

Honolulu, Hawaii

APR 04 2019

RE: H.B. No. 486  
H.D. 1  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirtieth State Legislature  
Regular Session of 2019  
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 486, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO PROSTITUTION,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Remove the criminal statute of limitations for sex trafficking and promoting prostitution;
- (2) Exempt minors from criminal liability for prostitution;
- (3) Permit persons convicted of certain prostitution offenses to file a motion to vacate the conviction if the defendant is not convicted of another offense under the Penal Code within three years of the prostitution offense;
- (4) Establish minimum criminal and regulatory penalties for prostitution, sex trafficking, and promoting travel for prostitution;
- (5) Incorporate the offense of solicitation of a minor for prostitution into the offense of sex trafficking, which is a class A felony;



- (6) Reduce the state of mind requirement for the offense of promoting prostitution; and
- (7) Repeal the offense of street solicitation of prostitution.

Your Committee received testimony in support of this measure from the Hawai'i State Commission on the Status of Women, Office of the Prosecuting Attorney of the County of Kaua'i, IMUAlliance, Shared Hope International, UNITE, Hawaii Women's Coalition, and eight individuals. Your Committee received testimony in opposition to this measure from the Office of the Public Defender, Department of the Prosecuting Attorney of the City and County of Honolulu, Hawai'i Police Department, Honolulu Police Department, Harm Reduction Hawaii, and two individuals. Your Committee received comments on this measure from The Sex Abuse Treatment Center.

Your Committee finds that sex trafficking victims are often misidentified and criminalized by law enforcement and that, although the existing law allows sex trafficking victims to vacate prostitution convictions within six years from the time that victimization ceased, such persons may face significant challenges in disclosing and proving victimization. Furthermore, your Committee notes that persons who have been convicted under sections 712-1200(1)(a), 712-1206(2), 712-1207(1)(a), and 712-1207(1)(b), Hawaii Revised Statutes, regardless of whether or not they have been or can allege that they were victims of sex trafficking, should be able to vacate their convictions after a reasonable period of three years; provided that these persons have maintained a clean record free of convictions under the Penal Code.

Accordingly, your Committee has amended this measure by:

- (1) Removing language that would have:
  - (A) Eliminated the criminal statute of limitations for sex trafficking and promoting prostitution;
  - (B) Exempted minors from criminal liability for prostitution;



- (C) Established minimum criminal and regulatory penalties for prostitution, sex trafficking, and promoting travel for prostitution;
  - (D) Incorporated the offense of solicitation of a minor for prostitution into the offense of sex trafficking, which is a class A felony;
  - (E) Reduced the state of mind requirement for the offense of promoting prostitution; and
  - (F) Repealed the offense of street solicitation of prostitution;
- (2) Making it effective upon its approval; and
  - (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

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. 486, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 486, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

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



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KARL RHOADS, Chair



The Senate  
Thirtieth Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Judiciary**  
**JDC**

|  |                                   |                         |          |          |
|--|-----------------------------------|-------------------------|----------|----------|
| Bill / Resolution No.:*<br><b>HB 486 HD1</b>   | Committee Referral:<br><b>JDC</b> | Date:<br><b>3/14/19</b> |          |          |
| <input type="checkbox"/> The Committee is reconsidering its previous decision on this measure.<br>If so, then the previous decision was to: _____  |                                   |                         |          |          |
| The Recommendation is:<br><input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313 |                                   |                         |          |          |
| Members  | Aye /                             | Aye (WR)                | Nay      | Excused  |
| RHOADS, Karl (C)   | ✓                                 |                         |          |          |
| WAKAI, Glenn (VC)  | ✓                                 |                         |          |          |
| GABBARD, Mike  | ✓                                 |                         |          |          |
| KIM, Donna Mercado   | ✓                                 |                         |          |          |
| FEVELLA, Kurt  |                                   |                         |          | ✓        |
| <b>TOTAL</b>   | <b>4</b>                          | <b>0</b>                | <b>0</b> | <b>1</b> |
| Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted   |                                   |                         |          |          |
| Chair's or Designee's Signature:   |                                   |                         |          |          |
| <b>Distribution:</b> Original             Yellow             Pink             Goldenrod<br>File with Committee Report             Clerk's Office             Drafting Agency             Committee File Copy     |                                   |                         |          |          |

\*Only one measure per Record of Votes