

HB 1068, HD1

Measure Title: RELATING TO HUMAN TRAFFICKING.

Report Title: National Human Trafficking Resource Center Hotline

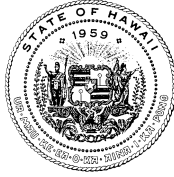
Description: Requires employers to post in a conspicuous place a poster that provides specified information relating to human trafficking and the National Human Trafficking Resource Center hotline. Establishes penalties for violations of the poster requirement. (HB1068 HD1)

Companion:

Package: None

Current Referral: HMS/JDL, WAM

Introducer(s): AWANA, HASHEM, MIZUNO, THIELEN, Cheape



**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

830 PUNCHBOWL STREET, ROOM 321
HONOLULU, HAWAII 96813
www.hawaii.gov/labor
Phone: (808) 586-8842 / Fax: (808) 586-9099
Email: dlir.director@hawaii.gov

March 19, 2013

To: The Honorable Suzanne Chun Oakland, Chair, the Honorable Josh Green,
Vice Chair, and
Members of the Senate Committee on Human Services

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

Date: Tuesday, March 19, 2013
Time: 1:30 p.m.
Place: Conference Room 016, State Capitol

From: Dwight Y. Takamine, Director
Department of Labor and Industrial Relations (DLIR)

Re: HB1068 HD1 RELATING TO HUMAN TRAFFICKING

The DLIR shares the concern about the problems associated with human trafficking in Hawaii and notes that State criminal law was recently amended by the Legislature by adding provisions for human trafficking. However, the DLIR administers labor law and programs, not criminal law, and therefore requests that it not be given the responsibility as proposed in the measure.



46-063 Emepela Pl. #U101 Kaneohe, HI 96744 · (808) 679-7454 · Kris Coffield · Co-founder/Legislative Director

**TESTIMONY FOR HOUSE BILL 1068, HOUSE DRAFT 1, RELATING TO HUMAN
TRAFFICKING**

Senate Committee on Human Services
Hon. Suzanne Chun Oakland, Chair
Hon. Josh Green, Vice Chair

Senate Committee on Judiciary and Labor
Hon. Clayton Hee, Chair
Hon. Maile S.L. Shimabukuro, Vice Chair

Tuesday, March 19, 2013, 1:30 PM
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 strong support of, with proposed amendments for HB 1068, HD 1, relating to human trafficking.

In 2011, 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. In 2012, policymakers passed a “vacating convictions” bill, for the first time allowing persons who have been wrongfully convicted of prostitution-related offenses and can demonstrate that their offenses were coerced to petition to have these convictions vacated from their record, so that they can matriculate into healthy, sustainable, fruitful lifestyles.

The IMUAlliance lauds the State Legislature's efforts, during the last two sessions. 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. To that end, the IMUAlliance

strongly supports the enactment of “hotline” legislation that will require various establishments, such as massage therapy establishments and hostess bars, to post in a conspicuous location a poster that provides information relating to the National Human Trafficking Resource Center, including the center's hotline number. We note that over the past three years, calls from Hawaii to the NHTRC have increased fourfold, evincing an escalation both in the amount of trafficking taking place in the islands and awareness of trafficking among community members.

That said, we encourage you to amend this bill to pertain only to high-risk establishments—namely massage therapy establishments, entities holding a class 5 or class 11 liquor license (hostess bars and strip clubs), and farm operations employing five or more persons, as well as hospital emergency rooms. Accordingly, our amendment would require that the scope elaborated in subsection (a) and penalty provisions contained in subsection (e) of the bill be revised to apply only to the enumerated establishments. We also urge you to amend Section 1, of this bill by adding a subsection to state: “The department may contract with any state or county department or agency, including but not limited to the county liquor commissions, for the purpose of implementing or enforcing this section.” In our opinion, this amendment allows DLIR to obtain assistance from other governing bodies that have experience in working with and policing the establishments enumerated in this bill, thereby lessening the fiscal encumbrance borne by the department. Language that would enact our requested amendments reads as follows: SECTION 1. Chapter 371, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§371- National Human Trafficking Resource Center Hotline; posting requirement; penalty. (a) An establishment shall post and keep posted in a conspicuous place near the establishment's primary public entrance or another area where posters and notices are customarily posted on the premises of the establishment, a poster no smaller than eight and one-half inches by eleven inches in size that states the following:

“If you or someone you know is being forced to engage in any activity and cannot leave – whether it is commercial sex, housework, farm work, or any other activity – call the National Human Trafficking Resource Center Hotline at 1-888-373-7888 to access help and services.

Victims of human trafficking are protected under United States and Hawaii law.

The hotline is:

(1) Available twenty-four hours a day, seven days a week;

(2) Toll-free;

(3) Operated by a non-profit, non-governmental organization;

(4) Anonymous and confidential;

(5) Accessible in one hundred-seventy languages; and

(6) Able to provide help, referral to services, training, and general information.

(b) For purposes of this section, "establishment" means:

(1) Any entity that holds a class 5 or class 11 liquor license pursuant to section 281-31;

(2) A hospital emergency room;

(3) A massage therapy establishment; or

(4) A farm operation employing five or more persons.

(c) A poster required under subsection (a) shall be printed in English and the director may supplement the required information.

(d) The department shall make available on its public website an electronic version of the poster required by subsection (a) for establishments to print.

(e) Any establishment or any agent, employee or representative thereof, who willfully and knowingly fails, neglects, or refuses to perform any act required by this section shall be fined not more than \$100 for each separate offense. Each day of continued violation shall constitute a separate offense. Any action taken to impose or collect the penalty provided for in this subsection shall be considered a civil action.

(f) The department may contract with any state or county department or agency, including but not limited to the county liquor commissions, for the purpose of implementing or enforcing this section.”

Finally, we urge you to use HB 1068 as a vehicle bill for criminalizing Internet-based, third-party advertisements for prostitution. In the Information Age, the Internet has become the predominant vehicle for commercial sex advertising (see below). Every day, approximately 300 online ads (or 100,000 per year) publicizing sexual services are posted online, via websites like Backpage and Craigslist, and usually under the guise of escort dates or massage appointments. Often, the photos contained in the ads feature scantily clad women, making explicit their ulterior intent. Newly articulated judicial precedent from the Sixth and Ninth Circuit Courts of Appeals suggests that such a law would not run afoul of the First Amendment, as long as it targets third-party advertisers, rather than the online advertising forums themselves. Importantly, Hawaii would be the second state to enact such a law, countermanding our image as a state that lags behind the country in terms of implementing progressive anti-trafficking policy. To create a “cybertrafficking” statute, we propose that this bill be used to update HRS 452-23, the state's law

regarding massage therapy advertising, to apply to online ads, using the following language:
§452-23 Advertising. (a) It is a misdemeanor for any person, including a person who is exempt by section 452-21 from this chapter, to advertise with or without any limiting qualifications as a massage therapist unless the person holds a valid license under this chapter. Further, it shall be a violation of this chapter for any person to advertise:

(1) As a massage therapist or a massage therapy establishment unless the person holds a valid license under this chapter in the classification so advertised;

(2) By combining advertising for a licensed massage therapy service with escort or dating services;

(3) By combining advertising for a licensed massage therapy service with prostitution;

~~[(3)]~~ (4) As performing massage in a form in which the person has not received training, or of a type which is not licensed or otherwise recognized by statute or administrative rule;

~~[(4)]~~ (5) By using in any ~~mass distribution, print advertisements such as newspaper advertisements, or telephone directory listings,~~ print, broadcast, or electronic advertisements, pictures depicting the human form other than hands, wrists, and forearms;

~~[(5)]~~ (6) By using any term other than therapeutic massage or massage therapy to refer to the service; or

~~[(6)]~~ (7) By referring to any personal physical qualities of the practitioner.

"Advertise" as used in this section includes, but is not limited to, the issuance of any card, sign, or device to any person; the causing, permitting, or allowing of any sign or marking on or in any building, vehicle or structure; advertising in any newspaper or magazine; any listing or advertising in any directory under a classification or heading that includes the word "massage therapist" or "massage therapy establishment"; ~~or~~ commercials broadcast by airwave transmission; or commercial communications distributed through any electronic medium, including but not limited to the Internet.

(b) A massage therapist or massage therapy establishment may advertise in print, ~~or~~ broadcast, or electronic medium, as defined in subsection (a) only if the massage therapist or massage therapy establishment includes in the advertisement or listing the massage therapist's or massage therapy establishment's applicable and current license number~~[,] and provides written evidence of the number's validity to the publisher or producer of the advertising medium.~~ The publisher or producer of a print, ~~or~~ broadcast, or electronic advertising medium shall refuse to publish or broadcast an advertisement or listing for a massage therapist or massage therapy establishment

~~that does not comply with the provisions of this subsection. A publisher or producer who obtains a signed statement from the massage therapist or massage therapy establishment which states that the massage therapist or massage therapy establishment has read the text of the advertisement or listing, has an applicable and current massage therapist or massage therapy establishment license for the services advertised, has included all applicable and current license numbers in the advertisement or listing, and is aware of civil and criminal penalties for advertising as a massage therapist or massage therapy establishment without a valid license, shall be entitled to a rebuttable presumption of compliance with this subsection. A publisher or producer of any print, broadcast, or electronic advertising medium shall be entitled to a rebuttable presumption of good faith compliance with this subsection.~~

(c) Upon entry of either a final order of the board of massage therapy pursuant to chapter 91, or a judgment by a court of competent jurisdiction, finding that a massage therapist or massage therapy establishment has advertised in violation of section 452-2 or this section, the public utility furnishing telephone service to the massage therapist or massage therapy establishment shall disconnect the telephone number contained in the advertisement or listing.

(d) A publisher or producer of a print or broadcast, or electronic advertising medium shall not be liable in any suit, action, or claim arising from refusal to list or accept advertisements pursuant to subsection (b). Good faith compliance by a public utility with subsection (c) is a complete defense to any civil or criminal action brought against it arising from the termination of telephone service.

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 biennium's momentum into a concerted movement. Mahalo for the opportunity to testify in strong support of this bill.

Sincerely,
Kris Coffield
Legislative Director
IMUAlliance

□□□□□□□□□□□□□□□□□□□□ N.I.R.V.N.A. Relaxation. Y.O.U. H.A.V.E . TO. T.R.Y. □□□□□□□□□□□□□□□□ - 25

Posted: Thursday, February 7, 2013 12:05 PM

Reply: [click here](#)

□N:::R::V::A::N::A□R::E::L::A::X::A::T:::O::N□

- Best service in town.☎808-636-7277
- Sweet sexy girls with the skills to meet your individual needs.
- beautiful asian girls you can choose
- No rush. Private rooms and showers are available for your comfort and convenience.
- Walk-ins Welcome
- Free parkings
- We open 24/7

□ Come and relax Let us pamper you□□

Poster's age: 25

• Location: Honolulu (Oahu), Honolulu



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Posted: Thursday, February 7, 2013 1:07 PM

Reply: [click here](#)

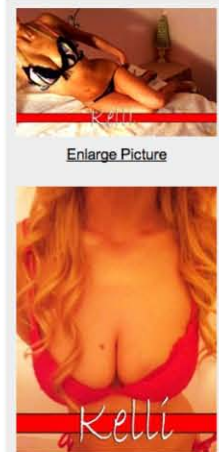
Hey GeNtlemen, iTs PIAY TiME BoYs Five-Star Experience ☆That will leave you Satisfied. ★Sweet EYECANDY!~► Im Available 24-Hrs!Dont Hesitate to call ☆From the Moment we meet, you will ★be the center of our Attention & Affection ●100% JAW DROPPING SERVICE*. ●**100% real pictures ★We are the total package. . .Guarantee**~☆~*~* Walk Ins welcome 955-1312 [Click here for Map](#)**

Poster's age: 21

• Location: Honolulu (Oahu), 641 Keeaumoku St

• Post ID: 3139293 honolulu

[Email this ad](#)





March 16, 2013

COMMITTEE ON HUMAN SERVICES

Senator Suzanne Chun-Oakland, Chair
Senator Josh Green, Vice-Chair
Senator Michelle N. Kidani
Senator Brian T. Taniguchi
Senator Sam Slom

COMMITTEE ON JUDICIARY AND LABOR

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

DATE: Tuesday, March 18th 2013

TIME: 1:30pm

PLACE: Conference Room 016, State Capitol, 415 South Beretania Street

**RE: TESTIMONY IN STRONG SUPPORT OF HB1068 WITH AMENDMENTS
RELATING TO HUMAN TRAFFICKING**

Requires certain establishments to post in a conspicuous place a poster that provides specified information relating to human trafficking and the National Human Trafficking Resource Center hotline. Defines "establishment." Establishes penalties for violations of the poster requirement.

Dear Committees on Human Services and Judiciary:

The Pacific Alliance to Stop Slavery (PASS), in unity with Imua Alliance, is in strong support of HB1068 with amendments. (Please refer to testimony from Imua Alliance for the suggested amendments).

The Human Trafficking Resource Center and Hotline, managed by the Polaris Project, is one of the ways in which victims in servitude, community members wishing to report a crime, or individuals wanting to receive more resource information may call 24-hours a day to receive the help they need. Requiring establishments to post the hotline in clear view would help to get assistance to those who need it the most in areas where outreach is difficult.

The hotline poster is already designed and available for free on this website:

http://www.polarisproject.org/index.php?option=com_content&view=article&id=60&Itemid=73



A sample of the poster is included with this testimony. Costs would be minimal, only pertaining to the value of the sheet of paper it is printed on. The poster is also translated into 10 different languages aside from English at no cost.

Furthermore, from 2007 to 2010, the National Hotline received 75 calls from Hawaii. In 2011 that total jumped to 67 calls for that year alone, almost the same total amount than the previous 3 years combined. With more visibility, due to the passage of this legislation, we expect a significant increase in hotline calls.

PASS serves victims of Human Trafficking for sex or labor in the state of Hawaii and has a support base of over 7000 persons.

PASS is one of Hawaii's few services that helps heal survivors of human trafficking. We testify that there are no specific services tailored to the survivors of this crime. As a result, survivors fall through the cracks or are often re-victimized and criminalized as either "prostitutes" if they are sex trafficked victims or "illegal immigrants" if they are labor trafficked victims. Hawaii must accurately and effectively address the handling of human trafficking survivors.

Earlier this year, Shared Hope International rated Hawaii second worst in the nation in protecting child victims of sex trafficking by law. Since there is no sex trafficking statute in Hawaii, statistics from law enforcement are unavailable as they are combined with general prostitution statistics but other sources of information are very helpful in assessing the great need for services specific to child victims of sex trafficking. Such information states:

- Hawaii's incarceration rate of juvenile girls exceeds national average¹.
- Of the girls incarcerated, 35% are runaways, a high-risk criteria for trafficking².
- Hawaii has the third highest attempted teen suicide rate³.
- Hawaii has one of the highest rates of intrafamilial sexual abuse (incest)⁴.

All of these statistics significantly contribute to the proliferation of sex trafficking. Since 2009, PASS alone has assisted 96 victims of human trafficking. The need to expand anti trafficking services is very severe.

Thank you for hearing this much needed legislation.

Sincerely,

Kathryn Xian
Executive Director
Pacific Alliance to Stop Slavery

¹ Hawaii Department of the Attorney General, Research and Statistics Branch Crime Prevention and Justice Assistance Division. (May 2006). *The Female Juvenile Offender in Hawaii: Understanding Gender Differences in Arrests, Adjudications, and Social Characteristics of Juvenile Offenders*

² Ibid.

³ Hawaii State Department of Health (2010)

⁴ Dunn, A. Girl Fest Hawaii Conference on Youth. (2012). Deputy Prosecutor, Honolulu City Prosecutor's Office

Human trafficking is modern-day slavery,
and it's happening right here in the United States.

National Human Trafficking Resource Center (NHTRC)

1-888-3737-888

email: NHTRC@PolarisProject.org

TOLL-FREE | 24 Hours/day, 7 Days/week

Confidential | Interpreters available

WHO ARE THE VICTIMS?

Victims are forced to provide labor or commercial sex, and can be:

- U.S. citizens or foreign nationals
- Men, women, or children

WHERE DOES HUMAN TRAFFICKING HAPPEN?

Human trafficking can happen in many situations, including in:

- Commercial sex industry (street prostitution, strip clubs, massage parlors, escort services, brothels, internet)
- Factories (industrial, garment, meat-packing)
- Farms, landscaping, or construction
- Peddling rings, begging rings, or magazine crews
- Private homes (housekeepers, nannies, or servile marriages)
- Restaurants, bars, and other service industries (nail or hair salons)

Call to report a potential case, get information or resources,
request training or technical assistance, or receive referrals.

FOR MORE INFORMATION: www.TraffickingResourceCenter.org

National Human Trafficking Resource Center (NHTRC) Call Data Breakdown
Hawaii State Report

December 7th, 2007 - November 30th, 2010

Number of Total Calls in Period: 24,731

Number of Total Calls from Hawaii: 75

Call Category:

| Row Labels | Number of Calls |
|--------------------------------------|-----------------|
| RED- Crisis | 0 |
| GREEN- Tips | 9 |
| BLUE- Training and TA | 3 |
| PURPLE- Referral | 22 |
| YELLOW- General Info | 18 |
| GREY- Related | 13 |
| ORANGE – Complaint | 1 |
| LINKED CALL - No Color Code Assigned | 9 |
| Grand Total | 75 |

No. of Calls that Reference Potential Trafficking Situations:

| Row Labels | Number of Calls |
|--------------------|-----------------|
| Yes | 24 |
| Unknown | 8 |
| No | 43 |
| Grand Total | 75 |

Type of Trafficking:

| Row Labels | Number of Calls |
|---------------------------|-----------------|
| Bride Trafficking | 1 |
| Labor Trafficking | 2 |
| Sex and Labor Trafficking | 1 |
| Sex Trafficking | 12 |
| Other | 8 |
| Grand Total | 24 |

Note: The data displayed in this report was generated based on limited criteria from calls received by the National Human Trafficking Resource Center hotline. This is not a comprehensive report on the scale or scope of human trafficking within the state. These statistics may be subject to change.

Type of Trafficking – Detail:

| Row Labels | Number of Calls |
|-----------------------------------|-----------------|
| Agriculture/Farms | 1 |
| Asian Massage Parlor | 1 |
| Domestic Pimp-control Trafficking | 5 |
| Escort Service | 3 |
| Korean Room Salon/Hostess Club | 2 |
| Labor Trafficking - Other | 1 |
| Sex Trafficking - Other | 1 |
| Not Specified | 10 |
| Grand Total | 24 |

Caller Location – City:

| Row Labels | Number of Calls |
|------------------------|-----------------|
| Hilo | 4 |
| Honolulu | 28 |
| Kumukoa | 1 |
| Lahaina | 2 |
| Maui | 6 |
| NGO – Anti-trafficking | 2 |
| Oahu | 8 |
| Waikiki Beach | 1 |
| Not Specified | 23 |
| Grand Total | 75 |

Location of Tip – City*:

| GREEN- Tips | 9 |
|---------------|---|
| Hilo | 3 |
| Honolulu | 2 |
| Waikiki Beach | 1 |
| Not Specified | 3 |

*Note: The data for this field is derived from the caller’s location. In some instances, the caller may be reporting a tip in another city or state that is not reflected here.

Note: The data displayed in this report was generated based on limited criteria from calls received by the National Human Trafficking Resource Center hotline. This is not a comprehensive report on the scale or scope of human trafficking within the state. These statistics may be subject to change.

Caller Type:

| Row Labels | Number of Calls |
|---|-----------------|
| Community Member | 20 |
| Faith-based Organization/Representative | 2 |
| Family Member of Potential Victim | 1 |
| Federal Law Enforcement | 2 |
| Friend of Potential Victim | 6 |
| Government | 1 |
| Legal Professional | 3 |
| Medical Professional | 2 |
| NGO – Anti-trafficking | 4 |
| NGO – Other | 7 |
| Other | 1 |
| Possible John/Hobbyist | 2 |
| Potential Victim of Labor Exploitation | 1 |
| Potential Victim of Trafficking | 6 |
| Press/Media | 1 |
| Student | 7 |
| Unknown | 4 |
| Not Specified | 5 |
| Grand Total | 75 |

How Caller Found the Hotline:

| Row Labels | Number of Calls |
|-------------------------------|-----------------|
| Craigslist | 3 |
| DOS Know Your Rights Pamphlet | 1 |
| Internet-Web Search | 25 |
| Other | 1 |
| Pamphlet/Brochure/Leaflet | 1 |
| Poster | 4 |
| Prior Knowledge | 5 |
| Referral | 9 |
| Training - Presentation | 1 |
| Word of Mouth | 1 |
| Not Specified | 24 |
| Grand Total | 75 |

Note: The data displayed in this report was generated based on limited criteria from calls received by the National Human Trafficking Resource Center hotline. This is not a comprehensive report on the scale or scope of human trafficking within the state. These statistics may be subject to change.

National Human Trafficking Resource Center (NHTRC) Data Breakdown

Hawaii State Report

January 1st, 2011 to November 30th, 2011

This report covers National Human Trafficking Resource Center (NHTRC) case and call data from January 1, 2011 to November 30, 2011. A case refers to a specific report or request that originated as a call to the NHTRC hotline. Every case must have at least one hotline call associated with it. However, cases may have multiple hotline calls and multiple callers depending on the nature of the case. Every call will either generate a new case or will be linked to an existing case.

Part I of this report presents data from hotline calls received from callers in Hawaii.

Part II focuses on data from cases that reference human trafficking in Hawaii. These include cases generated from calls received from callers outside of Hawaii.

Total Number of Calls Nationwide in Quarter: 17,961

Part I: Calls Received from Hawaii

Number of Calls Received from Hawaii: 67

Call Category:

| | Number of Calls |
|-----------------------|-----------------|
| RED- Crisis | 12 |
| GREEN- Tips | 10 |
| BLUE- Training and TA | 2 |
| PURPLE- Referral | 6 |
| YELLOW- General Info | 20 |
| GREY- Related | 17 |
| Grand Total | 67 |

Caller Location – City:

| | Number of Calls |
|-------------|-----------------|
| Hilo | 2 |
| Honolulu | 28 |
| Kailua-Kona | 1 |
| Kapaa | 2 |
| Maui | 1 |
| Oahu | 2 |
| Pearl City | 1 |
| Wailuku | 1 |
| Waipahu | 1 |

Note: The data displayed in this report was generated based on limited criteria from calls received by the National Human Trafficking Resource Center hotline. This is not a comprehensive report on the scale or scope of human trafficking within the state. These statistics may be subject to change.

| | |
|--------------------|-----------|
| Not Specified | 28 |
| Grand Total | 67 |

Caller Type:

| | Number of Calls |
|-----------------------------------|------------------------|
| Community Member | 23 |
| Educator | 2 |
| Family Member of Potential Victim | 12 |
| Federal Law Enforcement | 2 |
| Government | 2 |
| Local Law Enforcement | 1 |
| Medical Professional | 7 |
| NGO – Anti-trafficking | 2 |
| NGO – Other | 2 |
| Potential Victim of Other Crime | 4 |
| Potential Victim of Trafficking | 2 |
| Student | 4 |
| Visa Holder | 4 |
| Grand Total | 67 |

How Caller Found the Hotline:

| | Number of Calls |
|-------------------------------|------------------------|
| Craigslist | 1 |
| DOS Know Your Rights Pamphlet | 7 |
| Internet-Web Search | 5 |
| Newsletter | 1 |
| Other | 2 |
| Polaris Project | 2 |
| Prior Knowledge | 6 |
| Referral | 3 |
| Rescue and Restore - HHS | 1 |
| Television | 2 |
| Training - Presentation | 3 |
| Word of Mouth | 13 |
| Not Specified | 21 |
| Grand Total | 67 |

Note: The data displayed in this report was generated based on limited criteria from calls received by the National Human Trafficking Resource Center hotline. This is not a comprehensive report on the scale or scope of human trafficking within the state. These statistics may be subject to change.

Caller's First Language:

| | Number of Calls |
|--------------------|------------------------|
| English | 62 |
| Russian | 1 |
| Spanish | 3 |
| Unknown | 1 |
| Grand Total | 67 |

Part II: Cases Referencing Human Trafficking in Hawaii**Number of Cases that Reference Potential Trafficking Situations in Hawaii: 11**

Each hotline case is evaluated for evidence of potential trafficking, and is categorized as YES, NO, or UNKNOWN. Cases categorized as "YES" contain a high level of critical information and demonstrate key indicators relevant to identifying a human trafficking situation. Cases categorized as "UNKNOWN" reference situations that contain several indicators and red flags of potential trafficking situations, or resemble common types of trafficking or trafficking scenarios but lack certain core details of force, fraud, or coercion.

| | Number of Cases |
|--------------------|------------------------|
| Yes | 5 |
| Unknown | 6 |
| Grand Total | 11 |

Cases that Reference Potential Minors:

| | Number of Cases |
|--------------------|------------------------|
| Yes | 2 |
| No | 9 |
| Grand Total | 11 |

Note: This variable does not necessarily indicate that the minors described have experienced human trafficking but rather that the case is referencing minors in some context. This could include general information cases, technical assistance requests, or referrals related to minors as well as tips and crisis-oriented cases. This could also include cases where potential minors and adults are both identified.

The following data is derived from cases referencing trafficking in Hawaii and categorized as "YES."

Case Category:

| | Number of Cases |
|--------------------|------------------------|
| GREEN- Tips | 3 |
| PURPLE- Referral | 2 |
| Grand Total | 5 |

Note: The data displayed in this report was generated based on limited criteria from calls received by the National Human Trafficking Resource Center hotline. This is not a comprehensive report on the scale or scope of human trafficking within the state. These statistics may be subject to change.

Type of Trafficking:

| | Number of Cases |
|--------------------|-----------------|
| Labor Trafficking | 1 |
| Sex Trafficking | 3 |
| Other | 1 |
| Grand Total | 5 |

Type of Trafficking – Detail:

| | Number of Cases |
|--|-----------------|
| Agriculture/Farms; Intimate Partner/Familial Trafficking | 1 |
| Craigslist; Pornography-related | 1 |
| Domestic Pimp-control Trafficking | 1 |
| Sex Trafficking - Other | 1 |
| Not Specified | 1 |
| Grand Total | 5 |

Location of Trafficking – City:

| | Number of Cases |
|--------------------|-----------------|
| Honolulu | 2 |
| Maui | 1 |
| Not Specified | 2 |
| Grand Total | 5 |

Nationality of Potential Victim(s):

| | Number of Cases |
|--------------------|-----------------|
| Chinese | 1 |
| Thai | 1 |
| Unknown | 1 |
| US Citizen-LPR | 2 |
| Grand Total | 5 |

Note: This table shows the number of cases referencing potential trafficking victims of the listed nationalities. It does not reflect the number of potential victims of each nationality.

Note: The data displayed in this report was generated based on limited criteria from calls received by the National Human Trafficking Resource Center hotline. This is not a comprehensive report on the scale or scope of human trafficking within the state. These statistics may be subject to change.

Cases Where Situation Involves:

| | Number of Cases |
|-------------------|------------------------|
| Males | 0 |
| Females | 4 |
| Transgender | 0 |
| Adults | 3 |
| Minors | 2 |
| Foreign Nationals | 2 |
| US Citizen/LPR | 2 |

Note: This table shows the number of cases referencing trafficking in which the labeled populations were involved. Multiple populations can be chosen for each case. The numbers shown reference the number of cases involving these populations, not the total number of individuals involved in the trafficking situations.

Trafficking Victim Numbers:

| | |
|--|----------|
| Number of Potential Victims Referenced | 4 |
|--|----------|

Note: The data displayed in this report was generated based on limited criteria from calls received by the National Human Trafficking Resource Center hotline. This is not a comprehensive report on the scale or scope of human trafficking within the state. These statistics may be subject to change.

TAHIRIH ASSOCIATION

322 Aolua Street, Suite 601
Kailua, HI 96734
Phone (808) 262-6533

www.TahirihAssociation.org
info@TahirihAssociation.org

8306 Wilshire Blvd., Suite 70
Beverly Hills, CA 90211
Phone (323) 935-5090



March 15, 2013

COMMITTEE ON HUMAN SERVICES
Senator Suzanne Chun-Oakland, Chair
Senator Josh Green, Vice-Chair
Senator Michelle N. Kidani
Senator Brian T. Taniguchi
Senator Sam Slom

COMMITTEE ON JUDICIARY AND LABOR
Senator Clayton Hee, Chair
Senator Maile S.L. Shimabukuro, Vice Chair
Senator Les Ihara, Jr.
Senator Sam Slom
Senator Mike Gabbard

DATE: Tuesday, March 18, 2013

TIME: 1:30pm

PLACE: Conference Room 016, State Capitol, 415 South Beretania Street

RE: TESTIMONY IN **STRONG SUPPORT** OF HB1068 **WITH AMENDMENTS** RELATING TO
HUMAN TRAFFICKING

Requires certain establishments to post in a conspicuous place a poster that provides specified information relating to human trafficking and the National Human Trafficking Resource Center hotline. Defines "establishment." Establishes penalties for violations of the poster requirement.

Dear Committees on Human Services and Judiciary:

The Tahirih Association fervently supports HB1068 with amendments. (Please refer to testimony from Imua Alliance for the suggested amendments).

Citizens of Hawaii deserve to have information relating to human trafficking and the National Human Trafficking Resource Center hotline. A poster that prominently displays a hotline number, in clear view, would help everyone get assistance to those who need it the most.

Hawaii needs this for many reasons, as evidenced by the National Hotline that received 75 calls from Hawaii for a three year span from 2007 to 2010. They also reported that in one year (2011) 67 calls came in. This is almost the same total amount than the previous 3 years combined. With the passage of this legislation there will be more visibility for hotline calls that will enable and empower vulnerable populations.

The hotline poster is already designed and available for free on this website:

http://www.polarisproject.org/index.php?option=com_content&view=article&id=60&Itemid=73

My understanding is that the cost is minimal, and the poster is translated into 10 different languages.

We stand with the Pacific Alliance to Stop Slavery (PASS) who provides help to heal survivors of human trafficking. They are aware that there are no specific services tailored to the survivors of this crime. As a result, survivors fall through the cracks, and are often re-victimized and criminalized as either "prostitutes" if they are sex trafficked victims or "illegal immigrants" if they are labor trafficked victims. Hawaii must accurately and effectively address the handling of human trafficking survivors.

Thank you for hearing this much needed legislation.

Mahalo,

Tadia Rice
Executive Director

THE LIBERTARIAN PARTY OF HAWAII
C/O 1658 LIHOLIHO ST #205
HONOLULU, HI 96822

TESTIMONY

TO: the Senate Committees on Human Services and Judiciary & Labor

RE: HB 1068, HD 1 to be heard Tuesday, March 19th, at 1:30 PM in room #016

OPPOSE

Dear Senators:

This is a burdensome waste of time to be placed on businesses that are already required to post multiple notices concerning worker wage and hour laws.

If someone suspects that crimes are being committed the proper suggestion is that they call the police, not some non-profit group on the mainland. The people pushing this anti human trafficking agenda are **not credible** and should not be given the attention they seem to get every session from the legislature.

The legislature appointed an anti-trafficking task force that spent years studying these issues. It included the same advocate supporting this. It did not accept her suggestions. Why bother appointing task forces if you are simply going to ignore their findings?

The Libertarian Party supports the rights of adults to engage in consensual acts of prostitution. Issues involving adults and minors are always problematic, but real evidence and a common sense evaluation are better guides to setting policy here than accepting at face value, information provided by moralizing advocacy groups.

Very Truly Yours:



Tracy Ryan
Vice Chair, The Libertarian Party of Hawaii

tracyar@hawaiiantel.net

(808) 534-1846



The Twenty-Seventh Legislature, State of Hawaii
Hawaii State Senate
Committee on Human Services
Committee on Judiciary and Labor

Testimony by
Hawaii State AFL-CIO
March 19, 2013

H.B. 1068, HD1 – RELATING TO
HUMAN TRAFFICKING.

The Hawaii State AFL-CIO has **concerns** about H.B. 1068, HD1 which requires employers to post in a conspicuous place a poster that provides specified information relating to human trafficking and the National Human Trafficking Resource Center hotline and establishes penalties for violations of the poster requirement.

The Hawaii State AFL-CIO recognizes the need to prevent and deter human trafficking in Hawaii and across the United States. Human Trafficking crimes should always be reported and we applaud the Legislature for trying to protect those who already are or may become victims of horrific crimes. However, the Hawaii State AFL-CIO shares similar concerns expressed by the Department of Labor and Industrial Relations (DLIR). In addition, we feel resources at the DLIR are already stretched thin and as a result, the DLIR should not be given the responsibility for enforcing the poster requirement.

Thank you for the opportunity to testify.

Respectfully submitted,

Jason Bradshaw
COPE Director

From: mailinglist@capitol.hawaii.gov
To: [HMS Testimony](#)
Cc: ellynsollars@me.com
Subject: *Submitted testimony for HB1068 on Mar 19, 2013 13:30PM*
Date: Sunday, March 17, 2013 2:16:08 PM

HB1068

Submitted on: 3/17/2013

Testimony for HMS/JDL on Mar 19, 2013 13:30PM in Conference Room 016

| Submitted By | Organization | Testifier Position | Present at Hearing |
|--------------|----------------------|--------------------|--------------------|
| Angel Cakes | Courage House Hawaii | Support | No |

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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DATE: Tuesday, March 18, 2013

TIME: 1:30pm

PLACE: Conference Room 016, State Capitol, 415 South Beretania Street

RE: TESTIMONY IN **STRONG SUPPORT** OF **HB1068 WITH AMENDMENTS** RELATING TO HUMAN TRAFFICKING

Requires certain establishments to post in a conspicuous place a poster that provides specified information relating to human trafficking and the National Human Trafficking Resource Center hotline. Defines "establishment." Establishes penalties for violations of the poster requirement.

Dear Committees on Human Services and Judiciary:

I, Amanda Layne Yesensky Chang, strongly support HB1068 with amendments suggested by The Pacific Alliance to Stop Slavery (PASS), in unity with Imua Alliance. (Please refer to testimony from Imua Alliance for the suggested amendments).

The Human Trafficking Resource Center and Hotline, managed by the Polaris Project, is a way for victims in bondage, people of the community wishing to report a crime, or individuals wanting to receive more resource information may call 24-hours a day to receive assistance. Requiring establishments to post the hotline in clear view would help to get aide to those who need it the most in areas where outreach is difficult.

The hotline poster is already designed and available for free (please see the testimony by PASS). Costs would be minimal, and the poster is translated into 10 different languages aside from English at no cost.

From 2007 to 2010, the National Hotline received 75 calls from Hawaii. In 2011 that total jumped to 67 calls. With more visibility, due to the passage of this legislation, I expect a significant increase in hotline calls. Since 2009, PASS alone has assisted 96 victims of human trafficking. The need to expand anti trafficking services is very severe.

PASS is one of Hawaii's few services that helps heal survivors of human trafficking. PASS testifies that there are no specific services designed for the survivors of this crime. As a result, survivors fall through the cracks or are often re-victimized and criminalized as either "prostitutes" if they are sex trafficked victims, or "illegal immigrants" if they are labor trafficked victims. Hawaii needs to accurately and effectively address the handling of human trafficking survivors.

Thank you for hearing this important and much needed legislation.

Sincerely,

Amanda Layne Yesensky Chang

03/19/2013, 1:30PM, House Conference Room #016

To: Committee on Judiciary and Labor & Committee on Human Services
From: Casey Hewes

Re: Support Bill HB1068

I am writing as an individual in **strong support** of SB1068.

What the state of Hawaii must do is come together and put a stop to human trafficking. If a family member of mine were a victim of human trafficking I would ask the community to stop at nothing to locate my family. I am sure all citizens of Hawaii feel the same.

HB1068 is not asking too much of storeowners to play an active role in this crucial step of locating victims of human trafficking. It is so important the community works together to locate these victims and put a stop to these terrible crimes.

Thank you for the opportunity to submit testimony.

Sincerely,

A handwritten signature in black ink that reads "Casey Hewes". The signature is written in a cursive style with a large, sweeping initial 'C'.

Casey Hewes
(808) 454 - 7381
caseyh246@gmail.com

From: [Cathy Della Penta](#)
To: [HMS Testimony](#)
Subject: re: HB 1068
Date: Sunday, March 17, 2013 7:15:18 PM

Testimony:

HB 1068, related to human trafficking, is an excellent start to alerting people to their rights and informing them of a Human Trafficking hotline. This is the least employers should be made to do: inform.

I fully **support** the HB 1068 proposal.

Sincerely,

Cathy Della Penta
457 S. Sunrise Dr.
Gilbert, Az 85233

From: mailinglist@capitol.hawaii.gov
To: [HMS Testimony](#)
Cc: breaking-the-silence@hotmail.com
Subject: *Submitted testimony for HB1068 on Mar 19, 2013 13:30PM*
Date: Monday, March 18, 2013 9:48:53 AM

HB1068

Submitted on: 3/18/2013

Testimony for HMS/JDL on Mar 19, 2013 13:30PM in Conference Room 016

| Submitted By | Organization | Testifier Position | Present at Hearing |
|-------------------|--------------|--------------------|--------------------|
| Dara Carlin, M.A. | Individual | Support | No |

Comments:

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From: mailinglist@capitol.hawaii.gov
To: [HMS Testimony](#)
Cc: shennyshin@yahoo.com
Subject: Submitted testimony for HB1068 on Mar 19, 2013 13:30PM
Date: Sunday, March 17, 2013 2:48:15 PM

HB1068

Submitted on: 3/17/2013

Testimony for HMS/JDL on Mar 19, 2013 13:30PM in Conference Room 016

| Submitted By | Organization | Testifier Position | Present at Hearing |
|--------------|--------------|--------------------|--------------------|
| Frank | Individual | Support | No |

Comments: I will never travel to Hawaii or knowingly buy anything from Hawaii and recommend to anyone if the topic ever comes up to do the same if I don't see strong and continuous effort against human trafficking and the culture of rape in Hawaii specifically. I think the police and government officials who support or visit brothels ought to be put on trial, fined, and jailed.

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From: mailinglist@capitol.hawaii.gov
To: [HMS Testimony](#)
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for HB1068 on Mar 19, 2013 13:30PM*
Date: Friday, March 15, 2013 3:20:25 PM

HB1068

Submitted on: 3/15/2013

Testimony for HMS/JDL on Mar 19, 2013 13:30PM in Conference Room 016

| Submitted By | Organization | Testifier Position | Present at Hearing |
|-----------------------|--------------|--------------------|--------------------|
| Javier Mendez-Alvarez | Individual | Support | No |

Comments:

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From: [Jessica -](#)
To: [HMS Testimony](#)
Subject: HB1068
Date: Monday, March 18, 2013 7:33:40 AM

This is testimony in **support** of HB1068 which would

Require all establishments to post a poster, where employees may view it, that provides specified information relating to human trafficking and the National Human Trafficking Resource Center hotline. Defines "establishment." Establishes penalties for violations of the poster requirement. Having this hotline posted in public places would allow potential victims to have access to help. It would also raise awareness in the community that human trafficking is an issue that is affecting these islands. Please pass this much needed legislation.

Thank you

--

*Jessica Munoz
Volunteer Director Courage House Hawaii Project
P.O Box 401
Haleiwa, Hi 96712
714-321-1189*

www.courageworldwide.org/hawaii

"Shining the Light in dark places and watching new life come forth"

From: [Judith Vollbrecht](#)
To: [HMS Testimony](#)
Subject: support for bill relating to Human Trafficking (Hotline Posting Bill)
Date: Sunday, March 17, 2013 12:18:51 PM

I want to add my **support** to HB1068 requiring all establishments to put a poster where all employees can see it, containing information regarding human trafficking, including the hotline to the National Human Trafficking Resource Center.

Human trafficking, especially that of children is becoming more and more widespread, facilitated by electronic and other forms of communication. This is a horrendous crime which destroys the lives of its victims, and goes beyond all bounds of ethics and morality.

Sincerely,

Judith Vollbrecht
New Orleans, LA 70115

From: mailinglist@capitol.hawaii.gov
To: [HMS Testimony](#)
Cc: karibenes@gmail.com
Subject: *Submitted testimony for HB1068 on Mar 19, 2013 13:30PM*
Date: Monday, March 18, 2013 8:05:06 AM

HB1068

Submitted on: 3/18/2013

Testimony for HMS/JDL on Mar 19, 2013 13:30PM in Conference Room 016

| Submitted By | Organization | Testifier Position | Present at Hearing |
|--------------|--------------|--------------------|--------------------|
| Kari Benes | Individual | Support | No |

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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From: [Kathie Perino](#)
To: [HMS Testimony](#)
Subject: Support HB1068
Date: Sunday, March 17, 2013 8:08:17 AM

This is testimony that I respectfully demand your **support** for

HB1068 (HOTLINE POSTING BILL) RELATING TO HUMAN TRAFFICKING notification in Hawaii's workplaces

and any other future laws that will irradicate this horrible crime, that robs Hawaii's economy and people's right to freedom.

Your consideration is much appreciated,
Sincerely, Kathleen Perino

From: mailinglist@capitol.hawaii.gov
To: [HMS Testimony](#)
Cc: rikkiis@yahoo.com
Subject: Submitted testimony for HB1068 on Mar 19, 2013 13:30PM
Date: Sunday, March 17, 2013 2:32:16 PM

HB1068

Submitted on: 3/17/2013

Testimony for HMS/JDL on Mar 19, 2013 13:30PM in Conference Room 016

| Submitted By | Organization | Testifier Position | Present at Hearing |
|-----------------|--------------|--------------------|--------------------|
| Rikki Wurlitzer | Individual | Support | No |

Comments: Please support this bill.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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From: mailinglist@capitol.hawaii.gov
To: [HMS Testimony](#)
Cc: robertagardens@yahoo.com
Subject: Submitted testimony for HB1068 on Mar 19, 2013 13:30PM
Date: Monday, March 18, 2013 12:37:38 AM

HB1068

Submitted on: 3/18/2013

Testimony for HMS/JDL on Mar 19, 2013 13:30PM in Conference Room 016

| Submitted By | Organization | Testifier Position | Present at Hearing |
|-----------------|--------------|--------------------|--------------------|
| Roberta Ferrier | Individual | Support | No |

Comments: I support HB1068 RELATING TO HUMAN TRAFFICKING. Please require all establishments to post a poster, where employees may view it, that provides specified information relating to human trafficking and the National Human Trafficking Resource Center hotline. Please establish penalties for violations of the poster requirement. We must use all tactics to end human trafficking. Thank you for your efforts.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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March 16, 2013

COMMITTEE ON HUMAN SERVICES

Senator Suzanne Chun-Oakland, Chair
Senator Josh Green, Vice Chair
Senator Michelle N. Kidani.
Senator Brian T. Taniguchi
Senator Sam Slom

COMMITTEE ON JUDICIARY AND LABOR

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

NOTICE OF HEARING

DATE: Tuesday, March 18th 2013
TIME: 1:30 p.m.
PLACE: Conference Room 016
State Capitol
415 South Beretania Street

RE: TESTIMONY IN **STRONG SUPPORT** OF HB1068 WITH **AMENDMENTS**
RELATING TO HUMAN TRAFFICKING

Requires certain establishments to post in a conspicuous place a poster that provides specified information relating to human trafficking and the National Human Trafficking Resource Center hotline. Defines "establishment." Establishes penalties for violations of the poster requirement.

Dear Committee on Judiciary and Labor:

I am a Masters of Social Work candidate at the University of Hawaii, Manoa and I support SB192. Together with Pacific Alliance to Stop Slavery, my MSW cohort, and Imua Alliance, we strongly urge your support of HB1068 with amendments (Please refer to testimony from Imua Alliance for the suggested amendments). In collaboration with the efforts of PASS to end human trafficking in Hawaii, I stand on the important issues raised in their support of HB1068.

The Human Trafficking Resource Center and Hotline, managed by the Polaris Project, is one of the ways in which victims in servitude, community members wishing to report a

crime, or individuals wanting to receive more resource information may call 24-hours a day to receive the help they need. Requiring establishments to post the hotline in clear view would help to get assistance to those who need it the most in areas where outreach is difficult. The hotline poster is already designed and available for free on this website: http://www.polarisproject.org/index.php?option=com_content&view=article&id=60&Itemid=73

Furthermore, from 2007 to 2010, the National Hotline received 75 calls from Hawaii. In 2011 that total jumped to 67 calls for that year alone, almost the same total amount than the previous 3 years combined. With more visibility, due to the passage of this legislation, we expect a significant increase in hotline calls.

PASS serves victims of Human Trafficking for sex or labor in the state of Hawaii and has a support base of over 7000 persons. PASS is one of Hawaii's few services that helps heal survivors of human trafficking. As testified by PASS, there are no specific services tailored to the survivors of this crime. As a result, survivors fall through the cracks or are often re-victimized and criminalized as either "prostitutes" if they are sex trafficked victims or "illegal immigrants" if they are labor trafficked victims. Hawaii must accurately and effectively address the handling of human trafficking survivors.

Sadly, the state of Hawaii is ranked second worst in the nation for protecting child victims of sex trafficking by law, according to Shared Hope International. The lack of trafficking laws does not just contribute to a lack of victim protection. It results in the absence of statistics from law enforcement, a key element in generating funding to service victims. Without funding to provide rehabilitative services, victims often go untreated becoming increasingly vulnerable to further exploitation.

By promoting HB1068, we are expressing our commitment and responsibility to protect Hawaii's people from modern day slavery. Additionally, passing legislation surrounding the issue of human trafficking will generate much needed law enforcement statistics that will ultimately generate funds to service victims. The need to expand anti-trafficking services is very severe.

I urge your support of HB1068.

Thank you for this consideration.

Respectfully,

Sarah Marie Schick
MSW Candidate, 2014
Myron B. Thompson School of Social Work
University of Hawai'i at Manoa

Testimony in support of HB1068 HD1

Human trafficking is a shameful exploitation of people either through forced manual labor or through forced sexual work. Under the Federal Trafficking Victims Protection Act of 2000, trafficking is defined as recruiting, harboring, transporting, providing, or obtaining a person for the purpose of:

- Labor or services obtained through coercion, force or fraud for the objective of slavery or involuntary servitude, debt bondage, or servitude.
- Commercial sex acts through the use of force, coercion or fraud
- Any commercial sex act that involves a minor under the age of 18.ⁱ

Our economy in Hawai'i is driven by tourism and a heavy military presence, which makes this state a target for sex traffickers who capitalize on male tourists and businessmen, and military service personnel. In a survey completed by anti-trafficking watchdog group, Shared Hope International, Hawai'i has ranked in second place, tied with California as the worst state in the nation for preventing the human trafficking of minors.ⁱⁱ In Hawai'i, 300-400 children are reported missing monthly. These are the children most vulnerable to exploitation. A study conducted by the University of Pennsylvania estimated that 325,000 children in North America are at risk of becoming victims of sexual exploitation.ⁱⁱⁱ

The long history of labor importation to work in Agriculture in Hawaii has morphed into a network for illegal importation of farm labor. In recent history, the co-owners of Aloun Farm, Alec and Mike Sou pled guilty of federal charges of conspiring to commit forced labor. They admitted to using threats and physical restraint to keep 44 Thai men working for them at the farm under slave-like conditions. Unfortunately, the case fell apart and the case was thrown out. Lueleni Maka, a farmer in Nanakuli, was sentenced to 26 years in prison for abusing his farm workers, that he had brought to Hawaii illegally. He was charged with human trafficking, involuntary servitude, alien harboring and smuggling and document falsification.^{iv}

It is vital that we strive to increase awareness about the issue of trafficking HB1068 HD1 is an important step to doing so. By mandating the posting of employment posters that relate to trafficking

and include the National Human Trafficking Resource Center Hotline, we provide victims with information about their rights and a possible first step in escaping from their situation. The posters will also serve to educate the general public about the problem of human trafficking and hopefully lead to a decrease in trafficking.

Sonja Bigalke-Bannan

University of Hawaii

Myron. B. Thompson School of Social Work

Master's of Social Work Candidate

ⁱ Victims of Trafficking and Violence Protection Act of 2000.

Pub. L. No. 106-386, 114 Stat. 1464.

ⁱⁱ <http://sharedhope.org/what-we-do/bring-justice/state-by-state-grades/>

ⁱⁱⁱ R. Estes and N. Weiner. *Commercial Sexual Exploitation of Children in the U.S., Canada, and Mexico*. University of Pennsylvania, 2001, page 144.

^{iv} <http://www.civilbeat.com/topics/human-trafficking-in-hawaii/>

From: [suzanne_sullivan](#)
To: [HMS_Testimony](#)
Subject: Testimony for HB1068
Date: Sunday, March 17, 2013 8:43:19 PM
Attachments: [PIC_RC_2012_HI.pdf](#)
[PIC_2012Year-End-Report_11.6.12_FINAL.pdf](#)
[SHI_ProtectedInnocence_Methodology_FINAL.pdf](#)

I am in **support** of HB1068 RELATING TO HUMAN TRAFFICKING.(HOTLINE POSTING BILL).

The complex issue of Human Trafficking needs offer posted resources to those who are ensnared in this hideous crime again women and especially against young girls, so they can seek help.

We cannot pretend sexual trafficking does not exist, but instead our society needs to be proactive in bringing this to the attention of our society, and especially to the women and girls who might be or know some one who could be caught up in human trafficking. Besides this being a resource hotline, it will be an educational informational posting, that at some time in the future it might save a young girl!

Attachments are:

1. PDF-Hawaii Report Card from Shared Hope on the status of the laws against Human Trafficking in Hawaii.
2. PDF-Overall status of the laws in the United States.
3. Methodology PDF for Protecting Innocence Legislative Framework, used for grading the states

Methodology

The purpose of the Protected Innocence Legislative Framework is to elaborate the key policy principles that have been identified as critical to making the proper response to domestic minor sex trafficking. These principles, as elaborated above, are eliminating demand, prosecuting the traffickers, identifying the victims, and providing protection, access to services, and shelter for victims. These principles can be grouped into six areas of law:

1. Criminalization of Domestic Minor Sex Trafficking
2. Criminal Provisions Addressing Demand
3. Criminal Provisions for Traffickers
4. Criminal Provisions for Facilitators
5. Protective Provisions for the Child Victim

6. Criminal Justice Tools for Investigation and Prosecution

Each area of law may have several laws that affect the policy within the state's code. As such, specific questions must be asked to determine whether state laws sufficiently address the policy need.

Please refer to SharedHope.org report card for Hawaii at the end of 2012, which currently is an "F" the link can be found at http://sharedhope.org/PICframe2/reportcards/PIC_RC_2012_HI.pdf

The text is as follows from the Hawaii Report Card. It is easier to read as the PDF which is attached.

Protected Innocence Challenge
State Action . National Change.
Hawaii Report Card 2012

There is no sex trafficking law in Hawaii, leaving traffickers to be prosecuted under the CSEC statutes of promoting prostitution of a minor and creating child pornography which carry sentences (imprisonment up to 20 years “without the possibility of suspension of sentence or probation”) as high as federal trafficking sentences (10 years–life) and a possible fine up to \$50,000. A trafficker using the Internet to lure or recruit a minor under 18 for commercial sex acts could be prosecuted for electronic enticement of a child if the resulting case is seen as felony sexual abuse, instead of merely prostitution. Employing a minor in adult entertainment is a misdemeanor punishable by up to 1 year imprisonment and a possible fine up to \$2,000. Traffickers might be guilty of state racketeering law and money laundering laws for their criminal actions. Traffickers convicted of promoting prostitution of a minor are required to register as sex offenders. While the law relating to termination of parental rights does not enumerate convictions for CSEC or sexual offenses as grounds for terminating parental rights, being required to register as a sex offender under the federal Adam Walsh Act is considered an aggravated circumstance for which parental rights may be terminated. Traffickers found to have violated organized crime laws, the electronic enticement

of a child law, or certain CSEC and child pornography offenses are subject to asset forfeiture. Restitution to the victim for losses, including medical costs, is mandatory upon request by the victim.

Limited options exist to prosecute demand. No CSEC offense expressly addresses buying sex with a minor, leaving buyers of sex with minors to be charged with solicitation of prostitution, which does not distinguish between purchasing sex acts with an adult versus a minor and leaves the exploited child without victim status.

Restitution for conviction of any crime a buyer might be convicted of, including general sex offenses, is mandatory upon a victim's request and includes medical expenses. Civil asset forfeiture is also available for those convicted of electronic enticement of a minor. A person convicted of possession of child pornography is required to register as a sex offender, but a buyer of sex acts with a minor is not, leaving Hawaii's children at risk from those who buy sex with children. Buyers can be prosecuted for electronic enticement of a child under 18 when they commit felony sexual abuse as a result and face a up to 10 years imprisonment and possible fine up to \$25,000, but buyers using the Internet for the purchase of sex with children are not culpable under this law if the sexual abuse is identified as prostitution.

Hawaii has not enacted a sex trafficking law and lacks laws to penalize and deter buyers from purchasing sex acts with minors. Few protective provisions exist for domestic minor sex trafficking victims.

Demand | Selected Commercial Sex Crimes

Crime

(name of law abridged) Classification Sentence Fine

Asset

Forfeiture
(available)

Prostitution (§ 712-1200(4)(a), (b)) Misdemeanor Max. 30
days

Mandatory
\$500

Possessing child pornography
(§ 707-752) Class C felony Max. 5
years
Max.

\$10,000

Hawaii has not enacted a human trafficking law that includes the crime of sex trafficking. The state has several commercial sexual exploitation of children (CSEC) laws that reach traffickers, including promoting prostitution of a person under 18, kidnapping for purposes of prostitution or obscenity, promoting child abuse through pornography, and employing a minor to work in adult entertainment. The absence of a sex trafficking law prevents proper identification of commercially sexually exploited minors as victims of sex trafficking. The state racketeering statute includes CSEC offenses in the definition of racketeering activity.

Criminal provisions
for traffickers

\$ Criminal provisions Addressing demand

Criminalization of Domestic Minor Sex Trafficking

10

4.5

25

\$

5

15

10.5

10

5

27.5

11.5

15

7

Final Score

Final Grade

43.5

F

All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.

A facilitator who knowingly advances or profits from prostitution of a minor under 18 faces imprisonment for 20 years and a possible fine up to \$50,000. Disseminating or reproducing child pornography is a felony punishable by imprisonment up to 10 years and a possible fine up to \$25,000. Facilitators may also be subject to Hawaii's racketeering and money laundering laws for their criminal actions. Laws which prohibit selling, advertising, and promoting travel for the purpose of prostitution make sex tourism a felony punishable by up to 5 years imprisonment and a possible fine up to \$10,000. Facilitators are not subject to asset forfeiture, unless found guilty of organized crime. However, restitution is mandatory if a victim requests it and can prove losses and medical costs caused by an offense.

Training for law enforcement on human trafficking or domestic minor sex trafficking is not mandated through law. Single party consent to audiotaping is permissible in Hawaii, but CSEC offenses are not included as crimes for which a wiretapping order may be issued, withholding a critical tool for law enforcement investigations. Use of a decoy is not statutorily authorized, but law enforcement may utilize the Internet to investigate buyers and sex traffickers in violation of the electronic enticement of a child statute. The state law mandates reporting of missing and recovered children.

Victims of sex trafficking are vulnerable due to gaps in Hawaii's laws. There is no prohibition on a defendant raising consent of the minor to the commercial sex act as a defense to prosecution. Prostitution offenses are not limited in application to adults leaving minors vulnerable to prosecution. No protective provisions are statutorily mandated specifically for domestic minor sex trafficking victims; therefore, a victim may receive a variety of responses including detention for delinquency or possible shelter care for dependency. Child abuse and neglect definitions include victimization of a child through prostitution or child pornography, but the definition of caregiver that dictates whether child protective services may become involved only includes parents, legal custodians, and those that a child resides with for more than 6 months with the consent of the legal custodian, likely excluding most traffickers and therefore removing trafficked children from child welfare intervention. Only victims of enumerated violent crimes are eligible for crime victim's compensation; these do not include CSEC but do include sexual assault and kidnapping which might be charged in a CSEC case. Victim-friendly trial procedures are limited to minors under 14. A victim under 18 of a sexual offense may be permitted to testify via closed circuit television and the "rape shield" law reduces the trauma of cross-examination for testifying victims of sexual offenses, which are not defined expressly to include CSEC offenses. Minors may petition to have certain arrest records expunged. Civil remedies are available to CSEC victims and restitution for losses including medical expenses is statutorily authorized. Neither criminal nor civil statutes of limitations are eliminated, presenting potential barriers to a sex trafficking victim with typically slow recovery from the unique trauma of CSEC. Civil statutes of limitations

do not begin to run
until the victim reaches 18.

Criminal justice tools for investigation
and prosecutions

Protective provisions for the child victims Criminal provisions
for facilitators

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The Report Card is based on the Protected Innocence Legislative Framework,
an analysis of state laws performed by the
American Center for Law & Justice and Shared Hope International, and sets a
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PROTECTED INNOCENCE CHALLENGE

STATE ACTION . NATIONAL CHANGE.

HAWAII REPORT CARD 2012

Hawaii has not enacted a sex trafficking law and lacks laws to penalize and deter buyers from purchasing sex acts with minors. Few protective provisions exist for domestic minor sex trafficking victims.

FINAL SCORE

43.5

FINAL GRADE

F



4.5
10

5
25

10.5
15

5
10

11.5
27.5

7
15



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

Hawaii has not enacted a human trafficking law that includes the crime of sex trafficking. The state has several commercial sexual exploitation of children (CSEC) laws that reach traffickers, including promoting prostitution of a person under 18, kidnapping for purposes of prostitution or obscenity, promoting child abuse through pornography, and employing a minor to work in adult entertainment. The absence of a sex trafficking law prevents proper identification of commercially sexually exploited minors as victims of sex trafficking. The state racketeering statute includes CSEC offenses in the definition of racketeering activity.



CRIMINAL PROVISIONS ADDRESSING DEMAND

Limited options exist to prosecute demand. No CSEC offense expressly addresses buying sex with a minor, leaving buyers of sex with minors to be charged with solicitation of prostitution, which does not distinguish between purchasing sex acts with an adult versus a minor and leaves the exploited child without victim status. Restitution for conviction of any crime a buyer might be convicted of, including general sex offenses, is mandatory upon a victim's request and includes medical expenses. Civil asset forfeiture is also available for those convicted of electronic enticement of a minor. A person convicted of possession of child pornography is required to register as a sex offender, but a buyer of sex acts with a minor is not, leaving Hawaii's children at risk from those who buy sex with children. Buyers can be prosecuted for electronic enticement of a child under 18 when they commit felony sexual abuse as a result and face a up to 10 years imprisonment and possible fine up to \$25,000, but buyers using the Internet for the purchase of sex with children are not culpable under this law if the sexual abuse is identified as prostitution.



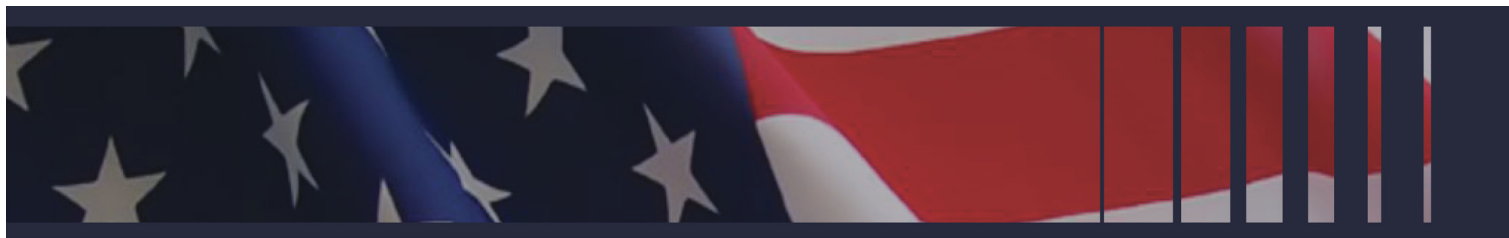
CRIMINAL PROVISIONS FOR TRAFFICKERS

There is no sex trafficking law in Hawaii, leaving traffickers to be prosecuted under the CSEC statutes of promoting prostitution of a minor and creating child pornography which carry sentences (imprisonment up to 20 years "without the possibility of suspension of sentence or probation") as high as federal trafficking sentences (10 years–life) and a possible fine up to \$50,000. A trafficker using the Internet to lure or recruit a minor under 18 for commercial sex acts could be prosecuted for electronic enticement of a child if the resulting case is seen as felony sexual abuse, instead of merely prostitution. Employing a minor in adult entertainment is a misdemeanor punishable by up to 1 year imprisonment and a possible fine up to \$2,000. Traffickers might be guilty of state racketeering law and money laundering laws for their criminal actions. Traffickers convicted of promoting prostitution of a minor are required to register as sex offenders. While the law relating to termination of parental rights does not enumerate convictions for CSEC or sexual offenses as grounds for terminating parental rights, being required to register as a sex offender under the federal Adam Walsh Act is considered an aggravated circumstance for which parental rights may be terminated. Traffickers found to have violated organized crime laws, the electronic enticement of a child law, or certain CSEC and child pornography offenses are subject to asset forfeiture. Restitution to the victim for losses, including medical costs, is mandatory upon request by the victim.

DEMAND | SELECTED COMMERCIAL SEX CRIMES

| Crime (name of law abridged) | Classification | Sentence | Fine | Asset Forfeiture (available) |
|--|----------------|--------------|-----------------|------------------------------------|
| Prostitution (§ 712-1200(4)(a), (b)) | Misdemeanor | Max. 30 days | Mandatory \$500 | ○ |
| Possessing child pornography (§ 707-752) | Class C felony | Max. 5 years | Max. \$10,000 | ○ |

All criminal penalties are statutory; many states also have sentencing guidelines that are not codified which affect sentencing.



PROTECTIVE PROVISIONS FOR THE CHILD VICTIMS

Victims of sex trafficking are vulnerable due to gaps in Hawaii’s laws. There is no prohibition on a defendant raising consent of the minor to the commercial sex act as a defense to prosecution. Prostitution offenses are not limited in application to adults leaving minors vulnerable to prosecution. No protective provisions are statutorily mandated specifically for domestic minor sex trafficking victims; therefore, a victim may receive a variety of responses including detention for delinquency or possible shelter care for dependency. Child abuse and neglect definitions include victimization of a child through prostitution or child pornography, but the definition of caregiver that dictates whether child protective services may become involved only includes parents, legal custodians, and those that a child resides with for more than 6 months with the consent of the legal custodian, likely excluding most traffickers and therefore removing trafficked children from child welfare intervention. Only victims of enumerated violent crimes are eligible for crime victim’s compensation; these do not include CSEC but do include sexual assault and kidnapping which might be charged in a CSEC case. Victim-friendly trial procedures are limited to minors under 14. A victim under 18 of a sexual offense may be permitted to testify via closed circuit television and the “rape shield” law reduces the trauma of cross-examination for testifying victims of sexual offenses, which are not defined expressly to include CSEC offenses. Minors may petition to have certain arrest records expunged. Civil remedies are available to CSEC victims and restitution for losses including medical expenses is statutorily authorized. Neither criminal nor civil statutes of limitations are eliminated, presenting potential barriers to a sex trafficking victim with typically slow recovery from the unique trauma of CSEC. Civil statutes of limitations do not begin to run until the victim reaches 18.

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CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTIONS

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The Report Card is based on the Protected Innocence Legislative Framework, an analysis of state laws performed by the American Center for Law & Justice and Shared Hope International, and sets a national standard of protection against domestic minor sex trafficking. To access the Protected Innocence Legislative Framework Methodology, each completed Report Card, and foundational analysis and recommendations, please visit: www.sharedhope.org.



PROTECTED INNOCENCE CHALLENGE

STATE ACTION. NATIONAL CHANGE.

2012 Annual Report

The inaugural Protected Innocence Challenge report released on December 1, 2011, revealed the gaps in state legislative responses to domestic minor sex trafficking. The comprehensive analysis of each state's existing laws was based on six areas of law critical to protecting children from and responding to domestic minor sex trafficking. The 2011 Protected Innocence Challenge was a call for state action to bring national change. Now, one year later, the legislative change accomplished during 2012 demonstrates that the call for change was answered—by advocates across the country who used the Protected Innocence tools to press for change, and state legislators who responded to the challenge and fixed gaps in state legislative frameworks that allowed trafficked children to remain vulnerable, unidentified and deprived of vital services and justice. Not only did the vast majority of states introduce legislation relating to domestic minor sex trafficking, but several states passed comprehensive legislation, impacting almost every area of law addressed by the Protected Innocence Framework.

One year after the release of the 2011 Protected Innocence Challenge:*

240 state and **38** federal bills were introduced that relate to domestic minor sex trafficking.

78 laws were passed that relate to domestic minor sex trafficking.

40 states had legislation introduced that relates to the Protected Innocence Framework.

33 states enacted legislation related to the Protected Innocence Framework.

*Statistics are based on Congressional Quarterly State Track accounting for legislation introduced or passed between August 1, 2011 and August 1, 2012.



CRIMINALIZATION OF DOMESTIC MINOR SEX TRAFFICKING

The past year brought marked improvement in several states' ability to combat domestic minor sex trafficking, by adding or improving human trafficking laws, or by strengthening laws that criminalize commercial sexual exploitation of children (CSEC). Alaska, Florida, Indiana and Oklahoma all amended their trafficking laws to better protect minors by **removing force, fraud and coercion when the victim is a minor**, removing this substantial barrier to successful prosecutions in sex trafficking cases. South Carolina's new trafficking law criminalizes sex trafficking of minors but requires the use of force. In addition, Massachusetts and West Virginia enacted their states' **first trafficking laws**, both of which criminalize sex trafficking of minors without regard to use of force, fraud or coercion in commission of the offense. Indiana improved its human trafficking law by **removing the requirement of force, fraud or coercion** for minors under 16. In light of these legislative improvements, **32** states now **criminalize sex trafficking without requiring proof of force, fraud or coercion when a minor is involved**, although **2** of these states **do not protect all minors** under 18. Improvement is still needed in the trafficking laws of **15** states that **require proof of force, fraud or coercion even when a minor is involved**, and **4** states, Wyoming, Hawaii, Virginia and Maine, still **do not have a sex trafficking law**.

As gangs, motivated by easy profits, become increasingly involved in domestic minor sex trafficking, states have begun to respond by ensuring their organized crime laws are able to target sex trafficking enterprises. In 2012, Illinois enacted a **racketeering law that includes human trafficking and commercial sexual exploitation of children offenses as predicate offenses**, and Utah added human trafficking as a predicate offense under its racketeering law, **expanding the range of penalties that may be applied to convicted traffickers in these states**. Currently, **32 states have racketeering laws that include human trafficking or CSEC offenses as predicate crimes**, ensuring racketeering laws in those states are available to undermine the management and financial infrastructure of criminal enterprises that profit from domestic minor sex trafficking.



CRIMINAL PROVISIONS ADDRESSING DEMAND

Legislation across the country **adding or increasing penalties for buyers** demonstrates an **important shift in focus** toward criminalizing the conduct of buyers who purchase or attempt to purchase commercial sex acts with minors. Iowa amended its definition of human trafficking to **clearly include, as conduct constituting human trafficking, the purchase of sex with victims of human trafficking**, defined to include minors without regard to force, fraud or coercion. Oklahoma **added the term “purchase”** to its sex trafficking law, extending application of this law to buyers of sex with minors. Louisiana added several CSEC offenses to its criminal code that apply to buyers **providing heightened penalties when a minor under 18 is involved** and further penalty enhancements when the minor is under 14. Alaska amended its prostitution law to include the **offense of purchasing sex with a minor**.

With the 2012 improvements to state demand laws, **14 states now have human trafficking laws that could reach buyers of sex with minors** and 21 more could reach buyers pending the determination of the definition of “obtain” in the law. Additionally, **32 states have one or more CSEC offenses that criminalize solicitation of sex with minors**. Since **19 states have no law making it a crime in that state to purchase sex with a minor**, buyers remain able to avoid criminal liability in some jurisdictions while they continue to fuel demand—the profit motive for traffickers.

To promote successful prosecutions of buyers by preventing them from asserting a defense that they did not know a minor victim’s age, Louisiana **expressly prohibited a mistake of age defense in two of its new CSEC offenses**, and Iowa **expressly prohibited a mistake of age defense in prosecutions under the human trafficking law**, which now clearly applies to buyers.



CRIMINAL PROVISIONS FOR TRAFFICKERS

Since the 2011 Protected Innocence Challenge report cards were released, legislators and advocates have raised the stakes for traffickers who profit from domestic minor sex trafficking by expanding the range of financial penalties that may be imposed on convicted traffickers. South Carolina, Alaska, Illinois, Massachusetts, and Florida **enacted laws providing for asset forfeiture in human trafficking cases**. Louisiana **added several new CSEC offenses with heightened penalties** of 15–50 years imprisonment and a possible fine up to \$50,000 when a minor under 18 is involved, and 25–50 years’ imprisonment without probation or parole and a possible fine up to \$75,000 when the minor is under 14. Tennessee passed a bill that **enhances the penalty for human trafficking when the victim is a minor under 15 or the offense is committed within a proscribed distance from facilities where minors may be found**, including schools, day care centers, and libraries. Legislation passed in Nebraska distinguishes between pandering a minor and pandering an adult and **raises the penalty when pandering involves a minor**. Under Massachusetts’s **new trafficking law** convicted traffickers face up to life imprisonment and possible fines up to \$25,000.

Other legislation focuses on post-conviction protections for minors and the community. Hawaii and Utah passed bills that require **traffickers convicted under certain commercial sexual exploitation of children laws to register as sex offenders**, and Wisconsin passed legislation that allows the court to consider **terminating a trafficker’s parental rights**.



CRIMINAL PROVISIONS FOR FACILITATORS

By enacting human trafficking laws that include assisting or benefitting from sex trafficking of minors, Massachusetts’s new trafficking law **substantially raised the penalties applicable to facilitators of domestic minor sex trafficking**, including business entities which could be fined up to \$1,000,000 if convicted of facilitating sex trafficking under the new law. One year after the Protected Innocence Challenge inaugural release, **facilitators face criminal liability for assisting, enabling or benefitting from domestic minor sex trafficking in 32 states**.

Ahead of the 2013 Super Bowl which will draw thousands of tourists into the state, **Louisiana** amended its human trafficking law to **criminalize the sale and promotion of travel for the purpose of engaging in commercial sexual exploitation**. Louisiana’s comprehensive bill further bolstered its efforts to combat facilitators of sex trafficking by **amending its laws prohibiting maintaining or letting premises where prostitution is practiced** to provide enhanced penalties when a minor is involved.



PROTECTIVE PROVISIONS FOR CHILD VICTIMS

Across the country, states enacted a range of legislative measures that seek to ensure greater protections for minor trafficking victims. Comprehensive bills passed in Massachusetts, Ohio and Florida enhancing the protective provisions for victims of domestic minor sex trafficking by **avoiding a punitive response to trafficked minors, instead directing minor victims into specialized services and/or housing**. Acknowledging that victims are often forced to commit crimes as a result of their victimization, Tennessee, Washington, South Carolina, Louisiana and South Dakota all passed legislation establishing an **affirmative defense that may be asserted by trafficking victims**.

Legislation passed in Maryland and Massachusetts amended the **definition of a child in need of services (CHINS) and an abused child** to include minor victims of trafficking and prostitution offenses. Ohio and Massachusetts both established a **state fund for victims of human trafficking**, funded by fines paid or property forfeited by defendants convicted of trafficking offenses. South Carolina, Tennessee, Massachusetts, Colorado and Ohio created a **civil remedy** that allows trafficking victims to sue traffickers and South Carolina's legislation provides **restitution** for victims.

Louisiana's legislation prevents defendants charged under sex trafficking or several CSEC laws from asserting **consent of the child as a defense**, while Oklahoma and South Carolina amended their human trafficking laws to expressly prohibit a consent defense, eliminating the need for child victims to provide testimony to rebut this defense. Legislation in Massachusetts also **protects minor victims from traumatizing cross examination by extending the protections of the rape shield law** to the testimony of trafficking and CSEC victims. The protections of the rape shield law currently extend to trafficking victims in **only 19 states**, demonstrating the need for expanded protection of minor victim witnesses during the prosecution of their traffickers.

To support the restoration of minor victims of sex trafficking, Colorado, Louisiana, Ohio and Oregon all passed legislation that **permits minor trafficking victims to expunge prostitution charges on their juvenile records**. Florida, Iowa and South Carolina passed legislation ensuring domestic minor sex trafficking victims' access to **crime victims' compensation**, providing minor victims with some financial means to care for themselves, pursue education and move forward with their lives.



CRIMINAL JUSTICE TOOLS FOR INVESTIGATION AND PROSECUTION

In 2012, states also expanded the tools available to law enforcement in conducting investigations of human trafficking and commercial sexual exploitation of children. In Louisiana, **police decoys and wiretapping are now permitted to aid human trafficking and child sex trafficking investigations**, and Florida authorized wiretapping in human trafficking investigations. Louisiana and Ohio passed legislation **mandating that law enforcement receive training on human trafficking**, bringing the number of states that statutorily mandate training for law enforcement to 9; however another 17 states, including Massachusetts, provide non-mandatory training for law enforcement related to domestic minor sex trafficking.

Louisiana now requires **reporting of missing children who have been recovered**, enabling agencies to maintain accurate records regarding missing children so exploited and at-risk children may be more easily identified.

Visit www.sharedhope.org to view full bill text.



PROTECTED INNOCENCE LEGISLATIVE FRAMEWORK

METHODOLOGY

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The original legal analysis of the 50 states and the District of Columbia that laid the foundation for the Protected Innocence Legislative Framework application and resulting Protected Innocence Challenge Report Cards was accomplished through a partnership between Shared Hope International and the American Center for Law & Justice (ACLJ), which focuses on constitutional and human rights law worldwide. The legal analysis for the 2012 Protected Innocence Challenge was implemented under the direction of Samantha Healy Vardaman, Esq., and Christine Raino, Esq., and was greatly assisted by Shared Hope law fellows: Megan Veith, Carmen Green, Carmen Murphy, Carol Wu, Charity Ramsey, and Ryan Dalton. All Shared Hope staff were involved in key ways in the research and writing of the Protected Innocence Challenge and the implementation of the Protected Innocence Initiative.

Introduction

The Protected Innocence Challenge is based on the Protected Innocence Legislative Framework which was informed by research performed by Shared Hope International and compiled in “The National Report on Domestic Minor Sex Trafficking.” Domestic minor sex trafficking is the prostitution, pornography, or sexual performance of U.S. citizens or lawful permanent residents under the age of 18 in the United States.

Recognizing that most of the gaps in responding to domestic minor sex trafficking must be addressed at the state level, the Protected Innocence Legislative Framework sets out the basic policy principles required to create a safer environment for children. The steps necessary to create this safer environment include the following: preventing domestic minor sex trafficking through reducing demand, rescuing and restoring victims through improved training on identification, establishing protocols and facilities for victim placement, mandating appropriate services and shelter, and incorporating trauma-reducing mechanisms into the justice system. Broken systems of criminal justice and child welfare responses to victims must also be fixed to ensure that commercially sexually exploited children are treated as victims and provided with remedies through the law to recapture their lives and their futures.

Background

Domestic minor sex trafficking is the commercial sexual exploitation of American children within U.S. borders and is synonymous with child sex slavery, child sex trafficking, prostitution of children, and commercial sexual exploitation of children (CSEC). Congress, in the federal Trafficking Victims Protection Act (TVPA), has made sex trafficking of a minor a crime.¹ Federal law defines sex trafficking as the “recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.”² When considering the crime of domestic minor sex trafficking, under the TVPA, the victim’s age is the critical issue—there is no requirement to prove that force, fraud, or coercion was used to secure the victim’s actions if the victim is a minor. Experts estimate that at least 100,000 American juveniles are victimized through prostitution in America each year.³

Shared Hope International first actively addressed the sex trafficking of American children by researching the demand for commercial sex that encourages the commercial sexual exploitation of women and girls. The DEMAND project investigated buyers, facilitators, and traffickers in four countries: Jamaica, Japan, the Netherlands, and the United States. The startling findings from this project highlighted the fact that sex trafficking is demand-driven and that the product for sale is most commonly local (domestic) children.⁴

Recognizing that a strategic response to sex trafficking required a comprehensive understanding of the local situation, Shared Hope International aligned with the U.S. Department of Justice human trafficking task forces to assess domestic minor sex trafficking and the access to victim services in ten U.S. locations: Dallas, Texas; San Antonio, Texas; Fort Worth, Texas; Salt Lake City, Utah; Buffalo, New York; Baton Rouge and New Orleans, Louisiana; Independence, Missouri; Las Vegas, Nevada; Clearwater, Florida; and The Commonwealth of the Northern Mariana Islands (U.S. Territory). The assessments investigated three areas identified by the TVPA and the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, as the key components necessary to effectively combat trafficking in persons: Prevention, Prosecution, and Protection. The assessments involved qualitative interviews of professionals who were likely to come into contact with victims of domestic minor sex trafficking, as well as quantitative data collection when available.

Shared Hope identified and targeted for interviews seven professional groups as likely to come into contact with victims of domestic minor sex trafficking: federal, state, and local law enforcement; federal and state prosecutors; juvenile court personnel; juvenile probation and detention personnel; public defenders; child protective services personnel; and social services/non-governmental organizations. Shared Hope conducted a total of 297 interviews and requested statistics from relevant agencies, which were not always available, and where available, typically did not provide separate data on domestic minor sex trafficking—a term and crime with which many interviewees were not yet familiar. In those cases, Shared Hope reviewed the statistics to determine the numbers of suspected domestic minor sex trafficking victims. For example, juvenile detention facility statistics reflecting the number of youth detained under charges of prostitution could be properly counted toward the number of domestic minor sex trafficking victims in that facility since juveniles in prostitution are, by definition, victims of sex trafficking under the federal TVPA.⁵ The reliance on extrapolated data reflects the overall lack of effective identification of domestic minor sex trafficking victims and highlights the need for training, as well as data collection, regarding domestic minor sex trafficking.

Shared Hope documented the information gathered from each assessed location in area-specific reports outlining the problem’s scope, how victims of domestic minor sex trafficking accessed the justice and social services systems, how victims were labeled, and whether, as a result of that label, victims of domestic minor sex trafficking were able to access (or were barred from accessing) services as victims of a violent crime. The findings from these ten site assessments formed the foundation of “The National Report on Domestic Minor Sex Trafficking: America’s Prostituted Children.” Later, Shared Hope performed four additional rapid assessments in South Florida, Virginia, Arizona, and Washington.

¹ Trafficking Victims Protection Act (TVPA) of 2000, Pub. L. No. 106-386, 114 Stat. 1464, 1466 (codified in scattered sections of 18 and 22 U.S.C.).

² 22 U.S.C. § 7102(9).

³ LINDA SMITH, SAMANTHA HEALY VARDAMAN, & MELISSA A. SNOW, SHARED HOPE INTERNATIONAL, THE NATIONAL REPORT ON DOMESTIC MINOR SEX TRAFFICKING: AMERICA’S PROSTITUTED YOUTH 4 (2009) [hereinafter NATIONAL REPORT] (quoting Ernie Allen, National Center for Missing and Exploited Children in DVD: Prostituted Children in the United States: Identifying and Responding to America’s Trafficked Youth (Shared Hope International 2008) (on file with author)), available at http://www.sharedhope.org/Portals/0/Documents/SHL_National_Report_on_DMST_2009.pdf.

⁴ SHARED HOPE INT’L, DEMAND: A COMPARATIVE EXAMINATION OF SEX TOURISM AND TRAFFICKING IN JAMAICA, JAPAN, THE NETHERLANDS, AND THE UNITED STATES 2 [hereinafter DEMAND], available at <http://www.sharedhope.org/Portals/0/Documents/DEMAND.pdf>.

⁵ 18 U.S.C. § 1591(a); 22 U.S.C. § 7102(8), (14).

These findings were further substantiated at Shared Hope International's 2008 National Training Conference on the Sex Trafficking of America's Youth, which brought together nearly 200 first responders from across the nation, as well as experts on trauma-based services and shelter, to share their experiences and offer guidance as to the best practices for responding to domestic minor sex trafficking.

Based on the research findings, within an overarching framework that identifies minors exploited through sex trafficking as victims, four primary policy issues must be addressed to combat domestic minor sex trafficking: 1) eliminating demand; 2) prosecuting traffickers; 3) identifying victims; and 4) providing protection, access to services, and shelter for victims.

1. **Eliminating Demand.** Despite the fact that demand is the primary driver of the commercial sex industry and the commercial sexual exploitation of children, buyers are often not recognized as critical participants in the victimization of children through domestic minor sex trafficking.⁶ All buyers of sex with children—whether they be classified as preferential (pedophiles), opportunistic (thrill seekers), or situational (do not care about the age of the person being prostituted)—are committing a serious crime for which significant punishment is appropriate.

2. **Prosecuting Traffickers.** Frequently, the arrest and prosecution of the trafficker are based solely on the victim's cooperation in the investigation and testimony at trial.⁷ While victim cooperation with law enforcement is important, this approach can place a heavy burden on a domestic minor sex trafficking victim, who typically requires a lengthy amount of time before he or she will disclose the facts of his or her victimization. Therefore, it is critical for law enforcement officers to pursue innovative or alternative investigation techniques to corroborate the victims' allegations in domestic minor sex trafficking cases.

3. **Identifying Victims.** One of the primary barriers to victim identification is that laws often label minors engaging in commercial sex acts as criminals rather than victims. Misidentification causes a chain reaction of negative outcomes, the most significant of which is the failure to deliver the necessary services to interrupt and treat the trauma these children have endured. The problem occurs at all levels of first response from law enforcement arrests on the street, to the intake processes of homeless and runaway youth shelters, to court adjudication of victims as juvenile delinquents for offenses committed in connection with the prostitution of the child. Adjudicating the victim as delinquent and detaining him or her in a juvenile facility is a too frequent outcome and contributes to the return and retention of minors in commercial sexual exploitation. Law enforcement officers reported to Shared Hope International that another barrier to proper identification of victims is that prostituted juveniles are trained by their traffickers to lie to authorities and are provided with excellent fraudulent identification. This results in their registration in the arrest records as adults—an identification that follows them through their years as minors unless and until it is corrected by the insight of a law enforcement officer who recognizes that a victim is a minor and pursues a correct identification. Using tools to flag high risk children, such as chronic runaways and other status offenders, as well as youth who have fled from foster care, group homes, or other residential programs, as likely victims of domestic minor sex trafficking would greatly improve the identification process.

4. **Providing Protection, Access to Services and Shelter for Victims.** Law enforcement officers expressed frustration that they are often compelled to charge a domestic minor sex trafficking victim with a delinquency offense, such as prostitution, to detain the child and to keep the child safe from the trafficker. Detention, however, is detrimental to the victim in that the victim rarely receives any services in detention, much less services specific to the trauma endured through sex trafficking. Due to the unique trauma bonding that occurs between victims and their traffickers, these children often run from juvenile facilities right back to the people who exploited them. Also, in some states, a victim's entry into the delinquency system can disqualify him or her from accessing crime victim funds for services. Establishing protective shelters and services for domestic minor sex trafficking victims would provide law enforcement officers or juvenile courts with an alternative placement for prostituted minors. Protective shelters also provide a more conducive environment for breaking the cycle of destructive trauma bonding between a victim and the trafficker and restoring a victim to the point where the victim can assist in an investigation and trial. Despite the need for protective shelters, fewer than one hundred beds in facilities appropriate for and specializing in treating domestic minor sex trafficking victims exist across the country. Establishing these protective shelters is critical for creating an effective strategy to combat domestic minor sex trafficking.

⁶ DEMAND, *supra* note 6, at 3.

⁷ In contrast, 22 U.S.C. § 7105(b), prohibits requiring child victims of severe forms of trafficking to cooperate with law enforcement in order to receive assistance.

Methodology

The purpose of the Protected Innocence Legislative Framework is to elaborate the key policy principles that have been identified as critical to making the proper response to domestic minor sex trafficking. These principles, as elaborated above, are eliminating demand, prosecuting the traffickers, identifying the victims, and providing protection, access to services, and shelter for victims. These principles can be grouped into six areas of law:

1. Criminalization of Domestic Minor Sex Trafficking
2. Criminal Provisions Addressing Demand
3. Criminal Provisions for Traffickers
4. Criminal Provisions for Facilitators
5. Protective Provisions for the Child Victim
6. Criminal Justice Tools for Investigation and Prosecution

Each area of law may have several laws that affect the policy within the state's code. As such, specific questions must be asked to determine whether state laws sufficiently address the policy need.

Analysis

Each state will be graded on the basis of the following points of law:

1. Criminalization of Domestic Minor Sex Trafficking

- 1.1 The state human trafficking law addresses sex trafficking and clearly defines a human trafficking victim as any minor under the age of 18 used in a commercial sex act without regard to use of force, fraud, or coercion, aligning to the federal trafficking law.

Note: The vast majority of states have human trafficking laws. Within these statutes, however, there are variations in coverage; some do not expressly cover the sex trafficking of minors. State human trafficking laws that are consistent with each other and with federal law in scope and penalty will prevent migration of the crime to more lenient states or onto tribal lands, many of which are close to densely populated areas and contain attractions for this activity, such as casinos.

- 1.2 Commercial sexual exploitation of children (CSEC) is identified as a separate and distinct offense from general sexual offenses, which may also be used to prosecute those who commit commercial sex offenses against minors.

Note: In the absence of a clear and specific child sex trafficking statute, CSEC laws become critical to punish the crime of commercial sexual exploitation of a child. CSEC statutes are those that make the sexual exploitation of a minor a criminal offense. These offenses range from prostitution to live or recorded sexual performance. Also, sexual offenses can be committed in the course of commercial sexual exploitation and, in some cases, establish the predicate offense for certain trafficking or CSEC offenses. Sexual offense statutes may also be used to prosecute CSEC offenses, although this is not preferred due to the potential resulting failure to identify the victim as a trafficking or CSEC victim.

- 1.3 Commercial sexual exploitation of children (CSEC) or prostitution statutes refer to the sex trafficking statute to identify the commercially sexually exploited minor as a trafficking victim.

Note: Language referring to human trafficking is necessary to ensure that CSEC victims are properly identified as human trafficking victims and thus may access the protections and benefits outlined under federal and some state statutes. This is also necessary to further the collection of data on human trafficking, which is critical to countering domestic minor sex trafficking.

- 1.4 The state racketeering or gang crimes statute includes sex trafficking and commercial sexual exploitation of children (CSEC) offenses as predicate acts allowing the statute to be used to prosecute trafficking crimes.

2. Criminal Provisions Addressing Demand

- 2.1 The state sex trafficking law can be applied to buyers of commercial sex acts with a victim of domestic minor sex trafficking.

Note: Language capturing the entire trafficking circle from trafficker to buyer to victim is necessary to mount a comprehensive attack on domestic minor sex trafficking.

- 2.2 Buyers of commercial sex acts with a minor can be prosecuted under commercial sexual exploitation of children (CSEC) laws.

Note: Anti-demand provisions are critical. State laws on commercial sex abuse of a minor, child prostitution, commercial sexual exploitation of minor, etc. must cover the crime of buying sex with a minor. These provisions will ideally refer to the human trafficking statute to make it clear that buying sex with a minor is domestic minor sex trafficking.

- 2.3 Solicitation of prostitution laws differentiate between buying sex acts with an adult and buying sex acts with a minor under 18.

Note: This can be accomplished by amending traditional solicitation and prostitution laws to make them inapplicable to buying sex with a minor along with amending CSEC or trafficking laws to ensure that buyers of sex acts with minors are included. This is important to ensure that crimes of domestic minor sex trafficking are separated from crimes of solicitation and/or prostitution and that buyers are never allowed to proceed with diversion programs, such as a “John School” or other treatment programs.

- 2.4 Penalties for buyers of commercial sex acts with minors are as high as federal penalties.

Note: Under federal law, sex trafficking of a child is punishable by 10 years to life imprisonment.⁸ Consistency in sentencing between states will prevent the crime from migrating to more lenient states. Also, stiff penalties are just and are critical to deter demand.

- 2.5 Using the Internet to lure, entice, or purchase, or attempt to lure, entice, or purchase commercial sex acts with a minor is a separate crime or results in an enhanced penalty for buyers.

- 2.6 No age mistake defense is permitted for a buyer of commercial sex acts with any minor under 18.

- 2.7 Base penalties for buying sex acts with a minor under 18 are sufficiently high and not reduced for older minors.

Note: Under federal law, sex trafficking of a child is punishable by 10 years to life imprisonment.⁹ State laws that set lower criminal penalties for sexual offenses against older minors are ignoring the definition of a minor and perpetuating the false perception that a victim aged 16 or 17 is a lesser victim. This, however, is not to be confused with enhanced penalties for offenses against a minor below a certain age that are considered especially egregious. For example, 18 U.S.C. § 1591 provides an enhanced penalty of a minimum of 15 years to life imprisonment for trafficking a minor under 14.¹⁰

- 2.8 Financial penalties for buyers of commercial sex acts with minors are sufficiently high to make it difficult for buyers to hide the crime.

Note: Meaningful fines, asset forfeiture, restitution and fees can make it difficult for buyers to hide the crime they have committed from family and community. Directing the fines to a dedicated account can simultaneously offset the costs of investigating, prosecuting, and restoring the victims of the crime. Impound fees must be significant to act as a deterrent.

- 2.9 Buying and possessing child pornography carries penalties as high as similar federal offenses.

Note: Child pornography is defined in federal law as any visual depiction involving the use of a minor engaging in sexually explicit conduct, or a visual depiction that has been created or modified to appear as a minor engaging in sexually explicit conduct.¹¹ Child pornography is actually an image of sexual abuse perpetrated on a child. The most common forum for child pornography today is the Internet and once images are on the Internet, they cannot be removed completely and can continue to circulate revictimizing the child each time they are viewed. Child pornography is also frequently encountered in combination with other sexual offenses against children and may serve as a gateway to acting out the images of sexual abuse on children.¹² Therefore, possessing child pornography should be viewed as a serious crime meriting meaningful prosecution.¹³

- 2.10 Convicted buyers of commercial sex acts with minors and child pornography are required to register as sex offenders.

Note: The exchange of money or something of value does not sanitize the buyer of commercial sex with a minor from the sex offender registration requirements; domestic minor sex trafficking is a sexual offense. Buyers convicted of human trafficking with a sexual purpose or of a CSEC offense should be required to register as sex offenders.

3. Criminal Provisions For Traffickers

- 3.1 Penalties for trafficking a child for sexual exploitation are as high as federal penalties.

- 3.2 Creating and distributing child pornography carries penalties as high as similar federal offenses.

- 3.3 Using the Internet to lure, entice, recruit, or sell commercial sex acts with a minor is a separate crime or results in an enhanced penalty for traffickers.

- 3.4 Financial penalties for traffickers, including asset forfeiture, are sufficiently high.

Note: Financial penalties may include asset forfeiture, restitution, and fines for the crimes of human trafficking and commercial sexual exploitation of children. Asset forfeiture laws are critical to disrupting the criminal trafficking enterprise, offsetting the cost of investigation, prosecuting the crime, restoring the victim, and ensuring that the ill-gotten assets of trafficking are not retained by the convicted trafficker. Asset forfeiture laws

⁸ 18 U.S.C. § 1591(a), (b)(2).

⁹ Id.

¹⁰ Id. § 1591(a), (b)(1).

¹¹ Id. § 2256.

¹² ALEXANDRA GELBER, U.S. DEP'T OF JUSTICE, CHILD EXPLOITATION AND OBSCENITY SECTION, CRIMINAL DIVISION, RESPONSE TO “A RELUCTANT REBELLION” 5–6 (2009), available at <http://www.justice.gov/criminal/ceos/ReluctantRebellionResponse.pdf>.

¹³ Id. at 14–15.

have been very effective in fighting drug trafficking¹⁴ and should be viewed as an effective tool in the fight against domestic minor sex trafficking. Asset forfeiture is commonly tied to Racketeer Influenced and Corrupt Organizations (RICO) statutes in many states and thus requires prosecutors to charge these crimes in addition to human trafficking. Restitution is important to provide victims of sex trafficking with the funds to access treatment and to restart their lives. States should follow the federal model of requiring restitution for all victims of human trafficking¹⁵ and CSEC. Lastly, meaningful mandatory fines can be a deterrent and help to fund the programs necessary to serve victims.

3.5 Convicted traffickers are required to register as sex offenders.

3.6 Laws relating to termination of parental rights for certain offenses include sex trafficking or commercial sexual exploitation of children (CSEC) offenses in order to remove the children of traffickers from their control and potential exploitation.

Note: Traffickers may impregnate their victims, including minor victims, with the intent of maintaining control. The effect is to have second generation victims within a criminal "family." Breaking the bonds between victim and pimp include freeing their child from a continuing relationship with the trafficker parent. Also, children of traffickers can become victims of trafficking at the hands of their trafficker-parents.

4. Criminal Provisions for Facilitators

4.1 The acts of assisting, enabling, or financially benefitting from child sex trafficking are included as criminal offenses in the state sex trafficking statute.

Note: Facilitators are those people or entities that knowingly enable domestic minor sex trafficking or benefit from sex trafficking in any way. State sex trafficking laws must also make the act of facilitation a crime.

4.2 Financial penalties, including asset forfeiture laws, are in place for those who benefit financially from or aid and assist in committing domestic minor sex trafficking.

Note: Asset forfeiture laws are critical to disrupting the criminal trafficking enterprise, offsetting the cost of investigation, prosecuting the crime, restoring the victim, and ensuring that the ill-gotten assets of trafficking are not retained by a person or an entity convicted of knowingly benefitting from sex trafficking, such as hotels or online classified businesses.

4.3 Promoting and selling child sex tourism is illegal.

Note: Businesses and individuals selling travel based on or containing components of commercial sexual exploitation of children are committing the crime of child sex tourism and driving demand for sex with children. Laws prohibiting child sex tourism should apply to a natural person as well as a corporation, and the penalty prescribed for the crime must be sufficiently serious to present substantial risk and deterrence, and should be comparable with the gravity of the crime.

4.4 Promoting and selling child pornography is illegal.

5. Protective Provisions for the Child Victims

5.1 A victim of domestic minor sex trafficking or CSEC is defined as a victim for purposes of qualifying for crime victims' compensation and other victim benefits.

Note: Language defining a minor who has been used in a commercial sex act (prostitution, pornography, or sexual performance) as a victim of sex trafficking or CSEC can lead to improved identification and responses at all levels.

5.2 The state sex trafficking statute expressly prohibits a defendant from raising consent of the minor to the commercial sex acts as a defense.

Note: Many states allow a minor to consent to sex at an age lower than the age of majority. But a minor used in a commercial sex act is a victim of adult criminal behavior; the child's consent, therefore, cannot mitigate such acts. For this reason, consent must not be used as a defense to the crime of domestic minor sex trafficking.

5.3 Prostitution laws apply only to adults, making minors under 18 specifically immune from this offense.

Note: This is consistent with defining a minor in prostitution as a victim of domestic minor sex trafficking. This also establishes that a prostituted minor will not be charged as an offender, in either juvenile or adult criminal court, but rather, will be protected as a victim.

¹⁴ Asset Forfeiture, U.S. DRUG ENFORCEMENT ADMIN., <http://www.justice.gov/dea/programs/af.htm> (last visited Sept. 21, 2011).

¹⁵ 18 U.S.C. § 1593.

- 5.4 Child victims of sex trafficking or commercial sexual exploitation are provided with a child protection response, including specialized shelter and services, and are not detained in juvenile detention facilities.

Note: Establishing a child protection response is critical to ending the arrest and detention of domestic minor sex trafficking victims and ensuring instead that they are provided crime victim protections, services, and benefits. Protective shelter is far preferable to the current practice of charging the minor with an offense in order to detain him or her for his or her own safety and to assist in investigating a criminal case. Service providers struggle with case management when these victims are ordered to inappropriate placements, such as ill-equipped foster care, group homes, and detention facilities, or they are returned to poor home environments. Laws are needed to establish and financially support residential programs to treat domestic minor sex trafficking victims in three stages: intervention, restoration, and transitional living. Debate exists over the level of security in and duration of these placements, as well as the size and location of such shelters; however, agreement exists as to the need for a variety of approaches from long-term shelters to home-based care to specialty foster homes, etc.

- 5.5 Commercial sexual exploitation or sex trafficking is identified as a type of abuse and neglect within child protection statutes.

Note: Expanding or interpreting the definition of “abuse and neglect” in the child protection statutes to include sex trafficking and commercial sexual exploitation would allow child protective services to include it as a specific type of maltreatment and bring situations of domestic minor sex trafficking within the investigative and protective functions of child protective services.

- 5.6 The definition of “caregiver” (or similar term) in the child welfare statutes is broad enough to include a trafficker who has custody or control of a child in order to bring a trafficked child into the protection of child protective services.

Note: Child protective services is often precluded from intervening in a case of non-familial domestic minor sex trafficking because the agency’s mandate is limited to cases in which a parent or legal guardian is the cause of danger to the child. Defining such a person to include the person in custody or control of a minor, such as a trafficker, can bring greater protections to domestic minor sex trafficking victims through the intervention of child protective services.

- 5.7 Crime victims’ compensation is specifically available to a child victim of sex trafficking or commercial sexual exploitation of children (CSEC) without regard to ineligibility factors.

Note: Ineligibility criteria contained in state crime victims’ compensation programs often result in child sex trafficking victims being denied funds. Victims may be determined ineligible due to, among other things, their “involvement in the underlying crime” for which they are claiming the compensation, i.e. prostitution, or for failure to cooperate in a law enforcement investigation. This must be remedied with direct language specifically identifying these minors as victims.

- 5.8 Victim-friendly procedures and protections are provided in the trial process for minors under 18.

Note: Trauma reduction tools can increase the victim’s successful participation through safety and protection. Some examples include:

- a. Court appointment of an attorney for the domestic minor sex trafficking victim, serving, as appropriate, as the child’s legal counsel or as a guardian ad litem, could help protect the child from court system-related trauma and help better assure that their rights and legal interests were protected.*
- b. Victim-witness coordinators, who have received training on child trafficking issues, are needed to shepherd the domestic minor sex trafficking victims and families through the criminal justice process.*
- c. Rape shield laws limit a defendant’s ability to cross-examine victims about their past sexual behavior.*
- d. Prohibition on publication of an alleged rape victim’s identity.*
- e. Closed courtrooms for minor victim testimony can help with the problem of intimidation by defendant traffickers’ friends and family packing the courtroom.*
- f. Closed circuit television testimony can reduce re-traumatization of a domestic minor sex trafficking victim and assist in securing his or her testimony against an offender.*

- 5.9 Expungement or sealing of juvenile arrest or criminal records resulting from arrests or adjudications for prostitution-related offenses committed as a result of, or in the course of, the commercial sexual exploitation of a minor is available within a reasonable time after turning 18.

Note: Victims of domestic minor sex trafficking (and adult sex trafficking) report being hampered in attempts to restore their lives through employment or education because they have criminal records. Criminal records can prevent survivors from obtaining academic scholarships, securing certain employment, and working with children in some cases. Saddling the victim of sex trafficking with a criminal record is contrary to his or her legal definition as a victim and can inhibit full reintegration into the community.

- 5.10 Victim restitution and civil remedies for victims of domestic minor sex trafficking or commercial sexual exploitation of children (CSEC) are authorized by law.

Note: Criminal restitution is an important part of the punishment for a convicted offender of trafficking and can provide funds for a victim to recover from the victimization. Restitution should be mandatory in any case of domestic minor sex trafficking and a means of calculating the typically unquantifiable costs of the victimization should be determined in the law. As an example, criminal restitution is mandated in the federal trafficking law.¹⁶ Often though, criminal cases are not pursued, or a convicted offender is not able to pay the restitution. Therefore, victims of domestic minor sex trafficking must be allowed to pursue civil remedies for the damages they have suffered as a result of the victimization. These might include compensatory damages, attorney’s fees, and punitive damages. The continuing effects of sex trafficking on a young person can lead

¹⁶ U.S.C. §§ 1593(b)(1), (b)(3), 2259(b)(4).

to future medical costs and other costs as they regain control over their life. Opportunities to access both criminal restitution and civil damages are means to pay for these needs.

- 5.11 Statutes of limitations for civil and criminal actions for child sex trafficking or commercial sexual exploitation of children (CSEC) offenses are eliminated or lengthened sufficiently to allow prosecutors and victims a realistic opportunity to pursue criminal action and legal remedies.

Note: Because of the traumatic effects of sex trafficking on a child, lengthening or eliminating the statutes of limitations on criminal and civil actions for child sex trafficking and CSEC crimes and the injurious effects on the person is important to allow the victims full access to justice. It is preferable to follow the federal model of eliminating the statute of limitations altogether in criminal actions for sex crimes involving children.¹⁷

6. Criminal Justice Tools for Investigation and Prosecution

- 6.1 Training on human trafficking and domestic minor sex trafficking for law enforcement is statutorily mandated.

Note: Laws requiring training of law enforcement officers are important to the response to domestic minor sex trafficking victims. Due to the unique conditions of DMST, specialized training is ideal; however, this training might be combined with general human trafficking training. Training in victim identification, the definition of domestic minor sex trafficking, investigative techniques, and victim-witness management is critical to increased identification of and improved responses to the victims. Training has resulted in demonstrable increases in investigations of domestic minor sex trafficking in many places around the country.

- 6.2 Single party consent to audiotaping is permitted in law enforcement investigations

Note: Requiring two-party consent to audiotaped conversations makes undercover domestic minor sex trafficking investigations difficult and dangerous. Allowing for single party consent empowers law enforcement to more efficiently investigate and better prepare cases for prosecution while providing greater protection for the investigating officers interacting with traffickers and buyers.

- 6.3 Wiretapping is an available tool to investigate domestic minor sex trafficking.

Note: Access to wiretapping can be a decisive factor in initiating domestic minor sex trafficking investigations. The evidence obtained can lead to better prosecutions and could alleviate the need for victim testimony in domestic minor sex trafficking cases. The growing use of text messages to perpetrate sex trafficking makes it even more important to allow access to wiretapping in these investigations as access to text messages are governed by wiretapping laws.

- 6.4 Using a law enforcement decoy posing as a minor to investigate buying or selling of commercial sex acts is not a defense to soliciting, purchasing, or selling sex with a minor.

- 6.5 Using the Internet to investigate buyers and traffickers is a permissible investigative technique.

- 6.6 Law enforcement and child welfare agencies are mandated to promptly report missing and recovered children.

Note: Identifying the missing and exploited child leads to identifying the domestic minor sex trafficking victim and provides an opportunity to intervene. The National Crime Information Center (NCIC), a computerized index of criminal justice information, relies on the entry of reports of missing and exploited children by local law enforcement. Also, immediate reporting to local police, the NCIC, and the National Center for Missing and Exploited Children (NCMEC) whenever a child goes missing is critical to identification and intervention, especially given the high correlation between missing children and trafficked children.¹⁸ At the same time, it is critical that first responders check the NCIC database and report to NCMEC whenever any domestic minor sex trafficking victim is rescued to see if the victim has been entered into those systems as a reported missing child.

¹⁷ Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003 (PROTECT Act), Pub. L. No. 108-21, § 202, 117 Stat. 650, 660 (codified as amended at 18 U.S.C. § 3283).

¹⁸ SARA ANN FRIEDMAN, ECPAT-USA, INC., WHO IS THERE TO HELP US? HOW THE SYSTEM FAILS SEXUALLY EXPLOITED GIRLS IN THE UNITED STATES: EXAMPLES FROM FOUR AMERICAN CITIES 3 (2005), available at <http://ecpatusa.org/wp-content/uploads/2010/11/Who-Is-There-to-Help-Us.pdf>.

Grading

The Protected Innocence Legislative Framework will assign a point value of 0 to 2.5 based on a written point allocation scheme accounting for the critical elements of each of the components of law discussed above. The points will be totaled for each of the six areas of law. The six totals will be added to determine the final number for each state, which will translate to the corresponding letter grade as follows:

A | 90 - 100

B | 80 - 89

C | 70 - 79

D | 60 - 69

F | < 60

These letter grades will reflect the level of protection available through law in a domestic minor sex trafficking case in the respective state. A short analysis of each state's legislation will follow with recommendations.

It is important to note that the methodology looks solely at the laws in place in a given state and their de jure compliance with the Protected Innocence Legislative Framework at the time of the review. This analysis does not review how states enforce or implement their laws, though enforcement is critically important. Where obtained, statistics that demonstrate enforcement are noted in the state analysis but are not considered in the grade a state receives due to the inconsistency in content, collection, and maintenance of statistical data from state to state. A de facto assessment may be undertaken through the Shared Hope International Rapid Assessment of Domestic Minor Sex Trafficking Methodology and Tool, developed and implemented in fourteen locations around the country with funding from the U.S. Department of Justice (see www.sharedhope.org/Resources/Research.aspx).

From: [Tamara Bitanga](#)
To: [HMS Testimony](#)
Subject: HB 1068
Date: Monday, March 18, 2013 7:52:00 AM

IN **STRONG SUPPORT** OF HB 1068

Dear Committee,

I am writing to urge your support for House Bill 1068, which strengthen Hawaii's ability to combat domestic minor sex trafficking.

32 Years ago I was a victim of sex trafficking, my life would have been different if the laws protected me when I was 15 years old. Please change to laws to protect our children.

Sincerely,

Tamara West

From: [Vicki Vierra](#)
To: [HMS Testimony](#)
Subject: HB1068 RELATING TO HUMAN TRAFFICKING
Date: Sunday, March 17, 2013 9:00:27 AM

Dear Legislators:

Please pass HB1068, which "Requires all establishments to post a poster, where employees may view it, that provides specified information relating to human trafficking and the National Human Trafficking Resource Center hotline. Establishes penalties for violations of the poster requirement."

Slavery is more common now than at any time in human history, because people are not aware of it's prevalence. We can change this.

Thank you,
Vicki Vierra

Vicki Vierra
HC 1 Box 5077
Keaau Hawaii 96749
808 966 6333

From: mailinglist@capitol.hawaii.gov
To: [HMS Testimony](#)
Cc: kailanesia@gmail.com
Subject: *Submitted testimony for HB1068 on Mar 19, 2013 13:30PM*
Date: Sunday, March 17, 2013 2:37:27 PM

HB1068

Submitted on: 3/17/2013

Testimony for HMS/JDL on Mar 19, 2013 13:30PM in Conference Room 016

| Submitted By | Organization | Testifier Position | Present at Hearing |
|--------------------------|--------------|--------------------|--------------------|
| Whitney Schneider-Furuya | Individual | Support | No |

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|--------------|--------------------|--------------------|
| Alexandria Crighton | Individual | Support | No |

I am writing to you today to urge your support for HB1068.

I am very concerned at the F grade our state received this year and last year during the Protect The Innocent campaign done by *Shared Hope International*.

The Human Trafficking Resource Center and Hotline, managed by the Polaris Project, is one of the ways in which victims in servitude, community members wishing to report a crime, or individuals wanting to receive more resource information may call 24-hours a day to receive the help they need. Requiring establishments to post the hotline in clear view would help to get assistance to those who need it the most in areas where outreach is difficult.

I am in support of this bill which requires all establishments to post a poster, where employees may view it, that provides specified information relating to human trafficking and the National Human Trafficking Resource Center hotline. Establishes penalties for violations of the poster requirement.

I support the work of *Courage House Hawaii*, *PASS* and anyone who is tackling this issue of modern day slavery. We badly need legislation to protect the innocent girls that fall prey to this crime.

We need laws. We need to take this issue seriously. We need you to take action.

Courage House Hawaii has an educational program and is currently speaking to schools in Hawaii. It is obvious to those of us supporting this endeavor that human trafficking is happening and that any early warning we can give is needed. We also need to give those caught up in this horrible crime the information they might need to get help.

I strongly support this bill.

Mahalo

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| Alison Freitas | Individual | Support | No |

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| Barbara Yeackel | Individual | Support | No |

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| Carina Cooper | Individual | Support | No |

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| Christian Schneider | Individual | Support | No |

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|---------------------|--------------|--------------------|--------------------|
| Christy Ann Jeffers | Individual | Support | No |

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| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------|----------------------|--------------------|--------------------|
| Ellyn Sollars | Courage House Hawaii | Support | No |

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I am in support of this bill which requires all establishments to post a poster, where employees may view it, that provides specified information relating to human trafficking and the National Human Trafficking Resource Center hotline. Establishes penalties for violations of the poster requirement.

I support the work of *Courage House Hawaii*, *PASS* and anyone who is tackling this issue of modern day slavery. We badly need legislation to protect the innocent girls that fall prey to this crime.

We need laws. We need to take this issue seriously. We need you to take action.

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| Fallon Silva | Individual | Support | No |

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| Jacqueline Allen | Individual | Support | No |

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| Jan Cook | Courage House Hawaii | Support | No |

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| Jenifer Schneider | Individual | Support | No |

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| Jill Cullinan | Individual | Support | No |

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| Kaleo Schneider | Courage House Hawaii | Support | No |

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| Kanani Guerland | Individual | Support | No |

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| Kendra Schneider | Individual | Support | No |

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| Kirstin Kerbox | Individual | Support | No |

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| Linda Weiland | Individual | Support | No |

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| Mahealani Schneider | Individual | Support | No |

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| Mahina Souza | Individual | Support | No |

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| Mary Witthans | Individual | Support | No |

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| Michele Baginski | Individual | Support | No |

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| mihana souza | Individual | Support | No |

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| Perry Callas | Individual | Support | No |

When human beings are bought and sold like cattle, no person can claim to be free or safe. It is time to stop human trafficking, and this measure is an important component of that process.

Perry Callas
1418 Commercial, P1
Astoria, OR 97103

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| Rex Huetter | Individual | Support | No |

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| Robin Librie | Individual | Support | No |

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| Sabrina Harrison | Individual | Support | No |

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| Stanley Yeackel | Individual | Support | No |

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| Susanna Leite | Individual | Support | No |

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| Tahiti Huetter | Individual | Support | No |

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I am very concerned at the F grade our state received this year and last year during the Protect The Innocent campaign done by *Shared Hope International*.

The Human Trafficking Resource Center and Hotline, managed by the Polaris Project, is one of the ways in which victims in servitude, community members wishing to report a crime, or individuals wanting to receive more resource information may call 24-hours a day to receive the help they need. Requiring establishments to post the hotline in clear view would help to get assistance to those who need it the most in areas where outreach is difficult.

I am in support of this bill which requires all establishments to post a poster, where employees may view it, that provides specified information relating to human trafficking and the National Human Trafficking Resource Center hotline. Establishes penalties for violations of the poster requirement.

I support the work of *Courage House Hawaii*, *PASS* and anyone who is tackling this issue of modern day slavery. We badly need legislation to protect the innocent girls that fall prey to this crime.

We need laws. We need to take this issue seriously. We need you to take action.

Courage House Hawaii has an educational program and is currently speaking to schools in Hawaii. It is obvious to those of us supporting this endeavor that human trafficking is happening and that any early warning we can give is needed. We also need to give those caught up in this horrible crime the information they might need to get help.

I strongly support this bill.

Mahalo

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------|--------------|--------------------|--------------------|
| Thea Anderson | Individual | Support | No |

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| Tori Craig | Individual | Support | No |

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