



February 23, 2026

Position: **SUPPORT** of **SB3071**, Relating to Offenses Against Public Health and Morals

To: Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair
Members of the Senate Committee on Judiciary

From: Llasmin Chaine, LSW, Executive Director, Hawaii State Commission on the Status of Women

Re: Testimony in **SUPPORT** of **SB3071**, Relating to Offenses Against Public Health and Morals

Hearing: Tuesday, February 24, 2026, 9:45 a.m.
Conference Room 016, State Capitol

The Hawaii State Commission on the Status of Women is dedicated to advancing the rights, safety, and well-being of women and girls in our state. The Commission **supports SB3071** because it addresses critical gaps in the legal framework governing sex trafficking and the promotion of prostitution, both of which disproportionately impact women and girls and are central to our mission of safety, protection from exploitation, and offender accountability.

By refining the definition of "profits from prostitution" and clarifying statutory language, **SB3071 strengthens the ability of law enforcement and prosecutors to hold traffickers and exploiters accountable.** Clearer definitions help differentiate between those who exploit others for profit and individuals who may be tangentially involved without criminal intent. This distinction is vital for ensuring that victims are not inadvertently criminalized and that resources are directed toward prosecuting those who perpetuate harm.

We respectfully urge this Committee to **pass SB3071.**

Thank you for this opportunity to submit testimony.

JON N. IKENAGA
PUBLIC DEFENDER

DEFENDER COUNCIL
1130 NORTH NIMITZ HIGHWAY
SUITE A-254
HONOLULU, HAWAII 96817

HONOLULU OFFICE
1130 NORTH NIMITZ HIGHWAY
SUITE A-254
HONOLULU, HAWAII 96817

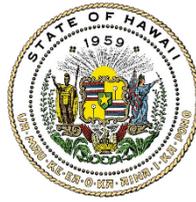
APPELLATE DIVISION
TEL. NO. (808) 586-2080

DISTRICT COURT DIVISION
TEL. NO. (808) 586-2100

FAMILY COURT DIVISION
TEL. NO. (808) 586-2300

FELONY DIVISION
TEL. NO. (808) 586-2200

FACSIMILE
(808) 586-2222



STATE OF HAWAII
OFFICE OF THE PUBLIC DEFENDER

HAYLEY Y. C. CHENG
ASSISTANT PUBLIC DEFENDER

LATE

75-1000 HENRY STREET
SUITE #209
KAILUA-KONA HI 96740
TEL. NO. (808) 327-4650
FAX NO. (808) 327-4651

KAUAI OFFICE
3060 EIWA STREET
SUITE 206
LIHUE, HAWAII 96766
TEL. NO. (808) 241-7128
FAX NO. (808) 274-3422

MAUI OFFICE
81 N. MARKET STREET
WAILUKU, HAWAII 96793
TEL. NO. (808) 984-5018
FAX NO. (808) 984-5022

February 23, 2026

SB3071: RELATING TO OFFENSES AGAINST PUBLIC HEALTH AND MORALS

Chair Rhoads, Vice Chair Gabbard and Members of the Committee on Judiciary

The Office of the Public Defender (OPD) **opposes SB3071**. Specifically, the OPD opposes (1) the amendment to the definition of the term “profits from prostitution” and (2) the language of the affirmative defense.

The proposed amendment to the definition of “profits from prostitution” would subject ordinary persons to prosecution that truly did not “profit from prostitution”

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 measure 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 proposed amendment to the definition of “profits from prostitution” would not address the evil the promoting prostitution statute seeks to address, persons who profit from prostitution. While section 1 of SB3071 states that Ibarra “indicates a need for the sex trafficking and promoting prostitution criminal offenses to be further clarified,” this is a misreading of the opinion. Ibarra clarified that the evil that the promoting prostitution seeks to address is not a person who simply accepts money from a known prostitute for any purpose but a person who profits from the proceeds of prostitution.

The proposed affirmative defense would exclude ordinary persons who are not “lawful businesses” who receive funds from a prostitute even where the source of funds are immaterial to the transactions and even if they do not have the intent to facilitate or benefit from prostitution.

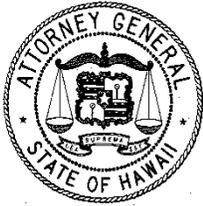
The second objection the OPD has to SB3071 is the language of the affirmative defense. Ironically, the proposed affirmative defense recognizes that there are situations where a person may receive funds from a known prostitute where “the source of funds, the thing of value, or property was immaterial to the transaction, and without intent to facilitate or benefit from prostitution,” but then unnecessarily limits the defense to transactions involving “a lawful business.” Under this language, if a prostitute goes to McDonald’s and pays for their meal with funds gained through prostitution,” then McDonald’s, “a lawful business,” could assert the defense. However, if the prostitute’s friend goes to McDonald’s, buys their meal and the prostitute pays back the friend, the friend could not assert the defense because the friend is not “a lawful business.” To avoid this illogical result, the OPD proposes the following amendment (in addition to striking the proposed amendment the definition of “profits from prostitution”):

It shall be an affirmative defense to a prosecution under subsection (1) (b) or (c) that the person received funds, a thing of value, or property ~~in the ordinary course of a lawful business~~, where the source of funds, the thing of value, or property was immaterial to the transaction, and without intent to facilitate or benefit from prostitution.

This proposed amendment would be consistent with the holding in Ibarra and recognize that there are legitimate situation where a person, other than a lawful business, might receive funds from a known prostitute which are “immaterial to the transaction” and “without intent to facilitate or benefit from prostitution.”

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.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2026**

ON THE FOLLOWING MEASURE:

S.B. NO. 3071, RELATING TO OFFENSES AGAINST PUBLIC HEALTH AND MORALS.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY

DATE: Tuesday, February 24, 2026 **TIME:** 9:45 a.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Mark S. Tom, Deputy Attorney General

Chair Rhoads and Members of the Committee:

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

The purpose of this bill is to clarify the offenses of sex trafficking, section 712-1202, Hawaii Revised Statutes (HRS), and promoting prostitution, section 712-1203, HRS, by: (1) refining the definition of "profits from prostitution," (2) establishing an affirmative defense to these offenses, and (3) restructuring provisions that define terms or establish exemptions for part I of chapter 712, HRS. The bill also makes other related technical amendments.

In State v. Ibarra, 153 Hawai'i 50, 526 P.3d 575 (2023), the Hawaii Supreme Court held that "profits from prostitution" did not include repayment of a loan. This interpretation created a loophole allowing traffickers to evade prosecution by characterizing proceeds from a victim's prostitution as repayment for loans or services. In reality, one of the most common recruitment and control methods used by human traffickers is to extend a loan to victims that forces them into prostitution and that 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.3d at 587.

By making clear that "profits from prostitution" includes any money or property received from victims as proceeds of prostitution, regardless of whether it exceeds expenses or is characterized as reimbursement or repayment, this bill closes the loophole created by State v. Ibarra and restores the Legislature's intent to meaningfully combat sex trafficking and the promotion of prostitution.

Importantly, the bill is carefully balanced. It explicitly excludes trafficking victims and customers from liability and establishes an affirmative defense to address prior concerns regarding overbreadth and overzealous prosecution. Under this defense, liability does not attach where money or property is received in the ordinary course of lawful business, the source of the funds is immaterial to the transaction, and there is no intent to facilitate or benefit from prostitution. This safeguard appropriately protects legitimate businesses and service providers while ensuring continued access to services and resources for victims of trafficking.

The Department respectfully requests the passage of this bill. Thank you for the opportunity to provide testimony.

LATE

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

STEVEN S. ALM
PROSECUTING ATTORNEY
LOIO HO'OPI'I

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
PHONE: (808) 768-7400 • FAX: (808) 768-7515 • WEBSITE: www.honoluluProsecutor.org

THOMAS J. BRADY
FIRST DEPUTY PROSECUTING ATTORNEY
HOPE MUA LOIO HO'OPI'I



**THE HONORABLE KARL RHOADS, CHAIR
SENATE COMMITTEE ON JUDICIARY
Thirty-Third State Legislature
Regular Session of 2026
State of Hawai'i**

February 23, 2026

RE: S.B. 3071; RELATING TO OFFENSES AGAINST PUBLIC HEALTH AND MORALS.

Chair Rhoads, Vice Chair Gabbard, and members of the Senate Committee on Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu (“Department”) **strongly supports** passage of S.B. 3071.

S.B. 3071 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.

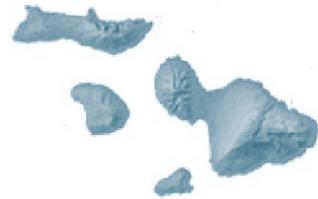
scale promoter. The taxicab driver who pimps for a prostitute, the bartender who sets up customers for a prostitute, and the hotel clerk who regularly furnishes the prostitute and his or her customer with accommodations would all come within the ambit of this provision.”).

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

RICHARD T. BISSEN, JR.
Mayor

ANDREW H. MARTIN
Prosecuting Attorney

SHELLY C. MIYASHIRO
First Deputy Prosecuting Attorney



DEPARTMENT OF THE PROSECUTING ATTORNEY
COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
PHONE (808) 270-7777 • FAX (808) 270-7625

TESTIMONY ON
S.B. 3071
RELATING TO OFFENSES AGAINST PUBLIC HEALTH AND MORALS

February 23, 2026

The Honorable Karl Rhoads
Chair
The Honorable Mike Gabbard
Vice Chair
and Members of the Committee on Judiciary

Chair Rhoads, Vice Chair Gabbard, and Members of the Committee:

The Department of the Prosecuting Attorney, County of Maui respectfully submits the following comments **in support of S.B. 3071, Relating to Offenses Against Public Health and Morals**. *Inter alia*, this measure clarifies that the definition of “profits from prostitution” includes money or property received from a victim that is characterized as exceeding expenditures or as reimbursement or repayment of any debt.

We support this bill because it allows for successful prosecution of offenders that attempt to circumvent sex trafficking and promoting prosecution statutes. It does so by preventing offenders from claiming that any money they received was payment of a debt or loan, rather than profits from sex trafficking or prostitution. This directly targets a coercive dynamic often used by sex trafficking offenders to recruit and maintain psychological and financial control over the people trafficked.

For these reasons, the Department of the Prosecuting Attorney, County of Maui **supports S.B. 3071**. Please feel free to contact our office at (808) 270-7777 if you have any questions or inquiries. Thank you very much for the opportunity to provide testimony on this bill.

SB-3071

Submitted on: 2/13/2026 11:46:34 PM

Testimony for JDC on 2/24/2026 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Johnnie-Mae L. Perry	Individual	Support	Written Testimony Only

Comments:

I, Johnnie-Mae L. Perry, STRONGLY SUPPORT

3071 SB RELATING TO OFFENSES AGAINST PUBLIC HEALTH AND MORALS.

TESTIMONY IN SUPPORT OF SENATE BILL NO. 3071
RELATING TO OFFENSES AGAINST PUBLIC HEALTH AND MORALS
(Clarifies and updates sex trafficking and promoting prostitution statutes)

To: Chair and Members of the Committee on *Judiciary*

Date: *February 24, 2026*

Time: *9:45am*

Location: Hawai'i State Capitol

Dear Chair, Vice-Chair, and Committee Members:

My name is Nicolette Choi, and I am a graduate student in the MPH program at the University of Hawai'i at Mānoa. I respectfully submit this testimony in strong support of SB 3071, which seeks to strengthen and clarify Hawaii's criminal statutes related to sex trafficking and promoting prostitution. This bill plays a vital role in ensuring that our laws are effective, just, and provide clear tools for law enforcement and prosecutors to hold responsible those who exploit vulnerable individuals.

SB 3071 is important for the following reasons:

1. Clarifies the definition of "profits from prostitution."

Under current law, ambiguities in how "profits" are defined can allow individuals who benefit from prostitution, including traffickers and pimps, to evade accountability by characterizing proceeds as reimbursements or loan repayments. SB 3071 closes this loophole by ensuring that *any money or property received from victims as proceeds of prostitution* is treated as profit, regardless of its form. This change aligns statutory language with the intent of the law and reflects the reality of how exploitation operates.

2. Provides clarity to prosecutors, defense counsel, and judges.

Clear statutory language reduces confusion, promotes consistency in enforcement, and helps ensure that those who exploit others don't escape liability due to technicalities or inconsistent interpretations of the law. This clarity supports fairer and more effective criminal justice outcomes.

3. Establishes an affirmative defense for lawful transactions.

By expressly outlining lawful conduct, SB 3071 protects individuals who engage in legitimate activities that might otherwise be cast improperly under overly broad definitions. This promotes fairness and protects the rights of those who are not part of exploitative practices.

4. Enhances protections for victims.

By closing loopholes and bolstering the prosecutorial tools available for trafficking and exploitation offenses, the bill sends a powerful message that Hawaii will not tolerate criminal conduct that harms individuals and undermines public health and safety.

For these reasons, I urge the Committee to pass SB 3071. Its provisions are thoughtfully designed to strengthen Hawaii's legal framework, support effective prosecution of criminal conduct, and protect individuals from exploitation.

Thank you for your consideration.

Respectfully,

Nicolette Choi

SB-3071

Submitted on: 2/19/2026 7:54:30 PM

Testimony for JDC on 2/24/2026 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Gem Kyla Galapon	Individual	Support	Written Testimony Only

Comments:

Aloha to The Honorable Karl Rhoads, Chair; The Honorable Mike Gabbard, Vice Chair; and Members of the Senate Committee on Judiciary

RE: Testimony In Support of SB 3071

My name is Gem Kyla Galapon and I am a graduate student at the University of Hawaii at Mānoa, residing in Honolulu. My views on this topic are of my own and are not representative of the school I am attending. I strongly support SB3071, which will redefine “profits from prostitution” to strengthen prosecution against those who are sex traffickers and pimps and promote public safety.

Specifically, the Hawaii supreme court decision in State v. Ibarra has made it possible for traffickers to bypass the law by claiming that the money they take from their victims is a form of debt or reimbursement, which limits the ability for prosecutors to secure a conviction against those exploiting others. This has allowed offenders to claim that they are not making a profit from their victims. Sex trafficking in Hawaii preys on vulnerable populations who are in need of protection. As demonstrated by Roe-Sepowitz and Jabola-Carolus in their study published in January 2020, the participants included in the study who were sex trafficked had an age range of four to 55 years old, with 64% of the victims identifying as Native Hawaiian; therefore, there is a great need for prevention and screenings for sex trafficking in Hawai’i as this disproportionately affects our indigenous population.

For these reasons, Hawai’i should enact this bill as a continued effort to combat sex trafficking in Hawai’i. Having these statutes are in support of maintaining public health measures, addressing the disproportionate impact on Native Hawaiians, and ensuring that offenders are not bypassing the law through loopholes.

Thank you for your consideration,
Gem Kyla Galapon
Social Work Student

LATE

Thank you Chair, Vice Chair, and Members of the committee for allowing me to give testimony in strong SUPPORT of SB 3071. As a social worker and public servant to my community, I have developed relationships with diverse community groups and listened to their stories. By clarifying and updating sex trafficking and prostitution status we can begin to crack down on predatory behaviors that see young men and women exploited through unlawful business practices.

In a survey conducted by the Arizona State University School of Social Work Office of Sex Trafficking Intervention Research, over 26% of participants reported being sex trafficked in Hawaii. This ranks in the top half of states with the highest number of humans trafficked for sex over the last five years. Survivors of trafficking depend on precise statutory language that protects victims while holding exploiters accountable.

By refining the definitions around human trafficking and prostitution, we can ensure that individuals who knowingly exploit others for financial gain are appropriately prosecuted. Clear and updated statutes improve coordination among law enforcement, prosecutors, courts, and service providers to effectively penalize those who engage in this unlawful act.

SB 3071 represents a step towards liberating vulnerable men and women from being exploited and strengthens Hawaii's communities by diverting unlawful activities. I strongly urge the committee to pass this bill and reduce ambiguity around sex trafficking. Mahalo for your time and consideration.

Mahalo,
Ryan Beckley