

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

ON THE FOLLOWING MEASURE:

S.B. NO. 2317, RELATING TO YOUTH PROGRAMS.

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: State Capitol, Room 226, 1 copy

TESTIFIER(S): Mark J. Bennett, Attorney General
or James W. Walther, Deputy Attorney General

Chair Chun Oakland and Members of the Committee:

The Attorney General takes no position on the intent of this bill, but points out several legal issues that would affect its implementation.

The bill appropriates money from the Temporary Assistance for Needy Families (TANF) funds to support the operations of the Palolo outreach program, sponsored by the Kaimuki-Waiialae Young Men's Christian Association, to provide various social, academic, and sports opportunities for youth.

Article VII, section 4 of the Hawaii State Constitution provides that "no tax shall be levied or appropriation of public money or property made, nor shall the public credit be used, directly or indirectly, except for a public purpose." While a public purpose could be inferred here, it would be preferable to have an explicit legislative statement to that effect.

Additionally, TANF money can only be used for one of four purposes: (1) to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives; (2) to end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage; (3) to prevent and reduce the incidence of out-of-wedlock pregnancies and

establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and (4) to encourage the formation and maintenance of two-parent families. 42 U.S.C. §601(a).

For the first and second enumerated purposes, TANF money may only be used to serve eligible needy families. For the third and fourth purposes, TANF money may be used to serve a broader population, but the purposes for which it can be used are more narrowly drawn.

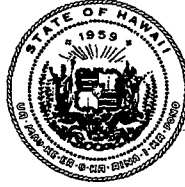
The purpose for which the money is appropriated by this bill does not, on its face, clearly relate to one of the four allowed TANF purposes, and may violate the terms of the Social Security Act and the TANF grant. Even inadvertent or unintentional violations of the TANF requirements could result in substantial financial penalties to the State if expenditures are found ineligible by the federal Department of Health and Human Services.

In addition, the restriction of this money to support a particular private enterprise, "the operations of the Palolo outreach program," appears to be a grant. Pursuant to article VII, section 4 of the Hawaii State Constitution, all grants of public moneys must be made in accordance with standards provided by law. The general standards for the award of grants are set forth in section 42F-103, Hawaii Revised Statutes. The bill should explicitly refer to those statutory standards.

In the event this money is appropriated as a grant, we make no assessment about the qualifications of the recipient to receive a grant. Rather, the expending agency would have to make a determination of the recipient's qualifications.

Finally, sections 2 and 3 of the bill are confusing because the same amount is appropriated twice, both from TANF funds and from the general revenues, for the same purpose. In section 2, an appropriation is made from TANF funds, and that section provides that "the sum appropriated shall be expended by the department of human services." Page 2, line 3. In section 3, an appropriation is made

from the general revenues, and that section provides that "the sum appropriated shall be expended by the department of human services from the temporary assistance for needy families funds." Page 2, line 9 (emphasis added). Because section 3 pertains to the appropriation out of the general revenues, the underscored words should be deleted.



STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
OFFICE OF YOUTH SERVICES
820 Millani Street, Suite 817
Honolulu, Hawaii 96813

Phone: (808) 587-5700
Fax: (808) 587-5734

February 7, 2008

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

FROM: Martha T. Torney, Executive Director

SUBJECT: SB 2317, RELATING TO YOUTH PROGRAMS

Hearing: Thursday, February 7, 2008, 1:15 pm
State Capitol, Conference Room 016

The Office of Youth Services (OYS) supports the intent of SB 2317 which appropriates funds to support the Palolo Outreach Program sponsored by the Kaimuki-Waialea Young Men's Christian Association. We recognize the importance of structured programs and activities that support and offer opportunities to children and youth to develop knowledge and skills and embrace new experiences that enable them to achieve successful transition to young adulthood.

We appreciate the over-all concept of this bill as it includes initiatives supportive of our goals and objectives, but we are concerned about the cost implications generated by this proposal.

Thank you for the opportunity to present this testimony.

SB 2219

Testimony

RELATING TO PUBLIC ASSISTANCE.

Expands QUEST coverage for post-pregnancy interconception care to up to six months. Appropriates funds for this purpose.

February 2, 2008

SB 2219 and/or SB 2317

Post-partum and Interconception Care; Quest (\$)

Aloha Honorable Senators

Overwhelming health and financial benefits that occur when a mother is able to stay at home and breastfeed her baby would more than pay for the cost of this added service that would require not less than 6 months post-partum and interconception care for women of childbearing age who are participants in the Hawai'i QUEST health insurance program. Surely if Hawai'i is one of the states that still pays for non-therapeutic infant circumcision, we could pay for necessary services that would help our mothers and babies.

In fact the United States is one of the few industrialized countries that do not support new mothers for up to year to be with their babies and at the same time the only industrialized country that pays for non-therapeutic infant circumcision.

As an OB/GYN and traditional midwife working together in Hawai'i we support the passage of SB bill 2219 and/or SB 2317.

Mahalo for your time,

Jade Patti McGaff MD
Clare Loprinzi CPM