

LINDA LINGLE
GOVERNOR



LILLIAN B. KOLLER, ESQ.
DIRECTOR

HENRY OLIVA
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809

January 31, 2008

MEMORANDUM

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

FROM: Lillian B. Koller, Director

SUBJECT: H.B. 3127, RELATING TO ADULT PROTECTIVE SERVICES

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

PURPOSE: The purpose of this bill is to amend Chapter 346, Part X, Hawaii Revised Statutes, by: 1) amending the title to read "Adult Protective Services"; 2) amending the definition section by deleting definitions for "dependent adult" and "imminent abuse"; 3) establishing new definitions for "caregiver", "caregiver neglect", "financial exploitation", "physical abuse", "psychological abuse", "self neglect or poor self care", "sexual abuse", and "vulnerable adult"; 4) enabling the Department of Human Services (DHS) to investigate and the court to have jurisdiction when there is reason to believe a vulnerable adult has been abused or is in danger of being abused if immediate action is not taken; and 5) making conforming amendments for consistency and clarity.

AN EQUAL OPPORTUNITY AGENCY

DEPARTMENT'S POSITION: The Department of Human Services strongly supports this Administration bill that will expand DHS authority to investigate allegations of vulnerable adult abuse, neglect, and financial exploitation. This expanded authority will enable DHS to intervene in situations of alleged abuse or neglect for a broader population who may need protection.

The amendments made to section 346-222, Hawaii Revised Statutes (HRS), include the deletion of the terms "dependent adult" and "imminent abuse" and the insertion of a new definition for "vulnerable adult." This new definition clarifies that an adult is vulnerable and in need of protection when that person, because of mental or physical impairment, is unable to manage one's own resources, cannot carry out essential tasks of daily living, or protect oneself from abuse.

This bill also clarifies that DHS will investigate reports that indicate the adult is a vulnerable adult and the adult is believed to have been abused or is in danger of being abused if immediate action is not taken. The current statute specifies that DHS can provide protective services only when the "dependent adult" is reported to have been abused and is threatened with "imminent abuse." Amendments to chapter 346, HRS, expand the adult protective services (APS) criteria for initiating an investigation to include reports where abuse may have already occurred or is likely to occur if immediate action is not taken.

The amendments to chapter 346, HRS, as proposed in this Administration bill, will enable the Department to respond to a

greater number of reports alleging abuse, neglect, or financial exploitation, thereby providing added protections for this vulnerable population.

Thank you for this opportunity to testify.



STATE OF HAWAII
STATE COUNCIL
ON DEVELOPMENTAL DISABILITIES
919 ALA MOANA BOULEVARD, ROOM 113
HONOLULU, HAWAII 96814
TELEPHONE: (808) 586-8100 FAX: (808) 586-7543
January 31, 2008

The Honorable Maile Shimabukuro, Chair
House Committee on Human Services and Housing
Twenty-Fourth Legislature
State Capitol
State of Hawaii
Honolulu, Hawaii 96813

Dear Representative Shimabukuro and Members of the Committee:

SUBJECT: HB 3127 – RELATING TO ADULT PROTECTIVE SERVICES

The position and views expressed in this testimony do not represent nor reflect the position and views of the Departments of Health and Human Services (DHS).

The State Council on Developmental Disabilities **SUPPORTS HB 3127**. The purpose of HB 3127 is to expand the authority to investigate allegations of abuse, neglect, and financial exploitation of vulnerable adults.

The Council supports the efforts of DHS in expanding its authority to investigate allegations of vulnerable adult abuse, neglect and financial exploitation when there is reason to believe that a vulnerable adult has been abused or is in danger of being abused. Changing the term from dependent adult to vulnerable adult will give DHS a broader population to monitor and intervene for abuse, neglect and financial exploitation.

We applaud the Legislature in supporting initiatives to protect vulnerable adults from abuse, neglect and financial exploitation.

Thank you for the opportunity to submit testimony in support of HB 3127.

Sincerely,

Waynette K. Y. Cabral
Executive Administrator



OFFICE OF HAWAIIAN AFFAIRS
OFFICE OF HAWAIIAN AFFAIRS

Legislative Testimony

HB 3127 RELATING TO ADULT PROTECTIVE SERVICES

House Committee on Public Safety & Military Affairs

January 31, 2008

8:30 a.m.

Room

309

The Office of Hawaiian Affairs is providing testimony in support of HB 3127. Our interest in this issue is primarily based on our concerns that there are approximately 26,000 elderly Hawaiians residing in Hawaii, many whom are confronted with a myriad of challenges that may prevent them from living out the rest of their lives in safety, comfort, and dignity. More troubling is that in three years, when many of the post World War II "baby boomers" reach the age of 65, the population of elderly Hawaiians will likely triple in size, as will the elderly numbers within the general populace.

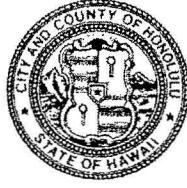
OHA strongly supports this measure because it partly addresses fundamental concerns about the health and safety of our kupuna, who, as they age and become more vulnerable, become victimized by the greed or insensitivity of others, sometimes those who are entrusted with their care. We believe the expanded authority provided by this bill to investigate the abuse, neglect, and financial exploitation of kupuna will serve as a deterrent to those who may prey upon our kupuna in their vulnerable condition.

Ensuring that our elderly are properly cared for is of utmost importance to OHA, and we urge your passage of this bill.

Mahalo nui loa for the opportunity to present testimony.

DEPARTMENT OF COMMUNITY SERVICES
CITY AND COUNTY OF HONOLULU

715 SOUTH KING STREET, SUITE 311 • HONOLULU, HAWAII 96813 • AREA CODE 808 • PHONE: 768-7762 • FAX: 768-7792



MUFI HANNEMANN
MAYOR

DEBORAH KIM MORIKAWA
DIRECTOR

ERNEST Y. MARTIN
DEPUTY DIRECTOR

January 30, 2008

The Honorable Maile S. L. Shimabukuro, Chair
The Honorable Karl Rhoads, Vice Chair
and Members of the Committee on Human Services and Housing
The House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chair Shimabukuro, Vice Chair Rhodes, and Members:

Subject: Support of HB 3127, Relating to Adult Protective Services

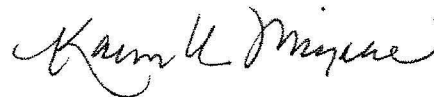
The Elderly Affairs Division provides a broad spectrum of services to seniors residing in the City and County of Honolulu and is committed to advocating for their rights. We strongly support HB 3127, Relating to Adult Protective Services, which would allow the State's Department of Human Services greater flexibility in investigating cases of suspected abuse and prevent future abuse from occurring. Further, it would also make it easier for individuals to make reports of the suspected abuse, neglect and/or exploitation of elderly individuals.

As an agency which both funds and provides services directly, we are aware of the problems faced in making reports of abuse, neglect and/or exploitation. The current law has many valuable provisions to ensure the protection of adults with disabilities. However, when put into practical application over the years, shortcomings of this law have been brought to the surface. One such shortcoming has been the definition of a dependent adult, which excludes many who may not be totally dependent on others but are nonetheless vulnerable. Another provision in the current law requires that an individual needs to have been both abused *and* threatened with imminent abuse. The problem faced by both the elderly individual and those reporting such abuse is that they often do not have enough evidence to satisfy both provisions. HB 3127 will replace the term "dependent" with "vulnerable" and eliminate the criteria of "imminent" abuse when describing persons eligible for intervention by Adult Protective Services.

The Honorable Maile S. L. Shimabukuro, Chair
The Honorable Karl Rhoads, Vice Chair
and Members of the Committee on Human Services and Housing
January 30, 2008
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These changes in the current law will allow our state to provide its citizens with the protection and support they deserve. We urge the committee to pass of HB 3127. Thank you for this opportunity to testify.

Sincerely

A handwritten signature in cursive script, appearing to read "Karen K. Miyake".

Karen K. Miyake
County Executive on Aging
Elderly Affairs Division

KM:ab

cc: Office of the Mayor

National Association of Social Workers

Hawaii Chapter

January 29, 2008

TO: Rep. Maile Shimabukuro, Chair
And members of the House Human Services Committee
FROM: Debbie Shimizu, LSW, Executive Director
National Association of Social Workers (NASW)
RE: HB 3127 Relating to Adult Protective Services- **SUPPORT with amendments**

Chair Shimabukuro and members of the House Human Services Committee, I am Debbie Shimizu, Executive Director of the National Association of Social Workers, Hawaii Chapter. I am testifying in **SUPPORT of HB 3127 relating to Adult Protective Services with amendments.**

Last session, NASW worked with advocates and the Kupuna Caucus on SB 1184 to amend HRS 346 to protect our state's vulnerable adults, however, that bill did not pass out of conference committee. During the interim, the Department of Human Services worked on a draft that incorporated many of the concerns that were expressed as we worked on SB 1184. NASW was invited to review DHS's initial draft and we were able to come to an agreement on a compromise draft. HB 3127 incorporates many of those agreements but the following sections have been left out. We respectfully request that they be inserted into HB 3127.

1. Change "dependent" adult to "vulnerable" adult throughout section HRS 346-45 Confidentiality of court records. (page 1)
2. Add language to allow religious practices in definition of "Abuse"- "Abuse does not include and shall not be based solely on physical, psychological, or financial conditions that result when a vulnerable adult seeks, or when a caregiver provides or permits to be provided, treatment with the express consent or in accordance with the religious or spiritual practice of the vulnerable adult." (page 2, line 12)
3. Add definition - "Director" means director of human services (page 7, line 14)
4. Add to definition of "Vulnerable adult" means a person eighteen years of age or older who because of mental, developmental, or physical impairment, is unable to make reasonable decisions to manage one's own care or resources..... (page 10, lines 16-21)
5. Add to 346-224- Reports, (6) social workers (page 12, line 21)
6. Add to 346-224- Records, (g) Nothing in this section shall require a member of the clergy to report communications that are protected under rule 506 of chapter 626. (page 14, line 8)
7. Delete language in 346-227 Investigation.....~~[The department shall not be required to investigate a report that fails to allege that abuse of a vulnerable adult has occurred or is in danger of occurring if immediate actions is not taken.]~~(page 15, lines 12-15)
8. Change word in 346-247 Payment for service or treatment provided to a party - vulnerable [person] adult (page 33, line 8)
9. Add new section to include changes to HRS 626:1-505.5 (4) Mandatory reporting. To relieve victim counselors of any duty to refuse to report child abuse or neglect under chapter 350, domestic abuse under chapter 586, or abuse of a [dependent] vulnerable adult under part X of chapter 346, and to refuse to provide evidence in child abuse proceedings under chapter 587.

10. Add new section- "The department of human services may work with interested stakeholders to develop a plan to build the capacity of community-based services to help with the provision of services under this Act.
11. Add new section- "There is appropriated out of the general revenues of the State of Hawaii the sum of \$____ or so much thereof as may be necessary for fiscal year 2008-2009 for the department of human services to:
 - (1) Hire additional staff, including social workers, nurses, and support staff to carry out this Act; and
 - (2) Contract for services pursuant to chapter 103F, Hawaii Revised Statutes, and provide direct services, as may be necessary, to carry out this Act.The sums appropriated shall be expended by the department of human services for the purposes of this Act.

We appreciate all the work the department has put into this new draft and respectfully request your favorable consideration of this bill with the above added amendments.

Thank you for the opportunity to testify.



HOUSE COMMITTEE ON HUMAN SERVICES & HOUSING
Rep. Maile Shimabukuro, Chair

Conference Room 329
Thursday, January 31, 2008 at 8:40 a.m.

Testimony in support of HB 3127.

I am Coral Andrews, Vice President of the Healthcare Association of Hawaii, which represents the entire spectrum of health care, including acute care hospitals, two-thirds of the long term care beds in Hawaii, as well as home care and hospice providers. Thank you for this opportunity to testify in support of HB 3127, which amends Hawaii's adult protection law. Significantly, this bill extends the class of protected individuals from dependent adults to vulnerable adults.

The abuse, exploitation and neglect of vulnerable adults is well-documented as a national problem. Abuse happens everywhere -- in poor, middle class, and upper income households; in cities, suburbs, and rural areas.

Hawaii's adult protection law was originally passed in 1989. Since then, much has changed. We know much more about the reasons for the abuse of vulnerable adults and how to address it. This bill advances Hawaii's approach to protect vulnerable adults.

In 2007, the House and Senate passed different forms of a bill similar to HB 3127, but the conference committee could not come to a compromise agreement. Hopefully, HB 3127 will be successful this year.

Last session's report by the House Committee on Human Services & Housing urges the affected agencies to develop a single form to report suspected cases of abuse or neglect. The law requires health care professionals, employees of health care providers, and certain others to report suspected cases of adult abuse. For each suspected case, three separate reports must be submitted to three separate government agencies, each of which has a different format. These reports can take hours to write. Much of the information is duplicative. The Healthcare Association agrees that a single format should be developed so that the report may be used by all three agencies.

For the foregoing reasons, the Healthcare Association supports HB 3127.

TO: COMMITTEE ON HUMAN SERVICES & HOUSING
Representative Maile S.L. Shimabukuro, Chair
Representative Karl Rhoads, Vice Chair

FROM: Sandy Rongitsch, Medical Social Worker
Wailuku, Maui

RE: **HB 3127, RELATING TO ADULT PROTECTIVE SERVICES**

Hearing: January 31, 2008 8:40 a.m., Conference Room 329

Thank you for the opportunity to present testimony. I urge the Committee to support HB 3127 with all the proposed changes that expands the investigative authority of the Department of Human Services and result in protective services for vulnerable adults in a more timely and comprehensive manner.

In my view as a former protective services social worker/investigator and now a referring party to APS, changes in the present law will result in the investigation and protection of abuse of vulnerable adults when abuse has already occurred or is likely to occur if immediate action is not taken. Proposed changes in HB 3127 will also expand the list of mandated reporters to include caregivers, such as operators of adult residential care homes and adult foster family homes.

Finally, I support DHS's plan to capitalize on its internal reorganization and shift its utilization of registered nurses and social services assistants to aid APS social workers. Vulnerable adults who require APS intervention, often suffer from medical conditions that warrant a nursing assessment in addition to psychosocial and financial assessments.