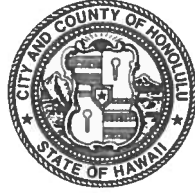


POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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CHIEF

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OUR REFERENCE **WO-KK**

March 13, 2018

The Honorable Brian T. Taniguchi, Chair
and Members
Committee on Judiciary
State Senate
Hawaii State Capitol
415 South Beretania Street, Room 016
Honolulu, Hawaii 96813

Dear Chair Taniguchi and Members:

SUBJECT: House Bill No. 2134, H.D. 1, Relating to Violation of Privacy

I am Walter Ozeki, Captain of the Criminal Investigation Division of the Honolulu Police Department (HPD), City and County of Honolulu.

In this day and age, electronic devices are able to surreptitiously take photographs or record video. They are also readily accessible to just about anyone in the general public. This availability in combination with the easy accessibility and wide distribution base of social media creates a situation, which can be easily exploited by persons with the intention of causing harm to their victims.


The violation of one's privacy or the threat of using material obtained through the violation of one's privacy has become an all too common occurrence in today's society and necessitated the creation of violation of privacy laws. Hawaii law has consistently recognized that minors are a particularly vulnerable segment of our population and deserve additional protection under Hawaii law. The creation of a violation of privacy of a minor statute and the companion threatening to violate the privacy statute would be an expected and natural expansion of the privacy laws. It would also assist in addressing the current trends of this type of predatory behavior.

The Honorable Brian T. Taniguchi, Chair
and Members
March 13, 2018
Page 2

The HPD urges you to support House Bill No. 2134, H.D. 1, Relating to Violation of Privacy.

Thank you for the opportunity to testify.

Sincerely,


Capt. Mikel KUNISHIMA / 100768
for Walter Ozeki, Captain
Criminal Investigation Division

APPROVED:


Susan Ballard
Chief of Police



SENATE COMMITTEE ON JUDICIARY

TESTIMONY—HB 2134, HD 1, Relating to Violation of Privacy

TUESDAY, MARCH 13, 2018

Jeanné Kapela, UNITE Hawaii Executive Director

POSITION: STRONG SUPPORT

Chair Taniguchi and committee members,

Hawai'i is home to over 150 high-risk sex trafficking establishments, with the average age a victim is first exploited being only 13-years-old. We are also a target for “cybertrafficking,” with over 110,000 ads for local prostitution posted online each year. Yet, the numbers fail to fully capture the human toll of the commercial sex trade, a tragedy we witness each day in the eyes of the survivors we serve.

UNITE is an educational nonprofit devoted to ending sex trafficking in Hawai'i. Through outreach and awareness in local schools, we provide students with the skills necessary to prevent exploitation by building healthy relationships and learning communities. Our program, “It Ends With Us,” explains how trafficking works in the 21st Century, preparing students to recognize threatening situations and respond to potential abuse. To date, we have provided anti-trafficking education to thousands of keiki in our state’s public school system. Working with UNITE’s strategic partner, IMUAlliance, we have also helped to emancipate sex trafficking victims from local brothels in the Ala Moana area. For both victims who self-identify at the schools we visit and those for whom we’ve provided direct intervention services, a lack of information about how to get help is a common concern.

Many of our victims are subjected to so-called “revenge porn,” or the nonconsensual disclosure of images and/or videos of themselves engaged in a sex act

or in the nude as a means of shaming them into sexual servitude, especially victims who are trafficked through the internet and whose images are used to advertise their exploitation. We believe that revenge porn is sexual assault and that efforts to threaten, humiliate, and intimidate people, especially young women, through such means are an abhorrent violation of privacy. Accordingly, we support this bill, which applies our state's violation of privacy provisions to children and allows those who have suffered intimidation because of the threat of being publicly humiliated through the release of sexually explicit images or videos to receive justice.

Thank you for the opportunity to testify in support of this bill.



46-063 Emepela Pl. #U101 Kaneohe, HI 96744 · (808) 679-7454 · Kris Coffield · Co-founder/Executive Director

**TESTIMONY FOR HOUSE BILL 2134, HOUSE DRAFT 1, RELATING TO
VIOLATION OF PRIVACY**

**Senate Committee on Judiciary
Hon. Brian T. Taniguchi, Chair
Hon. Karl Rhoads, Vice Chair**

**Tuesday, March 13, 2018, 9:30 AM
State Capitol, Conference Room 016**

Honorable Chair Taniguchi and committee members:

I am Kris Coffield, representing IMUAlliance, a nonpartisan political advocacy organization that currently boasts over 400 members. On behalf of our members, we offer this testimony in strong support of House Bill 2134, HD 1, relating to violation of privacy.

IMUAlliance is one of the state's largest victim service providers for survivors of sex trafficking. Over the past 10 years, we have provided comprehensive direct intervention services to 130 victims, successfully emancipating them from slavery and assisting in their restoration, while providing a range of targeted services to over 1,000 victims in total. Each of the victims we have assisted has suffered from complex and overlapping trauma, including post-traumatic stress disorder, depression and anxiety, dissociation, parasuicidal behavior, and substance abuse. Trafficking-related trauma can lead to a complete loss of identity. A victim we cared for in 2016, for example, had become so heavily trauma bonded to her pimp that while under his grasp, she couldn't remember her own name.

Sex trafficking is a profoundly violent crime. The average age of entry into commercial sexual exploitation is 13-years-old, with 60 percent of trafficked children being under the age of 16. Approximately 150 high-risk sex trafficking establishments operate in Hawai'i. An estimated 1,500-2,500 women and children are victimized by sex traffickers in our state annually. Over 120,000 advertisements for Hawai'i-based prostitution are posted online each year, a number that is rapidly increasing as technology continues to outpace the law. More than 80 percent of runaway youth report being approached for sexual exploitation while on the run, over 30 percent of whom are targeted within the first 48 hours of leaving home. With regard to mental health, sex trafficking victims are twice as likely to suffer from PTSD as a soldier in a war zone. Greater than 80 percent

of victims report being repeatedly raped and 95 percent report being physically assaulted, numbers that are underreported, according to the United States Department of State and numerous trauma specialists, because of the inability of many victims to recognize sexual violence. As one underage survivor told IMUAlliance prior to being rescued, “I can’t be raped. Only good girls can be raped. I’m a bad girl. If I *want* to be raped, I have to *earn* it.”

Many of our victims are subjected to so-called “revenge porn,” or the nonconsensual disclosure of images and/or videos of themselves engaged in a sex act or in the nude as a means of shaming them into sexual servitude. In 2014, Hawai’i passed Act 116, which criminalizes revenge porn under HRS §711-1110.9, violation of privacy in the first degree. Since the enactment of our state’s revenge porn ban, though, we have become extremely disheartened to learn that, as of late 2016, the harshest sentences being delivered for revenge porn offenses in the islands are one day in jail, plus probation. Moreover, as of late October in 2016, only two of nine revenge porn cases had resulted in any jail time, despite the crime being graded as a class C felony. Following the lead of the Cyber Civil Rights Initiative, we believe that revenge porn is tantamount to sexual assault and that efforts to threaten, humiliate, and intimidate people, especially young women, through such means is an abhorrent violation of privacy, and one we are committed to providing greater awareness of and outreach for in the coming year. Accordingly, we support this bill’s application of our state’s violation of privacy provisions to children who have experienced the degradation wrought by revenge porn, which is graded as a class B felony, consistent with our state’s emphasis on punishing child predators more severely than those who target adults. We also support including language regarding threatening to violate an individual’s privacy through an act of revenge porn under HRS §711-1110.9, which will allow those who have suffered intimidation because of the threat of public humiliation through the release of sexually explicit images or videos to receive justice and allow prosecutors to make cases without retraumatizing victims by requiring them to reveal sexually explicit materials in a court of law.

Mahalo for the opportunity to testify in strong support of this bill.

Sincerely,
Kris Coffield
Executive Director
IMUAlliance

HB-2134-HD-1

Submitted on: 3/10/2018 7:29:09 PM

Testimony for JDC on 3/13/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jaunette Itsuno	Individual	Support	No

Comments:



March 10, 2018

Senator Brian T. Taniguchi, Chair
Senate Committee on Judiciary

Re: H.B. 2134 HD1 Relating to Violation of Privacy

Hearing: Tuesday, March 13, 2018, 9:30 am, Room 016

Dear Chair Taniguchi and Members of the Committee on Judiciary:

Hawaii Women Lawyers submits testimony in **strong support** of H.B. 2134 HD1. This measure addresses amends the offense of violation of privacy in the first degree to prohibit threats or acts to disclose an image or video. It also enhances the penalty if the person or persons entitled to privacy or the depicted person is a minor and requires that any recording or image made or disclosed be sealed and remains confidential.

The mission of Hawaii Women Lawyers is to improve the lives and careers of women in all aspects of the legal profession, influence the future of the legal profession, and enhance the status of women and promote equal opportunities for all.

In the digital age, “revenge pornography,” i.e. the nonconsensual disclosure of images and/or videos of individuals engaged in a sex act or in the nude, has become a serious issue that disproportionately affects women. It has far reaching consequences, ranging from embarrassment and humiliation to forced sex trafficking.

Hawaii Women Lawyers supports this measure because it expands current law to address situations in which images are recorded without the subject’s consent, as well situations in which images were voluntarily provided but the disclosure thereof is made as an act of revenge or retribution. It also expands the law to include women under the age of eighteen, which protects our most vulnerable population. It is significant to Hawaii Women Lawyers that H.B. 2134 HD1 classifies this particular harassment as a felony in the era of teen “sexting,” instantaneous internet access, and cyber bullying.

We believe that H.B. 2134 HD1 addresses the growing problem of “revenge pornography” by augmenting the offense of violation of privacy as well as actively protecting the confidentiality of the victims. For these reasons, we respectfully request that the Committee pass H.B. 2134 HD1.

Thank you for the opportunity to testify in strong support of this measure.

HB-2134-HD-1

Submitted on: 3/12/2018 9:55:06 AM

Testimony for JDC on 3/13/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Testifying for OCC Legislative Priorities Committee, Democratic Party of Hawai'i	Support	No

Comments:

DEPARTMENT OF THE PROSECUTING ATTORNEY
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LATE

KEITH M. KANESHIRO
PROSECUTING ATTORNEY



CHASID M. SAPOLU
FIRST DEPUTY PROSECUTING ATTORNEY

THE HONORABLE BRIAN T. TANIGUCHI, CHAIR
SENATE COMMITTEE ON JUDICIARY
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawai'i

March 13, 2018

RE: H.B. 2134, H.D. 1; RELATING TO VIOLATION OF PRIVACY.

Chair Taniguchi, Vice-Chair Rhoads and members of the Senate Committee on Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu (“Department”) submits the following testimony, supporting the intent of H.B. 2134, H.D. 1.

Based on our reading of H.B. 2134, H.D. 1, it appears that the intent of this bill is to add a higher penalty for committing Violation of Privacy in the First Degree if the victim is a minor, and to make it illegal for someone to threaten to disclose the types of materials specified in Section 711-1110.9(b)—part of Violation of Privacy in the First Degree—where Section 711-1110.9(b) currently prohibits only the disclosure itself. The Department appreciates that H.B. 2134, H.D. 1 adopts our proposed language to address any concerns regarding the penalty section in Section 711-1110.9 and the use of “or threatens to disclose” in Section 711.1110.9(b), H.R.S.

H.B. 2134, H.D. 1, in its current form could apply equally whether the threat is expressed directly to the depicted person, or to someone else (e.g. the depicted person’s spouse or parent), though it may be advisable to state that in the legislative committee reports, if that is the desired effect. We also note that criminalizing a threat to act, in addition to the act itself, within the same statute, would not be unprecedented, as existing statutes already do this (e.g. Section 708-841, Robbery in the second degree).

In addition, the Department would also like to express concerns with the language used on page 2 line 10-11, “unless the disclosure was an act of revenge or retribution”. This proposed amendment may raise constitutional issues, such that it appears to criminalize disclosure of an act that was done voluntarily in the public domain. As such, the Department would propose that this amendment be removed entirely.

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu supports the intent of H.B. 2134, H.D. 1. Thank you for the opportunity to testify on this matter.

HAWAII
STATE
COMMISSION
ON THE
STATUS
OF
WOMEN



Chair
LESLIE WILKINS

COMMISSIONERS:

SHERRY CAMPAGNA
CYD HOFFELD
MARILYN LEE
JUDY KERN
AMY MONK
LISA ELLEN SMITH

Executive Director
Khara Jabola-Carolus

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March 12, 2018

To: Sen. Brian Taniguchi, Chair
Sen. Karl Rhoads, Vice Chair
Honorable Members of the Senate Committee on Judiciary

From: Khara Jabola-Carolus
Executive Director
Hawai'i State Commission on the Status of Women

Re: Testimony in Support, HB2134

LATE

Thank you for this opportunity to testify in strong support of HB2134, which amends the offense of violation of privacy in the first degree to prohibit threats or acts to disclose an image or video. This measure also heightens the penalty if the person entitled to privacy is a minor, and, critically, protects the confidentiality of victims.

The internet has opened up new opportunities for violations of women's human rights. So-called "revenge porn," the nonconsensual disclosure or threat to disclose images of an individual engaged in a sex act or in the nude, is a political phenomenon perpetrated almost overwhelmingly by men against women. In the digital age, women and girls face more pressure than any other generation to visually display their bodies for social acceptance and attention. The Commission believes that it is critically important to understand revenge porn as a new form of violence against women used to further other forms of sex-based control and humiliation.

The Commission supports HB2134 and urges the Committee to pass this measure.

Sincerely,

Khara Jabola-Carolus

HB-2134-HD-1

Submitted on: 3/12/2018 5:21:56 PM

Testimony for JDC on 3/13/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lea Minton	Individual	Support	No

Comments: