

Honolulu, Hawaii

April 24, 2014

RE: H.B. No. 1926  
H.D. 1  
S.D. 1  
C.D. 1

Honorable Joseph M. Souki  
Speaker, House of Representatives  
Twenty-Seventh State Legislature  
Regular Session of 2014  
State of Hawaii

Honorable Donna Mercado Kim  
President of the Senate  
Twenty-Seventh State Legislature  
Regular Session of 2014  
State of Hawaii

Sir and Madam:

Your Committee on Conference on the disagreeing vote of the House of Representatives to the amendments proposed by the Senate in H.B. No. 1926, H.D. 1, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO CRIME,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to amend various provisions of the Hawaii Penal Code. Specifically, this measure:

- (1) Deletes the conviction of Theft in the First Degree and Promoting Prostitution in the Second Degree from the class C felony offenses enumerated under the law relating to the sentencing of repeat offenders;
- (2) Adds the offenses of Promoting Prostitution in the First Degree, Promoting Prostitution in the Second Degree, and Solicitation of a Minor for Prostitution to the law



relating to enhanced sentencing for repeat violent and sexual offenders;

- (3) Limits the law enforcement exemption from the offense of Prostitution to exclude acts involving sexual penetration;
- (4) Creates a safe harbor provision for minors by establishing that minors will not be prosecuted for any prostitution and promoting prostitution offenses if the minor was less than eighteen years of age at the time of the offense and the prostitution offense is the minor's first and only prostitution offense;
- (5) Amends the offense of Solicitation of a Minor for Prostitution by:
  - (A) Including solicitation of a person who represents that person's self as a minor;
  - (B) Increasing the mandatory fines for those convicted under the offense;
  - (C) Providing a law enforcement exemption; and
  - (D) Making it a strict liability offense; and
- (6) Makes Solicitation of a Minor for Prostitution ineligible for deferred acceptance of guilty or no contest pleas.

Your Committee on Conference unequivocally intends the Solicitation of a Minor for Prostitution to be a strict liability offense with regard to the age of the minor. Any specified state of mind listed therein does not apply to the age of a victim solicited under this section. Therefore, a defendant charged under this section may not defend as to the defendant's state of mind concerning the age of the victim, and will be strictly liable with respect to the age of the victim and the attendant circumstance of the victim's age.



Your Committee on Conference has amended this measure by:

- (1) Adding sadomasochistic abuse as an element of the offense of Prostitution;
- (2) Clarifying that the law enforcement exemption from the offense of Prostitution excludes acts of sadomasochistic abuse in addition to acts of sexual penetration;
- (3) Removing the safe harbor provision for minors from prosecution for prostitution and promoting prostitution offenses;
- (4) Amending the offense of Solicitation of a Minor for Prostitution to:
  - (A) Clarify that the offense applies to intentional, knowing, or reckless conduct;
  - (B) Specify that the offense applies to solicitation of a person who represents that person's self as a minor only if that person is a member of a police department, a sheriff, or a law enforcement officer; and
  - (C) Further clarify that the offense is strict liability in regards to age; and
- (5) Making technical nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 1926, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1926, H.D. 1, S.D. 1, C.D. 1.



Respectfully submitted on behalf  
of the managers:

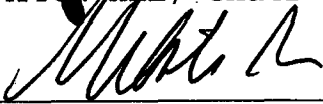
ON THE PART OF THE SENATE

ON THE PART OF THE HOUSE



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CLAYTON HEE, Chair



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MAILE S.L. SHIMABUKURO, Co-Chair



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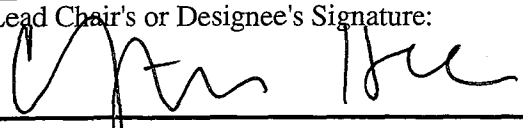
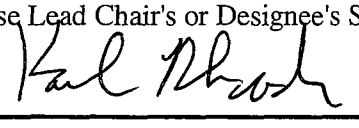
KARL RHOADS, Chair



Hawaii State Legislature

CCR 41-14

Record of Votes of a  
Conference Committee

Bill / Concurrent Resolution No.: <b>HB 1926, HD 1, SD 1</b>					Date/Time: <i>April 24, 2014 / 1:40 pm</i>				
<input checked="" type="checkbox"/> The recommendation of the House and Senate managers is to pass with amendments (CD).									
<input type="checkbox"/> The Committee is reconsidering its previous decision.									
<input type="checkbox"/> The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure					<input type="checkbox"/> The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.				
Senate Managers	A	WR	N	E	House Managers	A	WR	N	E
HEE, Clayton, Chr.	✓				RHOADS, Karl, Chr.	✓			
SHIMABUKURO, Maile S.L., Co-Chr.	✓				KAWAKAMI, Derek S.K.				✓
GALUTERIA, Brickwood	✓				TSUJI, Clift	✓			
					THIELEN, Cynthia	✓			
TOTAL	3	0	0	0	TOTAL	3	0	0	1
A = Aye		WR = Aye with Reservations			N = Nay		E = Excused		
Senate Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted					House Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Senate Lead Chair's or Designee's Signature: 					House Lead Chair's or Designee's Signature: 				
Distribution:		Original <i>File with Conference Committee Report</i>			Yellow <i>House Clerk's Office</i>		Pink <i>Senate Clerk's Office</i>		Goldenrod <i>Drafting Agency</i>