT SEXUALLY EXPLOITED CHILDREN ARE THE VICTIMS OF CRIME AND SHOULD BE TREATED AS SUCH. THEREFORE, SEXUALLY EXPLOITED CHILDREN SHOULD NOT BE PROSECUTED FOR CRIMINAL ACTS RELATED TO PROSTITUTION. INSTEAD, SERVICES SHOULD BE CREATED TO MEET THE NEEDS OF THESE CHILDREN OUTSIDE OF THE JUSTICE SYSTEM. SEXUALLY EXPLOITED CHILDREN DESERVE THE PROTECTION OF CHILD WELFARE SERVICES, INCLUDING DIVERSION, CRISIS INTERVENTION, COUNSELING, AND EMERGENCY HOUSING SERVICES.

THE POLICY AND PURPOSE OF THIS CHAPTER IS TO PROTECT CHILDREN FROM FURTHER RE-VICTIMIZATION ONCE THEY HAVE BEEN DISCOVERED TO BE A SEXUALLY EXPLOITED CHILD BY ENSURING THAT A CHILD PROTECTIVE RESPONSE IS IN PLACE, NOT A CRIMINAL JUSTICE RESPONSE. THIS IS TO BE ACCOMPLISHED BY GRANTING IMMUNITY FROM PROSECUTION TO SEXUALLY EXPLOITED CHILDREN AND CREATING PROGRAMS AND SERVICES TO MEET THEIR SPECIFIC NEEDS. IT SHOULD BE THE PRIORITY OF THE DEPARTMENT TO ESTABLISH FAMILY REUNIFICATION WHERE POSSIBLE AND WHERE IT DOES NOT CONFLICT WITH THE CHILD'S HEALTH AND SAFETY. IN DETERMINING THE NEED FOR AND CAPACITY FOR SERVICES THAT MAY BE PROVIDED UNDER THIS CHAPTER, THE DEPARTMENT OF HUMAN SERVICES SHALL RECOGNIZE THAT SEXUALLY EXPLOITED CHILDREN HAVE SEPARATE AND DISTINCT SERVICE NEEDS ACCORDING TO GENDER AND APPROPRIATE SERVICES SHALL BE MADE AVAILABLE WHILE ENSURING THAT AN APPROPRIATE CONTINUUM OF SERVICES EXISTS.

THIS CHAPTER SHALL BE LIBERALLY CONSTRUED TO SERVE THE BEST INTERESTS OF CHILDREN WHO HAVE BEEN SEXUALLY EXPLOITED.

**SECTION 589-2. DEFINITIONS.** FOR THE PURPOSES OF THIS CHAPTER:

“CHILD” MEANS A PERSON WHO IS BORN ALIVE AND IS LESS THAN EIGHTEEN YEARS OF AGE.

“SEXUALLY EXPLOITED CHILD” MEANS ANY PERSON UNDER THE AGE OF EIGHTEEN WHO HAS BEEN SUBJECT TO SEXUAL EXPLOITATION BECAUSE HE OR SHE:

- (1) IS A VICTIM OF THE CRIME OF PROMOTING PROSTITUTION IN THE FIRST DEGREE UNDER HRS 712-1202;
- (2) IS A VICTIM OF THE CRIME OF SEX TRAFFICKING OF CHILDREN UNDER SECTION 18 U.S.C. 1591 OF THE FEDERAL LAW; OR
- (3) ENGAGES IN ANY ACT DESCRIBED IN HRS 712-1200, 712-1206, 712-1207, OR 712-1209, AND GRANTED IMMUNITY PURSUANT TO THOSE SECTIONS.”

“SAFE HOUSE” MEANS A RESIDENTIAL FACILITY OPERATED BY AN AUTHORIZED AGENCY, INCLUDING A NOT-FOR-PROFIT AGENCY, WITH EXPERIENCE IN PROVIDING SERVICES TO SEXUALLY EXPLOITED CHILDREN AND APPROVED BY THE DEPARTMENT OF HUMAN SERVICES TO PROVIDE SHELTER FOR SEXUALLY EXPLOITED CHILDREN.”

**SECTION 589-3. VICTIM SERVICES PROGRAM FOR SEXUALLY EXPLOITED CHILDREN ESTABLISHED.** (A) THE DEPARTMENT OF HUMAN SERVICES SHALL DEVELOP A PROGRAM TO ADDRESS THE NEEDS OF SEXUALLY EXPLOITED CHILDREN AND MINORS AT-RISK OF COMMERCIAL SEXUAL EXPLOITATION.

(B) THE PROGRAM IN SUBSECTION (A) SHALL:

- (1) PROVIDE FOR THE CHILD WELFARE SERVICES NEEDS OF SEXUALLY EXPLOITED CHILDREN, INCLUDING, BUT NOT LIMITED TO, SERVICES FOR SEXUALLY EXPLOITED CHILDREN AT THE TIME THEY ARE TAKEN INTO CUSTODY BY LAW ENFORCEMENT OR ARE IDENTIFIED BY THE DEPARTMENT AS SEXUALLY EXPLOITED CHILDREN FOR THE DURATION OF ANY LEGAL OR ADMINISTRATIVE PROCEEDING IN WHICH THEY ARE EITHER THE COMPLAINING WITNESS OR THE SUBJECT CHILD; AND
- (2) PROVIDE APPROPRIATE SERVICES TO A CHILD REASONABLY BELIEVED TO BE A SEXUALLY EXPLOITED CHILD IN ORDER TO SAFEGUARD THE CHILD’S WELFARE.

(C) THE DEPARTMENT SHALL:

- (1) COORDINATE WITH LAW ENFORCEMENT AGENCIES, THE COUNTY PROSECUTORS’ OFFICES, THE CHILD AND ADOLESCENT MENTAL HEALTH DIVISION, CHILD PROTECTION WORKERS, AND HUMAN TRAFFICKING SERVICE

PROVIDERS TO IMPLEMENT THE VICTIM SERVICES PROGRAM ESTABLISHED UNDER THIS SECTION;

- (2) PROVIDE TRAINING AND EDUCATIONAL MATERIALS TO ITS EMPLOYEES REGARDING SEX TRAFFICKING OF MINORS AND SEXUALLY EXPLOITED CHILDREN;
- (3) DEVELOP A PUBLIC AWARENESS CAMPAIGN REGARDING SEX TRAFFICKING OF MINORS; AND
- (4) CONDUCT OUTREACH TO YOUTH IDENTIFIED AS BEING AT RISK FOR SEXUAL EXPLOITATION.

(D) MONIES FROM THE MINOR VICTIMS OF PROSTITUTION SPECIAL FUND SHALL BE USED TO DEVELOP AND PROVIDE SERVICES TO SEXUALLY EXPLOITED CHILDREN; THE DEPARTMENT MAY ALSO USE MONIES FROM THE FUND TO ENTER INTO CONTRACTS WITH ORGANIZATIONS THAT CAN PROVIDE SERVICES TO SEXUALLY EXPLOITED CHILDREN.

(E) THE SERVICES THAT SHALL BE PROVIDED UNDER THIS SECTION SHALL BE AVAILABLE TO ALL SEXUALLY EXPLOITED CHILDREN, WHETHER THEY ARE ACCESSED VOLUNTARILY, THROUGH A COURT PROCEEDING OR THROUGH A REFERRAL, WHICH MAY BE MADE BY ANY PERSON.

(F) THE DEPARTMENT SHALL SUBMIT A REPORT TO THE LEGISLATURE, NO LATER THAN TWENTY DAYS PRIOR TO THE CONVENING OF THE REGULAR SESSION OF 2014, DETAILING THE IMPLEMENTATION OF THE VICTIM SERVICES PROGRAM FOR SEXUALLY EXPLOITED CHILDREN. THE REPORT SHALL INCLUDE FINDINGS AND RECOMMENDATIONS, INCLUDING PROPOSED LEGISLATION AND ADDITIONAL APPROPRIATIONS REQUESTED.

**SECTION 589-4. SAFE HOUSE FOR SEXUALLY EXPLOITED CHILDREN.** THE DEPARTMENT OF HUMAN SERVICES, TO THE EXTENT FUNDS ARE AVAILABLE THEREFORE, SHALL OPERATE OR CONTRACT WITH AN APPROPRIATE NOT-FOR-PROFIT AGENCY WITH EXPERIENCE WORKING WITH SEXUALLY EXPLOITED CHILDREN TO OPERATE AT LEAST ONE SAFE HOUSE IN A GEOGRAPHICALLY APPROPRIATE AREA OF THE STATE WHICH SHALL PROVIDE SAFE AND SECURE HOUSING AND SPECIALIZED SERVICES FOR SEXUALLY EXPLOITED CHILDREN THROUGHOUT THE STATE. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PRECLUDE AN AGENCY FROM APPLYING FOR AND ACCEPTING GRANTS, GIFTS AND BEQUESTS FOR FUNDS FROM PRIVATE INDIVIDUALS, FOUNDATIONS AND THE FEDERAL GOVERNMENT OF THE PURPOSE OF CREATING OR

CARRYING OUT THE DUTIES OF A SAFE HOUSE FOR SEXUALLY EXPLOITED CHILDREN.

**SECTION 589-5. TEMPORARY CARE AND CUSTODY OF SEXUALLY EXPLOITED CHILDREN.** (A) THE DEPARTMENT OF HUMAN SERVICES SHALL DEVELOP A PROTOCOL FOR THE INTERPLAY BETWEEN THE IMMUNITY PROVISIONS FOR SEXUALLY EXPLOITED CHILDREN ESTABLISHED BY THIS CHAPTER AND OTHER EXISTING CHILD PROTECTION STATUTES.

(B) SEXUALLY EXPLOITED CHILDREN MAY BE TAKEN INTO CUSTODY BY THE POLICE OFFICER AND MAY BE:

- (1) SUBJECT TO THE PROTECTIVE CUSTODY OF POLICE WITHOUT A COURT ORDER PURSUANT TO CHAPTER 587A-8, IF THE CHILD'S FAMILY IS UNABLE TO PROVIDE FOR THE CHILD'S HEALTH OR SAFETY; OR RETURNED TO THE CHILD'S PARENTS IF IN THE JUDGMENT OF THE POLICE OFFICER IT IS SAFE TO DO SO WITHOUT JEOPARDIZING THE HEALTH OR SAFETY OF THE CHILD.

- (12) Add a new section to amend Section 712-1206, Hawaii Revised Statute, to read as follows:

**“§712-1206 Loitering for the purpose of engaging in or advancing prostitution.** (1) For the purposes of this section, "public place" means any street, sidewalk, bridge, alley or alleyway, plaza, park, driveway, parking lot or transportation facility or the doorways and entrance ways to any building which fronts on any of the aforesaid places, or a motor vehicle in or on any such place.

(2) Any person who remains or wanders about in a public place and repeatedly beckons to or repeatedly stops, or repeatedly attempts to stop, or repeatedly attempts to engage passers-by in conversation, or repeatedly stops or attempts to stop motor vehicles, or repeatedly interferes with the free passage of other persons for the purpose of committing the crime of prostitution as that term is defined in section 712-1200, shall be guilty of a violation.

(3) Any person who remains or wanders about in a public place and repeatedly beckons to, or repeatedly stops, or repeatedly attempts to engage passers-by in conversation, or repeatedly stops or attempts to stop motor vehicles, or repeatedly interferes with the free passage of other persons for the purpose of

committing the crime of advancing prostitution as that term is defined in section 712-1201(1) is guilty of a petty misdemeanor.

(4) IF IT IS DETERMINED, AFTER A REASONABLE DETENTION FOR INVESTIGATIVE PURPOSES, THAT A PERSON SUSPECTED OF OR CHARGED WITH A VIOLATION OF SUBSECTION (2) WAS LESS THAN EIGHTEEN YEARS OLD AT THE TIME THE OFFENSE OF LOITERING FOR THE PURPOSE OF ENGAGING IN PROSTITUTION WAS COMMITTED, THAT PERSON SHALL BE IMMUNE TO PROSECUTION UNDER THIS SECTION, AND SHALL BE SUBJECT TO THE SAFE HARBOR PROVISIONS OF CHAPTER 589. IMMUNITY TO PROSECUTION UNDER THIS SECTION SHALL NOT APPLY TO PATRONS OF PROSTITUTION OR PERSONS WHO PROCURE OR SOLICIT PATRONS FOR PROSTITUTION.

**NEW BILL LANGUAGE SHOULD READ AS FOLLOWS:**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Chapter 706, part III, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§706- Minor victims of prostitution special fund. (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 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 provide services and provide treatment to sexually exploited children pursuant to Chapter 589. The Department may also use the funds to enter into contracts with non-governmental organizations to provide services for sexually exploited children.

(3) Probation fees imposed under part III of chapter 706 shall be paid before payment of the monetary assessment."

SECTION 2. Section 587 A-8, Hawaii Revised Statutes, is amended to read as follows

**[§587A-8] Protective custody by police officer without court order.** (a) A police officer shall assume protective custody of a child without a court order and without the consent of the child's family, if in the discretion of the police officer, the officer determines that:

- (1) The child is subject to imminent harm while in the custody of the child's family;
  - (2) The child has no parent, as defined in this chapter, who is willing and able to provide a safe family home for the child;
  - (3) The child has no caregiver, as defined in this chapter, who is willing and able to provide a safe and appropriate placement for the child; or
  - (4) The child's parent has subjected the child to harm or threatened harm and the parent is likely to flee with the child.
  - (5) The child is a sexually exploited child as defined in Chapter 589 and has no parent who is able to provide a safe family home for the child.
- (b) The department shall assume temporary foster custody of the child when a police officer has completed the transfer of protective custody of the child to the department as follows:
- (1) A police officer who assumes protective custody of a child shall complete transfer of protective custody to the department by presenting physical custody of the child to the department; or
  - (2) If the child is or will be admitted to a hospital or similar institution, the police officer shall immediately complete the transfer of protective custody to the department by notifying the department and receiving an acknowledgment from the hospital or similar institution that it has been informed that the child is under the temporary foster custody of the department.

SECTION 3. Section 571-11, Hawaii Revised Statutes, is amended to read as follows:

**"§571-11 Jurisdiction; children.** Except as otherwise provided in this chapter, the court shall have exclusive original jurisdiction in proceedings:

(1) Concerning any person who is alleged to have committed an act prior to achieving eighteen years of age that would constitute a violation or attempted violation of any federal, state, or local law or county ordinance. Regardless of where the violation occurred, jurisdiction may be taken by the court of the circuit where the person resides, is living, or is found, or in which the offense is alleged to have occurred;

(2) Concerning any person under eighteen years of age who is suspected of or charged with a violation of sections 712-1200(1), 712-1207(1), or 712-1209(1) and later granted immunity under sections 712-1200(6), 712-1207(8), or 712-1209(3). Regardless of where the violation occurred, jurisdiction may be taken by the court of



the circuit where the person resides, is living, or is found, or in which the offense is alleged to have occurred;

~~[(2)]~~ (3) Concerning any child living or found within the circuit:

(A) Who is neglected as to or deprived of educational services because of the failure of any person or agency to exercise that degree of care for which it is legally responsible;

(B) Who is beyond the control of the child's parent or other custodian or whose behavior is injurious to the child's own or others' welfare;

(C) Who is neither attending school nor receiving educational services required by law whether through the child's own misbehavior or nonattendance or otherwise;  
or

(D) Who is in violation of curfew;

~~[(3)]~~ (4) To determine the custody of any child or appoint a guardian of any child;

~~[(4)]~~ (5) For the adoption of a person under chapter 578;

~~[(5)]~~ (6) For the termination of parental rights under sections 571-61 through 571-63;

~~[(6)]~~ (7) For judicial consent to the marriage, employment, or enlistment of a child, when consent is required by law;

~~[(7)]~~ (8) For the treatment or commitment of a mentally defective or mentally ill child, or a child with an intellectual disability;

~~[(8)]~~ (9) Under the Interstate Compact on Juveniles under chapter 582 or the Interstate Compact for Juveniles under chapter 582D;

~~[(9)]~~ (10) For the protection of any child under chapter 587A; and

~~[(10)]~~ (11) For a change of name as provided in section 574-5(a)(2)(C)."

SECTION 4. Section 663J-7, Hawaii Revised Statutes, is amended to read as follows:

"[H]§663J-7[H] Statute of limitations. (a) A claim under this chapter may not be brought against a person more than ~~two~~ six years after an act of promoting prostitution by coercion by that person.

(b) The limitation period provided for in this chapter is tolled:

(1) During the minority of the individual who engages in prostitution; ~~[e]~~

(2) Any time there is a criminal offense investigation being actively conducted against the defendant by a governmental agency or there is a criminal offense charge, information, or indictment pending against the defendant~~[-]~~;

(3) Until the plaintiff discovers that an act of promoting prostitution by coercion has occurred and the defendant caused, was responsible for, or profited from the act of promoting prostitution by coercion; and

(4) If the plaintiff is a victim of a series of acts of promoting prostitution by coercion by the same defendant, until the last act of promoting prostitution by coercion has occurred.

(c) A statute of limitations defense may not be asserted if the defendant induced or attempted to induce the plaintiff to delay filing of a claim under this chapter."

SECTION 5. Section 712-1200, Hawaii Revised Statutes, is amended to read as follows:

"§712-1200 Prostitution. (1) A person commits the offense of prostitution if the person:

(a) Engages in, or agrees or offers to engage in, sexual conduct with another person for a fee; or

(b) Pays, agrees to pay, or offers to pay a fee to another to engage in sexual conduct.

(2) As used in subsection (1), "sexual conduct" means "sexual penetration," "deviate sexual intercourse," or "sexual contact," as those terms are defined in section 707-700.

(3) Prostitution is a petty misdemeanor.

(4) A person convicted of committing the offense of prostitution shall be sentenced as follows:

(a) For the first offense, when the court has not deferred further proceedings pursuant to chapter 853, a mandatory fine of \$500 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 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).

(b) For any subsequent offense, a mandatory fine of \$500 and a term of imprisonment of thirty days or probation, without possibility of deferral of further proceedings pursuant to chapter 853 and without possibility of suspension of sentence.

(c) For the purpose of this subsection, if the court has deferred further proceedings pursuant to chapter 853, and notwithstanding any provision of chapter 853 to the contrary, the defendant shall not be eligible to apply for expungement pursuant to section 831-3.2 until four years following discharge. A plea previously entered by a defendant under section 853-1 for a violation of this section shall be considered a prior offense. When the court has ordered a sentence of probation, the court may impose as a condition of probation that the defendant complete a course of prostitution intervention classes; provided that the court may only impose such condition for one term of probation.

(5) This section shall not apply to any member of a police department, a sheriff, or a law enforcement officer acting in the course and scope of duties.

(6) If it is determined, after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of subsection (1) was less than eighteen years old at the time the offense of prostitution was committed, that person shall be immune to prosecution under this section, and shall be subject to the safe harbor provisions of chapter 589. Immunity to prosecution under this section shall not apply to patrons of prostitution or persons who procure or solicit patrons for prostitution."

SECTION 6. Section 712-1206, Hawaii Revised Statutes, is amended to read as follows:

**"§712-1206 Loitering for the purpose of engaging in or advancing prostitution.**

(1) For the purposes of this section, "public place" means any street, sidewalk, bridge,

alley or alleyway, plaza, park, driveway, parking lot or transportation facility or the doorways and entrance ways to any building which fronts on any of the aforesaid places, or a motor vehicle in or on any such place.

(2) Any person who remains or wanders about in a public place and repeatedly beckons to or repeatedly stops, or repeatedly attempts to stop, or repeatedly attempts to engage passers-by in conversation, or repeatedly stops or attempts to stop motor vehicles, or repeatedly interferes with the free passage of other persons for the purpose of committing the crime of prostitution as that term is defined in section 712-1200, shall be guilty of a violation.

(3) Any person who remains or wanders about in a public place and repeatedly beckons to, or repeatedly stops, or repeatedly attempts to engage passers-by in conversation, or repeatedly stops or attempts to stop motor vehicles, or repeatedly interferes with the free passage of other persons for the purpose of committing the crime of advancing prostitution as that term is defined in section 712-1201(1) is guilty of a petty misdemeanor.

(4) If it is determined, after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of subsection (2) was less than eighteen years old at the time the offense of prostitution was committed, that person shall be immune to prosecution under this section, and shall be subject to the safe harbor provisions of chapter 589. Immunity to prosecution under this section shall not apply to patrons of prostitution or persons who procure or solicit patrons for prostitution."

SECTION 7. Section 712-1207, Hawaii Revised Statutes, is amended to read as follows:

**"§712-1207 Street solicitation of prostitution; designated areas.** (1) It shall be unlawful for any person within the boundaries of Waikiki and while on any public property to:

(a) Offer or agree to engage in sexual conduct with another person in return for a fee; or

(b) Pay, agree to pay, or offer to pay a fee to another person to engage in sexual conduct.

(2) It shall be unlawful for any person within the boundaries of other areas in this State designated by county ordinance pursuant to subsection (3), and while on any public property to:

(a) Offer or agree to engage in sexual conduct with another person in return for a fee; or

(b) Pay, agree to pay, or offer to pay a fee to another person to engage in sexual conduct."

(3) Upon a recommendation of the chief of police of a county, that county may enact an ordinance that:

(a) Designates areas, each no larger than three square miles, as zones of significant prostitution-related activity that is detrimental to the health, safety, or welfare of the general public; or

(b) Alters the boundaries of any existing area under paragraph (a);

provided that not more than four areas may be designated within the State.

(4) Notwithstanding any law to the contrary, any person violating this section shall be guilty of a petty misdemeanor and shall be sentenced to a mandatory term of thirty days imprisonment. The term of imprisonment shall be imposed immediately, regardless of whether the defendant appeals the conviction, except as provided in subsection (5).

(5) As an option to the mandatory term of thirty days imprisonment, if the court finds the option is warranted based upon the defendant's record, the court may place the defendant on probation for a period not to exceed six months, subject to the mandatory condition that the defendant observe geographic restrictions that prohibit the defendant from entering or remaining on public property, in Waikiki and other areas in the State designated by county ordinance during the hours from 6 p.m. to 6 a.m. Upon any violation of the geographic restrictions by the defendant, the court, after hearing, shall revoke the defendant's probation and immediately impose the mandatory thirty-day term of imprisonment. Nothing contained in this subsection shall be construed as prohibiting the imposition of stricter geographic restrictions under section 706-624(2)(h).

(6) Any person charged under this section may be admitted to bail, pursuant to section 804-4, subject to the mandatory condition that the person observe geographic restrictions that prohibit the defendant from entering or remaining on public property, in Waikiki and other areas in the State designated by county ordinance during the hours from 6 p.m. to 6 a.m. Notwithstanding any other provision of law to the contrary, any person who violates these bail restrictions shall have the person's bail revoked after hearing and shall be imprisoned forthwith. Nothing contained in

this subsection shall be construed as prohibiting the imposition of stricter geographic restrictions under section 804-7.1.

(7) Notwithstanding any other law to the contrary, a police officer, without warrant, may arrest any person when the officer has probable cause to believe that the person has committed a violation of subsection (5) or (6), and the person shall be detained, without bail, until the hearing under the appropriate subsection can be held, which hearing shall be held as soon as reasonably practicable.

(8) If it is determined, after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of subsection (1) was less than eighteen years old at the time the violation was committed, that person shall be immune to prosecution under this section, and shall be subject to the safe harbor provisions of chapter 589. Immunity to prosecution under this section shall not apply to patrons of prostitution or persons who procure or solicit patrons for prostitution."

~~[(8)]~~ (9) For purposes of this section:

"Area" means any zone within a county that is defined with specific boundaries and designated as a zone of significant prostitution by this section or a county ordinance.

"Public property" includes any street, highway, road, sidewalk, alley, lane, bridge, parking lot, park, or other property owned or under the jurisdiction of any governmental entity or otherwise open to the public.

"Sexual conduct" has the same meaning as in section 712-1200(2).

"Waikiki" means that area of Oahu bounded by the Ala Wai canal, the ocean, and Kapahulu avenue.

~~[(9)]~~ (10) This section shall apply to all counties; provided that if a county enacts an ordinance to regulate street solicitation for prostitution, other than an ordinance designating an area as a zone of significant prostitution-related activity, the county ordinance shall supersede this section and no person shall be convicted under this section in that county."

SECTION 8. Section 712-1209, Hawaii Revised Statutes, is amended to read as follows:

**"[§712-1209] Solicitation of prostitution near schools or public parks.**  
(1) A person commits the offense of solicitation of prostitution near schools or

public parks if, within seven hundred fifty feet of a school or public park, the person offers or agrees to pay a fee to another person to engage in sexual conduct.

(2) Solicitation of prostitution near schools or public parks is a misdemeanor.

(3) If it is determined, after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of subsection (1) was less than eighteen years old at the time the violation was committed, that person shall be immune to prosecution under this section, and shall be subject to the safe harbor provisions of chapter 589. Immunity to prosecution under this section shall not apply to patrons of prostitution or persons who procure or solicit patrons for prostitution."

~~[(3)]~~ (4) For purposes of this section:

"School" has the same meaning as in section 712-1249.6(6).

"Sexual conduct" has the same meaning as in section 712-1200(2)."

SECTION 9. Title 31 of the Hawaii Revised Statutes, is amended by adding a new chapter to be appropriately designated and to read as follows:

### **Chapter 589. Safe Harbor for Sexually Exploited Children.**

**Section 589-1. Protection of Sexually Exploited Children; Establishment, Purpose.** This chapter creates a victim services program for sexually exploited children to make paramount the safety and health of children who have been exploited through prostitution or victimized by child sex trafficking. Furthermore, this chapter mandates the creation of protocols for the interplay between the immunity provisions for sexually exploited children and existing child protection statutes.

The legislature finds that arresting, prosecuting, and incarcerating victimized children serves to re-traumatize them and to increase their feelings of low self-esteem. This only makes the process of recovery more difficult. Appropriate services for sexually exploited children do not exist in the juvenile justice system and both federal and international law recognize that sexually exploited children are the victims of crime and should be treated as such. Therefore, sexually exploited children should not be prosecuted for criminal acts related to prostitution. Instead, services should be created to meet the needs of these children outside of the justice system. Sexually exploited children deserve the protection of child welfare services, including diversion, crisis intervention, counseling, and emergency housing services.

The policy and purpose of this chapter is to protect children from further re-victimization once they have been discovered to be a sexually exploited child by

ensuring that a child protective response is in place, not a criminal justice response. This is to be accomplished by granting immunity from prosecution to sexually exploited children and creating programs and services to meet their specific needs. It should be the priority of the Department to establish family reunification where possible and where it does not conflict with the child's health and safety. In determining the need for and capacity for services that may be provided under this chapter, the Department of Human Services shall recognize that sexually exploited children have separate and distinct service needs according to gender and appropriate services shall be made available while ensuring that an appropriate continuum of services exists.

This chapter shall be liberally construed to serve the best interests of children who have been sexually exploited.

**Section 589-2. Definitions.** For the purposes of this chapter:

“child” means a person who is born alive and is less than eighteen years of age.

“sexually exploited child” means any person under the age of eighteen who has been subject to sexual exploitation because he or she:

- (1) Is a victim of the crime of promoting prostitution in the first degree under HRS 712-1202;
- (2) Is a victim of the crime of sex trafficking of children under section 18 U.S.C. 1591 of the Federal Law; or
- (3) Engages in any act described in HRS 712-1200, 712-1206, 712-1207, or 712-1209, and granted immunity pursuant to those sections.

“Safe house” means a residential facility operated by an authorized agency, including a not-for-profit agency, with experience in providing services to sexually exploited children and approved by the Department of Human Services to provide shelter for sexually exploited children.

**Section 589-3. Victim Services Program for Sexually Exploited Children**

**Established.** (a) The department of human services shall develop a program to address the needs sexually exploited children and minors at-risk of commercial sexual exploitation.

(b) The program in subsection (a) shall:

- (1) provide for the child welfare services needs of sexually exploited children, including, but not limited to, services for sexually exploited children at the time they are taken into custody by law enforcement or are identified by the Department as sexually exploited children for the duration of any legal or administrative proceeding in which they are either the complaining witness or the subject child; and



- (2) provide appropriate services to a child reasonably believed to be a sexually exploited child in order to safeguard the child's welfare.
- (c) The department shall:
- (1) Coordinate with law enforcement agencies, the county prosecutors' offices, the child and adolescent mental health division, child protection workers, and human trafficking service providers to implement the victim services program established under this section;
  - (2) Provide training and educational materials to its employees regarding sex trafficking of minors and sexually exploited children;
  - (3) Develop a public awareness campaign regarding sex trafficking of minors; and
  - (4) Conduct outreach to youth identified as being at risk for sexual exploitation.
- (d) Monies from the domestic violence and sexual assault special fund shall be used to develop and provide services to sexually exploited children; the department may also use monies from the fund to enter into contracts with organizations that can provide services to sexually exploited children.
- (e) The services that shall be provided under this section shall be available to all sexually exploited children, whether they are accessed voluntarily, through a court proceeding or through referral, which may be made by any person.
- (f) The department shall submit a report to the legislature, no later than twenty days prior to the convening of the regular session of 2014, detailing the implementation of the victim services program for sexually exploited children. The report shall include findings and recommendations, including proposed legislation and additional appropriations requested.

**Section 589-4. Safe House for Sexually Exploited Children.** The Department of Human Services, to the extent funds are available therefore, shall operate or contract with an appropriate not-for-profit agency with experience working with sexually exploited children to operate at least one safe house in a geographically appropriate area of the state which shall provide safe and secure housing and specialized services for sexually exploited children throughout the state. Nothing in this section shall be construed to preclude an agency from applying for and accepting grants, gifts and bequests for funds from private individuals, foundations and the federal government for the purpose of creating or carrying out the duties of a safe house for sexually exploited children.

**Section 589-5. Temporary Care and Custody of Sexually Exploited Children.** (a) The Department of Human Services shall develop a protocol for the interplay

between the immunity provisions for sexually exploited children established by this chapter and other existing child protection statutes.

(b) Sexually exploited children may be taken into custody by the Police Officer and may be:

(1) subject to the protective custody of police without a court order pursuant to Chapter 587A-8, if the child's family is unable to provide for the child's health or safety; or

(2) returned to the child's parents if in the judgment of the police officer it is safe to do so without jeopardizing the health or safety of the child.

SECTION 10. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 11. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 12. This Act shall take effect upon its approval.



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## TESTIMONY FOR SENATE BILL 2579, RELATING TO MINORS

**Senate Committee on Human Services**  
**Hon. Suzanne Chun Oakland, Chair**  
**Hon. Les Ihara, Jr., Vice Chair**

**Senate Committee on Judiciary and Labor**  
**Hon. Clayton Hee**  
**Hon. Maile S.L. Shimabukuro**

**Monday, February 13, 2012, 10:00 AM**  
**State Capitol, Conference Room 016**

Honorable Chair Chun Oakland, Chair Hee 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, 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 1, §706- of this proposal to direct the disbursement of fines collected from the requested 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.

As you heard at a recent informational hearing on human trafficking issues, 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 1 with the following language:

Section 1. Chapter 706, part III, 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 DVSAF annual report to the Legislature, to read: “Recommendations on how to improve services for victims of domestic violence, sexual assault, and human trafficking.”

We also encourage you to amend Section 2 of this measure, relating to child abuse, by disaggregating the enumerated circumstances listed in §350-1(2) into a subsection (2), relating to families, and (3), relating to others, with (2) to read:

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

...and (3) to read:

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

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

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

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

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

While these changes have proven controversial when proposed in hearings on similar measures, they nonetheless initiate the structural shift necessary to authorize the Department of Human Services and related entities to treat sexually exploited children. If these changes are unpalatable, however, an acceptable alternative would be to delete Section 2 of this bill, while revising Section 3 to create a new statutory section (§453-14.5), to read as follows (substantive changes to HRS §453-14 are italicized):

**§453-14.5 Duty of physician, osteopathic physician, surgeon, hospital, clinic, etc., to report injuries caused by human trafficking.** (a) Every physician, osteopathic physician, physician assistant, and surgeon attending or treating any other injury reasonably believed to have been caused by the use of violence or sustained in a suspicious or unusual manner by ***an adult victim of labor trafficking in the first degree as defined by 707-781, or an adult victim of promoting prostitution in the second degree as defined by 712-1202(1)(a)***, or, whenever the case is treated in a hospital, clinic, or other institution, the manager, superintendent, or person in charge thereof, ***may*** report the case or provide requested information to the chief of police of the county within which the person was attended or treated, giving the name of the injured person, description of the nature, type, and extent of the injury, together with other pertinent information that may be of use to the chief of police. As used herein,

***"Adult" has the same meaning as provided in section 571-2.***

***"Chief of police"*** means the chief of police of each county and any of the chief's authorized subordinates.

***"Victim" has the same meaning as provided in section 801D-2.***

(b) A person who makes a report called for under this section shall be subject to the physician-patient privilege under section 626-1, rule 504, with regard to confidential communications made by the patient for the purpose of diagnosis or treatment of that patient, but shall not apply to testimony about the physician's observations of the patient.

(c) Any person who fails to make the report called for herein within twenty-four hours after the attendance or treatment shall be fined not less than \$50 nor more than \$500."

Finally, we encourage the committee to maintain the bill's extension of the statute of limitations prescribed in HRS §663J-7 from two to six years, thereby bringing the statute of limitations for claims made under the prostitution coercion liability act into consonance with the statute of limitations contained in HRS §701-108(2)(b) for class A felonies, which includes continuous sexual assault of a minor as outlined in HRS §707-733.6. For clarity, the IMUAlliance believes frequently cited cases of coercion into prostitution by members of a victim's family of household, as well as the ongoing subjection of coerced persons into acts of prostitution over extended periods of time, necessitates statutory correspondence with laws criminalizing other *continuous* sex crimes, especially involving family or household members, such as the aforementioned HRS §707-733.6.

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 SB 2579.

Sincerely,  
Kris Coffield  
*Legislative Director*  
IMUAlliance

12 February 2012

**TESTIMONY IN STRONG SUPPORT OF SB2579, Relating to Child Prostitution**

Hearing: 13 February 2012 (10:00AM), State Capitol Room 016

Committees: Senate Committee on Human Services; Senate Committee Judiciary and Labor

Honorable Chair Chun Oakland, Honorable Chair Hee, and Committee Members:

I am a candidate for the Masters Degree in Social Work at the University of Hawai`i at Manoa; I am also a survivor of child abuse and sexual abuse. I am in strong support of passing Senate Bill 2579, and feel that it is a step in the right direction towards protecting child victims of human trafficking as survivors of crimes – not punishing them as perpetrators.

Policymakers need to understand that child prostitutes are victims of trafficking – not criminals. Inability to recognize them as such leads to inability to recognize prostitution as the result of other social conditions – unstable households, abusive relationships, poverty, gender politics, power politics, and even mass immigration. Other causes are, in fact, kidnapping or trickery on the premise of receiving good-paying domestic jobs, such as nannies. Furthermore, failure to address the social needs of these trafficking victims leads to more social problems: the spread of HIV and sexually-transmitted diseases, substance abuse, aggressive behaviors in victims, panic attacks, Post-Traumatic Stress Disorder, rape, torture, homicide, and suicide and suicide attempts. All of these impacts, together, are an act of genocide against the World's youngest generation – beginning with those who were forced into slavery against their will.

Reiterating that slaves are not criminals: giving victims immunity from prosecution and allowing Family Court to have exclusive jurisdiction over them is a step towards overdue justice. Please understand that sexual exploitation is organized abuse – facilitated rape for profit. Common sense tells us that this abuse is taking place in Hawai`i. Sexual exploitation of victims happens not just in street prostitution and brothels, but under the guises of strip clubs, massage parlors, and escort services; a major contributing factor to the organized crime is immigration. Honolulu's Waikiki district is known for its streetwalkers; since the crackdown on solicitation, sex services have dispersed to the surrounding neighborhoods – including Ala Moana/Kaka`ako, and Ke`eaumoku. Selling sex is also still a regular practice in downtown (including Chinatown and around Restaurant Row). In sum: persons, including children, are being abused and objectified as sexual commodities, in Honolulu – a major international destination. Illegal monies are being accumulated in the Islands in areas such as Waikiki, Ala Moana/Kaka`ako, Ke`eaumoku, and Chinatown; and local law enforcement is allowing it to happen. This is just Honolulu, alone. What is worse is that Honolulu Police tend to target prostitutes for arrest, not johns, again treating victims as criminals while exacerbating blatantly unjust gender politics.

As the survivor of childhood abuse, I can attest that what hurts a child just as much as the actual abuse is 1) blaming and demonizing us victims, and 2) failing to recognize the wrong done unto us, to protect us, and to help us with our processes of “re-humanizing” and healing. This is why having a victims services program is essential to reintegrating victims of prostitution into society. Considering the extensive list of previously stated possible social outcomes for prostitutes, victims will need many services to begin the journey from being victims to being survivors. In addition to physical medical attention, food, shelter, therapy sessions, and possibly



substance abuse rehabilitation, victims will need assistance with the *emotional and psychological* rehabilitation processes – transitioning from slavery into a life that they can claim as their own.

All survivors of slavery – adults and children, regardless of gender – will need help with the processes of becoming emotionally human again. Several scholars address the timeless problem of placing blame on victims – calling them “bad,” “immoral,” and not “sympathetic” enough. The fact is: sexually exploited individuals learn that comfort is rare, that tears may lead to more abuse, and that staying numb is an effective defense mechanism. When the victims return home, they may be blamed, stigmatized, and made to feel ashamed by their families and greater communities. These victims will need assistance with reconnecting to human emotions, including healthy fear, a sense of security, and self-love. In instances where traffickers target orphans, individuals living with disabilities, and the illiterate and innumerate – these victims will need additional special assistance during their transitional phases.

I understand that treating child prostitution as a social problem, rather than a criminal problem, would place more strain on the Department of Human Services. I also understand that doing what is in best interest of child slaves would cause the Department to have a heavier workload – possibly beyond its current operational capacity. However, I urge DHS to step up and assume responsibility for protecting the most vulnerable population of these Islands. It is our responsibility to fight for our future generations, to help give them the voice, security, stability, and love they deserve, and to guide them in reclaiming their lives. The government of Hawai`i, DHS included, will have to make whatever adjustments and improvements necessary to protect all keikis that are exploited in these Islands – regardless of how they became victimized. If we choose to ignore their needs, we shamefully have their diseases, mental illnesses, substance addictions, deaths, etc. on our hands. I conclude by once again urging for the passage of Senate Bill 2579. I will make sources of information available for the Committee, as requested. Mahalo nui loa for your time, consideration, and dedication to the voiceless.

Very Sincerely,  
EnJolí S. H. Alexander

**DATE: February 11, 2012**

**ATTN: SENATE COMMITTEE ON HUMAN SERVICES & SENATE COMMITTEE ON JUDICIARY AND LABOR**

**(HMS)**

**Senator Suzanne Chun Oakland, Chair Senator  
Les Ihara, Jr., Vice Chair  
Senator Josh Green  
Senator Sam Slom**

**(JDL)**

**Senator Clayton Hee, Chair Senator  
Maile Shimabukuro, Vice Chair  
Senator Mike Gabbard  
Senator Les Ihara, Jr.  
Senator Sam Slom**

**RE: TESTIMONY IN STRONG SUPPORT WITH AMENDMENTS OF SB2579 - RELATING TO MINORS**

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

**I strongly support SB 2579 – Relating to Minors with the amendments recommended by Imua Alliance and Pacific Alliance to Stop Slavery.**

I am a concerned citizen who has only recently become aware of the existence and the rise of international human trafficking. The 2011 publicity of the EEOC lawsuit against Global Horizons for trafficking over 200 Thai workers to farms in Hawaii and Washington obliterated my ignorance. I then coincidentally chanced upon, and was enlightened by, a book titled "The Slave Next Door: Human Trafficking and Slavery in America Today" by Kevin Bales and Ron Soodalter (<http://www.amazon.com/Slave-Next-Door-Trafficking-Slavery/dp/0520255151>).

Since my eyes have been opened to this horrifying tragedy, I have not stopped reading about it. Even so, I am not yet confident enough to write an educated testimony of my own, but understand the problem enough to be confident in standing with the testimony submitted by Kathryn Xian of Pacific Alliance to Stop Slavery (PASS) who allies with Imua Alliance and Polaris Project with regard to this important bill.

Verbatim and paraphrased highlights of Kathryn Xian's testimony state that:

- Hawaii has an early history of children being sold into prostitution to foreign sailors.
- The incidence of human trafficking 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. [Please see the news article below.]

- There is a significant increase in child abuse at the hands of adults who are not related to the child victim.

The children who 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 imperative to require law enforcement to report child abuse that includes prostitution activity, in short, sex-trafficking of children.

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 in Hawaii.

- There is absolutely no such thing as an "independent child prostitute." Law enforcement should automatically act to protect this vulnerable population, not ignore them.
- It is up to HPD to institute 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.
- 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 of child abuse and have the state automatically enforce services and protections afforded by the state child abuse laws.
- Patrons of prostituted children must suffer a strong economic penalty for purchasing children for sex. 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.
- PASS recommends that the "two-year pilot program" headed by the Department of Human Services proposed in SB2579 (on page 20, Section 9) be established permanently and not be limited to two years.
- PASS agrees with the amendments proposed by Imua Alliance to remove the establishment of a special fund and divert fees proposed in SB2579 to the already existing Domestic Violence and Sexual Assault special fund.

As a new recruit in the war on human trafficking, **I agree with all the above statements, recommendations, and proposed amendments, and fully support the amended version of SB2579.** (The text of SB2579 as amended is included with the testimony from Kathryn Xian (PASS), so I won't duplicate it here.)

Please read the article below to get a sense of the danger and the reason we *all* need to engage in the war on human trafficking.

Sincerely,

Tana-Lee Rebhan-Kang

Concerned citizen

Aiea, Hawaii

## Teen Girls' Stories of Sex Trafficking in U.S.

Feb. 9, 2006 —

Fifteen-year-old "Debbie" is the middle child in a close-knit Air Force family from suburban Phoenix, and a straight-A student -- the last person most of us would expect to be forced into the seamy world of sex trafficking.

But Debbie, which is not her real name, is one of thousands of young American girls who authorities say have been abducted or lured from their normal lives and made into sex slaves. While many Americans have heard of human trafficking in other parts of the world -- Thailand, Cambodia, Latin America and eastern Europe, for example -- few people know it happens here in the United States.

The FBI estimates that well over 100,000 children and young women are trafficked in America today. They range in age from 9 to 19, with the average age being 11.

And many victims are no longer just runaways, or kids who've been abandoned. Many of them are from what would be considered "good" families, who are lured or coerced by clever predators, say experts.

"These predators are particularly adept at reading children, at reading kids, and knowing what their vulnerabilities are," said FBI Deputy Assistant Director, Chip Burrus, who started the Lost Innocence project, which specializes in child- and teen-sex trafficking.

And, he said, these predators are going where the kids are.

"What you can see, time and time again, is that the predators will adapt their means to whatever the young people are doing -- whether it's malls, whether it's ski slopes, whether it's beaches," Burrus said. "Predators ... are going to do everything in their power to try to convince young girls, young boys, to come with them and enter this particular lifestyle."

### Abducted From Her Own Driveway, Teen Says

Debbie's story is particularly chilling. One evening Debbie said she got a call from a casual friend, Bianca, who asked to stop by Debbie's house. Wearing a pair of Sponge Bob pajamas, Debbie went outside to meet Bianca, who drove up in a Cadillac with two older men, Mark and Matthew. After a few minutes of visiting, Bianca said they were going to leave.

"So I went and I started to go give her a hug," Debbie told "Primetime." "And that's when she pushed me in the car."

As they sped away from her house, Debbie said that one of the men told Bianca to tie her up and said he threatened to shoot Bianca if she didn't comply.

"She tied up my hands first, and then she put the tape over my mouth. And she put tape over my eyes," Debbie said. "While she was putting tape on me, Matthew told me if I screamed or acted stupid, he'd shoot me. So I just stayed quiet."

Unbelievably, police say Debbie was kidnapped from her own driveway with her mother, Kersti, right inside. Back home with her other kids, Kersti had no idea Debbie wasn't there.

"I was in the house. I mean, it was a confusing night. I had all the kids coming in and out. The last I knew she had come back in," Kersti said. "It was just so weird that night. I mean, I normally check on all my kids, and that night I didn't. I should have."

Debbie said her captors drove her around the streets of Phoenix for hours. Exhausted and confused, she was finally taken to an apartment 25 miles from her home. She said one of her captors put a gun to her head.

"He goes, 'If I was to shoot you right now, where would you want to be shot -- in your head, in your back or in your chest?'" Debbie said. "And then I hear him start messing with his gun. And he counted to three and then he pulled the trigger. And then I was still alive. I opened my eyes, and I just saw him laughing."

Debbie said she was then drugged by her captors and other men were brought into the room, where she was gang raped.

"And then that's when I heard them say there was a middle-aged guy in the living room that wanted to take advantage of a 15-year-old girl," she said. "And then he goes, 'Bend her over. I want to see what I'm working with.' And that's when he started to rape me. And I see more guys, four other guys had come into the room. And they all had a turn. It was really scary."

### A Lucrative Offer at the Mall

Debbie's indoctrination into the world of sex exploitation was particularly brutal. More often, young girls are unwittingly lured in to unwilling prostitution with promises of jobs, money, clothing and modeling.

That's what 19-year-old Miya said happened to her when she was working at a Phoenix mall selling sunglasses. Miya was working three jobs -- 14 hours a day -- to pay off her bills and save for college.

One day when she was working, she was approached by a young woman and a well-dressed man. "He asked if it would be out of place if he said I was pretty," Miya said. "I was like, 'No.' I mean, it was a compliment."

The man was charming and had a flattering offer for Miya.

"He said that he was a model agent, [that] he was looking for new models in the area," she said. "It's not like something I've been wanting to do or anything, but, I mean, it was ... it seemed interesting."

Taken by the idea of modeling and making extra money, Miya agreed to meet the couple that night at a local restaurant.

"They said they were on their way to California to go back to their office and they were going to do some more photo shoots, and they wanted me to go along with them," Miya said. "He said that I could probably make about a thousand or more. ... He said I could try it for three days. ... And so I went with them."

The next morning Miya was thrilled when the couple took her to have her hair, makeup and nails done. At that point, she said she had no idea she was not being made over for a photo shoot but for a much more insidious reason. Later, when the couple began taking pictures, Miya said she became alarmed.

"They used just a cheap camera you can buy, the throwaway," she said. "And they said once we get to California that we would be at a photo shoot, and that they'd be using, uh, some really good equipment, they'd have makeup artists and stuff like that."

Miya said she didn't know what happened to those pictures until later, when she arrived in California with the couple. "He showed me a Web site that he put them up on," she said. "And it was an escort service site."

### Treated Like a Dog

After the horrifying gang rape, police say Debbie was trapped in one of Phoenix's roughest neighborhoods. In a rundown, garbage-strewn apartment, her captors were trying to break her down.

"They were asking me if I was hungry," she said. "I told them no. That's when they put a dog biscuit in my mouth, trying to get me to eat it."

After a sleepless night, Debbie was tossed back into the car and again driven around Phoenix. She said they talked to her about prostitution, and that one of the men forced her to have sex with him in the car and then later in a park.

The same man took her back to his apartment, and Debbie said, "I ended up in the dog kennel."

Greg Scheffer, an officer with the Phoenix police department, said Debbie was kept in a small dog crate for several days. Lying on her back in the tiny space, her whole body went numb.

"She was subject to various abuses while in there," Scheffer said. "This is all part of the breaking down period where [he] gains complete control of this girl."

Unbeknownst to Debbie, police say her captors had put an ad on Craig's List -- a national Web site better known for helping people find apartments and roommates. Shortly after the ad ran, men began arriving at the apartment at all hours of the day and night demanding sex from her.

She said she had to comply. "I had no other choice," she said.

Debbie said she was earning hundreds of dollars a night -- all of it, she said, going to the pimp.

Scheffer said Debbie was forced to have sex with at least 50 men -- and that's not counting the men who gang-raped her on a periodic basis.

Debbie had no idea who the men were. "I didn't know them," she said. "But most of them were married, with kids. And every single one of them, I asked them why they were coming to me if they had a wife at home. ... They didn't have an answer. So, like, I felt so nasty."

For more than 40 days, police say Debbie remained captive, often beaten and forced daily to have sex of the most degrading kind. During that time, she said she did not try to escape because her captors had done what police say so many pimps do -- threatened her and terrified her.

Debbie said that the pimps told her they would go after her family, and they even threatened to throw battery acid on her 19-month-old niece.

"After they told me that, I didn't care what happened to me as long as my family stayed alive," she said. "And that's pretty much what I had in my head. Staying there to keep my family alive."

#### Making a Break for It

Miya says she endured her own brutal ordeal and was forced to work as a prostitute.

When she failed to come home from her job at the mall, Miya's family began desperately searching for her -- they frantically called her cell phone and sent her text messages, begging her to come home. They got no response.

Eventually, they filed a missing person report with the police, contacted the media and plastered fliers and yellow ribbons all over town.

Meanwhile, Miya's boss at the mall called Dianne Martin to tell her he was afraid that her daughter may have been abducted by the suspicious couple.

Miya's parents soon learned from police that more than approximately 30 other girls had been approached by the same couple in that mall and in surrounding areas -- the same couple, apparently, who were seen with Miya and who claimed to be recruiting models. But in the end, Miya was the only girl who'd gone with them.

Within days, Miya had been moved several times, farther from home, and she said she was too scared to try to escape. "I mean, I was really far away from my house, and I didn't know where to go," she said.

Ernie Allen, the director of the National Center for Missing and Exploited Children, said that's not uncommon for kids lured into the sex trade.

"There are many of these kids who are seduced, thinking ... that they're gonna have economic opportunities, that they're gonna be a model, that they're gonna be in show business somehow," Allen said. "And then, later, discover themselves in a situation in which they have no control, and they're, they're slaves. So ... this is a problem that has many faces."

Miya was essentially on tour -- she said her pimp had also taken out ads on the Internet, advertising where she would appear next. The fact that she was kept off the streets made it almost impossible for police to track her down.

"So the Internet for the pimps is a huge benefit for them, because it allows them to make their money, do what they want to do with these juveniles or with their prostitutes and have very little contact with the police," said Scheffer.

But then after six days, Miya said her captors slipped up. She said they decided to put her out on some of the roughest streets in San Francisco to turn tricks.

For her, it was like a death sentence, and she finally worked up the nerve to escape. At 5:30 one morning, she made a break for it.

"I waited till they were completely asleep. And I put my suitcase by the door. And I was about to leave and ...sure enough, the phone rings," she said.

Miya said she handed her captor his phone and then told him she was going to go downstairs and smoke a cigarette. And then she ran for her life.

"And that was the last time I talked to him," she said. "I grabbed my suitcase, and I ran to the elevator and I got outside and I started running until I got as far away as I possibly could."

### Reunited With Family

Miya said she was moved around so much at night, she didn't even know where she was. After escaping, Miya finally felt safe enough to approach a truck driver, who told her she was in Union City, Calif.

Miya called home and spoke to her grateful mother. "She told me she didn't know what to do or where to go," Martin said.

Her stepfather contacted the police, who found Miya and took her to a police station. "I was just so glad I was out of their reach," she said.

But before her journey was over, Miya had one more hurdle to overcome. Police asked her to help catch the man she said lured her away from the mall -- which would mean facing the man she said held her against her will and forced her to perform degrading sexual acts.

Police tracked the man to a motel room. "They found out what room he was in," Miya said. "He tried jumping out the window. And they caught him."

For Debbie, who police said been held by her captors at gunpoint and kept in a dog cage for more than 40 days, the chances of getting out alive seemed slim. But then police investigating the case heard tips that she was being kept in an apartment in the Phoenix area.

Police searched the apartment but didn't find Debbie.

But they were still suspicious. So on Nov. 8, police broke down the doors to the same apartment and realized with a shock why they'd been unable to find Debbie -- she was there, but she was tied up and crushed into a drawer under a bed.

Debbie said she heard Officer James Perry calling her name but was too frightened to answer. "I didn't know what to say; I was just lying under the bed, stiff as a board, shaking," she said "And then he opens the middle drawer, and he was like, 'Oh my God!'"

### Trying to Regain Innocence

When Debbie was finally freed from the drawer, she was sobbing, and said she gave the officer "the biggest hug in the world."

"I was so relieved!" she said. "And then that's when my ... I was standing there, and my knees started ... they gave out."

While it seems unbelievable that these girls didn't try to escape earlier, experts say it's not so uncommon.

"These are human beings who are owned by someone else, who lack the ability to walk away, who lack the ability to make a decision in their own self-interest to do something else," said Allen. "If that's not slavery, I don't know what is."

Police arrested two people at the apartment, and Debbie was taken to a safe house for children while her mother was called.

"I remember I got the call while I was driving to work," Kersti said. "That was scary. I had to pull over. But, uh, it was just wild, it was. I drove as fast as I legally could. I walked in and I saw her and we just flew to each other."

Within hours, Debbie was safely home. "I was so happy," she said. "I was so happy to see my mom. I was so happy to be home. I'm able to be with my family. I don't know -- it's crazy."

The two officers who rescued Debbie were so touched by her strength and her story that they visited her this Christmas and gave her a cross -- a token of affection and protection.

"She is a very strong, amazing girl," said Scheffer. "We ran into a few other girls that are like that. I don't know how they have the strength. They are very brave."

The man Miya says lured her from the mall was charged with pimping and pandering in connection with the 17-year-old with whom he was travelling. He has pleaded not guilty.

As for the people accused of snatching Debbie, they are charged with kidnapping and sexual assault. All have pleaded not guilty, except for one who awaits extradition from Illinois.

Both girls are trying to go on with their lives. Miya still has three jobs -- she's even gone back to work at a mall. But she's determined now to do some rescuing of her own. She's saving money to open an animal shelter.

Debbie has been joyfully reunited with her family, but they have put their house up for sale. They've decided to leave Arizona and move to the Midwest, where Debbie hopes she can find some of the innocence she lost one grim night in September.

Note: This report has been revised to clarify that the man Miya says lured her into prostitution was charged with pimping and pandering only in connection with the minor with whom he was traveling.



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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, February 11, 2012 4:35 PM  
**To:** HMS Testimony  
**Cc:** danielle@justiceprojecthawaii.org  
**Subject:** Testimony for SB2579 on 2/13/2012 10:00:00 AM

Testimony for HMS/JDL 2/13/2012 10:00:00 AM SB2579

Conference room: 016  
Testifier position: Support  
Testifier will be present: No  
Submitted by: D  
Organization: Individual  
E-mail: [danielle@justiceprojecthawaii.org](mailto:danielle@justiceprojecthawaii.org) Submitted on: 2/11/2012

Comments:  
Honolulu Police Department REFORM is a MUST!

I am a victim advocate and have worked with underage victims of sex trafficking here in Hawaii. I have witnessed HPD mishandle these child cases repeatedly.

I have witnessed HPD refuse to recover a runaway child who has been reported to both HPD and listed as endangered with the Attorney General's Office Missing Child Center, and whom also has a juvenile arrest warrant. This failure has taken place even when the child is clearly pointed out to law enforcement. I am not sure the purpose of having runaways reported to HPD at all if there is no uniformed approach to follow through to see them recovered. Some officers have no problem recovering a child and others seem to feel that their job position doesn't allow them to recover missing kids.

I am also aware of two separate occasions when HPD failed to apprehend potential sex predators. Both circumstances are similar in that a reported runaway minor female child under 15 was found in the company of an adult male. Both circumstances warranted enough probable cause to suspect that the adult had a sexual relationship with the child. In one of the instances the child even admitted to a sexual relationship and being under the influence of drugs given to her by the adult male. Instead of pursuing the possibility that a crime had been committed against the child the officers involved encouraged the men on both occasions to leave the scene quickly informing them that the girl was a minor and that it would be in the men's best interest to take off before they got in trouble. When the parents picked up their daughter they were never informed that an adult male was present when she was found.

I was present on a completely separate occasion when a male police officer told a 14 year old girl, who admitted to being trafficked, that she needed to be aware of "how much trouble she could get these guys (sex customers) into" because she was so young.

There is a serious problem with our local law enforcement if our children are being treated as the predators while HPD protects adult sexual predators (because that is what an adult man who is having sex with a child is). A child under 16 cannot under Hawaii state law consent to having sex with an adult.

A mother of a 14 year old girl went to retrieve her daughter from HPD after she was picked up as a runaway, the girl admitted to being given drugs and alcohol from adult men, and that those men had arranged for her to have sex with other adult men for money. When the mother questioned the officer on what could be done to pursue criminal charges against these men, she was incorrectly told by the officer that the age of sexual consent in the state is 14

years old therefore nothing could be done. The mother took her daughter to the hospital ER on her own and had a rape kit, and drug test done. She had to make several attempts at contacting HPD before she found someone to help her with the case.

I can only speculate as to the reason that all of these cases were so grossly mishandled. I understand the volume of paper work that would go into having to make a case a sex crime against a child other than a simple runaway return can be a deterrent. Also simple ignorance to the actual laws in the state having to do with children and sex predators.

Regardless of the actual reason for the mishandling of these children the bottom line is SOMETHING MUST BE DONE to reform Honolulu Police Department's response and handling of child sex crimes and the clear recognition of a child victim. IF NOT, WE AS A SOCIETY ARE ALLOWING OUR VULNERABLE CHILDREN TO BE OPEN FODDER FOR SEX PREDATORS/SEX TRAFFICKERS. Let's stop making it easy for them.

THESE OUR OUR CHILDREN! We need to send a message to SEX PREDATORS that it is NOT okay to mess with our kids in Hawaii! Sex traffickers and the patrons of sex services involving children should be seen by the state as sex predators.

Mahalo for your attention to this issue. D.H.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, February 12, 2012 11:04 AM  
**To:** HMS Testimony  
**Cc:** nsharma@hawaii.edu  
**Subject:** Testimony for SB2579 on 2/13/2012 10:00:00 AM

Testimony for HMS/JDL 2/13/2012 10:00:00 AM SB2579

Conference room: 016  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Dr. Nandita Sharma  
Organization: Individual  
E-mail: [nsharma@hawaii.edu](mailto:nsharma@hawaii.edu)  
Submitted on: 2/12/2012

**Comments:**

This bill is typical of the mean spirited approach of some of the "anti-trafficking" (a.k.a. anti-prostitution) folks as it would remove prosecution for some teenagers, but not for all. Again, if underage sex work is to be decriminalized why should all sex work not be so. I support this bill but only if confusing language can be addressed.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 09, 2012 12:24 PM  
**To:** HMS Testimony  
**Cc:** toddhairgrove@hotmail.com  
**Subject:** Testimony for SB2579 on 2/13/2012 10:00:00 AM

Testimony for HMS/JDL 2/13/2012 10:00:00 AM SB2579

Conference room: 016  
Testifier position: Support  
Testifier will be present: Yes  
Submitted by: Todd Hairgrove  
Organization: Individual  
E-mail: [toddhairgrove@hotmail.com](mailto:toddhairgrove@hotmail.com)  
Submitted on: 2/9/2012

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 10, 2012 3:32 PM  
**To:** HMS Testimony  
**Cc:** vl@traffickjamming.org  
**Subject:** Testimony for SB2579 on 2/13/2012 10:00:00 AM

Testimony for HMS/JDL 2/13/2012 10:00:00 AM SB2579

Conference room: 016  
Testifier position: Support  
Testifier will be present: Yes  
Submitted by: V L  
Organization: Individual  
E-mail: [vl@traffickjamming.org](mailto:vl@traffickjamming.org)  
Submitted on: 2/10/2012

**Comments:**

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. Their children have been sex trafficked in Hawaii while being listed as runaways. These parents have experienced the runaway reports being repeatedly lost by HPD. When runaways are seen by members of the public, officers have repeatedly refused to approach the minors. Even when missing children posters are shown to officers they still refuse to attempt to retrieve the reported runaways from the street. When runaways have been approached by officers, the runaways are often in the presence of adult men. The officers have 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. 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 also has no residential rehabilitative programs that the minor can be referred to. Hawaii has no 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, law enforcement is not responding to their runaway reports, when law enforcement does respond they are not including pertinent information in the reports so that the courts & service could respond better (such as: presence of adult men, areas of high prostitution, unusual attire for a minor, unusual amounts of 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 has been trained by other law enforcement agencies on how to address high risk victims. They have been given the opportunity to develop a plan to address high risk victims,

but they have failed to develop a plan, act on a plan, or even adequately follow through on the current protocols when dealing with basic runaway cases. Its time for more pressure to placed on our law enforcement & judicial system to really come up with a plan to help these victims instead of continuing to make excuses.