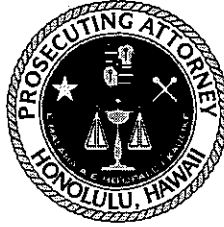


DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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PETER B. CARLISLE
PROSECUTING ATTORNEY



DOUGLAS S. CHIN
FIRST DEPUTY
PROSECUTING ATTORNEY

THE HONORABLE BRIAN TANIGUCHI, CHAIR
SENATE COMMITTEE ON JUDICIARY AND LABOR
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

March 12, 2008

RE: H.B. 3040, H.D. 1; RELATING TO PUBLIC SAFETY.

Chair Taniguchi and members of the Senate Judiciary and Labor Committee, the Department of the Prosecuting Attorney submits the following testimony in support of House Bill 3040, H.D. 1

The purpose of this bill is to amend Hawaii Revised Statutes (HRS) chapter 846E to improve Hawaii's sex offender registration law so that it can effectively participate in the national network of sex offender registries. In addition, the proposed amendments to HRS chapter 846E will bring Hawaii closer in compliance with Title I of the Adam Walsh Child Protection and Safety Act of 2006 (also known as the Sex Offender Registration and Notification Act or SORNA). The bill also proposes new laws regarding electronic enticement of a child and indecent electronic display to a child. H.B. 3040, H.D. 1 amends the penalties for electronic enticement of a child in the first degree to eliminate the possibility of probation.

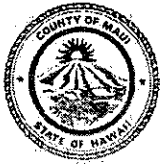
With the wide-spread use and acceptance of the internet and computers as tools for social networking and the anonymity it appears to provide, children and teens are at a greater risk for victimization by persons who seek out minors for sexual purposes. One report, The Teen Internet Safety Study found that 71% of the teens surveyed reported that they had received messages online from someone they don't know. Forty-five percent of the teens had been asked for personal information by someone they don't know. Thirty percent of the teens have considered meeting someone they've only talked to online. And fourteen percent have actually met a person face-to-face they've only spoken to over the Internet.

Given the extensive use of the Internet by minors and its acceptance as a social networking tool, it is not surprising that it has also been misused by people who seek to sexually exploit minors. The Online Victimization of Youth report done in 2006 found that four percent of the youth Internet users surveyed said that they had been solicited online for a nude or sexually explicit photograph of themselves. And four percent of the minors reported being aggressively solicited by persons who attempted to make offline contact with them.

For this reason, we support the stronger sentencing for electronic enticement. We also strongly support the proposed amendments which would allow Hawaii to participate in the national network of sex offender registries, as such participation would allow a more comprehensive and seamless flow of information to the public. We understand that the

Department of the Attorney General will be proposing amendments to this bill and we fully concur with their proposed amendments. We respectfully ask for your favorable consideration of H.B. 3040, H.D. 1 with those proposed amendments and ask that you pass H.B. 3040, H.D. 1 out with the suggested amendments.

Thank you for this opportunity to testify.



CHARMAINE TAVARES
MAYOR

OUR REFERENCE
YOUR REFERENCE

POLICE DEPARTMENT COUNTY OF MAUI

55 MAHALANI STREET
WAILUKU, HAWAII 96793
(808) 244-6400
FAX (808) 244-6411
March 11, 2008



THOMAS M. PHILLIPS
CHIEF OF POLICE

GARY A. YABUTA
DEPUTY CHIEF OF POLICE

The Honorable Brian T. Taniguchi, Chair
And Members of the
Committee on Judiciary and Labor
The Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chair Taniguchi and Members of the Committee:

SUBJECT: House Bill No. 3040, HD1, Relating to Public Safety

I am Thomas M. Phillips, Chief of Police of the Maui County Police Department and member of the Hawaii Law Enforcement Coalition. We are supporting House Bill No. 3040, HD1, Relating to Public Safety.

The purpose of this bill is to strengthen sex offender registration laws to comply with parts of Title I of the Adam Walsh Child Protection and Safety Act of 2006, also known as the Sex Offender Registration and Notification Act (SORNA). This bill also adds mandatory sentencing provisions for serious offenses and electronic enticement offenses.

This bill provides that all public information with regard to sex offender registration will be available on the internet, thus citizens will no longer be required to travel to police stations or the Hawaii Criminal Justice Date Center to access information on some offenders. Registration information will be significantly expanded to include, email addresses, instant messaging information, cellular phone numbers and vehicle registration. Starting in 2009, offenders will be required to report to authorities in person, to update information and have a new picture taken every year instead of every five years.

Defendants found guilty of Electronic Enticement of a Child in the First Degree will no longer be able to receive a sentence of probation. This bill will also amend the Offense of Electronic Enticement in the Third Degree and require only the agreement to meet. This will ensure that the predator may be brought to justice, even if he does not actually arrive at the meeting place.

The Honorable Brian T. Taniguchi, Chair
And Members of the
Committee on Judiciary and Labor
March 11, 2008
Page 2

This bill also creates a class C felony offense of Indecent Electronic Display to a Child, which targets specific grooming activities. In internet communications with children (or law enforcement officers posing as children), predators often transmit images of themselves masturbating or exposing their genitals in a lewd or lascivious manner as part of a scheme to entice children to engage in sexual conduct. Finally, this bill updates the repeat offender sentencing law to include the failure to comply with sex offender registration requirements.

The Police and Prosecutors in the State of Hawaii require these amendments and new statutes to further the fight against these predators, which use computers to condition, groom, and desensitize, and finally, sexually assault our children.

The Maui County Police Department respectfully urges you to support the passage of House Bill No. 3040, HD1, Relating to Public Safety.

Thank you for the opportunity to testify.

Sincerely,



THOMAS M. PHILLIPS
Chief of Police



The Children's Alliance
OF HAWAII, INC.

Senator Brian T. Taniguchi, Chair
Senator Clayton Hee, Vice-Chair
Judiciary and Labor Committee

Alfred Herrera
The Children's Alliance of Hawaii, Inc.
(808) 599-2955 x 215

Wednesday, March 12, 2008

Support of H.B. 3040 HD1, Relating to Public Safety

The Children's Alliance of Hawaii is a non-profit organization, incorporated in 1987. We provide supportive services to sexually abused children on Oahu and Kauai in order to assist them in the healing process and offer hope for their future. Each year we serve over 700 children. We strongly support H.B. No. 3040 HD1, Relating to Public Safety.

This measure will help protect our children and our community. It expands and updates the sex offender registry statutes to include more current information. The measure also strengthens our laws relating to the electronic enticement of minors and including a mandatory minimum sentencing of one year incarceration for the offense of electronic enticement of a child in the first degree.

As an organization dedicated to serving children and youth who have been victimized by sexual predators, we encourage greater protection of our children and respectfully request the committee to pass H.B. 3040.

Thank you for this opportunity to testify.

SHERI ROBISON
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Vice Chairman

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ALDEN YAMANE

ALFRED J. HERRERA
PRESIDENT

A JOINT LEGISLATIVE EFFORT

E-Mail to: testimony@Capitol.hawaii.gov

Regarding: Senate JDL hearing

Hearing: March 12, 2008 @ 9:00 a.m. in room 016

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Date: March 10, 2008

To: Senate Committee on Judiciary & Labor
The Honorable Brian Taniguchi, Chair
The Honorable Clayton Hee, Vice Chair

From: Kelly M. Rosati, JD
Executive Director, Hawaii Family Forum
Lobbyist, Roman Catholic Church in the State of Hawaii

Re: Strong Support for HB 3040 HD 1 Relating to Public Safety

Hawaii Family Forum is a non-profit, pro-family education organization committed to preserving and strengthening families in Hawaii. The Hawaii Catholic Conference is the public policy voice for the Roman Catholic Church in Hawaii, which under the leadership of Bishop Larry Silva, represents over 210,000 Catholics in Hawaii.

Our organizations have been strong advocates over the years of providing information to parents so that they can better protect their children from sex offenders and predators on the internet. We are very grateful for the leadership of Hawaii's Attorney General and this Legislature in passage of both Megan's law and the electronic enticement law.

A cursory reading of local newspapers regularly demonstrates the ways in which these laws are being used as effective tools in combating sexual exploitation and in holding perpetrators accountable.

We support HB 3040 HD 1 because it will modify Hawaii's sex offender registry laws to provide more current and helpful information regarding convicted, registered sex offenders who may pose a risk to the community. We also support the strengthening of the electronic enticement and other provisions to better combat predators on the virtually unrestrained venue of the internet.

HB 3040 HD 1 addresses Hawaii's obligation to comply with the federal Adam Walsh Child Protection and Safety Act, also known as the Sex Offender Registration and Notification Act (SORNA). We defer to law enforcement and other criminal law experts on the most specific details of the measure but urge your strong support of moving in the direction of greater protection for Hawaii's children.

Mahalo for your kind consideration. We urge your strong support of HB 3040 HD1.



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

ON THE FOLLOWING MEASURE:

H.B. NO. 3040, H.D. 1, RELATING TO PUBLIC SAFETY.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY AND LABOR

DATE: Wednesday, March 12, 2008 **TIME:** 9:00 AM

LOCATION: State Capitol Room 016
Deliver to: Committee Clerk, Room 219, 1 copy

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

Chair Taniguchi and Members of the Committee:

The Attorney General strongly supports this bill.

The purposes of this bill are:

- To amend chapter 846E, Hawaii Revised Statutes (HRS), Hawaii's sex offender registration laws, to comply with parts of Title I of the Adam Walsh Child Protection and Safety Act of 2006;
- To create the offense of electronic enticement of a child in the third degree to address instances of electronic enticement of children where a predator attempts to lure or solicit a minor and arrange a meeting with a minor over the Internet to engage in sexual conduct with the intent to commit a sexual offense or crime against minors;
- To create the offense of indecent electronic display to a child to address a specific form of grooming conduct by child predators involving masturbation or the lewd or lascivious exposure of the predator's genitals over the computer for view by a minor;
- To update the repeat offender sentencing law to include the offense of failure to comply with covered offender registration requirements and the new offense of indecent electronic display to a child;
- To clarify the element of electronic enticement of a child in the first degree regarding the intent to promote or facilitate the commission of another crime; and
- To provide greater protection for our children by adding a mandatory sentencing provision to the offense of electronic enticement of a child in the first degree.

Title I of the Adam Walsh Child Protection and Safety Act of 2006 is the Sex Offender Registration and Notification Act (SORNA). In declaring the purpose of the Act, Congress stated, "In order to protect the public from sex offenders and offenders against children, and in response to the vicious attacks by violent predators . . . Congress in this Act establishes a comprehensive national system for the registration of those offenders."

Prior to 2006, all states had adopted their own independent sex offender registration systems in response to the Jacob Wetterling Act in 1994 and subsequent amending legislation. The proposed May 2007 national SORNA guidelines state, "Ultimately, Congress concluded that the patchwork of standards that resulted from piecemeal amendments should be replaced with a comprehensive new set of standards—the SORNA reforms . . . that would close potential gaps and loopholes under the old law, and generally strengthen the nationwide network of sex offender registration and notification programs."

SORNA was in response to a number of high profile violent crimes committed by individuals who had previously been convicted of sex crimes but under the old standards were not required to register as sex offenders. Under SORNA, the predecessor sex offender program was repealed. SORNA established new baseline sex offender registry standards for state registries.

States that do not substantially comply with the new SORNA provisions by July 27, 2009, will not receive ten percent of the federal Byrne Justice Assistance Grant funds that would otherwise be allocated annually to the states. The potential loss of ten percent of federal Byrne Justice Assistance Grant funds should not be a factor in decisions about compliance with SORNA provisions. The issues of substantial compliance with SORNA and funding penalties remain uncertain. And regardless of SORNA, the amount of grant funds allocated to the states is being reduced significantly.

Furthermore, certain issues raised by the SORNA requirements are far more important to Hawaii than the amount of money at stake.

While the funding penalty provision is intended to strongly encourage nationwide compliance, the real motivation for states to comply with SORNA is the opportunity to participate in the development of a comprehensive nationwide network of state registries that work together to effectively share information to support public safety efforts and protect our citizens, particularly our children. Because SORNA did not create a federal sex offender registry, the development of a comprehensive and effective nationwide network of state registries is critical to keeping track of sex offenders in our communities, especially those offenders who travel between jurisdictions.

While this bill does not provide for substantial compliance with all of the SORNA requirements, it does provide for sufficient compliance with the new SORNA baseline standards to enable the Hawaii sex offender registry to be an effective participant in the comprehensive nationwide network of state registries.

This bill complies with SORNA requirements as follows:

- (1) Adding a few offenses to the list of covered offenses subject to registration in an effort to include all of the Hawaii offenses that are comparable to the covered offenses required by SORNA (see section 8, starting at page 17).
- (2) Placing the Hawaii offenses into three tiers that are consistent with the three SORNA tiers. While Hawaii law requires lifetime registration, this bill allows offenders to petition for removal from the registry after fifteen years of compliance as a tier I offender and twenty-five years of compliance as a tier II offender to meet the duration requirements under SORNA. It should be noted, however, that tier III offenders, contrary to SORNA's lifetime registration requirement, are being allowed to petition to get off the registry after forty years.
- (3) Expanding the scope of information that offenders must provide to include, among other items, e-mail addresses and other Internet and instant message names and addresses, cell phone numbers, names and addresses of

places where the offender works as a volunteer, professional licenses, vehicle information, and passport information.

- (4) Expanding the scope of information in the registry to include a current photograph and physical description of the offender, a copy of the covered offense judgments, the text of the law defining the offender's covered offenses, the offender's criminal history, confirmation that the offender has provided a DNA buccal swab sample and fingerprints, a digitized copy of or link to the offender's drivers license or identification card and the offender's passport or other immigration documents.
- (5) Expanding the scope of information disseminated to the public to include, among other items, nicknames, year of birth, physical description including identifying characteristics such as scars or tattoos, temporary addresses used by the offender, names and addresses of places where the offender works as a volunteer, professional licenses, a copy of the covered offense judgments, and the text of the law defining the offender's covered offenses.
- (6) Providing for the development of a community notification system that would allow the public to request and obtain notifications about covered offenders.

Additionally, this bill will eliminate the provision that gives the public only on-site access, rather than Internet access, to information regarding offenders with a single class C covered offense.

This bill does not provide for compliance with the following significant SORNA requirements:

- (1) Registration of juveniles, fourteen years or older, who have been adjudicated of committing aggravated sexual abuse crimes.
- (2) Lifetime registration of SORNA tier III offenders without any possibility of removal from the registry.
- (3) In-person verification of registration information by offenders every three months for tier III offenders and every six months for tier II offenders. Instead, this bill requires all offenders to report to police for in-person verification of registration information once each

year. This annual reporting provision is delayed for one year to allow the police time to prepare for the increased workload. The bill also allows the Attorney General, through rulemaking, to designate additional agencies to assist the police in this effort.

- (4) In-person updates for any changes to significant registration information.
- (5) Public web access to the registration information for the entire time that the offender is subject to the registration requirements.

The sex offender registration and notification programs serve a number of purposes. The programs provide systems for tracking sex offenders released into our communities. In the event of a violent sex crime, the programs provide law enforcement with information on sex offenders in the area the crime was committed. The information may help law enforcement identify the perpetrator, and may help law enforcement to quickly locate and apprehend the perpetrator. The programs may also deter released offenders from committing other crimes because they require offenders to maintain contact with authorities and provide detailed information regarding their whereabouts. The public notification aspects of the programs allow members of the public access to information on sex offenders in their area, thereby enabling them to take reasonable measures to protect themselves.

This bill also includes provisions to strengthen our laws regarding the electronic enticement of children. Predators meet children over the Internet and entice the children to engage in sexual offenses. Grooming the children is a key aspect of this predatory behavior. It usually involves conduct to gain the children's trust, develop the relationship, make the children feel comfortable with the offender and the idea of engaging in sexual acts, and ultimately make the children more willing to engage in sexual acts with the offender.

Current laws only prohibit conduct that includes arranging a meeting with the child and actually traveling to the agreed upon meeting place. This bill creates the class C felony offense of indecent electronic display to a child. This offense targets a specific form of grooming conduct that is frequently encountered by law enforcement officers posing as children over the Internet. During the course of Internet communications with a child, an offender may use a camera to transmit images of him masturbating or exposing his genitals in a lewd or lascivious manner as part of a scheme to desensitize the child to sexual activity and entice the child into engaging in sexual conduct.

This bill updates the repeat offender sentencing law to include the offense of failure to comply with covered offender registration requirements and the new offense of indecent electronic display to a child. The registration offense is a felony that involves offenders who are only subject to the registration requirements because they previously committed a sexual offense or an offense against minors as defined in chapter 846E. For the sex offender registration program to work effectively and achieve its purposes as described earlier, the covered offenders must comply with the registration laws, and compliance can only be achieved if the registration laws are taken seriously. Including the registration offense in the repeat offender law will confirm the importance of the registration program and the seriousness of the offense.

The offense of indecent electronic display to a child is added to the repeat offender law in an effort to provide greater protection to children from these dangerous predators. It is also consistent with the existing repeat offender law, which already includes the offenses of electronic enticement of a child in the first and second degrees.

To provide greater protection for our children, this bill adds a mandatory sentencing provision for the offense of electronic enticement in the first degree, focusing on the situation in which

the offender actually travels to meet with the child to engage in a sexual offense.

This bill also creates the misdemeanor offense of electronic enticement of a child in the third degree to prohibit the use of a computer to solicit, lure, or entice a child to engage in sexual conduct with intent to facilitate the commission of a sexual offense. Although the original version of this bill did not require an agreement to meet with the minor, the current H.D. 1 version does include this additional element. This additional element makes this misdemeanor offense more like the other felony enticement offenses, but with more elements to prove. Because it is more difficult to use and prove than the felonies, we are recommending that this offense be removed from section 2 of the bill.

We note that child pornography provisions that were intended to provide greater protections for children have been deleted in H.D. 1. We understand that these provisions were removed by the House Committee on Judiciary as part of a compromise effort. Because we support this compromise effort, we are not requesting that these provisions be returned to the bill, so long as other parts of the bill are not materially changed.

We do recommend several technical amendments be made to the bill. Section 4, on page 9, line 2 should read, "mandatory minimum of one year imprisonment, unless a greater mandatory minimum term is authorized by law." This amendment will allow for the imposition of other greater mandatory minimum terms that may also be applicable to the person.

Section 9, on page 36, line 21 should read, "required by section 846E-2(d)(1) through (12);" The additional "section" before the "(12)" should be deleted.

And finally, to comply with the amendments made in H.D. 1, sections 12 and 13 should be amended. Section 12, on page 47, should read, "Sections 5, 6, 7, 8, and 10 shall apply to any acts committed prior to, on, or after the effective date of this Act."

Section 13, on page 47, should read, "Sections 3 and 4 do not affect the rights and duties that matured, penalties that were incurred, and proceedings that were begun, before the effective date of this Act."

We respectfully request passage of this measure with the recommended amendments.

Testimony on behalf of the
Office of the Public Defender, State of Hawai'i
to the Senate Committee on Judiciary and Labor

March 12, 2008

RE: H.B. 3040, HD 1: Relating To Public Safety.

Senator Taniguchi and Members of the Committee:

H.B. 3020, HD 1 seeks to create some new offenses, provide for mandatory prison terms for some existing offenses, broaden the application of other current offenses and, finally, provides for even more draconian living conditions for convicted sex offenders.

We believe this bill is ill-advised and cannot support it in its current form.

The bill creates a new 3rd degree offense for Electronic Enticement of a Child and makes it a misdemeanor offense. Currently, our 1st and 2nd degree offenses punish electronic communication, done intentionally or knowingly, with someone who is or is believed to be under the age of 18, for the purpose of committing certain specified offenses: the 1st degree offense covers murder, class "A" felonies and offenses defined in HRS § 846E-1 (the statute covering the registration of sex offenders and other covered offenders); the 2nd degree offense covers any other felonies. Both current laws also require that the offender agree to meet with the minor, or person believed to be a minor, and intentionally or knowingly travel to the agreed upon meeting place at the agreed upon time.

The proposed 3rd degree offense in this bill would apply to all offenses listed under § 846E-1 and would delete the requirement that the offender travel to the meeting place. We believe this proposed law is vague and overbroad. It would punish pure communication without a required overt act of traveling to an agreed upon meeting place. When one considers that the person doing the communicating could actually be someone under the age of 18 or a young adult, who has no intention of acting upon the electronic communication, it is clear how this law could go overboard in its application. A fourteen year old communicating with someone he or she believed to be 13 years old, who had no intention of ever showing up to meet with the person at the other end of the internet line, but simply agreed to meet, would be guilty under this new law.

The other new offense proposed in Section 2, Indecent Electronic Display to a Child, essentially punishes "lewd and lascivious" conduct (such as masturbation) over the internet as a class C felony. Ironically, such behavior in person, which would seem to be far more distressing to a minor, is currently a misdemeanor or petty misdemeanor under HRS §§ 707-733 (1)(b) and 707-734.

If this new offense is to be created, it should not be more serious than our existing statutes.

We oppose the proposal in Section 4 that would provide for a mandatory 10 year prison term upon conviction for Electronic Enticement of a Child in the 1st Degree. The current law provides for the possibility of probation, if appropriate, but does mandate one year in jail as a condition of that probation. Also currently, the court may impose a 10 year prison term when the court determines that to be the appropriate sentence. That discretion should remain with the courts.

It continues to be disturbing that there is an ongoing effort to mandate incarceration and remove any discretion from the court in these situations. Such enactments fail to recognize the role of the courts in determining appropriate sentences for each case that comes before the judge.

Regarding the proposed changes to HRS § 846E, we believe that most of the originally proposed changes would drive more offenders underground, burden already overtaxed law enforcement resources and, ultimately, provide no greater protection for the community.

Therefore, we support the amendments in HD 1 that delete information about the travel route related to work, the location of the parked car, etc. However, we continue to oppose the dissemination of such information as where an offender may be doing volunteer work or where a homeless offender is sleeping at night.

It is becoming clear both in Hawaii and throughout the mainland that these offenders are already largely unable to find places to live if they do not already own their own home and to find employment. The ever-growing additional public notification information will render it all but impossible for these people to live in Hawaii and abide by this law. That creates the real possibility that the offenders, without the resources to relocate outside our state, will simply go underground, stop registering and no longer be subject to supervision. Such a result not only fails to protect the public, it places our community at greater risk.

Studies have shown that the lowest cases of recidivism occur when the offender is subject to treatment and monitoring. This is pointedly borne out by the statistics compiled by Dr. Barry Coyne who is in charge of Sex Offender Treatment within our Department of Public Safety. In addition to Hawai'i's statistics, Dr. Coyne provided a previous task force with the results of studies in other jurisdictions. At that time, only one state so far had specifically studied the effect of a notification law on sex offender recidivism. Washington, the first state to require community notification for sex offenders (in 1990), found no difference in recidivism between those men with notification and those without. Dr. Coyne did not suggest that these results were the authoritative conclusion on this issue but

did note that no one has demonstrated a measurable positive connection between public notification and reduced recidivism.

What has been demonstrated is the direct positive connection between treatment and monitoring and reduced recidivism. It stands to reason that laws that cause offenders to be unable to reasonably live in our communities (i.e. to rent homes or get jobs) create the real risk of sending offenders underground, away from monitoring and toward a greater risk of reoffending. It is imperative that our laws strike the necessary balance between an appropriate level of monitoring and public notification.

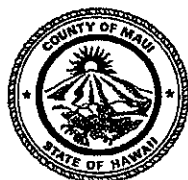
Finally, the proposed 40 year period before an offender could even seek relief from public notification is a harsher offender registration law than we already have with the same risk noted above. Currently, there is a large group of offenders who for whom lifetime registration is mandated. For others, class A offenders may seek relief from registration after 25 years, class B offenders after 15 years and class C offenders after 10 years. In the change proposed in this bill, all offenders would be treated the same with a minimum forty years that would cover the greater part of adulthood. We see no satisfactory explanation for these changes.

These are just some of the significant reasons that we cannot support this legislation.

Thank you for the opportunity to comment on this bill.

LATE

CHARMAINE TAVARES
Mayor



BENJAMIN M. ACOB
Prosecuting Attorney

PETER A. HANANO
First Deputy Prosecuting Attorney

DEPARTMENT OF THE PROSECUTING ATTORNEY
COUNTY OF MAUI
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March 11, 2008

THE HONORABLE BRIAN T. TANIGUCHI, CHAIR
THE HONORABLE CLAYTON HEE, VICE-CHAIR
COMMITTEE ON JUDICIARY AND LABOR

HOUSE OF REPRESENTATIVES
THE TWENTY-FOURTH LEGISLATURE
REGULAR SESSION OF 2008
STATE OF HAWAII

TESTIMONY OF BENJAMIN M. ACOB,
PROSECUTING ATTORNEY FOR THE COUNTY OF MAUI,
IN SUPPORT OF HOUSE BILL NO. 3040, HD1
RELATING TO PUBLIC SAFETY

The Honorable Chairpersons and Committee Members:

The Department of the Prosecuting Attorney for the County of Maui strongly supports H.B. 3040, HD1, Relating to Public Safety.

Perhaps there can be no class of individuals more vulnerable than our children. Each day we see and hear in the media countless numbers of online predators utilizing the internet to target and prey upon innocent and unsuspecting children. Unfortunately, these predators abuse modern day technology to covertly invade what we consider our most secure place, our home. Sadly, however, we have also seen numerous real life cases end in unimaginable tragedy.

This Bill seeks to provide law enforcement officials the much needed tools to effectively protect our children and at the same time combat the harsh realities of modern day life. Specifically, this Bill proposes the following:

1. Updates Hawaii's sex offender registry laws in an effort to effectuate partial compliance with federal law;

2. Creates the new offense of Electronic Enticement of a Child in the Third Degree, a misdemeanor;
3. Creates the offense of Indecent Electronic Display to a Child, a class C felony;
4. Update the repeat offender sentencing statute to include the offenses of Failure to Comply with Covered Offender Registration Requirements and Indecent Electronic Display to a Child, which would trigger mandatory prison without the possibility of parole;

Indeed, all of the above proposed amendments are intended to protect our citizens from these sexual predators. The first proposal provides law enforcement an opportunity to participate in a comprehensive nationwide network of state registries in a concerted effort to effectively share information regarding sex offenders. The second and third proposals are intended to proscribe predatory behavior which is consistent with child sex offenders. The fourth and final proposal will mandate a court to sentence certain repeat felons to mandatory prison.

In conclusion, our Department strongly supports H.B. 3040, HD1. In order to effectively combat sex offenses against our children, our criminal laws must contemplate the capabilities of modern day technology. Thank you for the opportunity to testify.

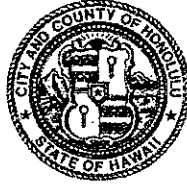
(H.B. 3040, HD1, Relating to Public Safety.)

LATE

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET • HONOLULU, HAWAII 96813
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MUFI HANNEMANN
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DEPUTY CHIEFS

OUR REFERENCE JC-NTK

March 12, 2008

The Honorable Brian T. Taniguchi, Chair
and Members
Committee on Judiciary and Labor
The Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chair Taniguchi and Members:

Subject: House Bill No. 3040, H.D. 1, Relating to Public Safety

I am Carlton S. Nishimura, Major of the Criminal Investigation Division of the Honolulu Police Department, City and County of Honolulu.

The Honolulu Police Department supports House Bill No. 3040, H.D. 1, Relating to Public Safety.

We support this bill with the amendments suggested by the Attorney General.

Passage of this bill will strengthen the laws protecting children and will revamp the sex offender registration laws.

Thank you for the opportunity to testify.

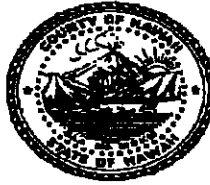
Sincerely,


CARLTON S. NISHIMURA, Major
Criminal Investigation Division

APPROVED:


BOISSE P. CORREA
Chief of Police

Serving and Protecting With Aloha

LATE**Harry Kim**
Mayor**Lawrence K. Mahuna**
Police Chief**Harry S. Kubojiri**
Deputy Police Chief**County of Hawaii****POLICE DEPARTMENT**349 Kapiolani Street • Hilo, Hawaii 96720-3998
(808) 935-3311 • Fax (808) 961-2389

March 11, 2008

The Honorable Brian T. Taniguchi
Chairperson and Members
Committee on Judiciary and Labor
State Capitol
415 South Beretania Street, Room 325
Honolulu, Hawaii 96813

Dear Senator Taniguchi and Members:

Re: House Bill 3040, Relating to Public Safety

The Hawai'i Police Department supports the passage of House Bill 3040, Relating to Public Safety, which seeks to revamp Hawai'i's sex offender registry laws so as to provide more up-to-date and more useful information about registered sex offenders to the public. Furthermore, this measure seeks to strengthen some criminal laws relating to electronic enticement of a child and makes other criminal law changes.

As cited by the Department of the Attorney General, this bill strengthens sex offender registration laws to comply with parts of Title I of the Adam Walsh Child Protection and Safety Act of 2006, also known as the Sex Offender Registration and Notification Act (SORNA).

Additionally, the language changes in this measure adds mandatory sentencing provisions for serious child abuse and electronic enticement offenses; focuses on offenses involving the dissemination or possession of child pornography and electronic enticement where the offender travels to meet with a child to engage in a sexual offense. This bill also addresses possession of particularly violent or egregious child pornography that involves a child under the age of twelve, sadomasochistic abuse of a minor, sexual penetration of a minor, or bestiality involving a minor.

In this age of electronic communication and digital information sharing, this bill strengthens the laws to protect our children more adequately; and it is a primary governmental interest to protect the public, especially our children from sex offenders; therefore, I urge this committee to support this legislation.

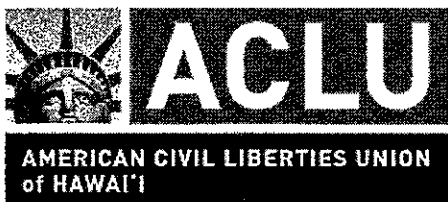
Thank you for allowing the Hawai'i Police Department to testify on House Bill 3040.

Sincerely,

A handwritten signature in black ink, appearing to read "Lawrence K. Mahuna", written over a circular stamp or seal.

LAWRENCE K. MAHUNA
POLICE CHIEF

LATE



BY EMAIL: testimony@capitol.hawaii.gov

Committee: Committee on Judiciary and Labor
Hearing Date/Time: Wednesday, March 12, 2008, 9:00 a.m.
Place: Room 016
Re: Testimony of the ACLU of Hawaii in Opposition to H.B. 3040 HD 1,
Relating to Sexual Offenders

Dear Chair Taniguchi and Members of the Committee on Judiciary and Labor:

The American Civil Liberties Union of Hawaii ("ACLU of Hawaii") writes in opposition to H.B. 3040, HD 1. The bill is flawed for a large number of reasons, which are laid out in detail in the Public Defender's testimony dated February 11, 2008.

The bill is vague and overbroad, and it goes much too far in the type of conduct being punished. For example, the proposed H.R.S. § 707-B appears to make it a crime for one 17-year-old to communicate with another 17-year-old, even if those communications were consensual. Although these teenagers' actions would be perfectly legal if conducted in person, they would, apparently, be illegal if conducted over the internet.

This bill will force offenders underground (rather than encouraging them to seek treatment), and will unjustifiably remove discretion from judges to fashion appropriate penalties for offenders.

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for over 40 years.

Thank you for this opportunity to testify.

Sincerely,

Daniel M. Gluck
Senior Staff Attorney
ACLU of Hawai'i

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