

STATE OF HAWAII
STATE COUNCIL
ON DEVELOPMENTAL DISABILITIES
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February 5, 2008

The Honorable Suzanne Chun Oakland, Chair
Senate Committee on Human Services and Housing
Twenty-Fourth Legislature
State Capitol
State of Hawaii
Honolulu, Hawaii 96813

Dear Senator Chun Oakland and Members of the Committee:

SUBJECT: SB 3050 – 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.

The State Council on Developmental Disabilities (DD) **SUPPORTS THE INTENT OF SB 3050**. The purpose of SB 3050 is to: 1) add a new definition for “caregiver” to Section 346-222, Hawaii Revised Statutes (HRS), and 2) expand the list of persons mandated to report known or suspected abuse of vulnerable adults to include caregivers and the entity or agency designated by the Governor to provide advocacy services to persons with DD and mental illness.

The provision on Page 2, (6), lines 18-21, and Page 3, lines 1-2, is specific to the Hawaii Disability Rights Center (HDRC). HDRC is the advocacy agency designated by the Governor pursuant to Section 333F-8.5, HRS. We defer to HDRC to ensure that this provision is in compliance with the Federal law (P.L. 106-402).


With respect to Page 3, (7), lines 3-5, the Council feels the language is very broad in terms of “any entity or agency that provides advocacy services to persons with disabilities.” This language is open to varying interpretations. It is not clear if entity or agency applies to public and private entities or agencies. This provision could apply to State agencies, such as the Council, Disability and Communication Access Board; and private non-profit agencies, such as Learning Disabilities Association of Hawaii, Statewide Independent Living Council of Hawaii, and Hawaii Centers for Independent Living.

The term “advocacy services” is also very broad and numerous entities and agencies could fall under this category. We foresee difficulty in implementing this provision and therefore, suggest eliminating proposed Item (7).

The Honorable Suzanne Chun Oakland
Page 2
February 5, 2008

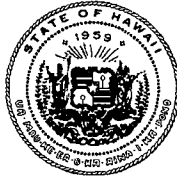
Thank you for the opportunity to submit testimony supporting the intent of SB 3050.
We appreciate the Legislature's initiatives to protect individuals with disabilities from abuse.

Sincerely,

A handwritten signature in black ink, appearing to read "Waynette K.Y. Cabral". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Waynette K.Y. Cabral
Executive Administrator

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

February 5, 2008

LATE

MEMORANDUM

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

FROM: Lillian B. Koller, Director

SUBJECT: S.B. 3050 - RELATING TO ADULT PROTECTIVE SERVICES

Hearing: Tuesday, February 5, 2008, 1:15 p.m.
Conference Room 016, State Capitol

PURPOSE: The purposes of S.B. 3050 are to add a new definition for "caregiver" to section 346-222, HRS; to require persons meeting the definition of a caregiver to promptly report to the Department of Human Services (DHS) when the caregiver knows or has reason to believe a dependent adult has been abused or is threatened with imminent abuse; and to require employees or officers of any entity or agency that provides advocacy services to persons with developmental disabilities to promptly report to DHS when those persons know of or have reason to believe a dependent adult has been abused or is threatened with imminent abuse.

DEPARTMENT'S POSITION: The Department of Human Services strongly supports this Administration bill. The provisions of this bill will add additional mandatory reporters of adult abuse

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or neglect. These amendments to sections 346-222 and 346-224, Hawaii Revised Statutes (HRS), will increase DHS' opportunity to investigate and provide protective services, as deemed necessary, for vulnerable adults.

DHS would like to suggest the following friendly amendments to this bill's definition for "caregiver" in section 346-222, HRS, and the mandated reporter section 346-224, HRS:

1. **Section 346-222, Definitions:**

"Caregiver" means any person who has knowingly and willingly assumed, on a part-time or full-time basis, the care, custody, or physical control of, or who has a legal or contractual duty to care for the health, safety, and welfare of a dependent adult."

2. **Section 346-224, Reports:**

(7) Employees or officers of any entity or agency that provides advocacy services to persons with disabilities as prescribed under federal law.

We also recommend that language pertaining to "dependent adult" and persons knowing or have reason to believe that a "dependent adult" has been abused and is threatened with imminent abuse" be changed to mirror the language used in S.B. 3049, which is another Administration bill that requests amendments to the entire Chapter 346, Part X, pertaining to adult protective services (APS). The language in S.B. 3049 refers to "vulnerable adults" and changes the criteria for accepting reports for APS

investigation to "vulnerable adults" who have been abused or are in danger of being abused if immediate action is not taken.

Thank you for this opportunity to testify.