

STAND. COM. REP. NO. 1068-12

Honolulu, Hawaii

March 16, 2012

RE: S.B. No. 2576
S.D. 1
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committee on Human Services, to which was referred S.B. No. 2576, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO PROSTITUTION,"

begs leave to report as follows:

The purpose of this measure is to authorize a person convicted of a prostitution-related offense to file a motion to vacate the conviction under certain circumstances, and to establish procedures for the motion to vacate.

The Pacific Alliance to Stop Slavery, Polaris Project, and several concerned individuals testified in support of this measure. The IMU Alliance supported this measure with amendments. The Department of the Attorney General opposed this measure. The Department of the Prosecuting Attorney of the City and County of Honolulu provided comments.

Your Committee notes that concerns were raised by several testifiers. The Department of the Attorney General stated that a process is already in place that allows convicted defendants to appropriately challenge judgments of conviction, but that the process to vacate prostitution convictions as set forth in this measure is inconsistent with the State's criminal justice system and invites misuse and abuse.

SB2576 HD1 HSCR HUS HMS 2012-2902



The Department of the Prosecuting Attorney of the City and County of Honolulu also raised concerns, noting that an appeal to the appellate courts or recourse to Rule 40 of the Hawaii Rules of Penal Procedure may be more appropriate methods of achieving the goal that this measure is attempting to reach. Although the department recommended that this measure be deferred, it also suggested amendments in the event this measure moves forward.

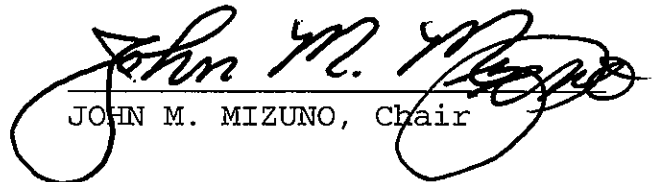
The Polaris Project proposed an amendment to give judges broader discretion to take additional action as necessary or as justice requires.

Your Committee has amended this measure by:

- (1) Changing the term "vacate" to "discharge" with regard to a judgment or motion filed under this measure; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2576, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2576, S.D. 1, H.D. 1, and be referred to the Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Human Services,


JOHN M. MIZUNO, Chair



