DAVID Y. IGE GOVERNOR



CATHY BETTS DIRECTOR

JOSEPH CAMPOS II DEPUTY DIRECTOR

STATE OF HAWAII DEPARTMENT OF HUMAN SERVICES

P. O. Box 339 Honolulu, Hawaii 96809-0339

February 7, 2022

TO: The Honorable Joy A. San Buenaventura, Chair Committee on Human Services

FROM: Cathy Betts, Director

SUBJECT: SB 3245 – RELATING TO HUMAN TRAFFICKING.

HEARING: February 8, 2022, 3:30 p.m. Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) supports the intent and breadth of the measure; DHS defers to the Department of the Attorney General and the Judiciary.

PURPOSE: The purpose of this measure is to require the Department of Human Services to develop, and certain businesses and establishments to post, a notice containing information about the National Human Trafficking Hotline. Requires the Department of the Attorney General to establish a human trafficking statewide coordinator and program and to submit reports to the Legislature on efforts to address human trafficking and commercial sexual exploitation of children. Requires the children's justice program to coordinate the investigation and case management of child trafficking cases, including those involving commercial sexual exploitation of children. Specifies that court-ordered restitution for labor trafficking may include medical costs of necessary victim rehabilitation. Requires a person convicted of sex trafficking to forfeit assets from trafficking activity and requires that assets first be used to pay restitution and damages owed to the trafficking victim. Provides a process for trafficking victims to have criminal records expunged in certain circumstances.

DHS appreciates the Legislature's attention to the issue of sex- and human trafficking in the State and the need for community-wide outreach. DHS will need a general fund appropriation to contract a marketing or design firm to develop and print the requested signage by January 1, 2023; we also anticipate that the posters will be translated into multiple languages. The department has one public information officer who does an excellent job responding to uniform information practices act requests, the media, emergency management duties, and working with DHS programs with web notices. However, this effort will require additional resources to complete a campaign of this nature. DHS will also reach out to community partners to combine existing efforts. As the bill moves through session, we will update the Legislature with the amount the department will need.

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



The Judiciary, State of Hawai'i

Testimony to the Thirty-First Legislature 2022 Regular Session

Senate Committee on Human Services

Senator Joy San Buenaventura, Chair Senator Les Ihara Jr., Vice Chair

Tuesday, February 8, 2022, 3:30 p.m. State Capitol, Conference Room 225 VIA VIDEOCONFERENCE by Jasmine Mau-Mukai Statewide Director, Children's Justice Centers of Hawai'i

Bill No. and Title: Senate Bill No. 3245, Relating to Human Trafficking.

Purpose: Requires the Department of Human Services to develop, and certain businesses and establishments to post, a notice containing information about the National Human Trafficking Hotline. Requires the Department of the Attorney General to establish a human trafficking statewide coordinator and program and to submit reports to the Legislature on efforts to address human trafficking and commercial sexual exploitation of children. Requires the children's justice program to coordinate the investigation and case management of child trafficking cases, including those involving commercial sexual exploitation of children. Specifies that court-ordered restitution for labor trafficking may include medical costs of necessary victim rehabilitation. Requires a person convicted of sex trafficking to forfeit assets from trafficking activity and requires that assets first be used to pay restitution and damages owed to the trafficking victim. Provides a process for trafficking victims to have criminal records expunged in certain circumstances

Judiciary's Position:

The Hawai'i State Judiciary supports the intent of Senate Bill No. 3245, Relating to Human Trafficking, but requests deletion of Section 4 of this bill as that section would create unnecessary confusion given present bills that would ensure the same outcome.

The Hawai'i State Judiciary's 2022 Legislative package includes a bill on the Children's Justice Program. Senate Bill No. 2114 and House Bill No. 1537 propose to amend the



Senate Bill No. 3245, Relating to Human Trafficking Senate Committee on Human Services Tuesday, February 8, 2022 Page 2

Children's Justice Program's statute. If enacted, the Children's Justice Program's statutory authority will expand to include child victims of sex trafficking, commercial sexual exploitation of children, along with victims of child sex abuse, serious child abuse and child witnesses to crime or other violence.

While the Children's Justice Program is already providing needed services to such victims, the bills we are requesting explicitly confer such authority. Senate Bill No. 2114 and House Bill No. 1537 were vetted with agency stakeholders who, thus far, have testified in strong support of these measures.

Given that Senate Bill No. 2114 and House Bill No. 1537 will ensure that the Children's Justice Program can continue to provide services for victims of sex trafficking, we see no benefits for including the Children's Justice Program in the present bill. While Section 4 would amend the Children's Justice Center's authority to include victims of sex trafficking, its passage would create unnecessary confusion. For instance, the Children's Justice Center's authority has long included child witnesses to crime and violence. Authority to provide services to such victims appears to be omitted from SB 3245. In so narrowing the Center's jurisdiction, it is possible that many children who witness crimes and violence would not receive necessary services critical for their healing.

The Judiciary supports the amendment to HRS § 588-1 (A) and (B) as set forth in Senate Bill No. 2114 and House Bill No. 1537. However, we respectfully request that Section 4 of Senate Bill No. 3245 relating to the Children's Justice Program be deleted in its entirety. The purpose for inclusion of that section is best achieved through passage of Senate Bill No. 2114 and House Bill No. 1537.

Thank for you the opportunity to testify on this measure.



ON THE FOLLOWING MEASURE: S.B. NO. 3245, RELATING TO HUMAN TRAFFICKING.

BEFORE THE: SENATE COMMITTEE ON HUMAN SERVICES

DATE:	Tuesday, February 8, 2022	TIME: 3:30 p.m.		
LOCATION: State Capitol, Room 225, Via Videoconference				
TESTIFIER(S): Holly T. Shikada, Attorney General, or Farshad Talebi, Deputy Attorney General Lauren M. Nakamura, Deputy Attorney Ge		Attorney General		

Chair San Buenaventura and Members of the Committee:

The Department of the Attorney General (Department) provides the following comments.

The purposes of this bill are to (1) require the Department of Human Services to develop, and certain businesses and establishments to post, a notice containing information about the National Human Trafficking Hotline; (2) create a human trafficking program and statewide coordinator position within the Department of the Attorney General, including a requirement to submit legislative reports; (3) require the Children's Justice Program to coordinate the investigation and case management of human trafficking may include medical costs of necessary victim rehabilitation; (5) require a person convicted of sex trafficking to forfeit assets from trafficking activity and require that assets be used to pay restitution and damages owed to the trafficking victim; and (6) provide a process for trafficking victims to have their criminal records expunged in certain circumstances.

The intent of Section 2 of this bill is similar to an existing statute, section 371-20, Hawaii Revised Statutes (HRS). The Department has concerns that creating a second statute with a similar purpose might result in unintended conflicts or misunderstandings and recommends amending the existing statute to add the additional information and requirements. Testimony of the Department of the Attorney General Thirty-First Legislature, 2022 Page 2 of 3

The Department supports section 3 of the bill because successfully combating human trafficking requires a comprehensive multidisciplinary response between law enforcement, state agencies, non-governmental organizations, and the private sector. The Department is currently funding this program and the deputy attorney general (DAG)/coordinator position with its own budget because we recognize the pressing need for statewide leadership to effectively combat and prosecute human trafficking in Hawaii. Codifying the DAG/coordinator position and program is important to maintaining long-term success and will allow the Department a better opportunity to obtain federal grants and other funding opportunities to continue to build the program. The position is intended to allow the DAG to not only coordinate resources, but also to prosecute crimes, assist county prosecutors with cases in their counties, and advise clients with proposed legislative initiatives.

The Department defers to the Judiciary regarding section 4 of the bill. The Judiciary has proposed an updated bill, Senate Bill No. 2114 (companion House Bill No. 1537), addressing amendments to the Children's Justice Program.

The Department has concerns with the legality and language in section 6, at page 18, lines 5 through 17, amending section 712-1202, HRS, to allow for the forfeiture of proceeds from sex trafficking. The bill provides for forfeiture of the proceeds or assets, "notwithstanding chapter 712A and any other law to the contrary." Chapter 712A, HRS, outlines detailed definitions, authority, processes, and procedures for seizing and forfeiting property under the Hawaii Penal Code. The proposed forfeiture provisions in this bill require specificity and raise concerns, including who would be responsible for seizing and maintaining the property, how the forfeited property could be used to reimburse victims in civil actions, and who would decide how to divide and distribute the property and proceeds.

The Department also has concerns with section 7, at page 19, line 20, through page 20, line 17, amending section 712-1209.6, HRS. Section 831-3.2, HRS, outlines the process and procedure for expungement orders. The proposed amendments in this bill are open to potential misinterpretation in the court process. For example, the bill does not define "victim of human trafficking" or a "human trafficking scheme;" there are

Testimony of the Department of the Attorney General Thirty-First Legislature, 2022 Page 3 of 3

conflicting provisions regarding when and what can be expunged; it is unclear what constitutes an offense that was "reported to have been committed;" and it does not provide guidance for courts to determine whether an individual is a victim of human trafficking. If the bill is passed, at a minimum the Department recommends addressing the concerns stated above including removing section 7 from this bill as currently written.

We appreciate the opportunity to provide comments on this bill.



SB 3245, RELATING TO HUMAN TRAFFICKING

FEBRUARY 8, 2022 · SENATE HUMAN SERVICES COMMITTEE · CHAIR SEN. JOY A. SAN BUENAVENTURA

POSITION: Support, with amendments.

RATIONALE: Imua Alliance <u>supports and suggests amendments for SB 3245</u>, relating to human trafficking, which decriminalizes the act of engaging in, or agreeing or offering to engage in, sexual conduct with another person in return for a fee or anything of value; authorizes civil claims to be made against a business, owner or operator of a transient accommodation, or other commercial entity that profits from sexual exploitation; and converts the human trafficking victim services fund to a human trafficking reparations fund.

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 160 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 this measure's effort to guarantee the stability of the Hawai'i human trafficking coordinator position within the Office of the Attorney General. Currently, that position is not contained within the state's base budget and could disappear under a new executive administration. Additionally, we support this bill's provisions enhancing victim restitution. Trafficking survivors face great difficulty in

recovering from the trauma that they have endured, including medical and mental healthcare costs, legal fees, housing payments, and more. At the same time, survivors' financial security is often jeopardized by their inability to find stable employment and our state's lack of financial services for those exiting the sex trade. Strengthening our state's victim restitution protocols for human trafficking survivors would allow those who have been exploited on our shores to attain the economic assistance they need to recover from the trauma that they have endured.

That said, <u>we note that section 2 of this bill may be unnecessarily duplicative</u>. HRS §371-20 already establishes a human trafficking hotline poster requirement for high-risk establishments, including massage parlors employing five or more people, hostess bars, and strip clubs. Rather than creating a new statute under the Department of Human Services, <u>we suggest amending</u> §371-20 to include the establishments contained in section 2 of this bill that are not currently codified under the statute, including hospitals, emergency rooms, job recruitment centers, bus stations, and hotels. We also encourage you to increase the fine for violations of §371-20 to \$1,000, as this bill envisions for violations of the human trafficking poster requirement in section 2. We acknowledge, however, that enforcement of §371-20 has been spotty and is currently performed based on complaints. Adding more establishments to this section may require additional enforcement personnel by relevant state agencies.

Slavery has no place in paradise. Together, we can end exploitation on our shores.

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

TESTIMONY

Harm Reduction Hawaii c/o 1658 Liholiho St #205 Honolulu, HI 96822

RE: SB3245 to be heard on Tuesday February 8, at 3:30PM by video conference

Comments

To the Senate Committee on Human Services

Having a statewide coordinator on trafficking is a good idea. However, having one appointed by politicians, without community input, may be problematic. I first encountered this idea a few sessions ago when it was proposed along with a steering committee. The "who" was the big question. The steering committee idea didn't get off the ground. Eventually the AG appointed a deputy to be statewide coordinator.

However, <u>Hawaii's response to sex trafficking has remained confused</u> and uncoordinated. Last year HB887 was passed that is about as silly and harmful as anything you could consider. This year SB2557 is on the table which is even worse. After decades of task forces, steering committees, and new laws we still seem to be going nowhere in the fight against sex trafficking.

<u>Because the AG's office has dropped the ball</u> harm reductionists have formed the needed steering committee. This means sex workers, outreach workers, public health workers, rescue organizations, the police, the prosecutor, and public defender can all share information and work towards solutions.

You need to start supporting this effort. After all nothing you have done so far has worked.

Very Truly Yours;

Tracy Ryan Chair, The Libertarian Party of Hawaii

February 7, 2022



Regarding: Testimony in Support of Senate Bill 3245 Relating to Human Trafficking

Dear Representatives,

On behalf of Pacific Survivor Center, I respectfully submit this letter in support of the passage of SB3245 Relating to Human Trafficking.

For over a decade Pacific Survivor Center has ensured medical care to juvenile and adult survivors of labor trafficking and sex trafficking in Hawai'i. Our mission is to advance health and human rights in Hawai'i, and to ensure that victims of trafficking receive the compassionate trauma-informed care that they need to become survivors. We believe that passage of SB3245 can support the ongoing efforts to organizations such as ours who are dedicated to both addressing the issue of human trafficking in our state and as well as serving trafficking survivors.

Respectfully,

Gwenyth Claughton Acting Executive Director Pacific Survivor Center







TESTIMONY LIBERTARIAN PARTY OF HAWAII % 92-149 Kohi Place Kapolei, HI 96707

RE: SB3245 to be heard on Tuesday February 8

Please oppose this bill.

While there are some good aspects of this bill, mainly the ability to expunge criminal records for sex workers, it does not apply to all sex workers. The process is coercive in nature, in order to be able to have their criminal record expunged they have to claim they were a victim. Also I don't think it is a good use of tax payer funds to create a new sex taskforce. The liquor commission already likes to take on that role harassing Hawaii's clubs and bars. Please do not make another commission that consenting adults and business owners have to bribe. Thank you for your consideration.

Sincerely,

Feena Bonoan Vice Chair February 7, 2022





SUBMITTED ON BEHALF OF COYOTE RI

My name is <u>Bella Robinson</u>. I have been a sex worker for 35 years. I founded COYOTE RI in 2010. Since then I have served as the executive director. COYOTE RI is an organization of sex workers, former sex workers and sex trafficking victims, who advocate for polices that promote the health and safety of sex workers. We conduct participatory research, run focus groups and engage in policy work. We also provide direct services to sex workers and trafficking victims, and we support incarerated sex workers.

I am writing to you today in opposition of SB3245. This has been implemented in several states and rarely yields many trafficking victims even after the state invests millions of dollars. Because all these networks conflate sex work with trafficking. They create things like "trafficking court" that allow non profits to profit off the backs of criminalized sex workers. Sex workers and 3rd party support staff are the best tool law enforcement has to identify trafficking. All the evidence based research shows that criminalization fuels violence and exploitation. It is common sense when the person can't come forward and report the abuse without risking being harassed or arrested by the police, that this process gives the abuser all the power. This is nothing more than another money grab at the state level, even though federal TIP funding is funding non profits at over 600 million a year if they 1) Create Awareness About Trafficking 2) Host Public Trainings on How to Spot Trafficking, (encouraging the public to call the police on sex workers.) 3) They can not support decriminalization of prostitution 4) They cant engage with sex worker rights led organizations. [link]

COYOTE has created this <u>spreadsheet</u> to track this funding. As you can see from these organizations 990 forms, almost all the funding is spent on their salaries, offices and fundraising. They dont spend any money helping "people involved in the sex industry pay their rent, feed thier kids, pay car payments, phone bills, child care or provide them access to a high education without a debt. They do nothing to lift this population out of poverty. They are calling for more mass surveillance to harass and arrest sex workers. Diversion programs are also an extension of the prison industrial complex. Want to Know More About NYC Trafficking Court? Ask a Sex Worker [link]

COYOTE RI has conducted numerous participatory projects, surveying US sex workers. We have conducted focus groups, we have analyzed tens of thousands of pages of charging documents by accessing FOIA requests. (Below we have provided the links to our archived data.)

- 1. Pembroke Sex Work in the US After FOSTA (April 2018-19) Survey Quantitative Data [link]
- 2. Pembroke- Trafficking and the Sex Industry in the United States Survey 2017 [link]
- 3. Trafficking and the Sex Industry in Rhode Island Survey- 2014-2016 [link]

4. Youth report - Policing Modern Day Slavery & Carceral Care in Rhode Island. [link]

Our research shows that shamed based counseling is as psychologically damaging as conversation therapy is to LBGT folks. Its problematic that anti trafficking organizations seek to pit sex workers against sex trafficking victims.

In fact Polaris Project the largest trafficking hotline in the US,, refers "people involved in the sex industry" to SWOP Behind Bars, because they have no direct services, even though they are funded at over 7 million a year. Even though Sex worker rights led organizations are underserved and underfunded, we do the best we can to provide services to "people involved in the sex industry" who are in crisis and we direct them to the limited services available for those who want to exit. However that doesn't solve folks "POVERTY ISSUES". Most states have housing lists that are years long. Affordable housing is an issue in every state.

If you are serious about the health and safety of "people involved in the sex industry" you would fund your local sex worker rights led organizations, create a legislative study commission that includes sex workers, to devlope polices that promote the health and safety of "people involved in the sex industry.

In light of the above evidence, we ask you to VOTE NO on SB3245

Bella Robinson<bella@coyoteri.org> COYOTE RI (401-525-8757) 2022 FreeHer Fellowship Facilitator forThe National Council for Incarcerated and Formerly Incarcerated Women and Girls.

<u>SB-3245</u> Submitted on: 2/7/2022 4:00:14 PM Testimony for HMS on 2/8/2022 3:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Dara Carlin, M.A.	Individual	Support	No

Comments:

Stand in Support.

COMMITTEE ON HUMAN SERVICES

Senator Joy A. San Buenaventura Senator Les Ihara, Jr.

Tuesday, February 8, 2022 at 1530 HST RE: Testimony in SUPPORT of SB3245 Relating to Human Trafficking

Aloha Chair Joy A. San Buenaventura, Vice Chair Les Ihara, Jr., and the members of the Committee on Human Services:

Mahalo for hearing SB3245 relating human trafficking. I am writing in **strong support** of SB3245.

One of the most damaging effects of human trafficking is the lingering feeling of powerlessness for victims and survivors. It is gravely important that we center the needs of the victims in an effort to empower them. There are a few things in this bill that stand out to me:

- By specifying that court-ordered restitution for labor trafficking may include medical costs of necessary victim rehabilitation, it lifts the financial burden from the victim, allowing them to focus on healing rather than finances. Many people who succumb to human trafficking live in poverty; therefore, it's unlikely they'll be able to pay for continued care. As victims' compensation funds have a cap among other restrictions, court-ordered restitution is an equitable approach.
- Requiring a person convicted of sex trafficking to forfeit assets from trafficking activity and
 requiring that assets first be used to pay restitution and damages owed to the trafficking victim
 is an extension of the aforementioned. The dynamic between a trafficker and their victim is
 marked by the socioeconomic disparities between the two. Requiring a trafficker to forfeit assets
 will strip the trafficker of capital they can use to reoffend, and elevate the victims'
 socioeconomic status so they can rebuild their lives.
- Last, providing a process for trafficking victims to have their criminal records expunged will enhance their ability to rebuild and move on. Trafficking victims should not be haunted by a criminal record that labels them as a predator when in fact, they were preyed upon and exploited.

I believe that SB3245 will deliver much-needed equity for trafficking victims.

Mahalo for considering my testimony,

Soon Kim Senate District 15



Submitted By	Organization	Testifier Position	Remote Testimony Requested
Darlene Popoalii	Individual	Oppose	No

Comments:

Dear Senate Committee,

I oppose this bill as a survuvior of sex trafficking & a sex worker. You need more input and not just from one "brand" of antitraffickers! I too am against trafficking and as someone who has spent several years in the sex industry, mostly on island, my voice count's! I became a prostitute at the age of 15, I worked the street in Waikiki at the age of 16, I've worked in our massage parlors and houses. I know what goes on and if you folks truely care about kids, women and trafficking you will support decriminalization!

Darlene Popoalii, Darlene Jamil, Kathy Zaleski & of course Candy!



Submitted By	Organization	Testifier Position	Remote Testimony Requested
Douglas Davidson	Individual	Oppose	No

Comments:

SB3245

Another bill likely authored by Kathy Zang alias Kathryn Xian, plus presumably supported by Khara Jabola-Carolus, her protege and puppet in the Hawaii State Commission on the Status of Women* (HSCSW*).

They like to quote an alleged analysis that cannot be peer-reviewed, bcuz the online forum they claim to have studied, ceased to exist uppon completion of this so-called report. Therefore, any conclusions arrived from that Arizona State University (ASU) project should not be accepted as reliable.

Kathy + Khara have a history of blurring the lines between adult consensual sex workers, and people compelled to trade sex under force, fraud, or coercion. While these latter conditions satisfy the legal definition of "trafficking", Kathy + Khara have perpetually expressed opposition to adults engaging in sex work, while strategically using manipulative language to equate trading sex to being trafficked.

These characters insist uppon dominating any discussion about sex work, claiming to speak for communities they don't consult, and promote legislation that is harmful to the populations they purport to advocate for.

I oppose SB3245 because this bill relies heavily on what I consider misinformation from ASU & HSCSW*, thus silencing the voices and views of people who can provide testimony of the harms caused by HSCSW*, and their anti-prostitution pet project Q-Affirm aka Af3irm aka The Gaslight Girls.