

SD52

Testimony

**Senate Judiciary Committee
Hearing: March 3, 2011 3:00pm, Room 016**

**Joyce Jo
329 Auwinala Road
Kailua, HI 96734**

I will testify live.

SB 52

Title: Sex offender registration; Violation of Privacy

This amendment requires persons convicted of violation of privacy in the first degree to register as a sex offender for ten years & should be applied retroactively.

I support the bill with the following amendments:

- **Stiffer penalties for acts against minors and if there is evidence that images were disseminated or posted on the Internet**
- **Should be required to get sex offender treatment at their expense.**

Per Hawaii State code §711-1110.9, Violation of privacy in the first degree is a class C felony if the person intentionally installs, any device for observing, recording, amplifying, or broadcasting another person in a stage of undress or sexual activity in that place without consent of the person or persons entitled to privacy therein. Exceptions would include execution of a public duty or as authorized by law.

In addition, the Video Voyeurism Prevention Act of 2004 (18 U.S.C.A. 1801) upholds this felony with fines and/or up to one year in prison. Currently 44 states, including Hawaii have legislation which considers video voyeurism a Criminal felony except Iowa, New Mexico, Nevada, & the District of Columbia. A person is found guilty of video voyeurism when, there is evidence that the deed was recorded for the purpose of one's own sexual arousal, entertainment, satisfaction, or to sexually degrade or abuse any other person and intentionally disseminates, publishes or sells any image without their consent.

In the State of Hawaii, voyeurism is a criminal offense but is not considered a sex offense & if convicted, does not require signing the Sex offender registry. Most sex offenders report that they have committed multiple types of sexual assaults which include exhibitionism, voyeurism. (*English et al, 2000*).

Voyeurism should be considered a sex offense because the deed is based on the offender's sexual gratification. A "peeping tom" armed with access to electronic media, easy access to the Internet, and preys on innocent men, women or children, is a threat to the community. Using electronic means to 'peep" is not spontaneous, but is

calculated, pre-planned. It is not harmless, it is not normal. It shows signs of a sick person who cannot differentiate between right and wrong. Thus, the mandatory treatments, at their expense would be required to break the cycle.

As an example, the state of Louisiana sees video voyeurism as a sex offense, & whoever commits the crime shall be required to register as a sex offender per chapter 3-B of Title 15 of the Louisiana Revised Statutes of 1950, & also requires an offender to live in a designated area.

The 2006 Louisiana Code - RS 14:283 conveys tiered penalties for Video voyeurism which is determined by the crime:

(1) upon a first conviction, (2) on a second or subsequent conviction, (3) when observing, viewing, photographing, filming, or videotaping any private parts or sexual activity without consent, and, (4) when the observing, viewing, photographing, filming, or videotaping any child under the age of seventeen with the intention of arousing or gratifying the sexual desires of the offender without their consent.

My personal example: Criminal case 1PC07-1-001990 State of Hawaii vs. Robert Thomas Franks: Violation of privacy in the first degree; Class C felony.

Robert Franks was sentenced to 1 year in prison on August 18, 2009. The defendant was a retired naval officer, my ex-husband who used his expertise in electronics & computers to install a spy camera in a clock radio in the family bathroom. He recorded nude pictures of his stepdaughters, my daughters, as they were undressing to take a shower. This set up was hooked up to a DVD recorder & a remote was used to record at will. These pictures showed signs that they were edited on the computer but, it is not known if they were posted on the Internet. My daughters were 14 and 19 at the time & he had known them since they were 5 & 11 years old.

Credit card records show that he bought spy equipment through the Internet as early as 2004 & figured out, installed, & was recording pictures by 2006. In March 2007, we found 2 DVDs full of pictures & videos of my daughters, all taken during a period of a year; 2006. He had the audacity to sit at the dinner table, look us in the eye for more than a year & act like nothing was happening. I believe that if we did not find the evidence, he would have risked taking the next step; posting the pictures on the Internet or trying to "touch" the girls. Without treatment, he will attempt to do it again when he finds other innocent victim(s), because he told me that he does not know what thoughts trigger his actions. He has no idea why he did these horrible things. He is a convincing liar. Sexual predators are convincing liars.

Because of the existing state law, he was convicted but not required to sign the sex offender registry, even though the Judge felt he should. He tried to transfer his prison sentence and parole to the state of Louisiana because his girlfriend with 2 small children lives there. Louisiana law considers voyeurism a sex offence & required him to sign the registry as well as live in a designed area. Because of this, he has opted to stay in Hawaii.

We must bring our current sex offender laws up to date. We must send a clear message to others that voyeurism/ video voyeurism will not be tolerated in the State of Hawaii, especially when adults prey on children. The message to sex offenders out there is that this is serious & you will not get off that easy. A person who commits voyeurism is a sexual predator, is sick, and if left untreated, will eventually "touch" or rape. We're saying that if there is a conviction, then signing the sex offender registry should be a requirement for 10 years. The prosecution/ conviction rate is low because victims are afraid to turn in their perpetrators or because of the lack of hard evidence.

Any child who is a victim of voyeurism/ video voyeurism is psychologically harmed. My daughters were 14 & 19 when my ex-husband recorded them in 2006. They are 19 & 25 and cannot talk about it. They have both gone through therapy but it is unknown what long term psychological effects still await them. I have become their voice as well as the voice for other potential victims.

I humbly ask for your support of SB52 & your vote to update our existing law.

From: [George and Evie](#)
To: [JDLTestimony](#)
Subject: SB52
Date: Tuesday, March 01, 2011 10:08:09 AM

Dear Senator Clayton Hee,

The SB 52 is scheduled for reading Thursday March 3, 2011. I am in STRONG SUPPORT of this bill. Violators need stronger consequences for their actions. The Victims live with the wrong done to them for the rest of their lives ! PLEASE PASS BILL SB 52. Violators should be REGISTERED to help project the integrity of the law. I am in favor of retroactive registration to protect women and children from future violations of past violators/offenders. Mahalo, I hope you will Support this BILL.
Evie M. Lingle 882 Akalei Place, Kailua, Hawaii 96734 262-5922

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: mnboyle2@msn.com
Subject: Testimony for SB52 on 3/4/2011 12:00:00 PM
Date: Tuesday, March 01, 2011 11:41:27 PM

Testimony for JDL 3/4/2011 12:00:00 PM SB52

Conference room: 016
Testifier position: support
Testifier will be present: No
Submitted by: Marsha N. Boyle
Organization: Individual
Address:
Phone:
E-mail: mnboyle2@msn.com
Submitted on: 3/1/2011

Comments:

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: kunitake@earthlink.net
Subject: Testimony for SB52 on 3/4/2011 12:00:00 PM
Date: Wednesday, March 02, 2011 8:30:46 AM

Testimony for JDL 3/4/2011 12:00:00 PM SB52

Conference room: 016
Testifier position: support
Testifier will be present: No
Submitted by: walter k kunitake
Organization: Individual
Address:
Phone:
E-mail: kunitake@earthlink.net
Submitted on: 3/2/2011

Comments:

Testimony in Support of SB52 – Sex Offender Registration

I support SB52, which amends the definition of a sexual offense and requires first time sex offenders in the violation of privacy in the first degree to register as sex offenders for ten years.

Currently, persons convicted of a violation of privacy in the first degree are not required to register as sex offenders. This leaves innocent women and children unaware and exposed to possible threats in their neighborhood or community. Seemingly harmless individuals could be concealing a dark, criminal history.

Individuals must be protected from these sex offenders in the community. Providing awareness of surroundings in the community is the first step in helping to protect the innocent.

I humbly ask for your support of SB52 and vote to amend our existing law.

Thank you,

Staci Kunitake
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