



Office of the Public Defender State of Hawaii



Testimony of the Office of the Public Defender, State of Hawaii to the House Committee on Judiciary

January 29, 2020

H.B. No. 2270: RELATING TO SEX OFFENDERS

Chair: Representative Chris Lee, Vice Chair: Representative Joy San Buenaventura and Members of the Committee:

The Office of the Public Defender opposes H.B. 2270.

The purpose of H.B. 2270 is to create a new sub-section in HRS section 706, so that if a person who is at least eighteen years of age, subjects another person under the age of twelve to sexual penetration he/she shall be sentenced to an indeterminate term of twenty years of incarceration with a mandatory minimum term of ten years. In other words, if a person is convicted of such a class A felony he/she must serve a sentence of at least 10 years, but not more than 20 years.

This change to the current law serves only one purpose; to remove discretion from the presiding judge and the Hawaii Paroling Authority (HPA) in their handling of defendants convicted of this type of sexual offense. This thinking is contrary to the fundamental principles of jurisprudence, which is that each case and defendant is unique, and that each case must be resolved taking into consideration the circumstances of that individual matter. It should be noted, that anyone convicted of a class A felony sexual offense is already subjected to a sentence of an indeterminate term of twenty years, and that the HPA will not parole such a person unless, while incarcerated, they successfully complete an approved Sex Offender Treatment Program. Furthermore, in fiscal 2019, the Hawaii Paroling Authority reported that of the 13 class A felony (20 year maximum) sex cases they presided over the average minimum sentence given was 13.88 years, the range being from 10 years to 19.16 years. Therefore, the HPA is already providing the

community with the safety that this bill hopes to provide. However, the danger of H.B. 2270, is that it removes the discretion of a sentencing judge and the HPA to depart from their current practices when required by the circumstances of a particular case. An 18 year old, first time offender, with psychological or learning disabilities and with a history of being molested, should to be treated differently from a defendant without such mitigating factors in their background. H.B. 2270 would treat all those convicted of the above-described class A sex offense the same. There is nothing more distressing to those working in criminal justice then to be without discretion to handle the unique cases that come into our legal system.

Thank you for the opportunity to comment on H.B. 2270

HB-2270

Submitted on: 1/28/2020 3:24:22 PM

Testimony for JUD on 1/30/2020 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Victor K. Ramos	Individual	Support	No

Comments:

Strong support.

HB-2270

Submitted on: 1/29/2020 5:49:08 PM

Testimony for JUD on 1/30/2020 2:45:00 PM

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Submitted By	Organization	Testifier Position	Present at Hearing
Dara Carlin, M.A.	Individual	Support	No

Comments:

STRONG Support for HB2270!