

STAND. COM. REP. NO.

2474

Honolulu, Hawaii

MAR 01 2012

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

Honorable Shan S. Tsutsui  
President of the Senate  
Twenty-Sixth State Legislature  
Regular Session of 2012  
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred S.B. No. 2576 entitled:

"A BILL FOR AN ACT RELATING TO PROSTITUTION,"

begs leave to report as follows:

The purpose and intent 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 judgment.

Your Committee received testimony in support of this measure from the Polaris Project, the Pacific Alliance to Stop Slavery, IMUAlliance, Harm Reduction of Hawaii, and three private individuals. Testimony in opposition to this measure was submitted by the Department of the Attorney General, the Department of the Prosecuting Attorney of the City and County of Honolulu, and the Police Department of the City and County of Honolulu. The Office of the Public Defender submitted comments.

Your Committee finds that human trafficking, consisting of the subjugation, recruitment, harboring, or transportation of people for the purpose of forced labor or services, or commercial sexual exploitation, is one of the fastest growing criminal industries. This measure assists in combating human trafficking by allowing trafficking victims who were forced into prostitution to file a motion to have their prostitution convictions vacated from their records.



Your Committee recognizes the concerns raised in the testimony submitted in opposition with respect to the lack of clear filing and motion to vacate judgment procedures, usage of vague terms, and unclear application or inclusion of certain prostitution-related crimes referred to in this measure. Moreover, the testimony in opposition indicates that Rule 40 of the Hawaii Rules of Penal Procedure already provides an established process for defendants to challenge their convictions in a post-conviction proceeding. As such, your Committee believes that these issues merit further discussion as this measure moves through the legislative process.

Accordingly, your Committee has amended this measure by:

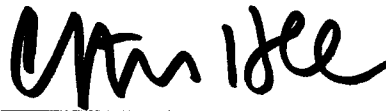
- (1) Adopting the amendments suggested by the Polaris Project to:
  - (A) Delete section 712-1203, Hawaii Revised Statutes, relating to promoting prostitution in the second degree, and the federal offenses under title 18 United States Code sections 2422, 2423(a), and 2425 as crimes a defendant may claim having been a victim of in order to file a motion to vacate a prostitution conviction;
  - (B) Specify that official documentation of the defendant's status as a victim of trafficking may be from a law enforcement agency, which may be a federal, state, or local agency;
  - (C) Delete victim services organizations, attorneys, clergy, or medical and other health care professionals as sources from which a defendant may obtain a sworn statement to serve as official documentation that the defendant's participation in prostitution was a result of having been a victim of trafficking; and
  - (D) Delete the court's ability to take any additional action as is appropriate in the circumstances or as justice requires in addition to granting a motion to vacate;
- (2) Inserting an effective date of July 1, 2050, to ensure further discussion; and



- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

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

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



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CLAYTON HEE, Chair



