

STATE OF HAWAI‘I
OFFICE OF THE PUBLIC DEFENDER

**Testimony of the Office of the Public Defender,
State of Hawai‘i to the House Committee on Judiciary & Hawaiian Affairs**

March 2, 2021

H.B. No. 1107: RELATING TO COMPUTER CRIME.

Chair Nakashima, Vice Chair Matayoshi, and Members of the Committee:

The Office of the Public Defender opposes H.B. No. 1107.

The purpose of this measure is to incentivize parents and guardians to better ensure that their minor children refrain from using electronic devices to perpetrate acts of cyberbullying through the use of computers, tablets and other electronic devices. This broad mandate would also include smart phones or any electronic device with access to the internet.

Of particular concern is the requirement that electronic devices used “shall be forfeited....even when the perpetrator of the offense was a person under the age of eighteen who did not have ownership of the property.” This requirement would have a negative impact on poor families who may share electronic devices between multiple adults and minors in the same household. Poor families are barely able to keep up with the rigors and demands of distance learning and providing access to their children to devices and access to the internet. With the increase in Ohana housing and multiple-generation living arrangements during these times of economic stress, some as a result of the COVID-19 pandemic, we are seeing large families and poor families struggle to keep connected to the internet and the sharing of devices. If a 14-year old teenager who is secretly using a device to engage in harassment of a classmate, this measure would require the seizure of a phone or computer that may also be used by others in the household for distance learning (other minors or young adults included), to communicate with other family members, to arrange or confirm child care, or to communicate with employers. The removal of the only electronic device in the home may too be harsh of a penalty for the secret actions of a teenager.

We understand the intent of this measure, but we strongly object to the mandatory seizure of electronic devices. We suggest amending “shall” to “may” to alleviate this concern when dealing with minors.

Thank you for the opportunity to comment on this measure.



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

Date: 03/02/2021

Time: 02:00 PM

Location: 325 Via Videoconference

Committee: House Judiciary & Hawaiian
Affairs

Department: Education

Person Testifying: Dr. Christina M. Kishimoto, Superintendent of Education

Title of Bill: HB 1107 RELATING TO COMPUTER CRIME.

Purpose of Bill: Adds aggravated harassment by stalking to the list of offenses upon which the offense of use of a computer in the commission of a separate crime may be based. Specifies that property used in computer crimes shall be forfeited even when the perpetrator was a person under the age of 18 who did not have ownership of the property.

Department's Position:

The Hawaii State Department of Education (Department) supports the intent of HB 1107 and respectfully offers comments.

The Department agrees that any sort of bullying or harassment, whether online or through other means, should be addressed and resolved quickly and appropriately to ensure the safety of anyone being bullied and harassed. Unfortunately, the shift to online work and learning also shifts the method of bullying and harassment to a digital environment.

Based on the wording of the bill, it is the Department's understanding that the purpose focuses more on personal devices of students and their families. As such, should unlawful activities occur on devices that are not owned by the Department, there is little authority or jurisdiction for the Department to confiscate and review the personal device. The Department would address the bullying and harassment pieces through its cross-office processes and would cooperate with law enforcement should there be information needed for an investigation.

The Department has mechanisms and processes in place for Department-owned devices including website content filtering to restrict access to inappropriate online content, filtering and restrictions for student and staff email accounts, and monitoring tools for devices. In the event of any reported bullying or harassment incidents, the appropriate cross-office staff are called

upon to address them. Depending on the nature of the incident, staff from student support services, talent management, facilities and operations, and information technology services work together, along with law enforcement, to address and resolve the incidents.

Thank you for the opportunity to testify on this measure.

The Hawai'i State Department of Education is committed to delivering on our promises to students, providing an equitable, excellent, and innovative learning environment in every school to engage and elevate our communities. This is achieved through targeted work around three impact strategies: school design, student voice, and teacher collaboration. Detailed information is available at www.hawaiipublicschools.org.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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OUR REFERENCE

MK-KK

March 2, 2021

The Honorable Mark M. Nakashima, Chair
and Members
Committee on Judiciary
and Hawaiian Affairs
House of Representatives
Hawaii State Capitol
415 South Beretania Street, Room 325
Honolulu, Hawaii 96813

Dear Chair Nakashima and Members:

SUBJECT: House Bill No. 1107, Relating to Computer Crime

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

The HPD supports House Bill No. 1107, Relating to Computer Crime.

The amendments to Hawaii Revised Statutes (HRS), Section 708-893, Use of a computer in the commission of a separate crime, and Section 708-894, Forfeiture of property used in a computer crimes, will assist in protecting the vulnerable youth from cyberbullying. Taking away the tools that perpetrators use to commit these crimes of bullying, cyberbullying, and harassment is the first step in addressing these serious issues that hinder student learning and the educational environment.

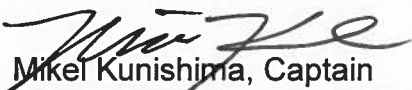
The loss of the perpetrator's tools (computers, tablets, smartphones, etc.) is paramount in stopping the misconduct. These devices may still be forfeited if the perpetrator is a student, under the age of 18, and does not have ownership of the device. This will give the HPD a valuable tool to immediately have an impact in protecting our vulnerable youth and hold the perpetrators accountable for their actions.

The Honorable Mark M. Nakashima, Chair
and Members
March 2, 2021
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The HPD urges you to support House Bill No. 1107, Relating to Computer Crime.

Thank you for the opportunity to testify.

Sincerely,


Mikel Kunishima, Captain
Criminal Investigation Division

APPROVED:



Susan Ballard
Chief of Police

HB-1107

Submitted on: 2/28/2021 5:26:28 PM

Testimony for JHA on 3/2/2021 2:00:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---|---------------------------|---------------------------|
| Michael Golojuch Jr | LGBT Caucus of the Democratic Party of Hawaii | Support | No |

Comments:

Aloha Representatives,

The LGBT Caucus of the Democratic Party of Hawai'i, Hawaii's oldest and largest policy and political LGBTQIA+ focused organization, fully supports HB 1107.

Mahalo nui loa for your time and consideration,

Michael Golojuch, Jr.

Chair

LGBT Caucus of the Democratic Party of Hawai'i