



*The Judiciary, State of Hawaii*

**Testimony to the House Committee on Judiciary and Labor**

Senator Gilbert S.C. Keith-Agaran, Chair  
Senator Maile S.L. Shimabukuro, Vice Chair

Friday, February 26, 2016, 10:00 a.m.  
State Capitol, Conference Room 016

by

R. Mark Browning  
Senior Judge, Deputy Chief Judge  
Family Court of the First Circuit

**WRITTEN TESTIMONY ONLY**

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**Bill No. and Title:** Senate Bill No. 2886, S.D.1, Relating to Age of Consent for Adolescent Mental Health Services.

**Purpose:** Lowers the age of consent to receive mental health treatment or counselling services.

**Judiciary's Position:**

The Judiciary writes in support of this bill.

Unfortunately, trauma and increasingly stressful living conditions are realities facing the youth of today. Lowering the age of consent to mental health services would increase the opportunities for the young people to reach out for help. This bill does not overlook parents. The mental health service provider has an affirmative duty to contact and involve parents unless the provider determines that such contact is inappropriate. We believe that this strikes a balance between the rights and responsibilities of the parents, the growing need for such services to youth, and all parties' constitutional right to privacy.

Thank you for the opportunity to submit testimony on this matter.



STATE OF HAWAII  
DEPARTMENT OF EDUCATION  
P.O. BOX 2360  
HONOLULU, HAWAII 96804

**Date:** 02/26/2016

**Time:** 10:00 AM

**Location:** 016

**Committee:** Senate Judiciary and Labor

**Department:** Education

**Person Testifying:** Kathryn S. Matayoshi, Superintendent of Education

**Title of Bill:** SB 2886, SD1 RELATING TO AGE OF CONSENT FOR ADOLESCENT MENTAL HEALTH SERVICES.

**Purpose of Bill:** Reduces barriers in accessing mental health care for adolescents by lowering the age of consent to receive treatment from 18 years old to 12 years old. (SD1)

**Department's Position:**

The Department of Education (Department) agrees it is important to reduce barriers for adolescents in accessing mental health care that may otherwise be unobtainable due to family dynamics or other circumstances.

However, at age 12, children are generally unable to make informed and appropriate choices and decisions in consenting to mental health care treatments. Respectfully, the Department asks this committee to consider amending the age of consent from age 12 to age 14, similar to a measure moving through the House (HB 2357 HD1), that would allow minors 14 years of age or older to consent to mental health treatment or counseling services by a licensed mental health professional if the professional deems the minor is mature enough to participate intelligently in the treatment or services.

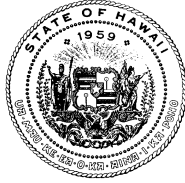
Under the Individuals with Disabilities Education Act (IDEA), mental health services are provided under the student's Individualized Education Program (IEP), thus an issue with such a service in the student's IEP can be taken up by a parent through due process.

However, the Department continues to have concerns as to this proposed measure's applicability to general education, homeless, and foster care students, and any potential implications or liability issues of not obtaining parental consent. Separately, the Department is exploring the effects of this measure as it pertains to unaccompanied youth who are homeless.

The Department is open to collaborating on this subject with the Department of Health. In particular, we would appreciate receiving any information on standard practices regarding minors' access and consent to mental health care in other states, including the coverage of

costs by other states' education agencies and the sanctioned practice of licensed mental health professionals of these agencies, areas that may not have been considered prior to the introduction of this measure.

Thank you for the opportunity to provide testimony and comments on this measure.



**STATE OF HAWAII**  
**DEPARTMENT OF HEALTH**  
P. O. Box 3378  
Honolulu, HI 96801-3378  
doh.testimony@doh.hawaii.gov

**Testimony in SUPPORT of SB2886 SD1  
RELATING TO AGE OF CONSENT FOR  
ADOLESCENT MENTAL HEALTH SERVICES**

SENATOR GILBERT S.C. KEITH-AGARAN, CHAIR  
SENATE COMMITTEE ON JUDICIARY AND LABOR

Hearing Date: February 26, 2016, 10:00 a .m.

Room Number: 016

1 **Fiscal Implications:** None to State of Hawaii.

2 **Department Testimony:** The Department of Health (DOH) strongly supports this  
3 Administration Bill that lowers from 18 years to 12 years the age at which a minor may consent  
4 to mental health services from a licensed mental health professional without parental consent,  
5 provided that both minor and provider agree.

6 Statement of Problem

7 Minors may find necessary mental health services inaccessible due to stigma and anxiety, or  
8 more rarely because of parental opposition. The literature is clear and convincing:

- 9
- 10 • The Guttmacher Institute, a grantee of the National Institute of Health, published in 2003  
11 that “Research from as far back as the late 1970s has highlighted the importance of  
12 confidentiality to teens' willingness to seek care.”
  - 13 • The Journal of the American Medical Association in 1999 found that “a significant  
14 percentage of teenagers had decided not to seek health care that they thought they needed  
15 due to confidentiality concerns.”

15 It is therefore reasonable to believe that more accessible mental health services would improve  
16 emotional wellbeing, increase earlier intervention, and decrease serious negative outcomes such  
17 as addiction and suicide.

1 Precedence in Hawaii Revised Statutes (HRS) and Other States

2 The State of Hawaii currently grants consenting minors access to substance abuse and  
3 reproductive health care, pursuant to section 577-26, HRS, and section 577A-2, HRS,  
4 respectively.

5 Twenty states and the District of Columbia currently permit minors the explicit authority to  
6 consent to outpatient mental health treatment, and no state explicitly requires parental consent or  
7 notification.

8 Conditions and Responsibilities of the Client, Parents, and Provider

- 9
- 10 • SB2886 SD1 does not exclude parental involvement
    - 11 ○ If, in the treating provider's clinical opinion, parental involvement would not be
    - 12 detrimental to care, the clinician must work with the youth to appropriately
    - 13 include the parent in treatment
    - 14 ○ The youth may not abrogate treatment that their parent has consented to and vice
    - 15 versa.
  - 16 • SB2886 SD1 does not compel any provider or minor to engage in treatment but merely
  - 17 provides the option to do so
    - 18 ○ A licensed provider of mental services may refuse to engage with a consenting
    - 19 minor due to lack of maturity or any other valid professional or business reason
    - 20 ○ The option to engage in treatment does not relieve a provider or consenting minor
    - 21 from any other responsibilities of a legal, professional, ethical, or other nature that
    - 22 are not explicitly permitted by this measure

22 **Offered Amendments:** None.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 24, 2016 4:47 PM  
**To:** JDLEstimony  
**Cc:**  
**Subject:** \*Submitted testimony for SB2886 on Feb 26, 2016 10:00AM\*

**SB2886**

Submitted on: 2/24/2016

Testimony for JDL on Feb 26, 2016 10:00AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Chris Wells	Individual	Oppose	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 25, 2016 9:12 AM  
**To:** JDLTestimony  
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**Subject:** Submitted testimony for SB2886 on Feb 26, 2016 10:00AM

**SB2886**

Submitted on: 2/25/2016

Testimony for JDL on Feb 26, 2016 10:00AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kimberly Allen	Individual	Support	No

Comments: In my professional role, I have encountered a number of situations when parents declined to receive services for their child, despite the youth's serious emotional and mental problems, including suicidality. It is important for the well-being of youth with rejecting parents or parents who are unavailable to be able to access services while efforts are being made to reach out to parents, when appropriate. Please support this bill.

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Dear Senators;

I adamantly oppose SB 2886 SD 1. The bill undermines parental care and authority of their children, and the health of the family.

The bill states: a minor who is twelve years of age or older may consent to mental health treatment or counseling services provided by a licensed mental health professional if, in the opinion of the licensed mental health professional, the minor is mature enough to participate intelligently in the mental health treatment or counseling services.

I am amazed that the legislators believe that 12 year olds, no matter how mature they appear, have the capacity to “participate intelligently in mental health treatment or counseling”. They have so little life experience to determine their mental health needs. They are barely out of childhood, in the midst of confusing, adolescent changes, and need their parents’ wisdom, love and support now more than ever. Who would care for and know them better than their parents? To allow and encourage adolescents and teens younger than 18 to pursue counseling and treatment without their parent’s knowledge and permission is dangerous to their health and damaging to the family structure.

The bill goes on to say: (b) The mental health treatment or counseling services of a minor authorized by this section shall include involvement of the minor's parent or legal guardian, unless the licensed mental health professional, after consulting with the minor, determines that the involvement would be inappropriate. The licensed mental health professional shall state in the client record whether and when the treating clinician attempted to contact the minor's parent or legal guardian, and whether the attempt to contact was successful or unsuccessful, or the reason why, in the treating licensed mental health professional's opinion, it would be inappropriate to contact the minor's parent or guardian.

No definitive reasons are given, other than the counselor’s “opinion”, as to why it would be “inappropriate to contact the minor’s parent or guardian.” If you are going to take away a parent’s right to know how their child is being counseled and possibly treated, it had better be clearly spelled out. If abuse or safety issues are the concerns, there are already laws and procedures that can be enacted to protect minors.

The bill is dangerous. It circumvents parental love, care and authority, and undermines the role of the family in a minor’s life.

I oppose SB 2886 SD1 and ask you to vote “no”.

Mahalo for your time,

Lisa Poulos



February 23, 2015

To: Senator Suzanne Chun Oakland, Chair  
And members of the Committee on Human Services

Senator Rosalyn Baker, Chair  
And members of the Committee on Commerce, Consumer Protection and Health

**Testimony In Support of SB2886 SD1 Relating To Age Of Consent For Adolescent  
Mental Health Services**

Hearing Date: Friday, February 26, 2016 at 10:00am      Hearing Place: Conference Room 016

My name is Megan Kinoshita and I am currently obtaining a Bachelors Degree in Social Work through the University of Hawaii at Manoa. I am submitting independent testimony in support of SB2886 SD1, which seeks to reduce barriers in accessing mental health care for adolescents by lowering the age of consent to receive treatment from 18 years old to 12 years old.

Whenever it is possible, parents and other family members should be involved in mental health services for their children. But to some degree, legally mandated parental consent requirements may operate as barriers to adolescents' access to needed health services. With parental consent, a possible scenario is that a large number of adolescent minors would be unwilling to reveal to their parents their need for health services – or at least their need for certain services associated with drug or alcohol abuse, or mental health problems. Therefore, adolescents would delay or be deterred from seeking these services entirely.

In addition to reducing the barriers, adolescents should be informed about the legal aspects of access to health services. Such information would give adolescents the knowledge they need to make choices about whether or not to seek care. Adolescents should also be informed about the various mental health services available to them. As well as the benefits of actively seeking help, to help better themselves. Respectively, if mental health services became more accessible to adolescents, it is reasonable to believe that emotional wellbeing would improve, increase in earlier intervention and a decrease in negative outcomes such as addiction and suicide.

Thank you for this opportunity to testify.

Megan Kinoshita

February 25, 2016

To: Senator Suzanne Chun Oakland, Chair,  
And members of the Committee on Human Services

Senator Rosalyn Baker, Chair  
And members of the Committee on Commerce, Consumer Protection, and Health

**WRITTEN TESTIMONY IN SUPPORT OF SB 2886 RELATING TO AGE  
OF CONSENT FOR ADOLESCENT MENTAL HEALTH SERVICES**

I am writing in support of SB2886. I am employed by the Department of Health, Child and Adolescent Mental Health Division where I am the Branch Chief at the Maui Family Guidance Center. Although I currently work on Maui for the State Department of Health, Child and Adolescent Mental Health Division, I am submitting my testimony as a result of personal experience in working as a mental health counselor for the past 21 years, of which 16 of those years included direct counseling services provided to clients typically between 12 and 18 years of age.

This bill if approved would remove a major barrier to adolescents receiving needed mental health care. Examples of where this is necessary include cases where there may be child abuse present and the family is not willing or able to openly discuss the abuse due to family dysfunction including parental substance use or unresolved parental mental health issues. Another example includes cases where the adolescent is unable to discuss issues around their sexuality including sexual orientation or sexual identity due to family being unwilling to accept the adolescent, or even worse, abuse of the adolescent due to their orientation or identity. Studies show that when an LGBT identified adolescent comes from a non-accepting family, likelihood of mental health issues including depression and suicidal ideation greatly increase. With the passing of this bill, the well-being of our youth would be positively affected as we would be able to come from a preventative approach rather than reactive. Thank you for the opportunity to testify regarding SB2886.

Sincerely,

Robin Lee, MA

Branch Chief

Maui Family Guidance Center

CAMHD, DOH



*“Strategic Change”*

Scott K. Shimabukuro, Ph.D. ABPP, LLC

Clinical Psychologist PSY#845  
Board Certification Couples & Family Psychology #5977

February 24, 2016

To the Senate Committee on Judiciary and Labor,

As both a public and independently practicing clinical psychologist I am in favor of this bill.

1. Please understand that this bill does not compel a clinician or department, such as the Department of Education, to provide a particular service. If anyone’s policy is to require parental consent then they can do so. Currently all adults can consent to any medical service but it does not mandate the consenting adult will receive that service.
2. This bill also clearly states that parents must be involved when it is not detrimental to care. As with any good practice, the clinician will need to assess the situation and document the justification for specific decisions in the health record.
3. It has been well established in the medical research that youth do not seek valuable services when they believe they cannot do so independently. This would allow for access as is already available for family planning and substance abuse treatment.

Sincerely,

Scott K. Shimabukuro, PH.D. ABPP

Dear Seantors,

I support SB2886 because we are losing too many children to suicide and homelessness. They need to be able to obtain help without parent's consent because too many parents won't support them. 40% of homeless youth are LGBT for precisely this reason. I know personally of children wanting to commit suicide because of lack of parental support and ability to seek out counseling. Please pass this bill to protect children from harm.

Mahalo,

Cynthia Fritts

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**From:** mailinglist@capitol.hawaii.gov  
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**SB2886**

Submitted on: 2/25/2016

Testimony for JDL on Feb 26, 2016 10:00AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Debra Albertazzi	Individual	Oppose	No

Comments: I oppose passage of this bill

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**SB2886**

Submitted on: 2/25/2016

Testimony for JDL on Feb 26, 2016 10:00AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jaclyn Stanford	Individual	Oppose	No

Comments: I oppose the passage of this bill.

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