

**Testimony of the Office of the Public Defender,
State of Hawaii to the House Committee on Judiciary**

Hrg: Tuesday, March 25, 2008, 4:05 pm
5 copies required

S.B. NO. 2886 SD1 HD1: RELATING TO CHILD ABANDONMENT

Chair Waters and Members of the Committee:

We oppose S.B. No. 2886 SD1 HD1 which seeks to increase the penalty for the current offense of Abandonment of a Child (HRS § 709-902) from its current level of a misdemeanor to a felony and to create a new misdemeanor offense of Abandonment of a Child in the Second Degree. First of all, we feel that the current punishment for Abandonment of a Child is sufficient. Such offenses do not seem to be an urgent problem in our community. Children are not being abandoned in increasing numbers. We would point out that this offense does not address the more common problems regarding mistreatment of children. Other offenses such as abuse of household member, assault, and sexual assault already punish such mistreatment in severe ways.

The new offense of Abandonment of a Child in the Second Degree which the bill seeks to create is very vague in both its scope and definition. A person would violate this section if he/she leaves a child with another person in reckless disregard of the risk that proof of the other person's existence cannot be confirmed or validated through certain specified records. How will someone really be aware that such a situation exists when he/she leaves a child with a caretaker or other person? It is not uncommon for persons to be deceptive about their true identities, their occupations and their places of residence. Moreover, parents routinely leave their children in the hands of coaches, teachers and daycare workers. To require a parent to conduct a background check of these persons would be onerous and impractical.

Often parents must rely on the representations of others to secure daycare or educational opportunities for their children. It is not beyond the realm of possibility that daycare providers, teachers or coaches can misrepresent the above specified information. This bill makes it very unclear how far a parent must go in investigating such persons to avoid being held criminally liable.

Thank you for the opportunity to comment on this bill.

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TO: Representative Tommy Waters, Chair
Representative Blake K. Oshiro, Vice Chair
Committee on Judiciary

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

HEARING: 4:05 pm, Tuesday, March 25, 2008, Room 325

RE: Support of S.B. 2886 H.D.1 Relating to Child Abandonment

Dear Chair Waters and Vice Chair Oshiro,

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 support SB 2886 H.D. 1, Relating to Child Abandonment. This bill would establish the offense of "abandonment of a child in the second degree" and make it a misdemeanor to abandon a child by leaving the child with a person in reckless disregard of the risk that the person's identity and work and home addresses are unknown. It would also rename the existing offense of "abandonment of a child" as "abandonment of a child in the first degree" and increasing the offense to a class C felony.

As kids growing up, we were warned by our parents "don't talk to strangers; don't take candy from strangers; or never get into a car with strangers." Wisdom passed on in order to keep our precious loved ones, our children, safe.

But what happens if the parent(s), whose duty it is to love and care for their children, freely give them away to strangers, strangers who are not known and can not be traced? Most people would think that this is a preposterous notion and goes beyond common sense. Yet, to our astonishment, it has happened.

It is unfortunate that our community must look at creating bills such as this, and yet we must. It is our obligation to ensure that we are doing all that we can to keep our children safe.

We respectfully urge the committee to pass S.B. 2886 HD1.

Thank you for this opportunity to testify.