

TESTIMONY IN SUPPORT REGARDING SENATE BILL # 2363 with suggestions for changes

TO: Senate Committees on Health and Judiciary and Labor

FROM: Yvonne de Luna

RE: Senate Bill # 2363
RELATING TO SEXUAL ASSAULT

HEARING: Monday, February 11, 2008, 1:15 pm
Conference Room 016, State Capitol

Dear Senate Committee Members:

Thank you for this opportunity to provide testimony on the Senate Bill # 2363 which “amends the Hawaii Penal Code to make sexual assault against a person who is mentally defective a “strict liability” offense.”

First of all, I support legislation which will protect the vulnerable from sexual exploitation as long as those laws do not inadvertently infringe on the rights of people with disabilities to make choices for themselves. I appreciate the legislators intent to protect individuals with developmental disabilities and others who are vulnerable to sexual assault. I also appreciate your raising awareness to this problem.

However, I think certain language in the bill need to also reflect the changes in terminology as the use of the word “mentally defective” may be viewed as inappropriate and not respectful at this time.

I also know that the “ability” of persons with developmental disabilities to make choices on consensual relations outside of marriage, will certainly draw differing viewpoints amongst persons with disabilities, their families/guardians, people working in the field and the community in general. Each individual with disability is different and there is a movement which challenges current view points and is pushing towards the right of individuals with developmental disabilities and intellectual challenges to make those decisions for themselves -- right or wrong, best interest or not.

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