



TESTIMONY OF THE STATE ATTORNEY GENERAL TWENTY-FIFTH LEGISLATURE, 2009

ON THE FOLLOWING MEASURE:

S.B. NO. 227, RELATING TO PUBLIC SAFETY.

LATE

BEFORE THE:

SENATE COMMITTEE ON HUMAN SERVICES

DATE: Thursday, February 5, 2009 **TIME:** 1:15 PM

LOCATION: State Capitol, Room 016

TESTIFIER(S): Mark J. Bennett, Attorney General
or Lance M. Goto, Deputy Attorney General

Chair Chun Oakland and Members of the Committee:

The Department of the Attorney General opposes this bill.

The stated purpose of this bill is to prohibit registered sex offenders from entering upon and loitering within five hundred feet of any school or child care facility.

While the Department appreciates the intent of the bill to protect our children, the bill has many legal problems, and may not be an effective means of achieving its purpose of protecting children.

The bill is of questionable value because its prohibition is not an effective means of protecting children. The bill appears to prohibit all registered offenders, whether or not they have committed offenses against minors and pose a danger to minors, from loitering within five hundred feet of a school or child care facility. The bill does not prohibit offenders who pose a danger to minors from living next to minors, working with them, being in parks with them, or being near minors or having access to them in any other situation.

Moreover, this bill may improperly interfere with an offender's legitimate activities, such as taking the offender's child to school. The new proposed offense should not be added to chapter 708, which is limited to offenses against property rights.

The offense is also vague and may be difficult to enforce. It prohibits a "covered offender" from knowingly entering upon and loitering in a "restriction zone." It does not define what is meant by "covered offender" or refer to a definition, such as the definition in section 846E-1, Hawaii Revised Statutes. The prohibition of entering upon and loitering in a zone is unclear. It appears that to commit the new offense, an offender must "loiter" in the zone. This may be difficult to prove. It appears that an offender may enter a zone, live in it, work in it, play in it, pass through it, but not "loiter" in it.

For the foregoing reasons, the Department opposes this bill and respectfully requests that it be held.