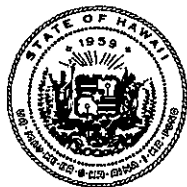


NEIL ABERCROMBIE
GOVERNOR



PATRICIA McMANAMAN
INTERIM DIRECTOR

PANKAJ BHANOT
DEPUTY DIRECTOR

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

February 28, 2011

TO: The Honorable Marcus R. Oshiro, Chair
House Committee on Finance

FROM: Patricia McManaman, Interim Director

SUBJECT: **H.B. 684, H.D. 2, - RELATING TO MINORS**

Hearing: Monday, February 28, 2011; 1:30 p.m.
Conference Room 308, State Capitol

PURPOSE: The purpose of H.B. 684, H.D. 2, is to allow a provider to provide emergency shelter and related services to a minor under certain circumstances.

DEPARTMENT'S POSITION: The Department supports the overall concept of this bill and appreciates the amendments proposed by the House Judiciary Committee but we are still concerned about the cost and programmatic implications generated by this bill for the following reasons:

1. The rights, responsibilities, duties, and liability of the Department, parents or legal custodians are not clear. The bill does not explain how the cost of shelter will be covered and does not specify that the Department, who may have foster custody of a minor who consents to receive temporary safe shelter is not responsible for the cost of providing shelter and will not be held liable for any cost similar to parents, legal guardians and custodians.

We suggest the following clarifying language in Section (f):

(f) If a minor consents to receive temporary safe shelter and related services, the parent, legal guardian, [or] custodian, or foster custodian of the minor shall not be liable for the legal obligations resulting from the temporary safe shelter and related services provided by a provider. A parent, legal guardian, [or] custodian, or foster custodian whose consent has not been obtained, or who has no prior knowledge that a minor has consented to the provision of temporary safe shelter and related services, shall not be liable to the provider for any costs incurred by virtue of the minor's consent. This provision does not affect the liability of a parent, legal guardian, or custodian under section 577-3.

2. There are no funds provided in the bill, which would be needed to provide the shelter services, medical care and related services required by the bill if the Department is expected to cover the cost of the emergency shelter services.
3. We would also suggest that minors who consent to receive emergency shelter services should be required to cooperate in completing an assessment and participate in services as recommended by the emergency shelter provider.

Thank you for the opportunity to testify.

HAWAII YOUTH SERVICES NETWORK

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Alan Shin, President

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Adolescent Services Program, Kaiser
Permanent Medical Care System

Aloha House

American Civil Liberties Union of Hawaii

Assistive Technology Resource Ctr. of HI

Bay Clinic, Inc.

Big Brothers Big Sisters of Honolulu

Big Island Substance Abuse Council

Blueprint for Change

Bobby Benson Center

Catholic Charities Hawaii

Central Oahu Youth Services Assn.

Child and Family Service

Coalition for a Drug Free Hawaii

College Connections

Community Assistance Center

Domestic Violence Action Center

EPIC, Inc.

Family Support Services of West Hawaii

Friends of the Missing Child Center of HI

Hale Kipa, Inc.

Hale 'Opio Kauai, Inc.

Hawaii Behavioral Health

Hawaii Student Television

Healthy Mothers Healthy Babies Coalition

Hina Mauka Teen Care

Hui Malama Learning Center

Kahi Mohaka Behavioral Health

Kama'aina Kids, Inc.

KEY (Kunioa-Ecumenical Youth)
Project

Kids Behavioral Health

Kids Hurt Too

Kokua Kalibi Valley

Kula No Na Poe Hawaii

Lanai Community Health Center

Life Foundation

Marimed Foundation

The Maui Farm, Inc.

Maui Youth and Family Services

Palama Settlement

P.A.R.E.N.T.S., Inc.

Parents and Children Together (PACT)

Planned Parenthood of Hawaii

Queen Liliuokalani Children's Center
Kona Unit

REAL

Salvation Army Family Intervention Svcs.

Salvation Army Family Treatment Svcs.

Sex Abuse Treatment Center

Susanosh Wesley Community Center

The Catalyst Group

The Children's Alliance of Hawaii

Waikiki Health Center

Women Helping Women

YouthVision

YWCA of Kauai

February 22, 2011

To: Representative Marcus Oshiro, Chair
And members of the Committee on Finance

TESTIMONY IN SUPPORT OF HB 684 HD2 RELATING TO MINORS

Hawaii Youth Services Network, a statewide coalition of more than 50 youth-serving organizations, strongly supports HB 684 HD2 Relating to Minors.

This bill does not require any new state funding. The shelter programs where youth will be housed are already funded through a mix of federal grants, state contracts, and donor contributions.

Instead, this bill creates a mechanism to ensure that minors in need of emergency shelter will be able to access services and increase their safety. It recognizes that there are circumstances in which parents or guardians cannot be reached to provide consent or the parent refuses consent but will not allow the youth to return home.

The number of youth who cannot obtain parental/guardian consent for shelter admission is small, but the consequences when youth are forced to remain on the street are severe. These youth are at high risk for physical or sexual assault, poor nutrition, inadequate health care, and inability to attend school. Child Welfare Services is usually unable to intervene as it has very specific criteria for opening a case and these situations do not usually meet the threshold.

Admitting a youth to shelter not only assures a safe place to stay, it allows shelter staff to begin the process of addressing the family issues that led to the youth's leaving home. Family counseling can be initiated to facilitate the minor's safe return home and, if that is not in the best interests of the child, alternative housing can be arranged.

This bill grew out of the work of the Safe Shelter for Youth Work Group, established by legislative resolution in 2008. All members of the Work Group agreed that allowing youth to provide consent for shelter was a key action to increase the safety of homeless youth.

The Department of Human Services has expressed some concerns about this bill to which I would like to respond.

1. DHS felt that the bill did not sufficiently specify how the service provider would determine whether the youth is capable of giving informed consent. In 2008, the Hawaii Legislature passed a bill allowing minors to consent for primary and preventive health care. The language regarding informed consent in this bill is identical to the language in the current statute regarding minor consent for health care, which has not been challenged.
2. DHS felt that language was needed to identify and report if youth are on runaway status from the Department or the Court. Hawaii Youth Services has no objection to an amendment to specify reporting procedures.
3. DHS was concerned that minors who pose a risk to themselves or others would be admitted to the shelter without an assessment that shelter services are appropriate for the youth. All youth shelters in Hawaii conduct initial assessments to identify emergency medical or mental health needs of the minors seeking admission and to determine if shelter admission is appropriate. This is required by government funders, licensing requirements, and accrediting bodies.
4. DHS felt that the rights, responsibilities, duties and liability of the Department, parents, or legal custodians are not clear. Hawaii Youth Services Network would be willing to work with DHS to satisfy their concerns.
5. DHS believes that funding would be needed to provide the shelter and other related services. Funding for shelter and related services is already in place from multiple sources. While funding for additional beds and services would be welcome, we are not asking for funds at this time. This bill is intended only to ensure that all runaway and homeless youth have the right to obtain emergency shelter when needed.

Thank you for this opportunity to testify.

Sincerely,



Judith F. Clark, MPH
Executive Director



Committee: Committee on Finances
Hearing Date/Time: Monday, February 28, 2011, 1:30 p.m.
Place: Room 308
Re: Testimony of the ACLU of Hawaii in Support of H.B. 684, HD2, Relating to Minors

Dear Chair Oshiro and Members of the Committee on Finances:

The American Civil Liberties Union of Hawaii ("ACLU of Hawaii") writes in support of H.B. 684, HD2, which seeks to allow a minor to give informed consent for emergency shelter and related services.

This bill recognizes that many youth needing emergency shelter simply cannot obtain parental consent and should not be required to have it to obtain emergency services. Children are entitled to similar rights and social benefits as other citizens and should be provided with necessary services rather than forced onto the streets.

Removing potential civil or criminal liability for shelters that are otherwise able to satisfy the emergency needs of runaway or abandoned youth will provide much needed support to shelters, and, most importantly, to the children who will finally be able to access the help that they need.

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for over 40 years.

Thank you for this opportunity to testify.

Sincerely,

Laurie A. Temple
Staff Attorney
ACLU of Hawai'i

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