

STATE OF HAWAI‘I
OFFICE OF THE PUBLIC DEFENDER

**Testimony of the Office of the Public Defender,
State of Hawai‘i to the Senate Committee on Human Services**

February 2, 2021

S.B. No. 409: RELATING TO SEX TRAFFICKING

Chair San Buenaventura, Vice Chair Ihara, and Members of the Committee:

The Office of the Public Defender respectfully opposes S.B. No. 409.

This measure seeks to amend HRS § 712-1202 to include “coercion” as a means of committing sex trafficking. The inclusion of the term, “coercion” is simply unnecessary. Pursuant to the measure, “coercion” is to be defined as “threats of serious harm to or physical restraint against any person.” (*See* S.B. No. 409, page 1, lines 16-17). A plain reading of the current statute, however, includes that a person commits the offense if he/she uses “force” or “threats” or “intimidation.” “Force,” “threats,” and “intimidation” are simply synonyms of the “coercion” as defined in the measure.

Thank you for the opportunity to provide testimony in this matter.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-FIRST LEGISLATURE, 2021**

LATE

ON THE FOLLOWING MEASURE:

S.B. NO. 409, RELATING TO SEX TRAFFICKING.

BEFORE THE:

SENATE COMMITTEE ON HUMAN SERVICES

DATE: Tuesday, February 2, 2021 **TIME:** 3:00 p.m.

LOCATION: State Capitol, Room 225, Via Video Conference

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**
(For more information, contact Farshad M Talebi,
Deputy Attorney General, at 808-596-1173)

Chair San Buenaventura and Members of the Committee:

The Department of the Attorney General (Department) supports this bill.

This bill seeks to expand the definition of sex trafficking by adding “coercion” as a means to commit the crime.

Adding “coercion” to the statute reflects the reality of the criminal enterprise of sex trafficking. Pimps and traffickers use several different means as a way to compel or induce their victims to engage in prostitution. “Coercion” is recognized as a means in the federal sex trafficking statute and in the statutes of many other state jurisdictions. Adding “coercion” to Hawaii’s statute will enable us to better protect victims and hold traffickers accountable.

Although they are not addressed in this bill, the Department has other legal concerns with the sex trafficking statute, section 712-1202, Hawaii Revised Statutes, and respectfully asks this Committee to consider the amendments outlined in Senate Bill No. 1041.

We respectfully ask this Committee to pass this bill, and we appreciate this opportunity to provide comments.

SB-409

Submitted on: 1/31/2021 4:48:11 PM

Testimony for HMS on 2/2/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Gregg Okamoto	Testifying for Maui Police Department	Support	No

Comments:

The Maui Police Department, as a public safety agency, supports this bill. The bill will help clarify any definitions and language as it relates to our ability to enforce the law as well as remove any statute of limitations that may impede our ability to investigate. This would greatly increase our ability to protect the victims of of sex trafficking as well as prosecute those who are responsible. Especially in the interest of minor victims. Thank you.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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STEVEN S. ALM
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THOMAS J. BRADY
FIRST DEPUTY
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**THE HONORABLE JOY A. SAN BUENAVENTURA, CHAIR
SENATE COMMITTEE ON HUMAN SERVICES**

**Thirty-First State Legislature
Regular Session of 2021
State of Hawai`i**

February 2, 2021

RE: S.B. 409; RELATING TO SEX TRAFFICKING.

Chair San Buenaventura, Vice Chair Ihara, and members of the Senate Committee on Human Services, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony in strong support of S.B. 409. This bill is part of the Department's 2021 legislative package.

The purpose of S.B. 409 is to clarify Hawaii's sex trafficking laws to expressly include "coercion" as a means of advancing prostitution. Currently, Section 712-1202(a), Hawaii Revised Statutes ("HRS"), only states "advancing prostitution...by force, threat, fraud or intimidation," and there have been instances when our courts indicated that a particular set of facts did not fit within these existing definitions. One example was where a victim was told she could not eat (or sleep) until she finished a certain amount of work.

Adding the term "coercion" would also bring Hawaii's sex trafficking statute in-line with the federal code, which defines "severe forms of sex trafficking in persons" as:

"...sex trafficking in which a commercial sex act is induced by force, fraud, or coercion; or in which the person induced to perform such act has not attained 18 years of age..."

22 U.S. Code §7102(11)(a), emphasis added. And because the term "coercion" is not otherwise defined in the HRS, the Committee may also wish to consider all or part of the federal definition of coercion:

- (3) COERCION. The term "coercion" means—
(A) threats of serious harm to or physical restraint against any person;

- (B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or
- (C) the abuse or threatened abuse of the legal process

22 U.S. Code §7102(3)(a). Federal code also defines “abuse or threatened abuse of the legal process” [22 U.S. Code §7102(1)], but this is likely already encompassed under Hawaii’s inclusion of the terms “threat” or “intimidation.”

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu strongly supports the passage of S.B. 409. Thank you for the opportunity to testify on this matter.



SB 409, RELATING TO SEX TRAFFICKING

FEBRUARY 2, 2021 · SENATE HUMAN SERVICES
COMMITTEE · CHAIR SEN. JOY A. SAN
BUENAVENTURA

POSITION: Support.

RATIONALE: Imua Alliance **supports SB 409**, relating to sex trafficking, which amends section 712-1202, Hawaii Revised Statutes, to include coercion as a means of committing the offense of sex trafficking.

Imua Alliance is one of the state's largest victim service providers for survivors of sex trafficking. Over the past 10 years, we have provided comprehensive direct intervention (victim rescue) services to 150 victims, successfully emancipating them from slavery and assisting in their restoration, while providing a range of targeted services to over 1,000 victims and individuals at risk of sexual exploitation. **During the pandemic, demand for victim services to our organization has skyrocketed by 330 percent, driven in part by a fivefold increase in direct crisis calls from potential trafficking victims.**

Each of the victims we have assisted has suffered from complex and overlapping trauma, including post-traumatic stress disorder, depression and anxiety, dissociation, parasuicidal behavior, and substance abuse. Trafficking-related trauma can lead to a complete loss of identity. A victim we cared for in 2016, for example, had become so heavily trauma bonded to her pimp that while under his grasp, she couldn't remember her own name. Yet, sadly, many of the victims

with whom we work are misidentified as so-called “voluntary prostitutes” and are subsequently arrested and incarcerated, with no financial resources from which to pay for their release.

Sex trafficking is a profoundly violent crime. At least 23 percent of trafficking victims in Hawai'i report being first exploited before turning 18, according to a recent report, with the average age of trafficked keiki's initial exposure to exploitation being 11. Based on regular outreach and monitoring, we estimate that approximately 150 high-risk sex trafficking establishments operate in Hawai'i. In a recent report conducted by the State Commission on the Status of Women, researchers from Arizona State University found that 1 in every 11 adult males living in our state buys sex online. When visitors are also counted, that number worsens to 1 in every 7 men walking the streets of our island home and a daily online sex buyer market of 18,614 for O'ahu and a total sex buyer population for the island of 74,362, including both tourists and residents.

ASU's findings are grim, but not surprising to local organizations that provide services to survivors of sex trafficking. Imua Alliance, for example, has trained volunteers to perform outreach to victims in high-risk locations, like strip clubs, massage parlors, and hostess bars. More than 80 percent of runaway youth report being approached for sexual exploitation while on the run, over 30 percent of whom are targeted within the first 48 hours of leaving home. With regard to mental health, sex trafficking victims are twice as likely to suffer from PTSD as a soldier in a war zone. Greater than 80 percent of victims report being repeatedly raped and 95 percent report being physically assaulted, numbers that are underreported, according to the United States Department of State and numerous trauma specialists, because of the inability of many victims to recognize sexual violence. As one underage survivor told Imua Alliance prior to being rescued, “I can't be raped. Only good girls can be raped. I'm a bad girl. If I *want* to be raped, I have to *earn* it.”

Accordingly, we support measures to advance our state's ability to stop sexual slavery, including by adding coercion as a means of committing the offense of sex trafficking and authorizing a prosecution for sex trafficking to be commenced at any time. As indicated above, sex trafficking victims are typically trauma bonded to their abusers. **Trauma-attached coercion is like Stockholm Syndrome, involving a powerful emotional dependency on the abusers and a shift in world- and self-view that results in feelings of gratitude and loyalty toward the abusers and a denial, dismissal, or minimization of the coercion, violence, and exploitation**

that victims have suffered. Trauma-attached victims require placement in a coordinated continuum of care to “break” their trauma bonds, receive rehabilitative services, and reintegrate into society in a healthy manner. It is common for victims to need long-term care before recognizing the extent of the trauma they’ve suffered, much less feel emotionally and physically secure enough to participate in criminal investigations. Moreover, sex trafficking often involves elements of nonphysical intimidation, such as social manipulation, ridicule, sexual humiliation, emotional and financial injury, and the establishment of a continuous climate of fear. Thus, to fully respect the needs of survivors and ensure that all victims of sexual exploitation may receive justice, we believe that the statute of limitations on sex trafficking cases should be eliminated.

Kris Coffield · Executive Director, Imua Alliance · (808) 679-7454 · kris@imuaalliance.org

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Date: February 2, 2021

To: The Honorable Joy San Buenaventura Chair
The Honorable Les Ihara, Jr., Vice Chair
Senate Committee on Human Services

From: Cindy Shimomi-Saito, Executive Director
The Sex Abuse Treatment Center
A Program of Kapi'olani Medical Center for Women & Children

RE: Testimony in Support of SB 409, Relating to Sex Trafficking.

Hearing: Tuesday, February 2, 2021, Via videoconference

Good afternoon Chair San Buenaventura, Vice Chair Ihara, and Members of the Committee:

The Sex Abuse Treatment Center (SATC) is in **support of SB 409**. This bill amends section 712-1202, Hawaii Revised Statutes, to include "coercion" as a means of committing the offense of sex trafficking.

Sex trafficking—the commercial sexual exploitation of a minor or the coercive commercial sexual exploitation of any person—is a form of modern-day slavery, with significant and often lifelong medical, psychological, and social consequences for victims. Sex trafficking victims can be anyone – this crime has no geographical or demographic boundaries, and victims often face significant challenges in reporting and recovery. In order to combat this, the law must reflect the heinousness of the crime, and as such, we ask that the committee pass SB 409.

Thank you very much for allowing us to provide testimony in support of this important legislation.

SB-409

Submitted on: 1/28/2021 3:02:49 PM

Testimony for HMS on 2/2/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Victor K. Ramos	Individual	Support	No

Comments:

I support the stated ammendemtn.

Chair San Buenaventura, Vice Chair Ihara Jr., and Members of the Committee on Human Services:

I am writing in strong support of SB753, SB48 and SB409. As a local attorney, a military spouse, a mother of two children and a member of several non-profit and education boards in the community, the issue of Sex Trafficking and the solutions addressed within these bills are important to me and those within my community.

I have personally worked on cases as an attorney in Texas, Arizona, Alabama, and here in Hawaii at the Attorney General's Office in the ICAC (Internet Crimes Against Children) unit. It was in those very spaces that we saw the need to make the changes proposed within these bills:

- (1) Remove statute of limitations for sex trafficking;
- (2) Add "coercion" to the definition of sex trafficking;
- (3) Remove the offense of "solicitation of a minor for prostitution" AND place the actions currently under this offense into the "sex trafficking" statute;
and
- (4) Make sex trafficking of a minor a strict liability offense.

These three bills (SB753, SB48 and SB409) address the current deficiencies in our sex trafficking statutes and bring them in line with the federal statutes and the vast majority of other state statutes. Thank you in advance for your consideration!

Sincerely,
Melissa Rueschhoff, Esq.

SB-409

Submitted on: 1/31/2021 5:20:11 PM

Testimony for HMS on 2/2/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
cathy lee	Individual	Support	No

Comments:

Human trafficking is a form of modern-day slavery in which traffickers use force, fraud, or coercion to control victims for the purpose of engaging in commercial sex acts or labor services against his/her will.

There are a number of studies that have now been peer-reviewed that delves into the psychological distress of victims that have been worn down, abused, forced, threatened into sex-trafficking. The traffickers, those who choose to engage in controlling victims, should ultimately be the ones held liable.

SB-409

Submitted on: 1/31/2021 5:38:14 PM

Testimony for HMS on 2/2/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Glenn Nagao	Individual	Support	No

Comments:

I am writing in support of SB48. Given the vulnerability of minor's, coercion should absolutely be considered when it comes to child sexual abuse and sex trafficking.

One of the most challenging things is that over 90% of the abusers are someone that kids know and trust, so there's a lot of consequences in unresolved trauma in sexual abuse that prevents victimized children from coming forward immediately after being abused. Adults abusing this authority should not go unpunished. And given the psychological impact these actions can cause, the statute of limitations should be lifted to ensure that these individuals have the time necessary to process the trauma with the proper support.

If we are trully committed to protecting our keiki, this bill should be passed.

SB-409

Submitted on: 2/1/2021 9:18:29 AM

Testimony for HMS on 2/2/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Barbara J. Service	Individual	Support	No

Comments:

I encourage your strong support of SB409, Relating to Sex Trafficking.

Barbara J. Service MSW (ret.)

SB-409

Submitted on: 2/1/2021 10:44:55 AM

Testimony for HMS on 2/2/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Sarah Kinzer	Individual	Support	No

Comments:

Please pass this bill to bring Hawai'i state laws up to federal standards. There should be unanimous support for any measure that protects the most vulnerable people in our state.