



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2025**

ON THE FOLLOWING MEASURE:

S.B. NO. 1312, S.D. 1, RELATING TO OFFENSES AGAINST PUBLIC HEALTH AND MORALS.

BEFORE THE:

HOUSE COMMITTEE ON HUMAN SERVICES & HOMELESSNESS

DATE: Tuesday, March 11, 2025

TIME: 10:00 a.m.

LOCATION: State Capitol, Room 329

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

Chair Marten 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. It also proposes restructuring provisions that define terms or establish exemptions for part I of chapter 712, HRS.

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 human traffickers use is to extend a loan to victims that force them into prostitution and can never be fully repaid. In his dissent, Chief Justice Recktenwald, joined by Justice Nakayama, explained:

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. Thank you for the opportunity to provide testimony.

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March 10, 2025

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**SB1312, SD1: RELATING TO OFFENSES AGAINST PUBLIC HEALTH
AND MORALS**

**Chair Marten, Vice-Chair Olds, and Members of the Committee on Human Services
and Homelessness:**

The Office of the Public Defender (OPD) **opposes SB1312, SD1**. Specifically, the OPD opposes the amendment to the definition of the term “profits from prostitution” under HRS § 712-1201.

As stated in Section 1 of the bill, the proposed amendment to the definition of the term “profits from prostitution” is in response to the holding of the Hawai‘i Supreme Court in State v. Ibarra, 153 Hawai‘i 50, 526 P.3d 575 (2023). In Ibarra, the defendant (Ibarra) was alleged to have “profited” from prostitution where another prostitute repaid Ibarra for her share of expenses on a joint trip to Hawai‘i. Ibarra and another prostitute (CW) flew from Oakland to Hawai‘i for the specific purpose of engaging in prostitution activities. Ibarra paid for all of the travel expenses, including hotel and airfare, and it was their understanding that CW would repay Ibarra when they reached Hawai‘i. In Hawai‘i, Ibarra also paid for and posted advertisement for her and CW on “Backpage.” Ibarra did not receive any money from CW other than the repayment of CW’s share of her expenses pursuant to their agreement.

The Hawai‘i Supreme Court held that the circuit court’s interpretation of “profits from prostitution,” which included the repayment of CW’s share of expenses to Ibarra, was “overbroad because it does not account for the ordinary definition of the term ‘profit.’” Ibarra, 153 Hawai‘i at 54, 526 P.3d at 579. The Supreme Court cited the ordinary meaning of the term “profits” which included “a valuable return,” “gain” or “the excess over expenditure in a transaction or series of transactions.”

Put another way, a person “accept[ing] or receiv[ing] money or other property” must be benefitting or obtaining something of value, in order to come within the scope of the statute. HRS § 712-1201(2). Otherwise the term “profit” itself would be meaningless. Indeed, there is no ordinary definition of “profit” which includes mere reimbursement.

Id. at 54-55, 526 P.3d at 579-80. The Supreme Court recognized that penalizing Ibarra, a fellow prostitute who was neither a sex trafficker or pimp and who merely sought reimbursement of money she fronted to CW was not the evil the promoting prostitution statute sought to address.

The bill in this case seeks to unnecessarily expand the definition of “profits from prostitution” to situations where the person receiving funds does not make any profit receive any valuable return, gain or excess over expenditure. It was undisputed in Ibarra that Ibarra did not receive any funds from CW in excess of what she had spent on CW’s expenses – Ibarra did not make a profit. However, under the definition proposed by this bill, Ibarra would be guilty of promoting prostitution simply because CW paid her back using funds that CW earned from prostitution. The fallacy in this result and unintended consequences were addressed by the Hawai’i Supreme Court.

Ibarra notes that if her conduct falls within the scope of HRS § 712-1201(2), then if CW paid Ibarra back for a pack of gum, it would constitute “profiting from prostitution” as well. The dissent dismisses this argument, contending that it “ignores the language specifying that the receipt of money must be ‘pursuant to an agreement or understanding.’ ” The fact that “there must be a preexisting agreement or understanding wherein both parties agree that one party will engage in prostitution and that some or all of the proceeds will go to the other party” does not refute the point. As an example, person X and person Y are long-time friends that both engage in prostitution. X does not have money for lunch, so Y agrees to pay for X’s meal, pursuant to an understanding that X will reimburse Y from the proceeds of the prostitution date that X independently scheduled for later that day. Under the dissent’s interpretation of HRS § 712-1201(2), Y would be guilty of promoting prostitution.

Ibarra, 153 Hawai’i at 57, n.10, 526 P.3d at 582, n.10.

The OPD understands the Legislature's concerns in addressing the issue of sex trafficking and its desire to protect those being victimized by prostitution. However, the measures taken to address these issues should not cast so wide a net that they result in unintended and unjust consequences. Persons such as Ibarra and the hypothetical person in the Supreme Court's example are not sex traffickers or pimps that profit from prostitution and exploitation of other individuals yet under the proposed amendment Ibarra and the hypothetical person who merely sought reimbursement not financial gain would be prosecuted and punished as if they had engaged in the same exploitation for profit as pimps and sex traffickers.

Thank you for the opportunity to comment on this measure.

**DEPARTMENT OF THE PROSECUTING ATTORNEY
KA 'OIHANA O KA LOIO HO'OPI'I
CITY AND COUNTY OF HONOLULU**

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**THE HONORABLE LISA MARTEN, CHAIR
HOUSE COMMITTEE ON HUMAN SERVICES AND HOMELESSNESS
Thirty-Third State Legislature
Regular Session of 2025
State of Hawai'i**

March 10, 2025

RE: S.B. 1312 S.D. 1; RELATING TO OFFENSES AGAINST PUBLIC HEALTH AND MORALS.

Chair Marten, Vice Chair Olds, and members of the House Committee on Human Services and Homelessness, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") **strongly supports** passage of S.B. 1312 S.D. 1.

S.B. 1312 expands the definition of "profits from prostitution" to include "reimbursement or repayment of debt." This change addresses debt bondage, a widely-employed coercive tactic used to lure and retain control over victims of trafficking. Traffickers currently can evade prosecution because of the expansive Hawai'i Supreme Court decision in *State v. Ibarra*.¹ Closing the loophole for debt bondage strengthens our ability to hold human traffickers accountable. The bill also clarifies and streamlines the definitions for prostitution, commercial sexual exploitation, and human trafficking offenses.

In a thorough and measured dissent from the *Ibarra* opinion, Chief Justice Recktenwald identified a longstanding legislative purpose to include "small scale" acts of trafficking within the scope of criminal prohibition.² Organized trafficking usually requires the cooperation of "small scale" actors. Shielding them from prosecution allows this criminal activity to flourish.

¹ 153 Hawai'i 50, 526 P.3d 575 (2023).

² *State v. Ibarra*, 153 Hawai'i 50, 61, 526 P.3d 575, 586 (2023) (Recktenwald, C.J., dissenting) ("Ibarra's acts—arranging travel and accommodation for CW in exchange for part of CW's proceeds—are precisely the 'small scale' acts of trafficking that the provision was intended to target."). See also HRS § 712-1204 cmt. (1976) ("This section strikes at the small

The dissent also warned that the majority's reading of the prostitution law could thwart effective prosecution of traffickers, leaving victims open to greater exploitation and coercion:

Traffickers employ a variety of business models to keep 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.³

This bill realistically accounts for the organized and sophisticated nature of human-trafficking enterprises. It prevents traffickers from structuring revenues from human trafficking as repayments on a loan. It also permits law enforcement to target intermediate "small scale" participants in trafficking. This is often necessary to secure evidence against trafficking ringleaders.

The Department strongly supports this bill. Thank you for the opportunity to testify.

scale promoter. The taxicab driver who pimps for a prostitute, the bartender who sets up customers for a prostitute, and the hotel clerk who regularly furnishes the prostitute and his or her customer with accommodations would all come within the ambit of this provision.”).

³ *State v. Ibarra*, 153 Hawai‘i 50, 62, 526 P.3d 575, 587 (2023) (Recktenwald, C.J., dissenting).



SEX WORKERS OUTREACH PROJECT OF HAWAI'I

TESTIMONY OFFERING COMMENTS ON [SB1312 SD1](#)

House Committee on Human Services and Homelessness
March 10th, 2025

Aloha Chair Marten, Vice Chair Olds, and Members of the Committee,

We are the **Sex Workers Outreach Project of Hawai'i, a group of people with lived experience providing material support to sex workers across the islands.** Our main on the ground work is a weekly offering of food, harm reduction supplies, and general support to community members in need; we also host wellness and educational events, and connect individuals in need with mutual aid stipends. We are expanding our work to include pushing for policies that would help rather than harm the folks we serve, as well as our own activities.

We would like to offer comments on SB1312 SD1, to expand the definition of “profits from prostitution” under Section 712-1200 of the Hawaii Revised Statutes (the “prostitution” statute).

We are concerned that the language of the bill as it stands still punishes sex workers and their clients/associates. **Specifically, the addition of “shall be” in the prostitution statute seems to make the criminalization of sex workers engaged in consensual adult interactions mandatory,** which puts them even more at risk of arrest and harmful treatment. **We would ask that “is” be kept in the statute instead (at Page 7, lines 1 & 3 of the bill).** If this is a misunderstanding of this change, we apologize for our ignorance, but still offer the following mana‘o.

We submit these comments to address the **need for decriminalization** rather than tweaks and reforms such as the ones this bill offers in order to actually promote safety for our most vulnerable populations.

Designating “prostitution” as a criminal “offense” is a vestige of morality and vice laws that seek to cultivate the superficial dressings of a “pure” and “clean” society. **Such laws do little to nothing to actually keep our communities safe** (in some cases, as many of us can remember, the “enforcement” of this law by police was nothing more than their engaging in **violence and abuse of power** against vulnerable populations).

Moreover, the assorted punishments attached to the charge/conviction of prostitution, combined with the lack of distinguishing sex work from sex trafficking, **leaves gaps in care to community members**. It also forces those doing adult consensual labor into a box of **artificial victimhood** in order to receive care. **Having sex, and making or offering payment from one’s labor, are not inherently harmful**. Why is charging for sex an offense, while the person “committing” it is also assumed to be an at risk individual? Such framing perpetuates & projects victimhood status on SWs, while simultaneously insinuating criminal intent/behavior.

Fines for someone who needs to break the law to make money (or pay back debts) compounds & complicates their plight. So does a police record that’s **non-expungeable for a minimum of 3 years**, but can have **lasting effects on housing, employment, and custody arrangements**.

Sex Worker rights advocates would recommend **full decriminalization of sex work**, after the New Zealand model. Relative to this conversation is the fact that even the American Medical Association’s Journal of Ethics published a [study](#) that concludes **human trafficking could be decreased through sex work decriminalization**. The same sentiment is shared by several human rights and medical organizations, including Amnesty international, ACLU, WHO, Human Rights Watch, Freedom Network USA, Global Alliance Against Trafficking of Women, and more.

We understand that statutes like this one can be beneficial to protect survivors of sex trafficking; however, we must also focus on labor trafficked peoples in general. **There continue to be no specific protections that offer diverse enough language to account for the nuance and vastness of experience of those in need**. We propose that language be updated to reflect this differentiation of experience and honor the voices of community members. Human trafficking can happen to men, women, and children of any age, race, sexual orientation, or country of origin. Trafficking happens in many different sectors including construction, agriculture, domestic work, commercial sex, hospitality, and many more. Often, human trafficking is framed as a crime that only impacts women who are forced into prostitution, which results in solutions that leave out many who need help.

[Here](#) is a link to our “Decrim to End Trafficking” zine on our Instagram, if you would like more information.

Mahalo for the opportunity to testify,

SWOP Hawai'i

SB-1312-SD-1

Submitted on: 3/9/2025 11:42:29 AM

Testimony for HSH on 3/11/2025 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Dara Carlin, M.A.	Individual	Support	Written Testimony Only

Comments:

Stand in Support

SB-1312-SD-1

Submitted on: 3/10/2025 4:49:08 PM

Testimony for HSH on 3/11/2025 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Master Shelby "Pikachu" Billionaire	Ohana Unity Party & Kingdom of The Hawaiian Islands	Support	Remotely Via Zoom

Comments:

Aloha Honorable Members of the Hawaii State Legislature,

I am writing with fierce determination to voice my unwavering support for Senate Bill No. 1312 (S.B. No. 1312), "Relating to Offenses Against Public Health and Morals," introduced in the Thirty-Third Legislature, 2025. This bill is a critical weapon in our fight against the scourge of sex trafficking and promoting prostitution, offering a lifeline to the countless victims—especially minors—who suffer in the shadows of this heinous crime. By clarifying definitions like "profits from prostitution," restructuring HRS Chapter 712 for readability, and updating statutory references, this legislation addresses gaps highlighted by the Hawaii Supreme Court in *State v. Ibarra* (153 Hawai'i 50, 526 P.3d 575, 2023). Backed by alarming data and the cries of our most vulnerable, I urge you to pass this bill as is, with its July 1, 2025 effective date, to deliver justice and protection now!

The Crisis: A Threat to Our Keiki and Communities

Sex trafficking isn't just a crime—it's a plague tearing at the fabric of our islands. In 2023, the National Human Trafficking Hotline reported 127 cases in Hawaii, with 72% (91) involving minors—a 15% spike from 2022. The FBI's 2023 Uniform Crime Report logged 1,200 prostitution-related arrests statewide, yet Honolulu Police Department (HPD) data reveals only 18% (216) led to convictions for sex trafficking or promoting prostitution under HRS § 712-1202 and § 712-1203, due to vague definitions exploited by perpetrators. The Department of Human Services (DHS) confirms 30% of Hawaii's foster youth (1,200 of 4,000, 2023) are at high risk of trafficking—often targeted by pimps profiting from their exploitation. Native Hawaiian girls are disproportionately victimized, with 40% of trafficking survivors (52 of 130 identified, OHA 2023) from this community, per the Office of Hawaiian Affairs.

The *State v. Ibarra* ruling (2023) exposed these gaps—defendants slipped through legal loopholes because "profits from prostitution" lacked clarity, allowing pimps to claim payments were "debts" rather than proceeds. S.B. No. 1312 slams that door shut, redefining profits under HRS § 712-1201 to include any money or property from prostitution, even as debt repayment, ensuring traffickers can't hide.

Protecting Our Most Vulnerable: Data-Driven Impact

This bill's updates to HRS § 712-1202 (sex trafficking) and § 712-1203 (promoting prostitution) are a game-changer:

- **Saving Minors:** HRS § 712-1202(1)(c) targets those who exploit minors, a class A felony. In 2023, 62% of trafficking victims in Hawaii (80 of 130, Child Welfare Services) were under 18, with 45% (58) suffering "extreme mental distress" (HRS § 350-1). The National Center for Missing & Exploited Children reported 320 runaways in Hawaii in 2023—70% (224) were lured into trafficking within 72 hours.
- **Cracking Down on Profiteers:** Clarifying "profits from prostitution" under HRS § 712-1201 ensures pimps can't evade justice. The U.S. Department of Justice estimates traffickers in Hawaii earn \$3.5 million annually—\$27,000 per victim—yet only 10% (15 of 150) of 2023 HPD trafficking cases led to asset seizures (HPD 2024 Report).
- **Child Abuse Protections:** Amending HRS § 350-1 and § 588-2 to include sex trafficking as child abuse aligns with reality—85% of 2023 survivors (110 of 130, DHS) reported sexual assault (HRS § 707-700), with 60% (78) showing "gross degradation" (HRS § 350-1).
- **Community Safety:** HRS § 712-1209.1 (commercial sexual exploitation of a minor) imposes a \$5,000 fine—vital when 25% of Waikiki's 2023 loitering arrests (50 of 200, HPD) involved soliciting minors, per HRS § 712-1206.

Economic and Social Stakes

Beyond justice, this bill strengthens Hawaii's core:

- **Economic Impact:** Sex trafficking costs Hawaii \$32 million yearly in healthcare, law enforcement, and lost productivity (Shared Hope International 2023). Reducing cases by 20% (25 fewer annually) could save \$6.4 million, per DOJ cost models.
- **Tourism Safety:** Waikiki, a trafficking hotspot, welcomed 5.2 million visitors in 2023 (HTA), but 15% (780,000) cited safety concerns (HTA Visitor Survey). Stronger laws could boost confidence, adding \$200 million in tourism revenue (1.67x DBEDT multiplier).
- **Community Healing:** 62% of residents (892,800, UH 2023 poll) support tougher trafficking laws. Survivors in recovery programs (80 in 2023, Ho'ōla Nā Pua) saw a 70% drop in recidivism when perpetrators were prosecuted—a direct result of clear laws.

No Amendments Needed – Act Now!

S.B. No. 1312 is a precision strike—its July 1, 2025 effective date is perfect timing to save the 1,200 at-risk foster youth and 224 runaways before summer, when trafficking spikes 30% (FBI 2023). The bill's clarity on "profits from prostitution," readability enhancements to HRS Chapter 712, and updated references (e.g., HRS § 846E-1 for sex offender registry) are spot-on. I urge you to pass it as is, ensuring:

- Class A felony charges (HRS § 712-1202) for trafficking minors hit hard—20 years prison, \$50,000 fine (HRS § 706-659).
- Prosecutors close loopholes, as Ibarra demanded, with 91 minors (72% of 2023 cases) counting on it.
- Survivors heal—70% of 2023 program participants (56 of 80) rebuilt lives with legal accountability (Ho‘ōla Nā Pua).

A Moral Imperative

Hawaii’s 306,720 Native Hawaiian and Pacific Islanders (21.3%, 2023 Census) and 4,000 foster youth deserve a future free from exploitation. S.B. No. 1312 delivers justice, safety, and healing—slashing \$32 million in trafficking costs, boosting \$200 million in tourism, and saving 25 cases yearly. Delay is not an option when 80 minors suffered in 2023 alone. Pass this bill now—let’s end this nightmare and rebuild our ohana! I’m ready to testify or assist—reply or contact me.

Mahalo for your leadership,

Master Shelby "Pikachu" Billionaire, HRM

Ohana Unity Party, Chairman

www.Ohanaunityparty.com

Kingdom of The Hawaiian Islands

SB-1312-SD-1

Submitted on: 3/10/2025 8:24:34 PM

Testimony for HSH on 3/11/2025 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Alice Abellanida	Individual	Support	Written Testimony Only

Comments:

I support this bill.