



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
THIRTIETH LEGISLATURE, 2020**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 2270, H.D. 1, RELATING TO SEX OFFENDERS.

**BEFORE THE:**

HOUSE COMMITTEE ON FINANCE

**DATE:** Tuesday, February 25, 2020                      **TIME:** 11:00 a.m.

**LOCATION:** State Capitol, Room 308

**TESTIFIER(S):** Clare E. Connors, Attorney General, or  
Paul R. Mow, Deputy Attorney General

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Chair Luke, and Members of the Committee:

The Department of the Attorney General appreciates the intent of this bill and provides the following comments. The purpose of this bill is give courts discretion to restrict persons convicted of a covered offense from residing “permanently or temporarily, within five hundred feet of any public or private school, child care facility, playground, or park where the children may gather.”

The Department of the Attorney General recognizes the potential public safety concern; however, chapter 846E, Hawaii Revised Statutes (HRS), is a civil statute that requires designated covered offenders to register with the Attorney General in the interest of public safety. Registration requirements must not be punitive and not part of the sentence of a sex offender. Covered offender registration residency restrictions that are found to be punitive are unconstitutional under Smith v. Doe, 538 U.S. 84 (2003).

One possible solution is to place the proposal under section 706-624(2), HRS, which covers discretionary conditions of probation. The court would then have the option to add this as a condition of probation provided that there is an appropriate finding the condition is reasonably related to the factors set forth under section 706-606, HRS, and involve only deprivations of liberty or property as are reasonably necessary for the purposes indicated under section 706-606(2), HRS. The condition would end when the sex offender is no longer under probation or where the court has removed the condition.

Thank you for the opportunity to provide comments.

**LATE**

**HB-2270-HD-1**

Submitted on: 2/25/2020 10:38:38 AM

Testimony for FIN on 2/25/2020 11:00:00 AM

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

Comments: