

STAND. COM. REP. NO.

1491

Honolulu, Hawaii

April 9

, 2015

RE: S.B. No. 265

S.D. 1

H.D. 1

Honorable Joseph M. Souki  
Speaker, House of Representatives  
Twenty-Eighth State Legislature  
Regular Session of 2015  
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 265, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO SEX TRAFFICKING,"

begs leave to report as follows:

The purpose of this measure is to:

- (1) Establish the class A felony offense of Sex Trafficking in Chapter 712, Hawaii Revised Statutes, and sex offender registration requirements for the violent crime by which the person intentionally or knowingly procures, provides, or obtains sexual services of a person younger than eighteen years of age or of a person older than eighteen years of age through unlawful means including deception, coercion, assault, or the use of force, deadly force, or unlawful force;
- (2) Make victims of sex trafficking eligible for security and protection when acting as a witness in a criminal prosecution and for compensation from the crime victim compensation fund;
- (3) Subject a person convicted of sex trafficking to the forfeiture of property;



- (4) Authorize investigative or law enforcement officers with court approval to intercept wire, oral, or electronic communications to investigate evidence of sex trafficking; and
- (5) Provide immunity from criminal prostitution charges and liability for a person who is a victim of sex trafficking.

Cardinal Services, Family Programs Hawaii, Hawaii Catholic Conference, Hawaii Family Forum, Hawai'i Lodging & Tourism Association, Hawaii Women's Coalition, Ho Ola Na Pua, Parents and Children Together, Shared Hope International, and many concerned individuals testified in support of this measure. The County of Hawai'i Office of the Prosecuting Attorney, County of Kaua'i Office of the Prosecuting Attorney, IMUAlliance, The Pacific Alliance to Stop Slavery, and many concerned individuals testified in support and recommended amendments. The Department of the Attorney General, Office of the Public Defender, City and County of Honolulu Department of the Prosecuting Attorney, Honolulu Police Department, The Libertarian Party of Hawaii, and Effective Change, LLC testified in opposition.

National organizations have rated Hawaii very highly for its laws against sex trafficking, including receiving the top "Tier One" rating by Polaris in its 2014 state reports, which only 11 other states were awarded. However, your Committee finds that it is important to do more to protect victims of sex trafficking. In recognition of the impact of terminology, this measure utilizes the existing framework of laws pertaining to the promotion of prostitution by means of coercion to more appropriately title these unlawful acts "sex trafficking."

Your Committee has amended this measure to:

- (1) Delete language that would have created a separate sex trafficking statute and instead amend the existing promoting prostitution statutes to encompass sex trafficking;
- (2) Rename the Class A felony Promoting Prostitution in the First Degree as Sex Trafficking and incorporate additional means of coercion including acts related to assault, kidnapping, unlawful imprisonment, sexual assault, extortion, deception, retiring or repaying a debt, schemes, plans, or patterns intending to cause a



person to believe they or their family will be harmed, and domination, restraint, or control which would reasonably cause a person to engage in the conduct;

- (3) Rename the Class B felony Promoting Prostitution in the Second Degree as Promoting Prostitution to apply to non-trafficking situations where the perpetrator is profiting from the prostitution of another adult;
- (4) Establish a Class C felony for the act of paying for sex in "reckless disregard" of the fact that the other person is a victim of sex trafficking;
- (5) Reduce the penalty from petty misdemeanor to violation for a minor convicted of prostitution for providing sex;
- (6) Make conforming amendments to statutes relating to prostitution and retain conforming amendments to criminal statutes that reference the promotion of prostitution;
- (7) Make conforming amendments to chapter 663J, Hawaii Revised Statutes that relate to civil liability for the coercion of a person into prostitution;
- (8) Make technical, nonsubstantive amendments for clarity, consistency, and style; and
- (9) Make this measure take effect upon its approval.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 265, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 265, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on  
behalf of the members of the  
Committee on Judiciary,



KARL RHOADS, Chair



HSCR 1491

Bill/Resolution No.: <b>SB 265, SDI</b>	Committee Referral: <b>JUD</b>	Date: <b>4/7/15</b>
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.		
The recommendation is to:		
<input type="checkbox"/> Pass, unamended (as is)	<input checked="" type="checkbox"/> <del>P</del> -Pass, with amendments (HD)	<input type="checkbox"/> Hold
<input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)		

  

JUD Members	Ayes	Ayes (WR)	Nays	Excused
1. RHOADS, Karl (C)	/			
2. SAN BUENAVENTURA, Joy A. (VC)	/			
3. BELATTI, Della Au	/			
4. BROWER, Tom	/			
5. CREAGAN, Richard P.	/			
6. HASHEM, Mark J.	/			
7. KAWAKAMI, Derek S.K.	/			
8. LEE, Chris				/
9. MORIKAWA, Dee	/			
10. NAKASHIMA, Mark M.	/			
11. TAKAYAMA, Gregg	/			
12. WOODSON, Justin H.	/			
13. McDERMOTT, Bob	/			
14. THIELEN, Cynthia	/			
TOTAL (14)	13			1

  

The recommendation is:     ☒ Adopted                  ☐ Not Adopted

If joint referral, \_\_\_\_\_ did not support recommendation.  
committee acronym(s)

---

Vice Chair's or designee's signature: \_\_\_\_\_

---

Distribution: Original (White) – Committee      Duplicate (Yellow) – Chief Clerk's Office      Duplicate (Pink) – HMSO