



## TESTIMONY OF THE STATE ATTORNEY GENERAL TWENTY-FOURTH LEGISLATURE, 2008

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 2346, RELATING TO ENDANGERING THE WELFARE OF A MINOR.

**BEFORE THE:**

HOUSE COMMITTEE ON HUMAN SERVICES AND HOUSING

**DATE:** Tuesday, January 29, 2008 **TIME:** 8:50 AM

**LOCATION:** State Capitol Room 329  
*Deliver to: Committee Clerk, Room 326, 3 copies*

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

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Chair Shimabukuro and Members of the Committee:

The Department of the Attorney General supports this measure.

The purpose of this bill is to expand the offenses of endangering the welfare of a minor in the first and second degree to include all controlled substances not prescribed by a physician.

Currently, the law only prohibits an individual from causing or permitting a minor to ingest methamphetamine. The law should be expanded to prohibit conduct related to other controlled substances, not just methamphetamine.

However, the Department recommends that section 1 and section 2 be amended, tracking the wording of section 329-43.5, Hawaii Revised Statutes, in order to cover all situations where a controlled substance may be introduced into the body of a minor.

Therefore, section 1, on page 1, lines 9 through 12, should be amended to have paragraph (b) of section 709-903.5(1), Hawaii Revised Statutes, read as follows:

"(b) Intentionally or knowingly causes or permits the minor to inject, ingest [~~methamphetamine~~], inhale, or otherwise introduce into the minor's body any controlled substance that has not been prescribed by a physician for the minor."

Section 2, on page 2, lines 3 through 6, should be amended to have paragraph (b) of section 709-904(1), Hawaii Revised Statutes, read as follows:

"(b) Recklessly causes or permits the minor to inject, ingest  
[methamphetamine.], inhale, or otherwise introduce into  
the minor's body any controlled substance that has not  
been prescribed by a physician for the minor."

The Department respectfully requests that the bill be passed with the suggested amendments.

**LINDA LINGLE**  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
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Deputy Director  
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No. \_\_\_\_\_

**TESTIMONY ON HOUSE BILL 2346  
A BILL FOR AN ACT RELATING TO  
ENDANGERING THE WELFARE OF A MINOR  
Clayton A. Frank, Director  
Department of Public Safety**

Committee on Human Services and Housing  
Representative Maile S. L. Shimabukuro, Chair  
Representative Karl Rhoads, Vice Chair

Tuesday, January 29, 2008, 8:50 a.m.  
State Capitol, Room 329

Representative Shimabukuro and Members of the Committee:

The Department of Public Safety strongly supports House Bill 2346, which would expand the types of drugs covered under this offence. The legislature passed Act 249, 2006, Session Laws of Hawaii that amended sections 709-903.5(1) and 709-904(1), HRS, to expand the crimes of endangering a minor in the first and second degrees to include individuals who cause or permit a minor to ingest methamphetamine. This is limited in scope as it only covers one illicit substance "methamphetamine". Since the last legislative session Hawaii has seen an increase in the use of the Schedule II dangerous drug, cocaine, which would not be covered under these sections.

The language being proposed in this House Bill 2346 will be a deterrent for any individual caring for or having custody of a minor, to permit that minor to

inject, ingest, inhale, or otherwise use any controlled substance that has not been prescribed by a physician for that minor.

During the last legislative session some concerns were brought by a testifier (HB 1406 HD1 SD1) indicated that he was fearful that the language being proposed in House Bill 2346 would criminalize the act of a parent sharing controlled substance medications with their children. Under existing Hawaii law this is already a Felony and should not be done, not only because it is a violation of law but because it would be a tragedy for a parent to give a controlled substance prescribed for an adult to a child and that child have a adverse reaction to the medication causing respiratory arrest or death. Parents should never give a child a prescription controlled substance that is not specifically prescribed for that minor.

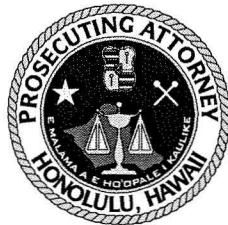
The department feels that the passage of House Bill 2346 is necessary to protect the health and safety of the children of Hawaii.

Thank you for the opportunity to testify on this matter.

DEPARTMENT OF THE PROSECUTING ATTORNEY  
CITY AND COUNTY OF HONOLULU

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**THE HONORABLE MAILE SHIMABUKURO, CHAIR**  
**HOUSE COMMITTEE ON HUMAN SERVICES AND HOUSING**  
Twenty-Fourth State Legislature  
Regular Session of 2008  
State of Hawaii

January 29, 2008

**RE: H.B. 2346; RELATING TO ENDANGERING THE WELFARE OF A MINOR.**

Chair Shimabukuro and members of the House Committee on Human Services and Housing, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in support of House Bill 2346.

The purpose of H.B. 2346 is to amend the offenses of endangering the welfare of a minor in the first and second degrees to include circumstances when a person having care or custody of a minor causes or permits the minor to inject, inhale or otherwise use any controlled substance that has not been prescribed by a physician.

In 2006, the legislature passed Act 249 which provided that persons having care or custody of minors who caused or permitted the minor to ingest methamphetamine would be guilty of endangering the welfare of a minor. However, the ingestion of other dangerous drugs such as cocaine and heroin is not covered by the amendments passed in Act 249. Given the problems that drug addiction and drug abuse can cause and the state's interest in ensuring the health and safety of our keiki, we support the expansion of Act 249 to include all controlled substances that have not been prescribed.

For this reason, we respectfully request you pass H.B. 2346 and thank you for this opportunity to testify.

**Testimony of the Office of the Public Defender,  
State of Hawaii to the House Committee on Human Services and Housing  
And Committee on Health**

Hrg: January 29, 2008, 8:50 a.m.  
3 copies required

**H.B. No. 2346: RELATING TO ENDANGERING THE WELFARE OF A  
MINOR**

Chairs Shimabukuro and Green and Members of the Committees:

We oppose H.B. No. 2346 which extends the endangering welfare of a minor statutes to include the intentional, knowing, or reckless causation of a minor to ingest, inject or inhale any controlled substance not prescribed by a physician. This would make it a criminal act for an adult to allow a minor to ingest any controlled substance even if the adult was doing it to actually care for a minor. For example, a parent who has no health insurance and who cannot afford to visit a doctor might administer another person's prescription cough syrup or other medication to his/her child who is ill and needs help. The measure does not require that injury to the child result. The bill ignores the stark reality that health care is unavailable to a sizable segment of our community and that in desperation, many persons use medication for which they have no valid prescription.

Thank you for the opportunity to comment on this bill.