

**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTIETH LEGISLATURE, 2019**

ON THE FOLLOWING MEASURE:

H.C.R. NO. 175, H.D. 2, REQUESTING THE STATE OF HAWAII DEPARTMENT OF THE ATTORNEY GENERAL TO MAINTAIN A DATABASE ON SEX TRAFFICKING OFFENSES.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY

DATE: Tuesday, April 16, 2019

TIME: 10:10 a.m.

LOCATION: State Capitol, Room 414

TESTIFIER(S): Clare E. Connors, Attorney General, or
Christopher D.W. Young, Administrator, Hawaii Criminal Justice
Data Center

Chair Rhoads and Members of the Committee:

The Department of the Attorney General (Department) appreciates the intent of this resolution and offers the following comments for the Committee's consideration.

The purpose of the concurrent resolution is to request the Department to create a database relating to sex trafficking that would provide data for analysis to improve the State's efforts to stop sex trafficking and to allow better allocation of resources to assist victims. (Page 1, lines 14-17, and Page 2, lines 1-2). However, implementation of this concurrent resolution would be very difficult because the Department does not have access to the data sets requested, this concurrent resolution does not have the force of law, and the Department does not have adequate resources to address these challenges.

In general, the Department is able to access only one of nine data sets included in the concurrent resolution. (See H.C.R. No. 175, H.D. 2, page 2, lines 30-44, and page 3, lines 2-13). Specifically, the Department has access to "[t]otal number of arrests, prosecutions, and convictions under §712-1202, Hawaii Revised Statutes." (see H.C.R. No. 175, H.D. 2, at page 2, lines 40-41). This data is statutorily required to be reported by law enforcement agencies to the Department's Hawaii Criminal Justice Data Center. (see HRS §§ 846-2.5, 846-3, and 866-5). The Department may have

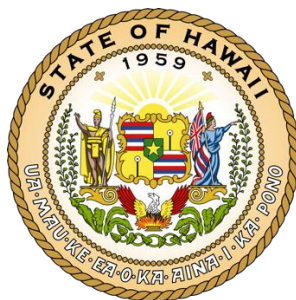
access to data sets such as age, gender, and race; however, this data is dependent on whether law enforcement collected the information at time of arrest. All other data sets are not held by or reported to the Department.

Although the resolution contemplates that other data sets may be held by other entities such as the Judiciary, the chiefs of police, and the prosecuting attorneys of the several counties, the resolution simply requests these entities to provide data to the Department. (see page 3, lines 15-19). The resolution fails to address obtaining data from private, nonprofit and Federal agencies. Such requests for data, without the mandate of law, creates additional implementation issues. Unless legislation is created to mandate data owners to report and share their data, it would be nearly impossible to create a complete and accurate database that could produce accurate sex trafficking statistics.

Even if complete and accurate data could be gathered, the development, implementation, and maintenance of a new database takes time, funding, and other resources. However, this concurrent resolution does not provide the funding for such resources and the Department does not have the readily available resources necessary for development, implementation and continued maintenance.

As a final note, the Department supports any program that would help combat sex trafficking. The Department currently participates in the Hawaii Coalition against Human Trafficking. In addition, it is the Department's understanding that the Hawaii State Commission on the Status of Women strongly supports this concurrent resolution and is willing to take lead in the creation of a sex trafficking database.

We respectfully ask the Committee to consider tabling this concurrent resolution until such time that the above concerns can be addressed. Creating an incomplete sex trafficking database would not serve the purpose of this concurrent resolution.



LATE

**Testimony on behalf of the
Hawai'i State Commission on the Status of Women**
Khara Jabola-Carolus, Executive Director

Prepared for the Senate Committee on Judiciary

In Support of HCR175 HD2, With Amendments

Dear Chair Rhoads, Vice Chair Wakai, and Honorable Members,

The Hawai'i State Commission on the Status of Women supports HCR175 HD2, with friendly amendments.

The Commission supports the Department of the Attorney General's position that a sex trafficking database is not feasible within the Department. The Commission asserts that our agency is an appropriate host of the database.

As an agency attached to the Department of Human Services, the Commission's role in battling sex trafficking is mandated by various federal and state laws. Additionally, sex trafficking is an inherently gendered issue, with non-transgender women and girls constituting the bulk of the 'supply.' The Commission is cognizant that the sexualization, objectification and exploitation of women and sexual and gender minorities reinforces masculine hegemony and the inferior status of women-as-a-group.

Contrary to opposition testimony, the legislative proposal for a sex trafficking database was a direct response by the Commission to community input from lead sex trafficking advocates and social service providers in Hawai'i. The Commission is an active member of the state's court-based Commercial Sexual Exploitation of Children (CSEC) Steering Committee and Department of the Attorney General's Hawai'i Coalition Against Human Trafficking. Through our intensive collaboration with federal and state-level stakeholders from both groups, the Commission identified a lack of data collection and data sharing as a key impediment to an effective, coordinated state response to this problem.

The exact number of sex trafficking victims is unknown and difficult to determine; however, this problem is not hyperbole or hysteria. Hawai'i's criminal justice-service provider alliance struggles daily to meet the needs of domestic sex trafficking victims. For example, since 2017, Child Welfare Services has received one hundred and forty (140) reports of child sex

trafficking. Until the Commission's January 2019 *Sex Trafficking in Hawai'i: The Stories of Survivors*, this data was not made publicly available.

The state simply cannot manage what it cannot measure. A central database is necessary to improve the State's sex trafficking efforts by establishing systemic information collection and retrieval processes necessary for policy guidance, training, legislative reporting, and response and prevention programs. Accordingly, the Commission supports HCR175 HD2 database with the following amendments:

1. REVISED LANGUAGE RE: DESIGNATED DATA COLLECTOR

~~REQUESTING THE STATE OF HAWAII DEPARTMENT OF THE ATTORNEY GENERAL COMMISSION ON THE STATUS OF WOMEN TO MAINTAIN A DATABASE ON SEX TRAFFICKING OFFENSES.~~

2. REVISED LANGUAGE RE: CHILD SEX TRAFFICKING

~~WHEREAS, the Hawaii Youth Services Network distinguishes sex trafficking and survival sex; now, therefore~~

WHEREAS, the Children's Bureau of the United States Department of Health and Human Services defines minors engaging in "survival sex" as a form of sex trafficking, therefore¹

WHEREAS, the Trafficking Victim's Protection Act of 2000 clarifies that children do not need to be compelled to perform commercial sex by force, fraud or coercion to qualify as sex trafficking victims, therefore

WHEREAS, state law defines minors under sixteen engaging in consensual sex with adults as statutory rape not "survival sex."

3. REVISED LANGUAGE RE: ARRESTS

(3) Total number of arrests, prosecutions, and convictions under sections 712-1200(1)(b) and 712-1202, Hawaii Revised Statutes

The opposition contends that the Commission either does not understand or seeks to conflate the distinct legal concepts of sex trafficking and prostitution by including HRS 712-1200(1)(b). This is patently false.

H.R.S. 712-1200(1)(b) relates only to the act of sex buying (sexual exploitation), not sex selling (prostituting). The purpose of collecting this data point is to track law enforcement's response to

¹ https://www.childwelfare.gov/pubpdfs/trafficking_agencies.pdf

the demand for sex trafficking, not just “willing” prostitution because the majority of sex buyers cannot know, do not know or do not care whether the person they are purchasing is trafficked. Sex trafficking victims and self-identifying “sex workers” can and do share the same customers. Currently, our local law enforcement gears its efforts at targeting supply rather than demand, similar to the failed War on Drugs. This results in the disproportionate targeting of vulnerable women and sexual and gender minorities. In fact, HPD arrests twice as many people in prostitution, which inadvertently includes sex trafficking victims, as their buyers. The Commission seeks to monitor these efforts while working with law enforcement to create a more humane response rooted in gender and racial justice.

4. DELETION

~~——— (9) — The total amount of annual federal and state funds available to address sex trafficking.~~

Mahalo,

Khara Jabola-Carolus

TESTIMONY FOR HARM REDUCTION HAWAII

c/o 1658 Liholiho St #205

Honolulu, HI 96822

April 14, 2019

RE: HCR175 HD2 to be heard Tuesday, April 16, in Room 414, at a 10:10 AM

To the members of the Senate Committee on Judiciary

COMMENTS

We are happy to see that the responsibility for overseeing the collection of data on sex trafficking will not be in the hands of the Hawaii State Commission on the Status of Women as originally proposed. Still we remain concerned about the direction the legislature has taken on the entire issue of sex work and trafficking in Hawaii. We want to underline the importance of having meaningful discussions with people in the harm reduction area, that are often on the front lines of social service and public health that interacts with these issues. We are professional people who were left out of the discussions prior to the 2019 session leading to the legislature promoting a series of questionable ideas supported by anti-prostitution activists.

Dame Catherine Healy of the New Zealand sex workers coalition will be in Hawaii on the 9th and 10th of May. New Zealand has the best model in the world as viewed by the Global Alliance Against Traffic in Women, Amnesty International, sex worker led organizations and those of us in harm reduction and public health. It really would behoove some of the many legislators who seem to want to “do something” in these areas to listen to her while she is here.



Tracy Ryan
For Harm Reduction Hawaii

HCR-175-HD-2

Submitted on: 4/12/2019 4:32:25 PM

Testimony for JDC on 4/16/2019 10:10:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Golojuch Jr	Testifying for LGBT Caucus of the Democratic Party of Hawaii	Support	Yes

Comments:

Aloha Senators,

The LGBT Caucus of the Democratic Party of Hawaii supports the passage of HCR 175 HD 2.

Mahalo for your consideration and for the opportunity to testify.

Mahalo,

Michael Golojuch, Jr.
Chair
LGBT Caucus of the Democratic Party of Hawaii

HCR-175-HD-2

Submitted on: 4/15/2019 11:26:04 PM

Testimony for JDC on 4/16/2019 10:10:00 AM



Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Testifying for O`ahu County Democrats Legislative Priorities Committee	Support	No

Comments:

The O`ahu County Democrats Legislative Priorities Committee submits its testimony in support of HCR 175, HD2, because there is no other prevalent data on victims that are readily available, and in both State and non—state, actors struggle to provide adequate care, shelter, and support to the current number of sex trafficking victims in the State.

Mahalo nui loa for this opportunity to testify on HRC175, HD2.

Mahalo.

Melodie Aduja

Chair, O`ahu County Democrats Legislative Priorities Committee

HCR-175-HD-2

Submitted on: 4/10/2019 4:30:30 PM

Testimony for JDC on 4/16/2019 10:10:00 AM

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

Comments:

LATE

HCR-175-HD-2

Submitted on: 4/15/2019 9:16:27 PM

Testimony for JDC on 4/16/2019 10:10:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lea Minton	Individual	Support	No

Comments:

I support this bill with the amendments recommended by the Hawaii State Commission on the Status of Women.

Mahalo for the opportunity to testify.