

HB 744, HD2



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-FIFTH LEGISLATURE, 2010**

ON THE FOLLOWING MEASURE:

H.B. NO. 744, H.D. 2, RELATING TO HUMAN SERVICES.

BEFORE THE:

SENATE COMMITTEE ON HUMAN SERVICES

DATE: Thursday, March 11, 2010 **TIME:** 2:15 p.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): Mark J. Bennett, Attorney General, or
Andrea J. Armitage, Deputy Attorney General

Chair Chun Oakland and Members of the Committee:

The Department of the Attorney General appreciates the intent of this bill, but must oppose it.

The bill would require county police departments, the state civil defense division, local broadcasters, and other state and county agencies to develop and implement a statewide "Silver Alert" program for missing senior citizens, integrated with the Maile Amber Alert program for missing children. We have concerns about this bill for several reasons.

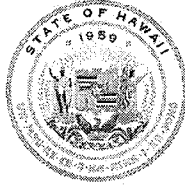
First, unlike children, whose parents can waive confidentiality, senior citizens have privacy rights that should be respected to the greatest extent possible. Senior citizens also have a right to travel on their own. The criteria for posting a Silver Alert as stated in the bill are too vague to justify a violation of the senior's privacy rights without the senior's consent. Section 3, paragraph (3) of the bill requires the senior to have "an impaired mental condition," but this is not defined and could be interpreted very broadly. The bill also requires that the impaired mental condition must be documented by "the family, legal guardian, or physician of the missing senior citizen." But family is not defined and could be interpreted very broadly. Furthermore, a physician may not be

able to disclose the senior citizen's medical information due to federal privacy laws.

Second, adding a Silver Alert to the Maile Amber Alert program could cause the system to be overused and the community to become indifferent to the alerts, i.e., there could be a significant dilution of the dramatic effect that Maile Amber Alerts have on the public. For example, on average, the Honolulu Police Department has at least one potentially qualifying Silver Alert case per week. In contrast, since its inception in 2005, the Maile Amber Alert has only been used once in Hawaii.

Finally, the "Silver Alert" program does not appear to be necessary. The Honolulu Police department has informed us that in 2009 in Honolulu, all 89 missing senior citizens with dementia or Alzheimer's disease were located. In 2008, all four seniors reported missing on Kauai were located. In 2008, on the Big Island, twelve seniors were reported missing and eleven of them were located. The numbers from Maui are not readily available; however, there are no outstanding cases of missing senior citizens there at this time. The county police departments have informed us that they have adequate procedures in place to locate almost all of the senior citizens reported to be missing. The local broadcast media has also been very cooperative with law enforcement in publicizing information about missing seniors when necessary.

We respectfully ask the Committee to hold this bill.



STATE OF HAWAII
STATE COUNCIL
ON DEVELOPMENTAL DISABILITIES
919 ALA MOANA BOULEVARD, ROOM 113
HONOLULU, HAWAII 96814
TELEPHONE: (808) 586-8100 FAX: (808) 586-7543
February 11, 2010

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

Dear Senators Chun Oakland and Members of the Committee:

SUBJECT: SB HB 744 HD1 – RELATING HUMAN SERVICES

The position and views expressed in this testimony do not represent nor reflect the position and views of the Department of Health.

The State Council on Developmental Disabilities **SUPPORTS HB 744 HD1**. The purpose of this bill is to expedite the recovery of missing senior citizens by establishing a silver alert program in each county.

Senior citizens and individuals with disabilities may be very vulnerable when they become confused, disoriented, wander from their surroundings, due to Dementia, Alzheimer's, traumatic brain injury, etc. The Amber Alert system has demonstrated how effective it is to alert the public of a missing or exploited child and begin immediate action to find that child. We believe a statewide silver alert system would serve the senior citizen population well and would provide a mechanism for the general public, state civil defense division, other state, county and private agencies, and the media to take necessary steps that lead to the safe return of that person.

The Council appreciates the Legislature's actions to promote and establish a silver alert system for senior citizens. We strongly believe that a system like this would greatly benefit individuals with disabilities. **Therefore, the Council asks for your favorable consideration to include persons with disabilities in the statewide silver alert program.**

Thank you for your consideration and the opportunity to submit testimony in support on HB 744 HD1.

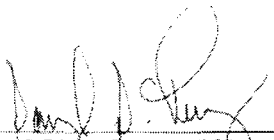
Sincerely,

Waynette K.Y. Cabral
Executive Administrator


Rosie Rowe
Chair

Chairperson Suzanne Chun Oakland
and Members of the Committee on Human Services
March 9, 2010
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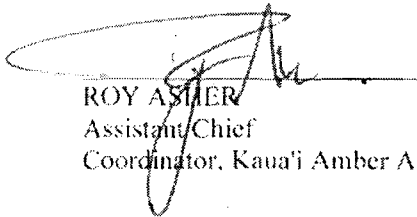
Again, we are opposed to the Silver Alert, House Bill No. 744, HD2, Relating to Human Services. Thank you for this opportunity to testify.




DARRYL D. PERRY
Chief of Police



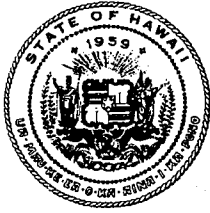
JON TAKAMURA
Lieutenant
Coordinator, Child Abduction Response Team



ROY ASTIER
Assistant Chief
Coordinator, Kaua'i Amber Alert Program



CLAIRE UENO
Coordinator, Kaua'i Missing Persons Investigations



DISABILITY AND COMMUNICATION ACCESS BOARD

919 Ala Moana Boulevard, Room 101 • Honolulu, Hawaii 96814
Ph. (808) 586-8121 (V/TDD) • Fax (808) 586-8129

March 11, 2010

TESTIMONY TO THE SENATE COMMITTEE ON HUMAN SERVICES

House Bill 744, HD2 - Relating to Human Services

The Disability and Communication Access Board (DCAB) supports House Bill 744, HD2 that creates a silver alert program to be operated concurrently with the Maile Amber Alert program to be activated on behalf of a missing senior citizen in the appropriate county.

DCAB's primary focus is individuals with disabilities, however that could also include people with disabilities who may have problems remembering where they are and result in them wandering off. This may include some individuals with developmental disabilities or traumatic brain injuries. If there is a way to include people with disabilities who may have a tendency to become disoriented and wander off, then this bill would encompass all individuals and also provide a means to find and return them to their families.

Thank you for the opportunity to testify.

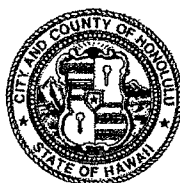
Respectfully submitted,

CHARLES W. FLEMING
Chairperson
Legislative Committee

FRANCINE WAI
Executive Director

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulu-pd.org



MUFI HANNEMANN
MAYOR

LOUIS M. KEALOHA
CHIEF

DELBERT T. TATSUYAMA
RANDAL K. MACADANGDANG
DEPUTY CHIEFS

OUR REFERENCE

CN-NTK

March 11, 2010

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

Dear Chair Chun Oakland and Members:

Subject: House Bill No. 744, H.D. 2, Relating to Human Services

I am Richard C. Robinson, Captain of the Criminal Investigation Division of the Honolulu Police Department, City and County of Honolulu.

The Honolulu Police Department opposes House Bill No. 744, H.D. 2, Relating to Human Services. Unlike the Maile Amber Alert Program that is used for criminal abductions of children in life-threatening situations, missing person cases are not criminal in nature. The Honolulu Police Department actively investigates cases when a senior citizen is reported missing who has Alzheimer's, dementia, or an impaired mental condition that poses a credible threat to the health and safety of the senior citizen. Because the jurisdiction of the Honolulu Police Department encompasses the entire island of Oahu, there are no jurisdictional communication problems that have prompted similar legislation on the mainland.

Upon receiving the report, an All Points Bulletin is broadcast island-wide for the missing person. Investigators make contact with the family to obtain more detailed information and a photograph of the missing person. A flyer is created and distributed to The Bus, shopping centers, hotel security, sheriffs at the airport, and all patrol districts. Investigators may utilize the police helicopter, tracking dogs, or trained search and rescue personnel to assist in the search if deemed necessary. Areas where the missing person is known to have lived or frequented in the past are also checked.

Serving and Protecting With Aloha

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and Members
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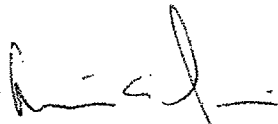
Investigators work with the media to request the public's assistance to help locate these missing senior citizens. These measures have been very successful. In the last three years, there have been 281 reported Alzheimer's or dementia-related missing persons cases. Of those, 279 were located unharmed.

Passage of the Silver Alert for Missing Senior Citizens may confuse the public and may be detrimental to the existing Maile Amber Alert Program that is used in only the most severe criminal cases where children are kidnapped and are in immediate danger of death.

The Honolulu Police Department urges you to oppose House Bill No. 744, H.D. 2, Relating to Human Services.

Thank you for the opportunity to testify:

Sincerely,


for RICHARD C. ROBINSON, Captain
Criminal Investigation Division

APPROVED:



for LOUIS M. KEALOHA
Chief of Police

William P. Kenoi
Mayor



Harry S. Kubojiri
Police Chief

Paul K. Ferreira
Deputy Police Chief

County of Hawai`i

POLICE DEPARTMENT

349 Kapi`olani Street • Hilo, Hawai`i 96720-3998
(808) 935-3311 • Fax (808) 961-2389

March 8, 2010

The Honorable Suzanne Chun Oakland
Chair and Members
Committee on Human Services
State Capitol
415 South Beretania Street, Conference Room 016
Honolulu, Hawaii 96813

Re: HOUSE BILL 744, HD2, RELATING TO HUMAN SERVICES

Dear Senator Chun Oakland and Members:

The Hawai`i Police Department opposes House Bill 744, HD2, Relating to Human Services, seeking to create and implement a "Silver Alert" program to aid in the safe and timely recovery of missing senior citizens within the state of Hawai`i.

This proposed legislation, while honorable in its intentions, may serve to dilute the significance of the Maile Amber Alert system as it states, "To the greatest extent possible, the silver alert program shall be integrated with the preexisting Maile Amber Alert program and partnership." Furthermore, not to diminish the importance of quickly locating our elderly population who suffer from Alzheimer's disease and tend to wander thereby placing them at risk, it neglects to address other mentally impaired and physically endangered members of our community.

To preserve the significance of the system and its utilization, the criteria to issue a Maile Amber Alert is very strict so as to insure that only instances of reasonable belief by law enforcement that a child abduction has occurred and that the child is in imminent danger of serious bodily injury or death will such a report result in activation. Further, that there is sufficient information provided which would aid in the recovery of the child.

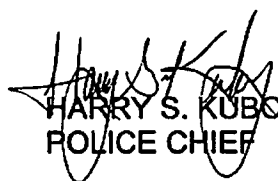
To limit the "Silver Alert" to only individuals age 65 or older would be a tremendous disservice to other "endangered" missing people. Although we agree that an immediate response system should be devised for missing senior citizens suffering from a documented impaired mental condition, there is a much larger population in our community that suffer from other forms of mental illness and are vulnerable to harm should they too happen to wander from a caregiver. Additionally, we have experienced instances whereby a person reported missing requires medication for a life-threatening medical condition.

The Honorable Suzanne Chun Oakland
Chair and Members
Committee on Human Services
Re: House Bill 744, HD2, Relating To Human Services
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In other instances, someone's safety may be greatly jeopardized because they are unaccounted for and suspected as being in the company of someone with ill-intentions toward that person. Surely these groups of individuals deserve our most prompt attention as well.

Instead, we support future legislation which aid in the rapid recovery of all endangered missing persons. For these reasons, we urge this committee to reject this legislation. Thank you for allowing the Hawai'i Police Department to testify on H.B. No. 744, HD2.

Sincerely,


HARRY S. KUBOJIRI
POLICE CHIEF



BERNARD P. CARVALHO, JR.
Mayor

GARY K. HEE
Administrative Assistant

POLICE DEPARTMENT COUNTY OF KAUAI

3990 KAANA STREET, SUITE 200
LIHUE, HAWAII 96766-1268
TELEPHONE (808) 241-1600
FAX (808) 241-1604



DARRYL D. PERRY
Chief of Police

MARK N. BEGLEY
Deputy Chief

March 9, 2010

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

Dear Chairperson Oakland and Members:

Subject: Opposition to House Bill No. 744, HD2 Relating to Human Services

The Kauai Police Department is in opposition of House Bill No. 744, HD2 Relating to Human Services. We are concerned about the welfare of our senior citizens however, the Maile Amber Alert was developed for criminal abductions of a child. The Maile Amber Alert program's stringent guidelines were implemented so that the program will not be over-used and the community will not be confused over an alert.

The Maile Amber Alert is a statewide program and in the event of an activation or alert, each county will be activated irregardless of which island actually initiated the alert. There are over a hundred cases generated a year in the state for missing senior citizens due to Alzheimer's, dementia, or an impaired mental condition. If an alert is initiated for all of these cases, the Maile Amber Alert would not have the same impact as it was intended for. Honolulu County alone investigates approximately ninety cases a year.

For a case regarding a missing senior citizen, an All Points Bulletin is broadcast island-wide as information is being received from family or friends. Information is also obtained from our elderly profile kept here at our station and/or by the office of elderly affairs. A photo of the missing person is circulated and a search is conducted. KSAR, (Kaua'i Search and Rescue) is activated, which would entail the use of search dogs and approximately 25 ground pounders to assist with the search. Investigators may also utilize the assistance of a helicopter, if needed.

Unlike the search for an abducted child where a predator intends to hide and harm the child, a missing elder usually is wandering about. Checks are conducted of Locations where the missing person is known to have lived or frequented in the past.

TO THE SENATE COMMITTEE ON
HUMAN SERVICES

TWENTY-FIFTH LEGISLATURE
Regular Session of 2010

Thursday, March 11, 2010
2:15 p.m.

**TESTIMONY ON HOUSE BILL NO. 744 HD2 – RELATING TO HUMAN
SERVICES**

TO THE HONORABLE SUZANNE CHUN OAKLAND, CHAIR, LES IHARA, JR.,
VICE CHAIR, AND MEMBERS OF THE COMMITTEE:

My name is Jennifer Fuchikami and I am a nineteen year old college student. I support HB 744 HD2, which would create the “Silver Alert System” within the current Maile-Amber Alert program to help find missing elderly kūpuna who suffer from Alzheimer’s or other mental illnesses.

According to their respective state websites, twenty-four other states have some form of the Silver Alert System. Another eight states have missing person alert systems that contain broader criteria that include senior citizens. These thirty-two states are from every region of America – from Alabama in the South, Kansas in the Midwest, Arizona in the West, to New Jersey and much of the East Coast.

During debates for proposed federal legislation for a national Silver Alert program in February of 2009, Texas Congressman Ted Poe noted that reports from states with Silver Alerts programs in operation had been able to make use of the Amber Alert systems already in place to issue Silver Alerts, making the costs to implement the system nominal.

Even though I am fortunate that my grandparents are currently well and in relatively good health, there may come a time when I could personally be affected and helped by having this system in place. But I know that there are families who would benefit now from having a Silver Alert program here – information would be dispatched to media right away and electronic highway signage could also be used to facilitate the

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communication of this information. In Hawaii, we have always treasured and cared for our kūpuna and I believe this is one way we can protect them.

I thank the committee for the opportunity to testify on this matter and respectfully ask that you pass this bill.