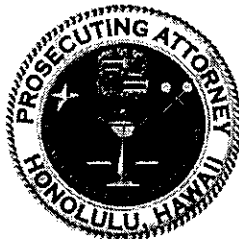


DEPARTMENT OF THE PROSECUTING ATTORNEY  
**CITY AND COUNTY OF HONOLULU**

KEITH M. KANESHIRO  
PROSECUTING ATTORNEY

ALII PLACE  
1060 RICHARDS STREET • HONOLULU, HAWAII 96813  
PHONE: (808) 547-7400 • FAX: (808) 547-7515

ARMINA A. CHING  
FIRST DEPUTY PROSECUTING ATTORNEY



**THE HONORABLE GILBERT S.C. KEITH-AGARAN, CHAIR  
THE HONORABLE KARL RHOADS, VICE CHAIR  
HOUSE COMMITTEE ON JUDICIARY  
Twenty-sixth State Legislature  
Regular Session of 2011  
State of Hawai'i**

February 22, 2011

**RE: H.B. 241; RELATING TO PROMOTING PROSTITUTION  
HEARING: TUESDAY, FEBRUARY 22, 2011, 2:00 P.M., CONFERENCE ROOM 325**

Good afternoon, Chair Keith-Agaran, Vice-Chair Rhoads and members of the House Committee on Judiciary, the Department of the Prosecuting Attorney submits the following testimony in **strong support of House Bill 241.**

The purpose of House Bill 241 is to amend Hawaii Revised Statutes section 712-1202, 712-1203 and 712-1204, to increase penalties for all degrees of promoting prostitution. With these amendments:

- Third degree promoting prostitution would no longer be classified as a misdemeanor, which allows prison sentences of up to one (1) year, but would instead become a Class C felony, with possible imprisonment of up to five (5) years.
- Second degree promoting prostitution would no longer be a Class C felony, but would become a Class B felony, authorizing a prison sentence of up to ten (10) years.
- First degree promoting prostitution--cases that involve the use of force, threat or intimidation--would be moved from a Class B felony to a Class A felony, with a prison sentence of twenty (20) years.

By definition, "promoting prostitution" covers all aspects of knowingly advancing or profiting from prostitution, excluding being a prostituted person or a patron of a prostituted person. In particular, "promoting prostitution" encompasses--among other things--knowingly causing or

aiding a person to engage in prostitution, permitting a premises to be regularly used for prostitution purposes, procuring persons for prostitution purposes, or assisting in the operation of a house of prostitution or other prostitution enterprise.

The focus of much of the public and legislative attention to prostitution has traditionally been the prostituted person, those trapped in the agony and misery of repeated sexual exploitation, for the benefit and profit of those promoting this criminal activity. Our Department has adopted a long standing policy that identifies the aggressive prosecution of the purveyors of this pervasive social evil as the key to effectively responding to prostitution. While we have successfully prosecuted many prostitution profiteers, building a more effective response includes adopting legislative measures that are commensurate with the gravity of the offense. We do not believe that the current penalties for Promoting Prostitution in the First, Second, and Third Degree adequately reflect the seriousness of the acts that constitute this crime. The elements of this offense (non-consensual sexual conduct or sexual conduct with a minor) are clearly the rough equivalents of the conduct which is proscribed by our Sexual Assault in the First Degree statute. When you combine the sexual assault element with the elements of advancing or profiting from prostitution you clearly have a crime worthy of the enhanced penalties proposed in H.B. 241. Similarly, those individuals who knowingly advance or profit from a prostitution enterprise involving two or more prostituted persons deserve the full force of the criminal law to provide both adequate punishment and deterrence for this insidious crime. Finally, elevating Promoting prostitution in the Third Degree to a class C felony makes sense when considering the broad social impact of those individuals who profit from the misery of others.

Many commentators have cited prostitution as the world's "oldest profession". Instead it is the commercial sexual exploitation of women and children that has been among our most damaging ancient social traditions. We have rightfully abandoned the long held social and legal values that defined women and children as property, to be bought and sold as a commodity. Prostitution represents one of the last bastions in our society for these discredited beliefs. We have made tremendous progress in our efforts to respond to domestic violence and sexual assault. Prostitution represents a deadly and vicious combination of these two social evils. This bill represents unfinished business in our efforts to combat violence against women and children. Please add your support for this critical effort by **supporting H.B. 241**. Thank you for your time and consideration.

**Testimony of the Office of the Public Defender  
State of Hawaii  
to the House Committee on Judiciary**

February 22, 2011

H.B. No. 241: RELATING TO PROMOTING PROSTITUTION.

Chair Keith-Agaran and Members of the Committee:

This bill proposes to increase the class of offense for the crimes of Promoting Prostitution in the First, Second and Third Degrees. Currently, the First and Second Degree offenses are class "B" and "C" felony offenses, punishable by 10 years and 5 years in prison, respectively, or subject to 5 year probationary terms. The Third Degree offense is currently a full misdemeanor punishable by up to 1 year in prison or 1 year of probation.

The Office of the Public Defender has no objection to the increase in classification for the First and Second Degree offenses from their current status as class "B" and "C" offenses to class "A" and "B" offenses. That change will increase the penalty for First Degree to a non-probationable term of incarceration of 20 years and for Second Degree to a possible 10 year term of imprisonment or 5 year term of probation. It should be noted that when a term of incarceration is imposed, the Hawaii Paroling Authority decides on the actual amount of time served.

However, the Office of the Public Defender does not support the increase in the Third Degree offense from its current misdemeanor classification to a felony offense in the form it appears in this bill. We suggest an amendment which we believe will make the increase from a misdemeanor to a felony more reasonable.

Briefly, the First and Second Degree offenses for promoting prostitution target the pimps and the owners and managers of prostitution operations and establishments; i.e., those who force or coerce prostitutes and those who run the operations that profit from the illegal enterprise. The Third Degree offense basically targets anyone else involved in "advancing" prostitution.

That is where we believe the problem lies in making the Third Degree offense a felony. Cab drivers, hotel employees, concierges, and others who may direct someone in how to obtain sexual services for money and accept a gratuity for doing so would now be guilty of a felony offense. We question the public policy of having a misdemeanor offense for the "john", or customer, whose desire for these services is what drives this industry, but making it a felony for the person who gives them a number to call, or an address, etc., and is tipped for doing so.

We do see the reason behind making such conduct a felony offense when the person is directing a customer to an underage prostitute. Therefore, we would suggest the following amendment to HRS Section 712-1204:

712-1204. Promoting Prostitution in the third degree

(1) A person commits the offense of promoting prostitution in the third degree if the person knowingly advances or profits from prostitution.

(2) Promoting prostitution in the third degree is a class C felony if the person knowingly advances or profits from prostitution of a person less than eighteen years old. Otherwise, promoting prostitution in the third degree is a misdemeanor.

We believe the suggested amendment would serve the intentions of this bill while keeping in mind that the most minor player in the chain that can lead to the services of a prostitute should not be punished so significantly more than the customer who is creating the market for this illegal industry.

While we do not support the entire bill in its current form, we would have no objections to it with the suggested amendment.

Thank you for the opportunity to comment on this legislation.



Committee: Committee on Judiciary  
Hearing Date/Time: Tuesday, February 22, 2011, 2:00 p.m.  
Place: Room 325  
Re: Testimony of the ACLU of Hawaii in Opposition to H.B. 241, Relating to Promoting Prostitution

Dear Chair Keith-Agaran and Members of the Committee on Judiciary:

The American Civil Liberties Union of Hawaii ("ACLU of Hawaii") writes in **opposition** to H.B. 241.

The ACLU of Hawaii opposes state regulation and punishment of prostitution as a violation of the right of individual privacy because they impose penal sanctions for the private sexual conduct of consenting adults. Whether an adult chooses to engage in sexual activity for purposes of recreation, or in exchange for something of value, is a matter of individual choice, not for governmental interference.

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for over 40 years.

Thank you for this opportunity to testify.

Sincerely,

Laurie A. Temple  
Staff Attorney  
ACLU of Hawaii

American Civil Liberties Union of Hawaii  
P.O. Box 3410  
Honolulu, Hawaii 96801  
T: 808.522-5900  
F: 808.522-5909  
E: [office@acluhawaii.org](mailto:office@acluhawaii.org)  
[www.acluhawaii.org](http://www.acluhawaii.org)

## JUDtestimony

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**From:** Tracy A Ryan [tracyar@hawaiiantel.net]  
**Sent:** Friday, February 18, 2011 4:33 PM  
**To:** JUDtestimony  
**Subject:** testimony

TESTIMONY

The Libertarian Party of Hawaii  
c/o 1658 Liholiho St #205  
Honolulu, HI 96822

February 18, 2011

RE: HB 241 to be heard Tuesday, February 22, 2011 at 2:00 PM in conference room 302.

To the members of the House Committee on Judiciary

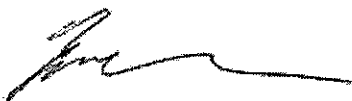
We oppose passage of HB 241. This bill increases penalties for promoting prostitution in the second and third degree without any rationale. The rationale for the bill as a whole is that persons are being coerced into acts of prostitution. Yet only promoting prostitution in the first degree includes such conduct as elements of the crime. This bill claims to help end abuse of prostitutes, but actually attacks most of them who are working independently or through an escort agency or other non coercive setting. It inhibits their ability to hire security as such security could be considered guilty under promoting in the third or perhaps the second degree as written.

It is a very dicey proposition to increase penalties for crimes without being clear on what the stature involved says and how the actual crime as described in such statute is to be evaluated. This bill is based largely on emotional stories of extreme cases of abuse that would currently be prosecuted under promoting in the first degree.

A further issue is cost. If we are to increase prison terms for certain crimes what offsetting reduction in other crimes does the committee suggest. Incarceration is both expensive and scarce.

This bill is a revenge based act in response to a few over the top scare stories. It takes little notice of the overall situation of the sex industry in Hawaii and has been prepared without input from people familiar with that industry.

Sincerely:



Tracy Ryan  
Oahu County Chair  
The Libertarian Party of Hawaii

(808) 534-1846

[tracyar@hawaiiantel.net](mailto:tracyar@hawaiiantel.net)



**Supporters**

*American Association of  
University Women*

*Bluewater Mission*

*Catholic Diocese  
of Honolulu*

*Equality Now*

*Hawaii State Commission  
on the Status of Women*

*Imago Dei  
Christian Community*

*International Justice Mission*

*Kumulani Chapel  
(Lahaina, Maui)*

*Not For Sale*

*Pacific Survivor Center*

*Soroptimists International  
of Waikiki Foundation*

*Women Helping Women  
(Wailuku, Maui)*

**DATE:** Friday, February 18, 2011

**ATTN:** House Committee on Judiciary

**Rep. Gilbert Keith-Agaran, Chair**

**Rep. Karl Rhoads, Vice-Chair**

**Rep. Blake K. Oshiro**

**Rep. Tom Brower**

**Rep. Rida T.R. Cabanilla**

**Rep. Mele Carroll**

**Rep. Robert N. Herkes**

**Rep. Ken Ito**

**Rep. Sylvia Luke**

**Rep. Angus L.K. McKelvey**

**Rep. Hermina M. Morita**

**Rep. Joseph M. Souki**

**Rep. Clift Tsuji**

**Rep. George R. Fontaine**

**Rep. Barbara C. Marumoto**

**Rep. Cynthia Thielen**

**HEARING DATE:** Tuesday, February 22, 2011

**HEARING PLACE:** Conference Room 302 - State Capitol –  
415 South Beretania Street

**TIME:** 2:00pm

**RE: HB241 - RELATING TO PROMOTING PROSTITUTION –  
IN SUPPORT WITH AMENDMENTS**

**Dear Committee on Judiciary:**

We support the intent of this bill however we feel that the Promoting Prostitution statutes are not adequate in addressing sex-trafficking, which is the incentive for this bill.

According to the Hawaii State Judiciary's Statistical Report for 2009-10, less than a handful of felony prostitution charges (Promoting Prostitution in the first and second degree) were tried. This does not reflect the actual rate of crimes that happen statewide on a daily basis. \*For the report visit:

[http://www.courts.state.hi.us/docs/news\\_and\\_reports\\_docs/annual\\_reports/Jud\\_Statistical\\_Sup\\_2010.pdf](http://www.courts.state.hi.us/docs/news_and_reports_docs/annual_reports/Jud_Statistical_Sup_2010.pdf)





The PACIFIC ALLIANCE  
to STOP SLAVERY

Raising the Promoting Prostitution penalties will not make proving the offense any easier. This is due to the way the laws are written. For example, Promoting Prostitution in the first degree does not include what is tantamount to fraud, which is the most common method traffickers use to lure or trick women and girls into prostitution. All traffickers train and force their girls to say what they want them to say when interrogated or questioned by police. This makes proving "force" incredibly difficult. Furthermore, law enforcement will almost never get collaboration from a sex-trafficking victim if they are criminalized as "prostitutes" and even face court for prostitution offenses while their traffickers are free. This is a "sign" to the victims that the justice system cannot protect them.

Equally problematic is Promoting Prostitution in the second degree which requires having at least two victims. Law enforcement themselves know how hard it is to maintain just one victim throughout trial, let alone two.

Promoting Prostitution in the third degree is easiest to prove of the three offenses but is only currently a misdemeanor. However, should HB241 pass, raising Promoting Prostitution in the third degree to a class C felony, with the problematic current language of the first and second degree offenses still in place, we fear this will result in the overall application of these laws to focus mainly on the class C offense, which would make these related offenses punishable with up to a 5 year sentence and a \$10,000 fine. This would be far less than adequate punishment for sex-trafficking crimes.

If you must revise the Promoting Prostitution statutes in an effort to address sex-trafficking, at the very minimum, please include fraud in the definition of Promoting Prostitution in the first degree (a class A felony), and remove Promoting Prostitution in the second degree and replace with the language of promoting prostitution in the third degree, which would then become a class B felony.

We have attached proposed language attached with this testimony for consideration.

Sincerely,

Kathryn Xian, Executive Director  
Pacific Alliance to Stop Slavery

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## A BILL FOR AN ACT

---

RELATING TO CRIME.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. Section 663J-2, Hawaii Revised Statutes, is  
2 amended by amending the definition of "promoting prostitution"  
3 to read as follows:

4       "Promoting prostitution" means promoting prostitution in  
5 the first ~~[ex-second]~~ degree, as provided in ~~[sections]~~ section  
6 712-1202 ~~[and 712-1203, respectively]~~."

7       SECTION 2. Section 706-606.5, Hawaii Revised Statutes, is  
8 amended to read as follows:

9       "**§706-606.5 Sentencing of repeat offenders.** (1)  
10 Notwithstanding section 706-669 and any other law to the  
11 contrary, any person convicted of murder in the second degree,  
12 any class A felony, any class B felony, or any of the following  
13 class C felonies: section 188-23 relating to possession or use  
14 of explosives, electrofishing devices, and poisonous substances  
15 in state waters; section 386-98(d)(1) relating to fraud  
16 violations and penalties; section 431:2-403(b)(2) relating to  
17 insurance fraud; section 707-703 relating to negligent homicide  
18 in the second degree; section 707-711 relating to assault in the



# S.B. NO.

1 second degree; section 707-713 relating to reckless endangering  
2 in the first degree; section 707-716 relating to terroristic  
3 threatening in the first degree; section 707-721 relating to  
4 unlawful imprisonment in the first degree; section 707-732  
5 relating to sexual assault [~~or rape~~] in the third degree;  
6 section 707-752 relating to promoting child abuse in the third  
7 degree; section 707-757 relating to electronic enticement of a  
8 child in the second degree; section 707-766 relating to  
9 extortion in the second degree; section 708-811 relating to  
10 burglary in the second degree; section 708-821 relating to  
11 criminal property damage in the second degree; section 708-831  
12 relating to theft in the first degree as amended by Act 68,  
13 Session Laws of Hawaii 1981; section 708-831 relating to theft  
14 in the second degree; section 708-835.5 relating to theft of  
15 livestock; section 708-836 relating to unauthorized control of  
16 propelled vehicle; section 708-839.8 relating to identity theft  
17 in the third degree; section 708-839.55 relating to unauthorized  
18 possession of confidential personal information; section 708-852  
19 relating to forgery in the second degree; section 708-854  
20 relating to criminal possession of a forgery device; section  
21 708-875 relating to trademark counterfeiting; section 710-1071  
22 relating to intimidating a witness; section 711-1103 relating to



## S.B. NO.

1 riot; [~~section 712-1203 relating to promoting prostitution in~~  
2 ~~the second degree;~~] section 712-1221 relating to promoting  
3 gambling in the first degree; section 712-1224 relating to  
4 possession of gambling records in the first degree; section  
5 712-1243 relating to promoting a dangerous drug in the third  
6 degree; section 712-1247 relating to promoting a detrimental  
7 drug in the first degree; section 846E-9 relating to failure to  
8 comply with covered offender registration requirements; section  
9 134-7 relating to ownership or possession of firearms or  
10 ammunition by persons convicted of certain crimes; section 134-8  
11 relating to ownership, etc., of prohibited weapons; section  
12 134-9 relating to permits to carry[-]; or who is convicted of  
13 attempting to commit murder in the second degree, any class A  
14 felony, any class B felony, or any of the class C felony  
15 offenses enumerated above and who has a prior conviction or  
16 prior convictions for the following felonies, including an  
17 attempt to commit the same: murder, murder in the first or  
18 second degree, a class A felony, a class B felony, any of the  
19 class C felony offenses enumerated above, or any felony  
20 conviction of another jurisdiction, shall be sentenced to a  
21 mandatory minimum period of imprisonment without possibility of  
22 parole during such period as follows:



# S.B. NO.

1 (a) One prior felony conviction:

2 (i) Where the instant conviction is for murder in the  
3 second degree or attempted murder in the second  
4 degree--ten years;

5 (ii) Where the instant conviction is for a class A  
6 felony--six years, eight months;

7 (iii) Where the instant conviction is for a class B  
8 felony--three years, four months; and

9 (iv) Where the instant conviction is for a class C  
10 felony offense enumerated above--one year, eight  
11 months;

12 (b) Two prior felony convictions:

13 (i) Where the instant conviction is for murder in the  
14 second degree or attempted murder in the second  
15 degree--twenty years;

16 (ii) Where the instant conviction is for a class A  
17 felony--thirteen years, four months;

18 (iii) Where the instant conviction is for a class B  
19 felony--six years, eight months; and

20 (iv) Where the instant conviction is for a class C  
21 felony offense enumerated above--three years,  
22 four months;



# S.B. NO.

(c) Three or more prior felony convictions:

(i) Where the instant conviction is for murder in the second degree or attempted murder in the second degree--thirty years;

(ii) Where the instant conviction is for a class A felony--twenty years;

(iii) Where the instant conviction is for a class B felony--ten years; and

(iv) Where the instant conviction is for a class C felony offense enumerated above--five years."

SECTION 3. Section 712-1201, Hawaii Revised Statutes, is amended to read as follows:

"§712-1201 Promoting prostitution; definition of terms.

In sections 712-1202 [~~712-1203~~] and 712-1204:

(1) A person "advances prostitution" if, acting other than as a prostitute or a patron of a prostitute, he knowingly causes or aids a person to commit or engage in prostitution, procures or solicits patrons for prostitution, provides persons for prostitution purposes, permits premises to be regularly used for prostitution purposes, operates or assists in the operation of a house of prostitution or a prostitution



# S.B. NO.

1           enterprise, or engages in any other conduct designed  
2           to institute, aid, or facilitate an act or enterprise  
3           of prostitution.

4           (2) A person "profits from prostitution" if, acting other  
5           than as a prostitute receiving compensation for  
6           personally-rendered prostitution services, he accepts  
7           or receives money or other property pursuant to an  
8           agreement or understanding with any person whereby he  
9           participates or is to participate in the proceeds of  
10          prostitution activity."

11          SECTION 4. Section 712-1202, Hawaii Revised Statutes, is  
12          amended to read as follows:

13          "**§712-1202 Promoting prostitution in the first degree.**

14          (1) A person commits the offense of promoting prostitution in  
15          the first degree if the person knowingly:

16          (a) Advances prostitution by [~~compelling a person by~~  
17          coercion, force, [threat,] extortion, or intimidation  
18          ~~[to engage in prostitution, or profits from such~~  
19          ~~coercive conduct by another]~~; or by making material  
20          false statements, misstatements, or omissions to  
21          induce or maintain the person being prostituted to  
22          engage in or continue to engage in prostitution; or



# S.B. NO.

(b) Advances or profits from prostitution of a person less than eighteen years old.

(2) Promoting prostitution in the first degree is a class [B] A felony.

(3) As used in this section~~[7]~~:

"Coercion" means any of the actions listed in section 663J-4.

~~["threat"]~~ "Extortion" means any of the actions listed in section ~~[707-764(1)-]~~ 707-764.

SECTION 5. Section 712-1204, Hawaii Revised Statutes, is amended to read as follows:

"§712-1204 Promoting prostitution in the ~~[third]~~ second degree. (1) A person commits the offense of promoting prostitution in the ~~[third]~~ second degree if the person knowingly advances or profits from prostitution.

(2) Promoting prostitution in the ~~[third]~~ second degree is a ~~[misdemeanor-]~~ class B felony.

SECTION 6. Section 846E-1, Hawaii Revised Statutes, is amended by amending the definition of "sexual offense" to read as follows:

"Sexual offense" means an offense that is:





# S.B. NO.

- 1       (1) Set forth in section 707-730(1)(a), 707-730(1)(b),  
2       707-730(1)(c), 707-730(1)(d) [~~ex-(e)~~], 707-730(1)(e),  
3       707-731(1)(a), 707-731(1)(b), 707-731(1)(c),  
4       707-732(1)(a), 707-732(1)(b), 707-732(1)(c),  
5       707-732(1)(d), 707-732(1)(e), 707-732(1)(f),  
6       707-733(1)(a), 707-733.6, or 712-1202(1)(b), [~~ex~~  
7       ~~712-1202(1)(b)~~], but excludes conduct that is criminal  
8       only because of the age of the victim, as provided in  
9       section 707-730(1)(b), or section 707-732(1)(b) if the  
10      perpetrator is under the age of eighteen;  
11      (2) An act defined in section 707-720 if the charging  
12      document for the offense for which there has been a  
13      conviction alleged intent to subject the victim to a  
14      sexual offense;  
15      (3) An act that consists of:  
16          (A) Criminal sexual conduct toward a minor, including  
17              but not limited to an offense set forth in  
18              section 707-759;  
19          (B) Solicitation of a minor who is less than fourteen  
20              years old to engage in sexual conduct;  
21          (C) Use of a minor in a sexual performance;



# S.B. NO.

(D) Production, distribution, or possession of child pornography chargeable as a felony under section 707-750, 707-751, or 707-752;

(E) Electronic enticement of a child chargeable under section 707-756 or 707-757 if the offense was committed with the intent to promote or facilitate the commission of another covered offense as defined in this section; or

(F) Solicitation of a minor to practice prostitution;

(4) A criminal offense that is comparable to or that exceeds a sexual offense as defined in paragraphs (1) through (3) or any federal, military, or out-of-state conviction for any offense that under the laws of this State would be a sexual offense as defined in paragraphs (1) through (3); or

(5) An act, as described in chapter 705, that is an attempt, criminal solicitation, or criminal conspiracy to commit one of the offenses designated in paragraphs (1) through (4)."

SECTION 7. Section 853-4, Hawaii Revised Statutes, is amended to read as follows:



# S.B. NO.

1       "§853-4 Chapter not applicable; when. This chapter shall  
2 not apply when:

3       (1) The offense charged involves the intentional, knowing,  
4           reckless, or negligent killing of another person;

5       (2) The offense charged is:

6           (A) A felony that involves the intentional, knowing,  
7               or reckless bodily injury, substantial bodily  
8               injury, or serious bodily injury of another  
9               person; or

10          (B) A misdemeanor or petty misdemeanor that carries a  
11               mandatory minimum sentence and that involves the  
12               intentional, knowing, or reckless bodily injury,  
13               substantial bodily injury, or serious bodily  
14               injury of another person;

15       (3) The offense charged involves a conspiracy or  
16               solicitation to intentionally, knowingly, or  
17               recklessly kill another person or to cause serious  
18               bodily injury to another person;

19       (4) The offense charged is a class A felony;

20       (5) The offense charged is nonprobationable;

21       (6) The defendant has been convicted of any offense  
22               defined as a felony by the Hawaii Penal Code or has



# S.B. NO.

1           been convicted for any conduct that if perpetrated in  
2           this State would be punishable as a felony;

3       (7)   The defendant is found to be a law violator or  
4           delinquent child for the commission of any offense  
5           defined as a felony by the Hawaii Penal Code or for  
6           any conduct that if perpetrated in this State would  
7           constitute a felony;

8       (8)   The defendant has a prior conviction for a felony  
9           committed in any state, federal, or foreign  
10          jurisdiction;

11       (9)   A firearm was used in the commission of the offense  
12          charged;

13       (10)  The defendant is charged with the distribution of a  
14          dangerous, harmful, or detrimental drug to a minor;

15       (11)  The defendant has been charged with a felony offense  
16          and has been previously granted deferred acceptance of  
17          guilty plea status for a prior offense, regardless of  
18          whether the period of deferral has already expired;

19       (12)  The defendant has been charged with a misdemeanor  
20          offense and has been previously granted deferred  
21          acceptance of guilty plea status for a prior felony,



# S.B. NO.

misdemeanor, or petty misdemeanor for which the period  
of deferral has not yet expired;

(13) The offense charged is:

- (A) Escape in the first degree;
- (B) Escape in the second degree;
- (C) Promoting prison contraband in the first degree;
- (D) Promoting prison contraband in the second degree;
- (E) Bail jumping in the first degree;
- (F) Bail jumping in the second degree;
- (G) Bribery;
- (H) Bribery of or by a witness;
- (I) Intimidating a witness;
- (J) Bribery of or by a juror;
- (K) Intimidating a juror;
- (L) Jury tampering;
- (M) Promoting prostitution in the first degree;
- (N) Promoting prostitution in the second degree;
- ~~[-(O)- Promoting prostitution in the third degree;~~
- ~~[-(P)-]~~ (O) Abuse of family or household members;
- ~~[-(Q)-]~~ (P) Sexual assault in the second degree;
- ~~[-(R)-]~~ (Q) Sexual assault in the third degree;



# S.B. NO.

1           ~~[(S)]~~ (R) A violation of an order issued pursuant to  
2                           chapter 586;

3           ~~[(T)]~~ (S) Promoting child abuse in the second degree;

4           ~~[(U)]~~ (T) Promoting child abuse in the third degree;

5           ~~[(V)]~~ (U) Electronic enticement of a child in the  
6                           first degree; or

7           ~~[(W)]~~ (V) Electronic enticement of a child in the  
8                           second degree;

9       (14) The defendant has been charged with:

10           (A) Knowingly or intentionally falsifying any report  
11                           required under chapter 11, part XIII with the  
12                           intent to circumvent the law or deceive the  
13                           campaign spending commission; or

14           (B) Violating section 11-352 or 11-353; or

15       (15) The defendant holds a commercial driver's license and  
16           has been charged with violating a traffic control law,  
17           other than a parking law, in connection with the  
18           operation of any type of motor vehicle.

19       The court may adopt by rule other criteria in this area."

20       SECTION 8. Section 712-1203, Hawaii Revised Statutes, is  
21       repealed.



# S.B. NO.

1        [~~"§712-1203 Promoting prostitution in the second degree.~~  
2    ~~(1) A person commits the offense of promoting prostitution in~~  
3    ~~the second degree if the person knowingly advances or profits~~  
4    ~~from prostitution by managing, supervising, controlling, or~~  
5    ~~owning, either alone or in association with others, a house of~~  
6    ~~prostitution or a prostitution business or enterprise involving~~  
7    ~~prostitution activity by two or more prostituted persons.~~  
8        ~~(2) Promoting prostitution in the second degree is a class~~  
9    ~~C felony."~~]

10        SECTION 9. This Act does not affect rights and duties that  
11    matured, penalties that were incurred, and proceedings that were  
12    begun before its effective date.

13        SECTION 10. Statutory material to be repealed is bracketed  
14    and stricken. New statutory material is underscored.

15        SECTION 11. This Act shall take effect upon approval.  
16

INTRODUCED BY: \_\_\_\_\_



# S.B. NO.

**Report Title:**

Promoting Prostitution Offenses; Crime

**Description:**

Amends the offense of promoting prostitution in the first degree to include acts that advance prostitution by coercion, extortion, or fraud, and to make this offense a class A felony. Repeals the offense of promoting prostitution in the second degree. Amends the offense of promoting prostitution in the third degree by renaming it prostitution in the second degree and by making the offense a class B felony.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*





**National Association of Reformed Criminals**

**1765 Ala Moana Blvd. #1388**

**Honolulu, Hawaii, 96815**

**February 22, 2011**

**COMMITTEE ON THE JUDICIARY**

Rep. Gilbert S. C. Keith-Agaran, Chair

Rep. Karl Rhoads, Vice Chair

Tuesday February 22, 2011

2:00 PM

Room 325

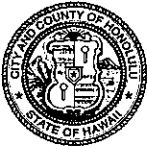
**HB 241 - RELATING TO PROMOTING PROSTITUTION**

**OPPOSE**

NARC is opposed to the creation of anymore felonies. To make prostitution a class A felony would make it a mandatory sentence of 20 years, which is highly excessive for such a crime. The irony is that prostitution is legal in Las Vegas, but tantamount to murder in Hawaii. an unknowing tourist could get caught up in this law, which would send him to prison for 20 years, because the judge has no option in class A felonies. This bill has the potential to create an international crisis and I strongly urge you shelf it.

Mahalo,

Andy Botts



**DOWNTOWN NEIGHBORHOOD BOARD NO. 13**

c/o NEIGHBORHOOD COMMISSION • 530 SOUTH KING STREET ROOM 400 • HONOLULU, HAWAII, 96813  
PHONE (808) 527-5749 • FAX (808) 527-5760 • INTERNET: <http://www.honolulu.gov>

**Testimony of  
Thomas Smyth, Vice Chair**

**Before the  
House Committee on Judiciary  
Tuesday, February 22, 2011, 2:00 pm Room 302  
On  
HB 241 Relating to Promoting Prostitution**

**Chair Keith-Agaran, Vice Chair Rhoads and Members of the Committee:**

**The Downtown Neighborhood Board strongly supports HB 241 that increases penalties for promoting prostitution by raising the penalty for each degree of promotion of prostitution by one level of felony.**

**The current felony level for each degree of offense has not been as successful in curbing this continual crime, as we had hoped so an increase is well warranted.**

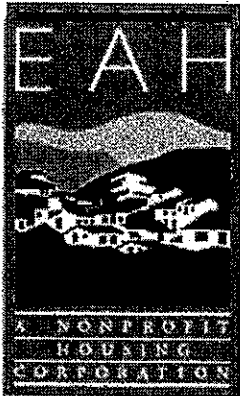
**We witness prostitution in the Downtown and China town areas on a daily basis even though the Honolulu Police Department does an excellent job in trying to reduce this criminality and its victims. We know that many, other than the prostitutes themselves, are affected by this activity. Our neighbors are often fearful that they could become involved in the criminal acts that accompany prostitution.**

**Our children may witness assaults or pick up drug paraphernalia in the areas frequented by prostitutes. Our senior citizens who often need to visit stores in those areas are certainly not immune from the side effects of this activity and have become fearful of venturing out during the hours when this activity is most likely to occur, even if they need to obtain necessary medication or food.**

**This measure would ensure that one of the most effective efforts to reduce the broad evils of prostitution would become even more likely to reduce this crime. If those who promote prostitution are punished sufficiently, we hope that these activities will diminish and we can once again feel safe in our own neighborhood.**

**Thank you for the opportunity to testify.**





February 22, 2011

Representative Gilbert S.C. Keith-Agaran, Chair  
House Judiciary Committee  
State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Subject: Strong Support for HB 44, HB240, HB241, HB 242 Relating to Anti-Prostitution Measures

Dear Chair Keith-Agaran and Members of the Committee:

Thank you for this opportunity to submit testimony in strong support of HB 44, HB240, HB 241 and HB 242, all of which will help to discourage the promotion and solicitation of prostitution in our communities.

EAH Housing is a non-profit public benefit corporation that owns and manages 859 low-income rental apartments in the downtown Honolulu area. For those who live or work downtown, particularly in the Chinatown area, prostitution is not a hidden occupation. We see those who work in this "business" everyday on our street corners and in our alley ways. Our children see them when they leave for school in the mornings and when they come home in the afternoons. They see them when they go out to play every day. Take a drive along Aala Street, Kukui Street, Maunakea Street or River Street to name a few and you can spot them. It is nearly impossible to avoid them. And our children and young families are exposed to them every single day. No, they are not hidden. They are there every day and we need to do something about it.

These bills are not aimed at the prostitutes themselves but the human traffickers, pimps and johns that promote and support prostitution. EAH strongly believes that increased penalties are needed to help to curtail this very pervasive problem in our communities. We believe that reducing prostitution will also reduce crimes related to prostitution such as crimes involving drugs, assault, battery and robbery.

Please help us improve the living conditions in our neighborhoods and protect the children in our communities from exposure to this "business" by supporting these proposed bills.

Sincerely,

Kevin R. Carney, NAHP-e, (PB)  
Vice President, Hawaii