



TESTIMONY OF THE STATE ATTORNEY GENERAL TWENTY-FIFTH LEGISLATURE, 2009

ON THE FOLLOWING MEASURE:

S.B. NO. 839, RELATING TO CHILD ABUSE.

BEFORE THE:

SENATE COMMITTEE ON HUMAN SERVICES

DATE: Thursday, February 12, 2009 **TIME:** 1:45 PM

LOCATION: State Capitol, Room 016

TESTIFIER(S): Mark J. Bennett, Attorney General
or Lance M. Goto, Deputy Attorney General

Chair Chun Oakland and Members of the Committee:

The Attorney General strongly supports this bill.

The purpose of this bill is to provide greater protection for children by addressing instances of possession of particularly violent or egregious child pornography, and by adding mandatory sentencing provisions for the offenses of promoting child abuse in the second degree and promoting child abuse in the third degree.

Child pornography is a record of the exploitation and actual sexual abuse and assault of innocent and helpless children. In this age of electronic communication and sharing of digital information, child pornography - and the sexual exploitation and assault on which it is based - is a growing problem around the world. Child pornographers and predators can easily share pornographic images of sexually abused children through the Internet.

This problem exists in Hawaii. For example, on November 12, 2008, Christopher Abbott, a former grants manager at the University of Hawaii Medical School, was convicted for possessing child pornography. On his computer, investigators discovered 27 movies and 17 still images of child pornography, all involving real children who had been sexually abused.

This bill amends the offense of promoting child abuse in the second degree to include the possession of particularly violent or

egregious child pornography that involves a child under the age of twelve, sadomasochistic abuse of a minor, sexual penetration of a minor, or bestiality involving a minor.

This bill also adds mandatory sentencing provisions for serious child abuse offenses involving the dissemination or possession of child pornography.

We respectfully request passage of this measure.



DEPARTMENT OF THE PROSECUTING ATTORNEY
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February 9, 2009

HONORABLE SUZANNE CHUN OAKLAND, CHAIR
HONORABLE LES IHARA, JR., VICE CHAIR
COMMITTEE ON HUMAN SERVICES

THE SENATE
THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2009
STATE OF HAWAII

TESTIMONY OF BENJAMIN M. ACOB,
PROSECUTING ATTORNEY FOR THE COUNTY OF MAUI,
IN SUPPORT OF S.B. NO. 839
RELATING TO CHILD ABUSE

The Honorable Chairpersons and Committee Members:

The Department of the Prosecuting Attorney for the County of Maui strongly supports S.B. 839, Relating to Child Abuse.

We have learned in our law enforcement training, that is a significant connection between possessors of child pornography and those perpetrators who actually commit egregious sexual or violent crimes against children. Unfortunately, due to advances in modern technology such as the internet and digital media, these sexual predators have found it faster and easier to create and disseminate child pornography.

Indeed, passing this bill will provide law enforcement officials with the much needed tools to increase protection of our children. More specifically, this bill proposes the following:

1. Amends Promoting Child Abuse in the Second Degree to include possession of particularly violent or egregious child pornography;
2. Adds mandatory sentencing provisions for serious and felonious child abuse offenses.

Clearly, the proposed amendments are intended to protect our children from these child predators. Both proposals are aimed at not only creating a deterrent effect against mere possession of particularly violent or egregious child pornography, but also designed to seriously punish these sexual predators.

In conclusion, our Department strongly supports S.B. 839. In order to effectively combat these types crimes against our children, our criminal laws must provide for harsh penalties to coincide with the serious and egregious nature of the criminal conduct.

Thank you for the opportunity to testify.

(H.B. 839, Relating to Child Abuse)



CHARMAINE TAVARES
MAYOR

OUR REFERENCE
YOUR REFERENCE

POLICE DEPARTMENT

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February 9, 2009



THOMAS M. PHILLIPS
CHIEF OF POLICE

GARY A. YABUTA
DEPUTY CHIEF OF POLICE

The Honorable Suzanne Chun Oakland, Chair
and Members of the Committee on Human Services
The Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chair Chun Oakland and Members of the Committee:

SUBJECT: Senate Bill No. 839, Relating to Child Abuse

The purpose of this bill is to provide greater protection to our children by amending the offense of promoting child abuse in the second degree to include the possession of particularly violent or egregious child pornography, and it adds mandatory sentencing provisions for serious child abuse offenses.

This legislation adds mandatory sentencing provisions for the offenses of promoting child abuse in the second degree and promoting child abuse in the third degree. It also amends the offense of promoting child abuse in the second degree to include the possession of particularly violent or egregious child pornography that involves a child under the age of twelve, sadomasochistic abuse of a minor, sexual penetration of a minor, or bestiality involving a minor.

The Maui Police Department strongly supports passage of Senate Bill No. 839 and humbly asks for your support with this legislation..

Thank you for the opportunity to testify.

Sincerely,

THOMAS M. PHILLIPS
Chief of Police

Testimony on behalf of the
Office of the Public Defender, State of Hawai`i
to the Senate Committee on Human Services

February 12, 2009

RE: S.B. No. 839: Relating to Child Abuse

Chair Chun Oakland and Members of the Committee:

S.B. No. 839 seeks to raise the penalty for possession of 10 or more photographs, at least one of which depicts certain specified types of child pornography, to Promoting Child Abuse 2°, a class B felony. We oppose passage of this bill because the current statutory scheme of Promoting Child Abuse punishes more heavily those who distribute child pornography as opposed to those who merely possess such items.

We believe that the current statutory structure is appropriate because those who disseminate and distribute child pornography do more to perpetuate the reprehensible industry than those who possess it. Therefore, such law violators should be punished more heavily.

The bill also imposes mandatory jail sentences for both Promoting Child Abuse in the 2° and 3°. It is our firm belief that discretion in imposing a sentence should be in the hands of the court. Judges are in the best position to fashion a just sentence in these and other cases.

Thank you for the opportunity to comment on this bill.