



**EXECUTIVE CHAMBERS**

HONOLULU

**LINDA LINGLE**  
GOVERNOR

Testimony of Linda Smith  
Policy Advisor to the Governor

Before the

Senate Committee on Human Services and Public Housing

Thursday, February 7, 2008  
1:15 PM

SB2245

Representative Waters and Members of the Committee:

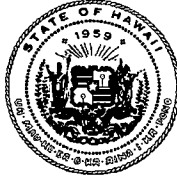
Chair Waters, thank you for scheduling this measure for hearing. The Office of the Governor supports this measure.

The purpose of this measure is to protect young children from being left unattended in motor vehicles. In light of incidents in Hawaii and around the nation where leaving children unattended in cars have led to tragic consequences, it is time for the State to take action.

According to Kids in Cars, a nonprofit organization leading the charge for legislation on this subject, California, Connecticut, Florida, Illinois, Louisiana, Maryland, Nebraska, Nevada, Pennsylvania, Tennessee, Texas, and Washington (12 states) already have laws prohibiting children from being left unattended in motor vehicles. In addition, Kentucky and Missouri have laws that take effect when an injury or death occurs.

The Office of the Governor believes this measure is necessary in order to discourage parents from leaving children unattended in vehicles, and therefore respectfully requests its passage.

LINDA LINGLE  
GOVERNOR



LILLIAN B. KOLLER  
DIRECTOR

HENRY OLIVA  
DEPUTY DIRECTOR

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

February 7, 2008

MEMORANDUM

TO: Honorable Suzanne Chun Oakland, Chair  
Senate Committee on Human Services and Public Housing

FROM: Lillian B. Koller, Director

SUBJECT: S. B. 2245 - RELATING TO UNATTENDED CHILDREN IN MOTOR  
VEHICLES

Hearing: Thursday, February 7, 2008, 1:15 p.m.  
Conference Room 016, State Capitol

**PURPOSE:** The purpose of S.B. 2245 is to establish the offense of leaving a child unsupervised in a motor vehicle and enact provisions that would allow law enforcement officers, firefighters and rescue team personnel to remove the unattended child from a motor vehicle and to deliver the child to the custody of child welfare services.

**DEPARTMENT'S POSITION:** The Department of Human Services appreciates and strongly supports the intent of this bill.

The Department is concerned that this bill defines "unsupervised" as leaving a child in a motor vehicle unaccompanied by a person of at least 12 years of age. This definition is unable to take into account the maturity of a 12 year old child, for example, as would be the case if an infant

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was left in a motor vehicle with a 12 year old person who has a developmental delay or other limited cognitive functioning. We suggest deletion of this definition in order to provide law enforcement officers, firefighters and rescue personnel with the maximum ability to respond to an unsafe situation without unnecessary restrictions.

Thank you for this opportunity to testify.

DEPARTMENT OF THE PROSECUTING ATTORNEY  
**CITY AND COUNTY OF HONOLULU**

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**THE HONORABLE SUZANNE CHUN OAKLAND, CHAIR**  
**SENATE COMMITTEE ON HUMAN SERVICES AND PUBLIC HOUSING**  
Twenty-fourth State Legislature  
Regular Session of 2008  
State of Hawaii

February 7, 2008

**RE: SENATE BILL 2245; RELATING TO UNATTENDED CHILDREN IN MOTOR VEHICLES**

**HEARING: Thursday, February 7, 2008, 1:15 p.m., Conference Room 016**

Good afternoon Chair Chun Oakland and members of the Human Services and Housing Committee, the Department of Prosecuting Attorney submits the following testimony in support of S.B. 2245, Relating to Unattended Children in Motor Vehicles.

The purpose of this bill is to add a new offense of Leaving a Child Unattended in a Motor Vehicle in chapter 291C, *Hawaii Revised Statutes (HRS)*. The offense provides that a person is liable when the person leaves a child under age nine in a motor vehicle without being accompanied by a person at least twelve years of age; it is punishable only by a fine similar to those provided in HRS section 291C-161(b). In addition, the bill also requires the driver's license test to specifically test for the applicant's knowledge of this law and mandates that rental car agencies display information about this law.

Under current laws, if a person leaves a minor in a vehicle, the person may be subject to prosecution for the misdemeanor offense of endangering the welfare of a minor in the second degree, HRS section 709-904(2), if and only if the person **knowingly** endangered the minor's physical or mental welfare by leaving the minor in the vehicle and thereby violated a legal duty of care or protection owed to the minor. The "knowing" state of mind requires that the defendant must be aware that it is **practically certain** that his or her conduct will cause the endangering of the minor's physical or mental welfare. This is often difficult to prove.

Creation of this offense would be significantly easier to prove since it would not require proof that the defendant was aware of the risk to the child; all that would have to be proven is that the person left the minor in the car without the required supervision. Given the number of incidents reported to the police involving unattended minor children whose parents have left them in the car under hazardous conditions, we believe this proposed offense is sorely needed. Unsupervised children under the age of 9, are vulnerable to physical injury due to the considerable potential for

danger inherent to motor vehicles. For example, when the outside temperature is 80 degrees F (a common occurrence in Hawaii), the temperature inside a car receiving direct sunlight can reach 110 degrees F after 5 minutes. When a child's (or any other person's) body temperature reaches 106 degrees F, he or she can die or suffer permanent disability from heat stroke. Children left unattended in cars have also died from strangulation by a power window, inadvertently knocking a vehicle into gear, carbon monoxide poisoning, falling out of the car and being run over, choking on a toy or being kidnapped. A 2003 Center for Disease Control and Prevention study reports that during July 2000 to June 2001, an estimated 9,160 nonfatal injuries and 78 fatal injuries occurred in children 14 and younger as a result of being left unattended in or around motor vehicles that were not in traffic.

At least one dozen states have now adopted legislation specifically prohibiting leaving children alone in a motor vehicle. It is time for Hawaii to join the ranks of those states that have already acted to promote the safety of children in motorcars through this simple, but effective, means. The nominal fine attached to the violation proposed in this bill will serve as a reasonable reminder to parents, and an effective preventive measure for reducing the potential of this totally avoidable risk to our children.

For this reason, we strongly urge your support for the passage of Senate Bill 2245. Thank you for your time and consideration.

**Testimony on SB 2216  
Relating to Prostitution**

**COMMITTEE ON HUMAN SERVICES & HOUSING  
Senator Suzanne Chun Oakland, Chair  
Senator Les Ihara, Vice Chair**

**Thursday, February 7, 2008 1:15 p.m.  
Room 16  
Conference Room, State Capitol**

My name is Sharon Ferguson-Quick and as Executive Director of the Hawaii State Commission on the Status of Women, I'm providing written testimony on the measure Relating to Prostitution (SB2216). I am joining the Hawaii Women's Legislative Caucus in support this bill that will establish a pilot prostitution prevention education program. It is imperative that we give our children the information to make good choices. Ones that have a positive impact on their futures. This program will provide that kind of information.

*"There are about 1.3 million prostitutes in America. Many of them, an estimated 500,000, are children. One million to 500,000 children are involved in prostitution and pornography every year. Also, an estimated 50% of streetwalkers are HIV infected. Prostitution is a major source for the spread of sexually transmitted diseases. One estimate in the "Free Teens" pamphlet states that two in five of all prostitutes in major cities are HIV positive" (<http://www.wright-house.com/ac/papers97/Name-removed-ac1.html>). Prostitution looms as a large danger for young people, especially those most vulnerable who have been abused in their young lives already, "a high percentage of child prostitutes (those under 18) were victims of incest, rape or sexual abuse as younger children" (<http://www.wright-house.com/ac/papers97/Name-removed-ac1.html>).*

In this day and age our children have access to massive amount of information and images. This "two edged" sword can be a gift that shows them a wide range of opportunities and the choices they can make to get there in their future. Unfortunately the darker edge of that sword is those who would mislead them down paths to make choice that have harmful consequences. Prostitution is one of those dark paths and too often our children are solicited and lured there. We must equip them with the tools and skill to see and understand the dangers of these situations as they appear. One of the major tools we can offer them always is education.

**I supports this bill and its effort to education our children about the dangers of prostitution and give them the skills to avoid being ensnared in their lives.**

Sharon Ferguson-Quick, Executive Director  
Hawaii State Commission on the Status of Women  
808-586-5757,  
[Sharon.Y.Ferguson-Quick@hawaii.gov](mailto:Sharon.Y.Ferguson-Quick@hawaii.gov)



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

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 2245, RELATING TO UNATTENDED CHILDREN IN MOTOR VEHICLES.

**BEFORE THE:**

SENATE COMMITTEE ON HUMAN SERVICES AND PUBLIC HOUSING

**DATE:** Thursday, February 7, 2008 **TIME:** 1:15 PM

**LOCATION:** State Capitol Room 016  
*Deliver to: Committee Clerk, Room 226, 1 copy*

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

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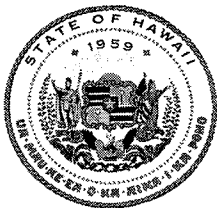
Chair Chun Oakland and Members of the Committee:

The Department of the Attorney General supports this measure.

The purpose of this bill is to protect children under the age of nine by making it a violation of the statewide traffic code for motor vehicle operators and adult passengers to leave a child unattended in a motor vehicle for five minutes or more. The bill requires the examiner of drivers to test driver's license applicants for knowledge of this violation and also requires lessors of rental vehicles to display the law regarding this violation in the rental vehicles.

Young children left unattended in a vehicle may be at great risk for injury or death. If mobile inside the vehicle, and able to touch vehicle controls, the children may also pose a great risk of danger to others. This bill addresses a situation with potentially devastating results.

We respectfully request the passage of this measure.



## **Office of the Public Defender State of Hawaii**

### **Timothy Ho, Chief Deputy Public Defender Testimony of the Office of the Public Defender, State of Hawaii to the Senate Committee on Human Services and Public Housing**

February 7, 2008, 1:15 p.m.

S.B. No. 2245: RELATING TO UNATTENDED CHILDREN IN MOTOR VEHICLES

Chair Chun Oakland and Members of the Committee:

This measure would prohibit an adult or minor twelve years or older from leaving a child under the age of nine in a motor vehicle unsupervised. A young child who is killed or is injured as a result of being left unattended in a motor vehicle is a tragedy worthy of public attention and debate. We do not believe however, that such a tragic accident, a result of human error and oversight, should be criminalized.

Last year, there was a highly publicized case where a father left his three-year old child in the back seat of his car. By the time he returned to his car and discovered his child unconscious and unresponsive, it was too late, and the child died as a result of heat exposure. Cases such as these, while very infrequent in the state of Hawaii, garner an immeasurable amount of media attention and public scrutiny.

It has been a common practice among some parents, while running errands, to leave their children alone in their cars for short periods of time. Some parents decide to leave their children in the car because they are in a rush, the errand is brief or their child is sleeping. Some errands may be as brief as stopping at the bank to withdraw money from the ATM, or running into the supermarket to pick up a carton of milk. If S.B. 2245 became law, such acts, if the child were left unattended for a little over five minutes, even if the child was not at risk of physical danger or harm, would be punished as a violation. We do not believe that leaving one's child unattended in a car for a few minutes to run an errand such as going to the post office is behavior that this legislature should proscribe.

There currently are other laws, which could be applied, to punish similar but more outrageous behavior. For example, if this same parent had gone to a gambling house or drug house and intentionally left her child in a car with the windows up for the entire period of time in order to gamble or abuse drugs, she could be charged with manslaughter, for recklessly causing her child's death. If the child did not die, she could be charged with reckless endangering, or even assault in the third degree.

We believe that this bill is an overreaction to a very infrequent event. Prosecuting a parent who has suffered such a tragic accident is like rubbing salt into a wound. This person will suffer from guilt and remorse for the rest of his life. We oppose the passage of S.B. No. 2245. Thank you for the opportunity to be heard on this matter.



**Testimony to the Senate Committee On Human Services And Public Housing  
Conference Room 016, State Capitol  
Thursday, Feb. 7, 2008 1:15 p.m.**

**RE: Senate Bill 2245**

Chair Chun Oakland, Vice Chair Ihara, and committee members:

I am Carolyn Fujioka, on behalf of State Farm Mutual Automobile Insurance Company, a mutual company owned by its policyholders. State Farm supports Senate Bill 2245.

State Farm has a long history of committing resources to helping improve auto safety, in particular, its partnership with The Children's Hospital of Philadelphia, the first academic-corporate partnership devoted to the safety of children in motor vehicles.

State Farm strongly supports the bill's provision that young children should never be left unattended in motor vehicles under any circumstances. Although arguments have been raised against legislating "good judgment," other laws such as seat belt and child passenger safety laws have demonstrated the benefits of enacting such public policy. Requiring the law to be included in the driver's examination and rental car companies to provide notice of the prohibition to renters will help raise public awareness of the dangers of leaving a child unattended in a motor vehicle.

Thank you for the opportunity to testify.