



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTIETH LEGISLATURE, 2020**

ON THE FOLLOWING MEASURE:
H.B. NO. 2122, RELATING TO SEX OFFENSES.

LATE

BEFORE THE:
HOUSE COMMITTEE ON JUDICIARY

DATE: Wednesday, February 12, 2020 **TIME:** 3:00 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Clare E. Connors, Attorney General, or
Albert Cook, Deputy Attorney General

Chair Lee and Members of the Committee:

The Department of the Attorney General (the Department) supports the intent of this bill and offers suggested changes to accomplish the purpose of the bill.

This bill seeks to do two things: (1) makes it a crime for an adult, who is a parent, guardian, or a person who has custody of a minor, to offer or agree to provide the minor to another, for any consideration, for the purpose of sexual conduct and (2) makes it a crime for an adult to seek to solicit sex from a minor through an adult, who presents themselves as, or is actually a parent, guardian, or a person who has custody of a minor.

Solicitation of a minor for prostitution (Hawaii Revised Statutes Section 712-1209.1) and electronic enticement of a child in the first and second degrees (HRS sections 707-756 and 707-757) both currently only prohibit soliciting **the minor directly** or communicating with **the minor directly**.

To address the situation where an adult offers the minor for sexual conduct, this bill creates the new crime of promoting the prostitution of a minor, by making it illegal for an adult, who is a parent, guardian, or had custody of a minor, to offer or agree to provide the minor to another, for any consideration, for the purpose of sexual conduct. This new crime would be a class B felony. While well intentioned, our current sex trafficking statute, located at section 712-1202(1)(b), HRS prohibits *anyone* from advancing or profiting from the prostitution of a minor. Section 712-1201, HRS, defines

“advances prostitution” in relevant part as “causes or aids a person to commit or engage in prostitution, procures or solicits patrons for prostitution, [and] provides persons for prostitution purposes[.]” The bill seeks to address conduct that would fall within the existing sex trafficking statute. While section 712-1202(1)(b) covers more conduct than the proposed law, it is limited to prostitution, which is defined as sexual conduct for a fee. The new law would penalize offering a minor “for consideration, or the promise of consideration.”

To criminalize the conduct of a parent, guardian, or *anyone* who promotes the prostitution of a minor, the Department proposes using the current sex trafficking law under section 712-1202(1)(b), HRS, and to amend the definition of prostitution in section 712-1200(1), HRS, to broaden its impact as follows:

§712-1200. Prostitution. (1) A person commits the offense of prostitution if the person:

- (a) Engages in, or agrees or offers to engage in, sexual conduct with another person in return for a fee, or anything else of value; or
- (b) Pays, agrees to pay, or provide, or offers to pay or provide a fee, or anything else of value to another to engage in sexual conduct.

Therefore the intent of the new proposed law would be accomplished through changing the definition of prostitution and applying it to the existing sex trafficking law under Section 712-1202(1)(b), HRS.

To address those who are soliciting a minor for sexual conduct through a third party, the bill seeks to amend the electronic enticement of a child in the first and second degree statutes (HRS sections 707-756 and 707-757) to allow for the prosecution of a person who communicates electronically with another person who represents that the person has control or custody of a minor, and who agrees to meet that other person with the intent to commit a felony, and travels to the agreed upon meeting place at the agreed upon meeting time. While again, the Department of the Attorney General

supports the intent of the bill, the Department submits the following proposed wording to address a person seeking to solicit sexual conduct with a minor from a third person:

Chapter 712, Hawaii Revised Statutes, is amended by adding to part I a new section to be appropriately designated and to read as follows:

§712- Solicitation of another for prostitution of a minor. (1) A person commits the offense of solicitation of another for prostitution of a minor if the person intentionally, knowingly, or recklessly offers or agrees to pay a fee or provide anything else of value for sexual conduct with a minor to:

- (a) Another who offers to provide the minor; or
- (b) A member of a police department, a sheriff, or a law enforcement officer who represents that person's self as a person providing a minor for sexual conduct.

(2) Solicitation of another for prostitution of a minor is a class B felony. Notwithstanding any law to the contrary, a person convicted of solicitation of another for prostitution of a minor shall be sentenced to an indeterminate term of imprisonment as provided by law.

(3) The state of mind requirement for this offense is not applicable to the fact that the person solicited was a member of a police department, a sheriff, or a law enforcement officer who represented that person's self as a person providing a minor for sexual conduct. A person is strictly liable with respect to the attendant circumstance that the person solicited was a member of a police department, a sheriff, or a law enforcement officer who represented that person's self as a person providing a minor for sexual conduct.

(4) For purposes of this section:

"Minor" means a person who is less than eighteen years of

age.

"Sexual conduct" has the same meaning as in section 712-1200(2).

Additionally, as the Legislature previously recognized the seriousness of soliciting minors for sex electronically by providing an indeterminate term of imprisonment for electronic enticement of a child in the first degree under section 707-756, HRS, the proposed penalty for Solicitation of Another for Prostitution of a Minor is an indeterminate term of imprisonment.

Lastly, the bill seeks to add the new promoting the prostitution of a minor crime as a covered offense for registration as a covered offender (HRS chapter 846E) purposes. The Department of the Attorney General proposes that the new crime of Solicitation of Another for Prostitution of a Minor be a covered offense under chapter Section 846E, HRS.

For the forgoing reasons, the Department of the Attorney General supports the intent of this bill and requests that the bill be amended consistent with the above wording, and that the amended bill be passed.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 · INTERNET: www.honoluluupd.org



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MAYOR

SUSAN BALLARD
CHIEF

JOHN D. McCARTHY
CLYDE K. HO
DEPUTY CHIEFS

OUR REFERENCE

PJ-LS

February 12, 2020

The Honorable Chris Lee, Chair
and Members
Committee on Judiciary
House of Representatives
Hawaii State Capitol
415 South Beretania Street, Room 325
Honolulu, Hawaii 96813

Dear Chair Lee and Members:

SUBJECT: House Bill No. 2122, Relating to Sex Offenses

I am Acting Major Phillip Johnson of the Narcotics/Vice Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports House Bill No. 2122, Relating to Sex Offenses.

Passage of this bill will assist law enforcement in stopping child predators, and individuals who offer minors for sex.

The HPD urges you to support House Bill No. 2122, Relating to Sex Offenses, and thanks you for the opportunity to testify.

APPROVED:

Sincerely,

A handwritten signature in cursive script that reads "Susan Ballard".

Susan Ballard
Chief of Police

A handwritten signature in cursive script that reads "Phillip Johnson".

Phillip Johnson, Acting Major
Narcotics/Vice Division



MICHAEL P. VICTORINO
MAYOR

OUR REFERENCE
YOUR REFERENCE

POLICE DEPARTMENT

COUNTY OF MAUI

55 MAHALANI STREET
WAILUKU, HAWAII 96793
(808) 244-6400
FAX (808) 244-6411

February 11, 2020



TIVOLI S. FAAUMU
CHIEF OF POLICE

DEAN M. RICKARD
DEPUTY CHIEF OF POLICE

LATE

The Honorable Chris Lee, Chair
The Honorable Joy A. San Buenaventura, Vice Chair
and Members of the Committee on Judiciary

House of Representatives
Hawaii State Capitol
Honolulu, Hawaii 96813

RE: House Bill No. 2122 – Relating To Sex Offenses

Dear Chair Lee and Members of the Committee:

The Maui Police Department SUPPORTS the passage of H.B. No. 2122.

Child sex trafficking is a worldwide epidemic which exploits minors, both girls and boys for various reasons to include forced labor and sex. Child trafficking is a lucrative business and often linked with criminal activity and corruption.

According to Save the Children organization, there are 215 million children engaged in child labor, with 115 million of those children in hazardous work. Some of the children are sold by a family member or acquaintance, sometimes lured by false promises of a “better” life; however, the reality is that these children are trafficked and exploited and are held in slave-like conditions without adequate food, shelter, and are often abused and prohibited from all contact with their families. Many of these victims are girls. Statistics show that 98% of sexually abused survivors are women and children.

According to a recent February 4, 2020, HawaiiNewsNow article, Hawaii is not immune to this issue and is more widespread than many believed. Child and Family Services administered a survey to 363 participants in their programs. Of those identified as survivors, approximately 25% related that the first person who preyed on them was a family member, whether a parent, guardian, sibling, grandfather, or uncle. The study also determined that the average age of victims are just under 12 years old. Over 75% of all victims reported being homeless and 64% were identified as being part Native Hawaiian.

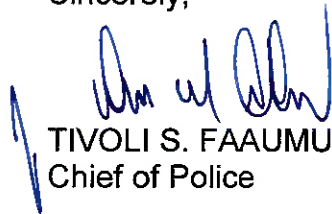
The Honorable Chris Lee, Chair
February 11, 2020
Page 2

Addressing this widespread problem in addition to more collaboration between law enforcement and social services providers and advocating for stronger penalties and laws for those who commit these heinous acts against the most vulnerable individuals in our society are steps in the right direction.

The Maui Police Department asks that you SUPPORT the passage of H.B. No. 2122.

Thank you for the opportunity to testify.

Sincerely,



TIVOLI S. FAAUMU
Chief of Police

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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

DWIGHT K. NADAMOTO
ACTING PROSECUTING ATTORNEY

LYNN B.K. COSTALES
ACTING FIRST DEPUTY
PROSECUTING ATTORNEY



LATE

**THE HONORABLE CHRIS LEE CHAIR
HOUSE COMMITTEE ON JUDICIARY
Thirtieth State Legislature
Regular Session of 2020
State of Hawai`i**

February 12, 2020

RE: H.B. 2122; RELATING TO SEX OFFENSES.

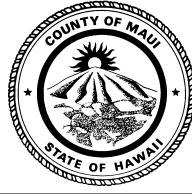
Chair Chris Lee, Vice Chair San Buenaventura, and members of the House Committee on Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony, in opposition to H.B. 2122.

While the Department appreciates the intent—to hold parents, guardians, and others who have custody or control over a minor, criminally liable for promoting that minor for purposes of prostitution—this offense is currently prohibited under the offense of sex trafficking, HRS §712-1202(b), a class A felony.

Any parent, guardian, or person having custody or control over a minor, who promotes the minor for purposes of prostitution, is essentially a “sex trafficker,” and should be held accountable as such.

Insofar as the conduct sought to covered in HB 2122 is already covered under the existing Sex Trafficking statute—which also provides for a higher criminal penalty—the Department of the Prosecuting Attorney respectfully opposes the passage of H.B. 2122. Thank you for the opportunity to testify on this matter.

MICHAEL P. VICTORINO
Mayor



DON S. GUZMAN
Prosecuting Attorney

ROBERT D. RIVERA
First Deputy Prosecuting Attorney

ANDREW H. MARTIN
Second Deputy Prosecuting Attorney

DEPARTMENT OF THE PROSECUTING ATTORNEY
COUNTY OF MAUI
150 SOUTH HIGH STREET
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TESTIMONY
ON
H.B. 2122 - RELATING TO
SEX OFFENSES

LATE

February 12, 2020

The Honorable Chris Lee
Chair
The Honorable Joy A. San Buenaventura
Vice Chair
and Members of the Committee on Judiciary

Chair Lee, Vice Chair San Buenaventura, and Members of the Committee:

The Department of the Prosecuting Attorney, County of Maui respectfully submits the following comments concerning H.B. 2122, Relating to Sex Offenses. Specifically, we would like to express our strong support for H.B. 2122, which creates new offenses for parents or guardians that offer their minor children for sex and the adults who communicate with parents or guardians for that purpose.

As noted in the bill itself, the creation of these particular offenses is a substantial aid in prosecuting child predators as well as parents or guardians that enable child predators. The particularly heinous offense of a parent or guardian offering their minor child for sex in exchange for compensation is an act that should never occur.

For these reasons, the Department of the Prosecuting Attorney, County of Maui strongly supports the passage of H.B. 2122. 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.

HAWAII YOUTH SERVICES NETWORK

677 Ala Moana Boulevard, Suite 904 Honolulu, Hawaii 96813

Phone: (808) 489-9549

Web site: <http://www.hysn.org> E-mail: info@hysn.org

Rick Collins, President

Judith F. Clark, Executive Director

Bay Clinic

Big Brothers Big Sisters of Hawaii

Big Island Substance Abuse Council

Bobby Benson Center

Child and Family Service

Coalition for a Drug Free Hawaii

Collins Consulting, LLC

Domestic Violence Action Center

EPIC, Inc.

Family Programs Hawaii

Family Support Hawaii

Friends of the Children of West Hawaii

Hale Kipa, Inc.

Hale 'Opio Kauai, Inc.

Hawaii Children's Action Network

Hawaii Health & Harm

Reduction Center

Hawaii Student Television

Ho'ola Na Pua

Kahi Mohala

Kokua Kalihi Valley

Kokua Ohana Aloha (KOA)

Maui Youth and Family Services

Na Pu'uwai Molokai Native

Hawaiian Health Care

Systems

P.A.R.E.N.T.S., Inc.

Parents and Children Together (PACT)

PHOCUSED

PFLAG – Kona Big Island

Planned Parenthood of the

Great Northwest and

Hawaiian Islands

Residential Youth Services

& Empowerment (RYSE)

Salvation Army Family

Intervention Services

Sex Abuse Treatment Center

Susannah Wesley Community Center

The Catalyst Group

February 10, 2020

To: Representative Chris Lee, Chair
And members of the Committee on Judiciary

Testimony in Support of HB 2122 Relating to Sex Offenses

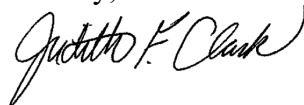
Hawaii Youth Services Network (HYSN), a statewide coalition of youth-serving organizations, supports HB 2122 Relating to Sex Offenses.

A recently released study on sex trafficking found that 23% of the victims were sexually trafficked before the age of 18. Of those first trafficked before age 18, the average age was 11.3 years. A quarter of the victims were trafficked by a family member. (Sex Trafficking in Hawaii; Arizona State University and the Hawaii Commission on the Status of Women; 2020).

This bill will impose criminal penalties upon family members who arrange for another person to have sexual conduct with a minor child.

Thank you for this opportunity to testify.

Sincerely,



Judith F. Clark, MPH
Executive Director

HB-2122

Submitted on: 2/12/2020 9:52:37 AM

Testimony for JUD on 2/12/2020 3:00:00 PM



Submitted By	Organization	Testifier Position	Present at Hearing
Jessica Munoz	Ho'ola Na Pua	Support	No

Comments:

Dear Judiciary Committee, the

Ho'ola Na Pua stands in support of House Bill 2122 that imposes criminal penalties on parents or guardians who offer their child or children for sex acts in exchange for something of value.

The most recent study conducted with a sample size of 363 participants receiving services from Child and Family Services showed that 97 of those participants had experienced sex trafficking. Nearly a quarter of these were trafficked by a family member. Intrafamilial sex trafficking is often generational, and harms multiple members in the family unit. This also leads to a greater sense of fear and shame due to the complex sense of attachment to one's family.

Intrafamilial sex trafficking occurs throughout our state, and we support the intent of this bill to increase criminal penalties for those who should be providing the primary care and support for their children and are selling them instead.

Mahalo for allowing us to testify on behalf of this bill.

Jessica Munoz

President, Ho'ola Na Pua

91-1841 Fort Weaver Road
Ewa Beach, HI 96706
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Maui United Way
Hawaii Island United Way



Aloha United Way

February 12, 2020

LATE

Representative Chris Lee, Chair
Representative Joy A. San Buenaventura, Vice Chair
Members of the Committee on Judiciary

Testimony on behalf of Child & Family Service to Support HB2122

Child & Family Service (CFS) strongly supports HB2122 to impose a criminal penalty on any parent, guardian, or person having custody or control of a minor that offers or agrees for consideration for the purpose of another person having sexual conduct with the minor. Imposes a criminal penalty on any person that entices a parent, guardian, or person having custody or control of a minor by electronic means for the purposes of having sexual conduct with the minor.

In partnership with Arizona State University and the Hawaii State Commission on the Status of Women, Child & Family Service conducted research on service-seeking individuals in CFS Programs statewide. Our data confirmed unfortunate findings – that Hawaii's children are vulnerable to traffickers. Our data demonstrated that of our participants, 1 in 4 reported they were children when they were first sex trafficked.

Furthermore, of those who participated in the study, the most common sex trafficker identified by the sex trafficking victims who were under the age of 18 when they were first sex trafficked was a family member (25.8%). The study reported findings that nearly one third of sex traffic victims' surveys reported that technology had been used as a part of their sex trafficking experience; 1) websites and social media (17.5%); and 2) smart phones (16.5%).

Although our study certainly does not speak for all youth within the State of Hawaii, we believe it does speak to the broader need to increase our response collectively to the matter of trafficking here in Hawaii.

We at CFS strongly believe that it is an ethical imperative to support this bill to prevent trafficking of youth across the State of Hawaii by having an appropriate response to traffickers.

Sincerely,

Karen Tan, LCSW
President and CEO

“We’re All About FAMILY”

Mission: Strengthening Families and Fostering the Healthy Development of Children

HB-2122

Submitted on: 2/10/2020 3:29:40 PM

Testimony for JUD on 2/12/2020 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Victor K. Ramos	Individual	Support	No

Comments:

HB-2122

Submitted on: 2/10/2020 5:19:41 PM

Testimony for JUD on 2/12/2020 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Golojuch	Individual	Support	No

Comments:

I support HB2122.

Mike Golojuch, Sr.

HB-2122

Submitted on: 2/11/2020 4:42:12 PM

Testimony for JUD on 2/12/2020 3:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Dara Carlin, M.A.	Individual	Support	No

Comments: