

**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
KA 'OIHANA O KA LOIO KUHINA  
THIRTY-SECOND LEGISLATURE, 2024**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 3036, RELATING TO OFFENSES AGAINST PUBLIC HEALTH AND MORALS.

**BEFORE THE:**

SENATE COMMITTEE ON JUDICIARY

**DATE:** Thursday, February 15, 2024      **TIME:** 9:30 a.m.

**LOCATION:** State Capitol, Room 016 and Videoconference

**TESTIFIER(S):** Anne E. Lopez, Attorney General, or  
Albert Cook, Deputy Attorney General

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Chair Rhoads and Members of the Committee:

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

The purpose of this bill is to clarify the offenses of sex trafficking, section 712-1202, Hawaii Revised Statutes (HRS), and promoting prostitution, section 712-1203, HRS, by: (1) clarifying the definition of "profits from prostitution", (2) inserting the definitions of "advances prostitution" and "profits from prostitution" into the statutes establishing the substantive offenses of sex trafficking and promoting prostitution; and (3) repealing section 712-1201, HRS where those definitions currently reside.

In State v. Ibarra, 153 Hawaii 50, 526 P.3d 575 (2023), the Hawaii Supreme Court held that "profits from prostitution" did not include repayment of a loan, thereby creating a safe harbor when a trafficker extends a loan or a service and categorizes proceeds received from prostituting the victims as a repayment. In fact, one of the more common recruitment methods traffickers use is to extend a loan to victims that forces them into prostitution and can never be fully repaid. In his dissent, Chief Justice Recktenwald, joined by Justice Nakayama, explains:

While the majority's interpretation of HRS § 712-1701(2) [sic] would result in Ibarra's acquittal, that approach risks making it more difficult to prosecute traffickers who coerce their victims using loans. Traffickers employ a variety of business models to keeping [sic] their victims tethered to them financially. Often, the targets of traffickers have a pressing need for money, lodging, for illicit substances, or to cross a border. The

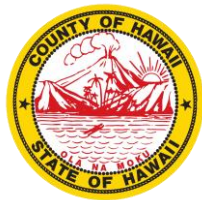
trafficker provides funds or assistance, and the trafficked victim agrees to repay the trafficker from the proceeds of the victim's prostitution. However, the loan proves prohibitively difficult to repay, and the victim is trapped in a coercive dynamic.

Id. at 62, 526 P.3rd at 587.

This bill is necessary to close the loophole created by State v. Ibarra by making clear that "profits from prostitution" includes money, things of value, or other property received even if related to an agreement or understanding or a repayment of debt. Additionally, it will incorporate the definitions of "advances prostitution" and "profits from prostitution" into the applicable HRS sections that outline the offenses of sex trafficking and promoting prostitution and repeal section 712-1201, HRS, to further clarify the laws on sex trafficking and promoting prostitution.

The Department respectfully requests the passage of this bill.

REBECCA VILLEGAS  
Council Member  
District 7, Central Kona



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## HAWAI'I COUNTY COUNCIL

*West Hawai'i Civic Center, Bldg. A  
74-5044 Ane Keohokalole Hwy.  
Kailua-Kona, Hawai'i 96740*

TESIMONY OF REBECCA VILLEGAS COUNCIL MEMBER

HAWAII COUNTY COUNCIL

ON SB 3036 RELATING TO OFFENSES AGAINST PUBLIC HEALTH AND MORALS

Senate Committee on Judiciary

February 12, 2024

Chairperson Rhoads and Members of the Committee:

Thank you for the opportunity to SUPPORT SB3036. My testimony is submitted in my individual capacity as a member of the Hawaii County Council.

During the pandemic, service providers reported skyrocketing demand for their services, showing that sex trafficking is a serious problem on our shores.

To fully address this issue, we must make sure that our state definition of sex trafficking is well-crafted and meets any potential legal challenges. Please pass this bill to strengthen our state's definitions of sex trafficking and profiting from prostitution, so that survivors can receive the justice they deserve.

For these reasons stated above, I urge the Senate Committee on Judiciary to support this measure. Should you have any questions, please contact me at, (808) 323-4267.

Mahalo for your consideration.

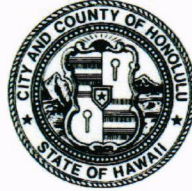
A handwritten signature in black ink, appearing to read "Rebecca Villegas".

Rebecca Villegas  
Council Member, Hawai'i County Council



POLICE DEPARTMENT  
KA 'OIHANA MĀKA'I O HONOLULU  
**CITY AND COUNTY OF HONOLULU**

801 SOUTH BERETANIA STREET • HONOLULU, HAWAII 96813  
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RICK BLANGIARDI  
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KAHU MĀKA'I

KEITH K. HORIKAWA  
RADE K. VANIC  
DEPUTY CHIEFS  
HOPE LUNA NUI MĀKA'I

OUR REFERENCE **ML-HR**

February 15, 2024

The Honorable Karl Rhoads, Chair  
and Members  
Committee on Judiciary  
State Senate  
415 South Beretania Street, Room 016  
Honolulu, Hawaii 96813

Dear Chair Rhoads and Members:

**SUBJECT: Senate Bill No. 3036, Relating to Offenses Against Public Health and Morals**

I am Mike Lambert, Major of the Narcotics/Vice Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports Senate Bill No. 3036, Relating to Offenses Against Public Health and Morals.

Sections 712-1202, Sex trafficking, and 712-1203, Promoting prostitution, Hawaii Revised Statutes, require the elements of "profits from prostitution" and "advances prostitution".

Currently, the definitions for both are not listed. Amending the above sections and adding the definitions of "advancing prostitution" and "profits from prostitution" will clarify the elements needed for sex trafficking and promoting prostitution.

The Honorable Karl Rhoads, Chair  
and Members  
February 15, 2024  
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This will allow law enforcement to target those who benefit the most from prostitution.

The HPD urges you to support Senate Bill No. 3036, Relating to Offenses Against Public Health and Morals.

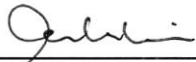
Thank you for the opportunity to testify.

Sincerely,



Mike Lambert, Major  
Narcotics/Vice Division

APPROVED:

*For*   
\_\_\_\_\_  
Arthur J. Logan  
Chief of Police



## SB 3036, RELATING TO OFFENSES AGAINST PUBLIC HEALTH AND MORALS

FEBRUARY 15, 2024 · JDC HEARING

**POSITION:** Support.

**RATIONALE:** Imua Alliance supports for SB 3036, relating to offenses against public health and morals, which clarifies the definition of "profits from prostitution" to include money or property received regardless of expenditures or if it was a reimbursement or repayment of a debt; and amends the sex trafficking and promoting prostitution criminal offense statutes by inserting relevant definitions in those statutes and repealing a statute that is no longer needed.

Imua Alliance is a victim service provider for survivors of sex trafficking. Over the past 15 years, we have provided comprehensive direct intervention (victim rescue) services to over 200 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 skyrocketed by 330 percent, driven in part by a fivefold increase in direct crisis calls.

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 fight against sexual servitude, including this bill's clarification of our state's definition of sex trafficking.** We must make sure that our state definition of sex trafficking is well-crafted and meets any potential legal challenges, including those raised in *State v. Ibarra*, 526 P.3d 575 (Haw. 2023).

**Kris Coffield · Executive Director, Imua Alliance · (808) 679-7454 · [kris@imuaalliance.org](mailto:kris@imuaalliance.org)**