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January 31, 2008

LATE TESTIMONY

MEMORANDUM

TO: The Honorable Maile S.L. Shimabukuro, Chair
Committee on Human Services and Housing

FROM: Lillian B. Koller, Director

SUBJECT: **H.B. 2935 RELATING TO HUMAN SERVICES**

Hearing: Thursday, January 31, 2008; 8:40 a.m.
Conference Room 329, State Capitol

PURPOSE: This bill requires the Department of Human Services (DHS) to establish a reward program for reporting of fraudulent claims made to DHS assistance programs and increase penalties for committing fraud under assistance programs.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent of this bill and some concerns of its cost implications. We respectfully request that its passage does not replace nor adversely impact the priorities in the Executive Supplemental Budget.

If this bill is passed and a reward program is initiated, we are not in a position to implement this program, particularly by July 1, 2008, as we do not have the staffing or expertise to handle such a program. In addition to promulgation of administrative rules, we would need a new electronic system or enhancement of our existing eligibility and case management systems which would not begin until all the Temporary Assistance

for Needy Families (TANF) changes mandated by the Federal Deficit Reduction Act of 2005 (DRA) and other necessary changes.

This bill may also require building of an interface with the recovery system and a payment mechanism to pay the rewardees no later than thirty days after restitution. We would also have to consider training of existing and new staff prior to implementation which would not be feasible prior to the implementation of the administrative rules and system changes.

Thank you for the opportunity to provide comments on this bill.

REPRESENTATIVE MAILE S. L. SHIMABUKURO, Chair
REPRESENTATIVE KARL RHOADS, Vice-chair
Human Services & Housing Committee

LATE TESTIMONY

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Hearing: January 31, 2008, 8:40 a.m.

Support of HB 2935, Relating to Human Services

I am a practicing attorney in Honolulu. I hereby strongly support H.B. No. 2935 because it provides needed gravity to the offense Welfare Fraud, as well as providing a method to fund enforcement. I have personally observed various indicators of welfare fraud in my community and wondered how individuals can openly flaunt their abuse of government assistance. There are members in our society that have real need for government assistance, and it frustrates me that precious government resources are bled by unscrupulous individuals.

When I took the time to review the Welfare Fraud statute (Haw. Rev. Stat. § 346-34), I was surprised to find a penalty provision that specified a petty misdemeanor. If an unqualified person was receiving government assistance, all they could receive as a penalty would be a \$1,000 fine and/or six (6) months incarceration. This penalty would not change even if the unqualified assistance they received amounted to thousands of dollars. This is a form of theft from the government and it should not be treated any differently. Accordingly, I believe the amendment allowing felony penalties, following the theft scheme in Haw. Rev. Chap. 708, elevates Welfare Fraud to a level consistent with other forms of theft from the government.

I believe the proposed Financial assistance/reward for the reporting of fraud is forward-thinking legislation. As an attorney with both prosecution and criminal defense experience, I am well aware that merely increasing penalties for crimes may not deter their commission. Due to a finite number of government resources, enforcement has always been the crucial component to deterring crime. Simply put, law enforcement agencies are at a disadvantage because of staffing shortages. The Financial assistance/reward legislation should encourage ordinary citizens to no longer turn a blind eye to abuses of government assistance. With financial incentive, ordinary citizens, taxpayers that are actually the victims of the welfare fraud would no longer leave the responsibility of investigation only on the government. It must be underscored that discovering the initial fraud is always the biggest hurdle in Welfare Fraud cases. Community involvement can only enhance and improve the investigative ability of law enforcement agencies. Any improvement in the discovery and investigation of fraud would yield more effective enforcement.

Thank you for the opportunity to provide input.