

STAND. COM. REP. NO. 1654

Honolulu, Hawaii

APR 09 2021

RE: H.B. No. 887
H.D. 1
S.D. 2

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 887, H.D. 1, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO CRIME,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Create a separate commercial sexual exploitation offense for those who provide anything of value to engage in sexual conduct with another;
- (2) Add sex trafficking to offenses that can be prosecuted at any time;
- (3) Create strict liability for the crime of sex trafficking where the victim is a minor;
- (4) Change the name of the offense of solicitation of a minor for prostitution to commercial sexual exploitation of a minor;
- (5) Increase the grade of offense of commercial sexual exploitation of a minor to a class B felony; and



- (6) Expand the types of compensation for purposes of commercial sexual exploitation offenses to include "anything of value".

Your Committee received testimony in support of this measure from the Department of the Attorney General, Department of the Prosecuting Attorney of the City and County of Honolulu, Honolulu Police Department, Imua Alliance, CHILD USA, CHILD USA Advocacy and one individual. Your Committee received testimony in opposition to this measure from the Office of the Public Defender. Your Committee received comments on this measure from the Hawaii State Commission on the Status of Women.

Your Committee finds that sex trafficking is an ever-evolving criminal enterprise in which traffickers and exploiters find various means to sexually exploit the most vulnerable in our community. Your Committee further finds that protecting victims from sexual exploitation and holding offenders accountable is difficult given the disparity in power between the victims and perpetrators, and that amending Hawaii's sex trafficking laws to better reflect the current reality and challenges will improve outcomes for trafficking victims and survivors.

Your Committee notes concerns relating to the limited exemption for law enforcement officers from certain sexual exploitation offenses in the course and scope of duties during undercover operations, and requests the Department of the Attorney General, Departments and Offices of the Prosecuting Attorney for each county, and all law enforcement agencies in the State to review their policies on sting operations and provide information to the Legislature prior to the Regular Session of 2022 regarding any reason why sexual contact that is not initiated by an officer should be allowed, especially in the case of minors, and whether allowing sexual contact results in convictions of sex traffickers.

Your Committee additionally finds that a good faith exemption to prosecution for persons in need of help or medical assistance is an idea worthy of further consideration, but any such exemption will require careful crafting.



Your Committee has amended this measure by:

- (1) Amending the purpose section to better reflect the contents of the measure;
- (2) Removing extraneous language relating to the class of offense of commercial sexual exploitation;
- (3) Removing sexual contact initiated by a law enforcement officer from exemptions from commercial sexual exploitation and prostitution-related offenses for law enforcement officers in the course and scope of their duties, and specifying that the exemption only applies when the law enforcement officer is engaged in undercover operations;
- (4) Deleting the good faith exemption in the offense of commercial sexual exploitation for persons seeking law enforcement assistance or medical assistance;
- (5) Clarifying that a person may be prosecuted for profiting from prostitution or sex trafficking even if a person does not directly participate in the offense from which they profit;
- (6) Including offering to provide anything of value to a law enforcement officer who represents himself as a minor in exchange for sexual conduct within the offense of commercial sexual exploitation of a minor;
- (7) Making it effective upon its approval; and
- (8) 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 that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 887, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 887, H.D. 1, S.D. 2.



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

Karl Rhoads

KARL RHOADS, Chair



The Senate
Thirty-First Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary
JDC

Bill / Resolution No.:* HB 887, HD1, SD1	Committee Referral: HMS, JDC	Date: 4/7/2021		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
RHOADS, Karl (C)	✓			
KEOHOKALOLE, Jarrett (VC)	✓			
ACASIO, Laura		✓		
GABBARD, Mike	✓			
KIM, Donna Mercado	✓			
LEE, Chris				✓
FEVELLA, Kurt		✓		
TOTAL	4	2	0	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Karl Rhoads</i>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes