

KIDS ARE NOT FOR SALE IN OREGON

Issue Brief: HB 3040 Relating to Admissibility of Hearsay Statements

Issue:

- According to the U.S. Department of Justice, human trafficking has become the second fastest growing criminal industry — just behind drug trafficking — with children accounting for roughly half of all victims.
- Holding perpetrators of sex trafficking accountable is a challenging and often long-term process that depends heavily on the testimony of traumatized trafficking victims.
- However, testifying in a public courtroom about sexual acts, and enduring grueling cross-examinations, can cause severe psychological and emotional harm for survivors. Such re-traumatization can render survivors of human trafficking and sexually-exploited children unable to withstand testifying in court.
- The use of psychological manipulation and violence to gain and maintain control over victims may leave victims unable to confront their exploiters in-person during a trial. Consistent with the effects of trauma bonding, victims may even deny previous truthful statements regarding their abuse.
- Recorded phone conversations or text messages between a victim and a buyer or trafficker can include unique, relevant, credible, incriminating pieces of evidence, allowing prosecutors to bring exploiters to justice without re-traumatizing victims.
- Enabling prosecutors to present this reliable evidence allows offenders to be held accountable, even if the victim is unable or unwilling to testify. Disallowing this credible evidence in criminal or civil cases could frustrate the pursuit of justice for these egregious crimes.
- Enabling access to justice for victims of human trafficking and accountability for perpetrators of forced prostitution, or commercial sexual exploitation of children is of high importance both to society as a whole, and specifically for victims of human trafficking.

Legislative Solution: Enact a hearsay exception that allows reliable prior statements and communications to be admitted even if the victim is unable or unwilling to testify, ensuring that perpetrators cannot hide behind their own wrongdoing of manipulation and violence that attempt to silence victim-witnesses.

How This Bill Addresses the Problem:

- Establishes a study by the Oregon Law Commission regarding changes to the law concerning hearsay for sex trafficking cases.
- Requires the Oregon Law Commission to report the results of the study and any recommendations by December 2015, in time to introduce a hearsay exception bill next session.