

Honolulu, Hawaii

February 19, 2016

RE: H.B. No. 1902
H.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 1902 entitled:

"A BILL FOR AN ACT RELATING TO SEX TRAFFICKING,"

begs leave to report as follows:

The purpose of this measure is to establish a victim and survivor centered approach to comprehensive anti-sex trafficking laws by:

- (1) Replacing the offense of Promoting Prostitution in the First Degree with Sex Trafficking, a class A felony and violent crime;
- (2) Specifying that Sex Trafficking is a strict liability offense with respect to the victim's age when the victim of sex trafficking is a minor;
- (3) Providing that when a minor under the age of eighteen commits the act of engaging in or offering to engage in sexual conduct with another person for a fee, it is not a criminal offense, but rather a violation that subjects the minor to the jurisdiction of the family court;
- (4) Making amendments to strengthen the enforcement of laws and increase penalties against the sex trafficker;
- (5) Expanding the Department of the Attorney General's Statewide Witness Program to include sex trafficking;



- (6) Providing victims with access to criminal injury compensation; and
- (7) Amending laws relating to civil liability for cases of coercion into prostitution.

The Hawaii State Commission on the Status of Women, Kauai Office of the Prosecuting Attorney, Hawaii State AFL-CIO, Hawaii Women's Coalition, American Association of University Women, Hawaii, IMUAlliance, The Sex Abuse Treatment Center, Family Programs Hawaii, Hawaii Family Forum, Hawaii State Coalition Against Domestic Violence, Pacific Alliance to Stop Slavery, Shared Hope International, and numerous concerned individuals testified in support of this measure. The Honolulu Prosecuting Attorney, The Libertarian Party of Hawaii, and a concerned individual testified in opposition. The Department of the Attorney General provided comments.

Your Committee has amended this measure to establish a class C felony for the act of paying for sex in reckless disregard of the fact that the other person is a victim of sex trafficking.

Your Committee finds that various stakeholders have committed significant time and thought during the 2015 interim to address the reasons for the Governor's veto of S.B. No. 265 S.D. 1 H.D. 1 C.D. 1, Regular Session of 2015. The current measure reflects a new approach to addressing incidences of sex trafficking that are occurring within our State. The measure is intended to modernize attitudes and approaches to prostitution and sex trafficking, especially the treatment of minors whom national law enforcement and the United States Department of Justice are more frequently recognizing as unwilling participants in the trade of sex.

Your Committee acknowledges the unending work of the county police departments, county prosecutors' offices, and the judicial system who contend with the challenges that arise when an individual seemingly involved in illegal activity is in fact a victim of commercial sexual exploitation, often under unimaginable circumstances. As there have been trafficking cases successfully brought under existing law, the elements of the "promoting prostitution" statutes were left intact except to make advancing prostitution of a minor a strict liability offense. Your Committee intends for this measure to provide additional tools that will allow greater numbers of traffickers to be held accountable, better identification and assisting of victims, and



ultimately reductions in the abusive and illegal sex trade in the State.

By removing minors from the offense of prostitution so that they are deemed to have committed a noncriminal violation, it was important to bring clarity to the jurisdiction and authority of the family court to enable it to handle situations involving minors, including connecting them with necessary services and programs.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1902, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1902, H.D. 1, and be referred to your Committee on Finance.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary,



KARL RHOADS, Chair



