



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

February 5, 2008

MEMORANDUM

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

FROM: Lillian B. Koller, Director

SUBJECT: S.B. 3055 - RELATING TO MANDATORY REPORTING OF CHILD
ABUSE AND NEGLECT

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

PURPOSE: The purpose of this bill (aka "Indigo Law") is to require persons who are defined as "family" in section 587-2, Hawaii Revised Statutes (HRS), who have reached the age of majority, to be mandated reporters if they have knowledge that child abuse or neglect is occurring or has knowledge that the child has been harmed due to abuse or neglect.

DEPARTMENT'S POSITION: The Department strongly supports this Administration bill because it will help to ensure the safety of children.

Currently, the law does not require family members to immediately report any known or suspected child abuse or neglect to the department or the police. In many instances, the family has first-hand knowledge of abuse or neglect situations within their family not available to other persons who have no interactions within the family. However, because of the family's connection, the abuse

or neglect is not reported, sometimes resulting in serious health and safety consequences for the child.

One recent example is the Indigo Wright case. In this case, a member of the child's extended family told the media that family members knew of the child's neglectful circumstances for many years after the child was returned to her parents and had tried unsuccessfully to intervene, but they made no report to Child Welfare Services (CWS) or the police.

During the many years after the child was returned to her parents, the child was not otherwise reported to CWS nor the police, since the child was isolated by the parents and had no contact with mandated reporters such as the police, schools, medical personnel, or others who could have suspected and reported the child's situation to CWS or the police.

This amendment will help ensure that instances of known child abuse or neglect will be reported, as required by law, directly and without delay to CWS or the police by those who observe it including family members. This will also ensure that the best evidence of abuse or neglect is obtained because it is reported directly by those who observe it which will provide CWS and the police the opportunity to intervene to ensure the safety and well-being of children.

Thank you for this opportunity to testify.

**Testimony of the Office of the Public Defender,
State of Hawaii to the Senate Committee on Human Services and Public Housing
And Committee on Judiciary and Labor**

Hrg: Tuesday, Feb. 5, 2008, 1:15 p.m.

1 copy required

**S.B. NO. 3055: RELATING TO MANDATORY REPORTING OF CHILD
ABUSE AND NEGLECT**

Chairs Chun Oakland and Taniguchi and Members of the Committees:

We oppose S.B. No. 3055 which broadens the group of persons legally obligated to report child abuse and neglect to include family members. The failure of the family member to report abuse would be punishable criminally as a petty misdemeanor.

First of all, the definition of "family member" used by the bill is contained in HRS § 587-2. Although that definition includes persons residing in the same dwelling, it does not limit the definition to such persons. Therefore, you would have family members responsible for reporting abuse even if they do not live in the same household. The bill is vague as to the level of knowledge one has to possess. If a family member suspects abuse but does not witness it, will he/she be criminally responsible?

The definition of "family member" also includes former spouses even if the spouse is not the parent of the abused child, siblings and other relatives by consanguinity or marriage. It is an excessively broad definition which would criminally punish those who may suspect abuse or have vague knowledge about abuse but who have not witnessed any abusive act.

Facing the possibility of punishment for failure to report child neglect could have the effect of fewer parents seeking help with social service agencies when they are in need of assistance. Family members who recognize a neglectful situation should be encouraged to come forward without facing the possibility of criminal punishment.

Finally, the bill fails to recognize that in many abusive situations, the entire household suffers the wrath of the abusive family member. This bill would punish a spouse who fails to report the abuse of a child even if the spouse is also an abuse victim and is afraid to file a report with the authorities.

Thank you for the opportunity to comment on this bill.

2/4/08

Written testimony for

SB 3055, Relating to mandatory
Reporting of Child Abuse and
Neglect.

- Human Services and Public
Housing Committee

Public Hearing Feb 5, 2008.

Thank You -

Manana Torres-Cortes

Senator Suzanne Chun Oakland, Chair
Senator Les Ihara, Vice-chair
Human Services and Public Housing Committee
Mariana J. Torres-Cortes
Master in Social Work Student, University of Hawaii
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Tuesday, February 5, 2008

Support of SB 3055, Relating to Mandatory Reporting of Child Abuse and Neglect

The mission of the University of Hawaii, School of Social Work is to contribute to the advancement of social work practice for the purpose of preventing or resolving the most critical social problems, reaffirming social work's historic commitment to increase social justice and availability of opportunity for underrepresented and oppressed groups. I strongly support S.B. No. 3055, Relating to Mandatory Reporting of Child Abuse and Neglect, which would broaden the group of persons required to report child abuse and neglect to include family members.

Family members, as members of our society, should be required and accountable for the reporting of abuse and neglect of children. Family members are closer to their children than any outside professional. Before any report is made by mandated professionals as established in the reporting statute, Chapter 350, Child Abuse, the family members will more likely witness the abuse and neglect first. The continued cycle of abuse and neglect that many children go through could stop even before others outside of the family notice it. Statistical reports prepared for the year 2006 by the State of Hawaii, Department of Human Services, reflects that in 88.3% of all confirmed cases of abuse and neglect, the perpetrator was a parent of the victim. If family members were to be held accountable, these high percentages will decrease because of the societal and legal pressure. As of 2006, only 8.4% of all the cases were reported by parents and relatives; this is a very low percent. If family members are to be required by law to make reports, I strongly believe that many of these victimized children will be helped before it is too late and if needed kept out of those abusive lives.

Even though there are established Child Abuse and Neglect Reporting laws, this act would broaden the protection to many more of Hawaii's children. Some will inevitably argue that such a policy need not be mandated since professionals such as physicians, psychologists, schools employees already are reporting these cases. But if more and more individuals are added to the list of mandated reporters, less and less children will be harmed.

In expanding the reporting requirement to family members, we are creating a safer environment and healthier family foundations for the children of Hawaii. I urge the committee to pass this proactive act; S.B. No. 3055. Thank you for this opportunity to testify.