

HB-1942-HD-1

Submitted on: 2/24/2020 6:32:48 AM

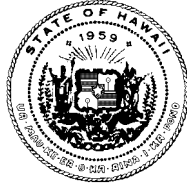
Testimony for JUD on 2/25/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Darcia Forester	Office of the Public Defender	Comments	Yes

Comments:

The Office of the Public Defender appreciates the changes made to (a)(11) of this measure adding language acknowledging the need for our office to abide by professional ethical rules and acknowledging the attorney-client privilege and our legal obligations.

DAVID Y. IGE
GOVERNOR



PANKAJ BHANOT
DIRECTOR

CATHY BETTS
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809-0339

February 24, 2020

TO: The Honorable Representative Chris Lee, Chair, and
House Committee on Judiciary

FROM: Pankaj Bhanot, Director

SUBJECT: **HB 1942 HD1 – RELATING TO CHILD ABUSE REPORTING**

Hearing: Tuesday, February 25, 2020, 2:00 p.m.
Conference Room 325, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) respectfully opposes the HD1 and offers comments.

PURPOSE: This bill adds members of the clergy, commercial computer technicians, and commercial film, and photographic print or image processors to the categories of persons who are required to report child abuse and neglect to DHS or police. Provides a "safe harbor" through December 31, 2020, for reporting by clergy of known or suspected child abuse that was previously unreported and that did not arise during a penitential communication. Takes effect on 12/31/2059. (HD1)

DHS supported the original bill; however, DHS does not support the exception created in the HD1 (in red):

"(11) Administrators and employees of any public or private organization whose duties require direct contact with or supervision of children, **except for those individuals whose legal obligations are in direct conflict with the reporting requirements under this section.**"

The amendment will weaken Hawaii's mandated reporter law as it is overly broad as it could apply to the current list of mandated reports identified in subsections (1) -(7) and proposed additions; it is unclear as to what legal obligations apply, for example a binding non-disclosure agreement as a condition of employment or termination from employment would be a "legal obligation;" and the exception directly conflicts with the purpose of mandated reporting laws in Chapter 350, Hawaii Revised Statutes (HRS),

"to protect minors whose health and welfare are adversely affected by abuse or neglect by providing for the mandatory reporting of such cases to the appropriate public agency. It is intended that as a result of such reports, the protective services of the State shall be brought to bear on the situation in an effort to prevent further abuses, safeguard and enhance the welfare of such minors, and preserve family life wherever possible." Act 261, Session Laws of Hawaii 1967.

The proposed amendment will lead to confusion as it also conflicts with section 350-5, HRS, that provides for the admissibility of evidence that would otherwise be privileged,

§350-5 Admissibility of evidence. The physician-patient privilege, the psychologist-client privilege, the spousal privilege, and the victim-counselor privilege shall not be grounds for excluding evidence in any judicial proceeding resulting from a report of child abuse or neglect pursuant to this chapter.

The State and the Department rely upon employees of public and private organizations who, in the professional or official capacity suspect that child abuse or neglect has occurred or that there exists a substantial risk that child abuse or neglect may occur in the reasonably foreseeable future to report their concern. Excluding these individuals from the proposed measure will not expand responsibility to those who may have information to report suspected cases as modern society increasingly requires, instead, this amendment will delay intervention and allow suspected abusive and neglectful behavior to continue.

DHS defers to the Department of the Attorney General regarding existing protocols and or law that clarifies or describes the collection and sharing of electronic or photographic evidence described in this measure.

Thank you for the opportunity to testify on this bill.

HAWAII YOUTH SERVICES NETWORK

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Rick Collins, President

Judith F. Clark, Executive Director

Bay Clinic

Big Brothers Big Sisters of Hawaii

Big Island Substance Abuse Council

Bobby Benson Center

Child and Family Service

Coalition for a Drug Free Hawaii

Collins Consulting, LLC

Domestic Violence Action Center

EPIC, Inc.

Family Programs Hawaii

Family Support Hawaii

Friends of the Children of West Hawaii

Hale Kipa, Inc.

Hale 'Opio Kauai, Inc.

Hawaii Children's Action Network

Hawaii Health & Harm

Reduction Center

Hawaii Student Television

Ho'ola Na Pua

Kahi Mohala

Kokua Kalihi Valley

Kokua Ohana Aloha (KOA)

Maui Youth and Family Services

Na Pu'uwai Molokai Native Hawaiian Health Care Systems

P.A.R.E.N.T.S., Inc.

Parents and Children Together (PACT)

PHOCUSED

PFLAG – Kona Big Island

Planned Parenthood of the Great Northwest and Hawaiian Islands

Residential Youth Services & Empowerment (RYSE)

Salvation Army Family Intervention Services

Sex Abuse Treatment Center

Susannah Wesley Community Center

The Catalyst Group

February 21, 2020

To: Representative Chris Lee, Chair
And members of the Committee on Judiciary

Testimony in Support of HB 1942 HD 1 Relating to Child Abuse Reporting

Hawaii Youth Services Network, a statewide coalition of youth-serving organizations, supports HB 1942 HD 1 Relating to Child Abuse Reporting.

All children deserve to be protected from abuse and neglect and it should be the duty of all adults to report known or suspected child abuse.

Members of the clergy are often viewed by children as trusted adults to whom they can disclose their experiences with abuse or neglect. It is important that those disclosures be shared with the authorities.

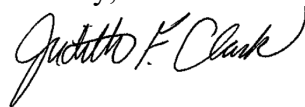
There is evidence that members of the clergy themselves may be the perpetrators of child abuse. In some cases, their superiors and colleagues have been aware of the abuse but have failed to take appropriate steps to intervene or report it. This should not be tolerated.

Computer technicians and photographic print or image processors may, through their work, become aware of pornographic and other images of children that indicate abuse or neglect.

Requiring members of the clergy, computer technicians, and print or image processors to be mandated reporters of abuse or neglect of a minor will increase the safety of our children.

Thank you for this opportunity to testify.

Sincerely,



Judith F. Clark, MPH
Executive Director



HB 1942, HD1, RELATING TO CHILD ABUSE REPORTING

FEBRUARY 25, 2020 · HOUSE FINANCE
COMMITTEE · CHAIR REP. SYLVIA LUKE

POSITION: Support.

RATIONALE: IMUAlliance supports HB 1942, HD1, relating to child abuse reporting, which adds members of the clergy, commercial computer technicians, and commercial film, and photographic print or image processors to the categories of persons who are required to report child abuse and neglect to DHS or police; and provides a "safe harbor" through December 31, 2020, for reporting by clergy of known or suspected child abuse that was previously unreported and that did not arise during a penitential communication.

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 (victim rescue) services to 150 victims, successfully emancipating them from slavery and assisting in their restoration, while providing a range of targeted services to over 1,000 victims and individuals at risk of sexual exploitation. 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. Yet, sadly, many of the victims with whom we work are misidentified as so-called "voluntary

prostitutes” and are subsequently arrested and incarcerated, with no financial resources from which to pay for their release.

Sex trafficking is a profoundly violent crime. The average age of entry into commercial sexual exploitation in Hawai'i may be as low as 14-years-old, with 60 percent of trafficked children being under the age of 16. Based on regular outreach and monitoring, we estimate that approximately 150 high-risk sex trafficking establishments operate in Hawai'i. In a recent report conducted by the State Commission on the Status of Women, researchers from Arizona State University found that 1 in every 11 adult males living in our state buys sex online. When visitors are also counted, that number worsens to 1 in every 7 men walking the streets of our island home and a daily online sex buyer market of 18,614 for O'ahu and a total sex buyer population for the island of 74,362, including both tourists and residents.

ASU's findings are grim, but not surprising to local organizations that provide services to survivors of sex trafficking. IMUAlliance, for example, has trained volunteers to perform outreach to victims in high-risk locations, like strip clubs, massage parlors, and hostess bars. 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.”

Accordingly, we support measures to advance our state's ability to crack down on sexual slavery, including this proposal's requirement that members of the clergy report child abuse and neglect to the Department of Human Services or to the police. As the preamble to this measure states, Indiana, Oklahoma, Rhode Island, and Tennessee already require reporting by any person who has reason to believe that a child is being abused or neglected, while New Hampshire, Texas, West Virginia, and Wisconsin specifically require members of the clergy to report suspected child abuse and neglect to designated government authorities.

We note that Act 246 of 2013 included minor victims of sex and labor trafficking within the scope of the Child Protective Act and laws relating to child abuse, effectively defining sexual exploitation as a form of child abuse in Hawai'i for mandatory reporting purposes.

Therefore, this measure would ensure that acts sexual exploitation that are reported to and, at times, committed by members of the clergy (and subsequently reported to one another and to a clergy member's superiors within a church's hierarchy) are not covered up under the guise of protecting the holy cloth. We cannot allow religion to be a barrier to helping sexually exploited youth. As Christ noted in Matthew 25:40, "And the King will answer them, 'Truly, I say to you, as you did it to one of the least of these my brothers, you did it to me.'"

Finally, commercial computer technicians and commercial film and photographic print or image processors are asked provide services—often basic technological repair services—to digital tools on which child pornography is created and stored. We are heartened that this measure makes employees of these industries mandatory reporters of child abuse and neglect, including sexual abuse, and hope that the Legislature will work with tech companies in the future to establish training protocols for the identification of potential cases of harm.



TO: Chair Lee, Vice Chair San Buenaventura, and Members of the House Committee on Judiciary

FROM: Ryan Kusumoto, President & CEO of Parents And Children Together (PACT)

DATE/LOCATION: February 25, 2020; 2:00 p.m., Conference Room 325

RE: TESTIMONY IN SUPPORT OF HB 1942 HD 1– RELATING TO CHILD ABUSE REPORTING

We ask you to support HB 1942 HD 1 which adds members of the clergy, commercial computer technicians, and commercial film, and photographic print or image processors to the categories of persons who are required to report child abuse and neglect to DHS or police and provides a "safe harbor" through December 31, 2020, for reporting by clergy of known or suspected child abuse that was previously unreported and that did not arise during a penitential communication. This bill would help to strengthen current child abuse reporting laws and continue to help keep our keiki safe.

ONCE EVERY MINUTE A CHILD IS ABUSED physically, sexually, emotionally somewhere in America. Nearly 1,000,000 cases are reported annually across the nation and 4,000 cases of abuse are reported annually in Hawaii. While current child abuse and neglect mandated reporting laws are in effect and are intended to protect children, the current law does not include all individuals and professions who could play an important role in helping to protect our keiki. We support including clergy, computer technicians, and film or photographic print or image processors as mandated reporters.

Founded in 1968, Parents And Children Together (PACT) is one of Hawaii's not-for-profit organizations providing a wide array of innovative and educational social services to families in need. Assisting more than 15,000 people across the state annually, PACT helps families identify, address and successfully resolve challenges through its 18 programs. Among its services are: early education programs, domestic violence prevention and intervention programs, child abuse prevention and intervention programs, childhood sexual abuse supportive group services, child and adolescent behavioral health programs, sex trafficking intervention, and poverty prevention and community building programs.

Thank you for the opportunity to testify in **support of HB 1942 HD 1**, please contact me at (808) 847-3285 or rkusumoto@pacthawaii.org if you have any questions.

HB-1942-HD-1

Submitted on: 2/22/2020 1:00:36 PM

Testimony for JUD on 2/25/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Golojuch, Sr.	Individual	Support	No

Comments:

I support HB1942. Please pass. Thank you.

Mike Golojuch, Sr.