



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY- FIRST LEGISLATURE, 2021**

ON THE FOLLOWING MEASURE:

S.B. NO. 753, RELATING TO SEX TRAFFICKING.

BEFORE THE:

SENATE COMMITTEE ON HUMAN SERVICES

DATE: Tuesday, February 2, 2021 **TIME:** 3:00 p.m.

LOCATION: State Capitol, Room 225, Via Video Conference

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**
(For more information, contact Farshad M Talebi,
Deputy Attorney General, at 808-586-1173

Chair San Buenaventura and Members of the Committee:

The Department of the Attorney General supports this bill.

This bill adds sex trafficking to the list of offenses in section 701-108, Hawaii Revised Statutes, for which a prosecution may be commenced at any time.

Eliminating the statute of limitations for sex trafficking is important because it will improve the State's ability to prosecute sex trafficking offenders whose victims are unable to seek help from law enforcement while they are under the control of their offender. Extending the time in which victims are able to report the offenses will enable victims to report offenses after they have escaped to a safe environment and will improve the State's ability to hold sex traffickers accountable for their offenses.

We respectfully ask the committee to pass this bill.

STATE OF HAWAI‘I
OFFICE OF THE PUBLIC DEFENDER

**Testimony of the Office of the Public Defender,
State of Hawai‘i to the Senate Committee on Human Services**

February 2, 2021

S.B. No. 753: RELATING TO SEX TRAFFICKING

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

The Office of the Public Defender respectfully opposes S.B. No. 753.

Statutes of limitations have been established to allow for timely prosecution of criminal offenses. With the passage of time, a criminal charge becomes more difficult to defend against and wrongful convictions are more likely to occur. The memories of witnesses become more inaccurate, witnesses are more likely to become influenced by persons who have interests in the case, and relevant evidence is more difficult to obtain. Thus, under the law, criminal charges must be brought within certain time periods following their commission. Sex trafficking (HRS § 712-1202) is a Class A felony for which there is currently a six-year statute of limitations, which is sufficient amount of time to bring a prosecution. Therefore, we oppose the removal of the statute of limitations for sex trafficking and promoting prostitution.

If the committee is inclined to extend the statute of limitations, this extension should not be applied retroactively to cases in which the applicable statute of limitations has already expired. Put another way, a statute of limitations that has already expired cannot be revived. In fact, the federal courts have prohibited such *ex post facto* applications, holding in *Stogner v. California*, 539 U.S. 607, 123 S.Ct. 2446, 156 L.Ed.2d 544 (2003) that “a law enacted after expiration of a previously applicable time limitations period violates the *Ex Post Facto* Clause when it is applied to revive a previously time-barred prosecution.”

Additionally, should the committee extend the statute of limitations, we encourage the committee to extend the current statute of limitations to a finite time period, and not allow prosecutions to commence “at any time”.

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

SB-753

Submitted on: 1/28/2021 3:13:32 PM

Testimony for HMS on 2/2/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Victor K. Ramos	Testifying for Maui Police Department	Support	No

Comments:

I strongly support this bill.

SB-753

Submitted on: 1/31/2021 4:48:39 PM

Testimony for HMS on 2/2/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Gregg Okamoto	Testifying for Maui Police Department	Support	No

Comments:

The Maui Police Department, as a public safety agency, supports this bill. The bill will help clarify any definitions and language as it relates to our ability to enforce the law as well as remove any statute of limitations that may impede our ability to investigate. This would greatly increase our ability to protect the victims of of sex trafficking as well as prosecute those who are responsible. Especially in the interest of minor victims. Thank you.



SB 753, RELATING TO SEX TRAFFICKING

FEBRUARY 2, 2021 · SENATE HUMAN SERVICES
COMMITTEE · CHAIR SEN. JOY A. SAN
BUENAVENTURA

POSITION: Support.

RATIONALE: Imua Alliance **supports SB 753**, relating to sex trafficking, which provides that a prosecution for sex trafficking shall not be subject to a statute of limitations.

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 150 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 by adding coercion as a means of committing the offense of sex trafficking and authorizing a prosecution for sex trafficking to be commenced at any time. As indicated above, sex trafficking victims are typically trauma bonded to their abusers. **Trauma-attached coercion is like Stockholm Syndrome, involving a powerful emotional dependency on the abusers and a shift in world- and self-view that results in feelings of gratitude and loyalty toward the abusers and a denial, dismissal, or minimization of the coercion, violence, and exploitation that victims have suffered.** Trauma-attached victims require placement in a coordinated continuum of care to "break" their trauma bonds, receive rehabilitative services, and reintegrate into society in a healthy manner. It is common for victims to need long-term care before

recognizing the extent of the trauma they've suffered, much less feel emotionally and physically secure enough to participate in criminal investigations. Moreover, sex trafficking often involves elements of nonphysical intimidation, such as social manipulation, ridicule, sexual humiliation, emotional and financial injury, and the establishment of a continuous climate of fear. Thus, to fully respect the needs of survivors and ensure that all victims of sexual exploitation may receive justice, we believe that the statute of limitations on sex trafficking cases should be eliminated.

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: SB 753 to be heard on Tuesday February 2, at 3PM in conference room 225

Comments Only

To the Senate Committee on Human Services

Although the statute of limitations on these crimes may well be too short, we would like the legislature to consider other options as well. I understand that former sex trafficking victims may sue their abuser in civil court with a much longer statute of limitations than currently exists for criminal prosecution. There are advantages, from the standpoint of a victim, to sue in civil court where the preponderance of evidence is a lower threshold than the burden of proof needed for a criminal conviction. It also allows victims to collect financial reimbursement. This may be much more appealing than having the satisfaction of sending someone they dealt with years before to prison.

The relationships that exist between sex workers and persons who may be guilty of sex trafficking as defined in law are complex. Some of them have children together. That fact may extend their interactions long after they have both left the industry. Former “pimps” may have used money gained during their period of illegal activity to start legitimate businesses that enrich them. Former sex workers are often faced with old criminal records and stigma, while having left the industry with nothing more than the clothes on their back. I think we all agree that this imbalance of results is highly problematic.

So although I agree that revisiting our current statute of limitations under criminal law has validity, it still focuses almost entirely on a criminal model for dealing with problems. We shouldn't ignore other simpler and often more useful solutions that may be available.

Very Truly Yours;



Tracy Ryan
Executive Director, Harm Reduction Hawaii
January 29, 2021



Executive Director
Cindy Shimomi-Saito

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Date: February 2, 2021

To: The Honorable Joy San Buenaventura Chair
The Honorable Les Ihara, Jr., Vice Chair
Senate Committee on Human Services

From: Cindy Shimomi-Saito, Executive Director
The Sex Abuse Treatment Center
A Program of Kapi'olani Medical Center for Women & Children

RE: Testimony in Support of SB 753, Relating to Sex Trafficking.

Hearing: Tuesday, February 2, 2021, Via videoconference

Good afternoon Chair San Buenaventura, Vice Chair Ihara, and Members of the Committee:

The Sex Abuse Treatment Center (SATC) is in **support of SB 753**. This bill provides that a prosecution for sex trafficking shall not be subject to a statute of limitations.

Sex trafficking—the commercial sexual exploitation of a minor or the coercive commercial sexual exploitation of any person—is a form of modern-day slavery, with significant and often lifelong medical, psychological, and social consequences for victims. Sex trafficking victims can be anyone – this crime has no geographical or demographic boundaries, and victims often face significant challenges in reporting and recovery. In order to combat this, the law must reflect the heinousness of the crime, and as such, we ask that the committee pass SB 753.

Thank you very much for allowing us to provide testimony in support of this important legislation.

LATE

SB-753

Submitted on: 2/2/2021 10:59:56 AM

Testimony for HMS on 2/2/2021 3:00:00 PM

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

Comments:

Chair San Buenaventura, Vice Chair Ihara Jr., and Members of the Committee on Human Services,

We are writing in strong support of SB48.

This bill addresses deficiencies in our current statutes related to the crime of sex trafficking and helps to bring them in line with federal statutes.

As an agency serving those who have been exploited, we have seen the harm that labels can cause on our youth. Marking them as "prostitutes" instead of victims furthers the shame and stigma attached to their trauma.

We also know how long it may take for a victim to come forward, so the removal of the statute of limitations is so important.

Mahalo for your consideration.

Ho'ola Na Pua

Chair San Buenaventura, Vice Chair Ihara Jr., and Members of the Committee on Human Services:

I am writing in strong support of SB753, SB48 and SB409. As a local attorney, a military spouse, a mother of two children and a member of several non-profit and education boards in the community, the issue of Sex Trafficking and the solutions addressed within these bills are important to me and those within my community.

I have personally worked on cases as an attorney in Texas, Arizona, Alabama, and here in Hawaii at the Attorney General's Office in the ICAC (Internet Crimes Against Children) unit. It was in those very spaces that we saw the need to make the changes proposed within these bills:

- (1) Remove statute of limitations for sex trafficking;
- (2) Add "coercion" to the definition of sex trafficking;
- (3) Remove the offense of "solicitation of a minor for prostitution" AND place the actions currently under this offense into the "sex trafficking" statute;
and
- (4) Make sex trafficking of a minor a strict liability offense.

These three bills (SB753, SB48 and SB409) address the current deficiencies in our sex trafficking statutes and bring them in line with the federal statutes and the vast majority of other state statutes. Thank you in advance for your consideration!

Sincerely,
Melissa Rueschhoff, Esq.

SB-753

Submitted on: 1/31/2021 5:26:22 PM

Testimony for HMS on 2/2/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
cathy lee	Individual	Support	No

Comments:

Victims of sexual abuse, assault, rape (which are often associated with sex trafficking) are left traumatized and sometimes, it takes years to come to terms with the acts themselves, let alone healing or the feeling that you'll ever be safe. Even coming to terms with what has occurred could take an extraordinary amount of time.

In addition, the stigma associated with having any involvement with sex trafficking could be enough of a reason to hesitate reporting crimes. The Legislature has shown incredible progress by using a trauma-informed lens to consider the very real factors involved in victims feeling ready enough to confront their abusers.

The statute of limitations for sexual assault/sex trafficking victims shouldn't be held to the same standards as other crimes that are not psychologically traumatizing.

SB-753

Submitted on: 1/31/2021 5:39:26 PM

Testimony for HMS on 2/2/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Glenn Nagao	Individual	Support	No

Comments:

I am writing in support of SB48. Given the vulnerability of minor's, coercion should absolutely be considered when it comes to child sexual abuse and sex trafficking.

One of the most challenging things is that over 90% of the abusers are someone that kids know and trust, so there's a lot of consequences in unresolved trauma in sexual abuse that prevents victimized children from coming forward immediately after being abused. Adults abusing this authority should not go unpunished. And given the psychological impact these actions can cause, the statute of limitations should be lifted to ensure that these individuals have the time necessary to process the trauma with the proper support.

If we are trully committed to protecting our keiki, this bill should be passed.

SB-753

Submitted on: 2/1/2021 9:19:54 AM

Testimony for HMS on 2/2/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Barbara J. Service	Individual	Support	No

Comments:

I encourage your strong support of SB753, Relating to Sex Trafficking.

Barbara J. Service MSW (ret.)

LATE

SB753 RELATING TO SEX TRAFFICKING:

Provides that a prosecution for sex trafficking shall not be subject to a statute of limitations.

Testimony written by Piper Kublick in support

Aloha mai kākou,

Being given the privilege to work with sex trafficking survivors of all ages has allowed me a deeper understanding of their arduous journey. Studies conducted locally by Dr. Roe-Sepowitz show that 23% of survivors were trafficked before turning 18 with an average age of their first exploitation at just 11 years-old. This means our keiki, our future leaders, are grievously impacted by commercial sexual exploitation. At that age, we do not expect them to understand what sex trafficking is and many are not able to identify when they are being victimized. These studies also show that survivors were frequently trafficked by their own family members and therefore may be unable to, or do not feel safe seeking help for many years. Other prominent figures like police officers and high-ranking public officials are complicit with, or actual perpetrators of sex trafficking. Would you know where or how to start the process of getting help for yourself, or someone you know, under these circumstances?

A 2013 study by Dr. Barbara Hernandez found that it takes between 3-7 attempts for a survivor to escape a trafficking situation. Often a fear for their and their loved ones' safety, coupled with a lack of services and support, force them to back into trafficker's hands. Male survivors, including young boys, are rarely given the same amount of attention while 23% of local survivors identified as male. Currently there are no services specific to male survivors available in Hawai'i and a very limited amount on the mainland. Until services and funds are able to be implemented specifically for male survivors, a statute of limitations will only continue to silence and devalue their, and future survivors', stories.

The passing of this bill would be groundbreaking support for the treatment of survivors and serve as an acknowledgement of the extent of the horrors they endure. Considering the increased vulnerability the COVID-19 pandemic has created, the discontinuation of a statute of limitations is more important now than ever. I support the passing of this bill because statutes of limitations do not facilitate justice for or support the healing of sex trafficking survivors.

Mahalo nui loa,
Piper Kublick

LATE

SB-753

Submitted on: 2/1/2021 10:22:04 PM

Testimony for HMS on 2/2/2021 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Andre Bisquera	Individual	Support	No

Comments:

I am a survivor of child sex abuse and testified on the original bill eliminating the criminal SOL, and fully support adding sex trafficking victims to the list of crimes in Hawaii Revised Statutes Section 701-708. Thank you.

Andre Bisquera