

NEIL ABERCROMBIE
GOVERNOR



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

March 31, 2011

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

FROM: Patricia McManaman, Director

SUBJECT: **S.B. 921, S.D.2, H.D. 2 - RELATING TO MINORS**

Hearing: Tuesday, March 31, 2011; 4:00 p.m.
Conference Room 308, State Capitol

PURPOSE: The purpose of S.B. 921, S.D.2, 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 of Human Services (DHS) supports this bill to provide emergency shelter to minors.

DHS concurs with the amendments to this bill proposed by the Department of the Attorney General.

In addition, DSH would recommend an amendment to the definition of "emergency shelter and related services" proposed in subsection (i) as follows:

(i) "No cost emergency shelter and related services" means accommodation for a continuous period of no more than thirty days, unless extended for emergency purposes and in compliance with subsection (b), including beds, meals, individual showering facilities, transportation to and from the place of shelter, and any of the following services as deemed appropriate by the provider:....."

DHS believes that the amendments offered by the Attorney General and DHS will help to ensure the provision of appropriate emergency shelter and related services for youth and will assist with implementation of the bill's intent.

We respectfully request the Finance Committee's consideration of the amendments by the Attorney General and DHS.

Thank you for the opportunity to testify.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SIXTH LEGISLATURE, 2011**

ON THE FOLLOWING MEASURE:

S.B. NO. 921, S.D. 1, H.D. 2, RELATING TO MINORS.

BEFORE THE:

HOUSE COMMITTEE ON FINANCE

DATE: Thursday, March 31, 2011 TIME: 4:00 p.m.

LOCATION: State Capitol, Room 308

TESTIFIER(S): David M. Louie, Attorney General, or
Andrea J. Armitage, Deputy Attorney General

Chair Oshiro and Members of the Committee:

The Department of the Attorney General provides the following comments.

This bill would allow a service provider to provide emergency shelter and related services to a minor, without parental consent under certain circumstances.

The Department of the Attorney General recommends that the bill be amended to clarify its effect on the parents', legal guardians', or legal custodians' legal liability for any tortious acts that may be committed by their children while being provided emergency shelter and related services.

Proposed section 346-(f), on page 4, lines 8-17, provides:

If a minor consents to receive emergency shelter and related services pursuant to subsections (a) and (b), the parent, legal guardian, or legal custodian of the minor shall not be liable for the legal obligations resulting from the emergency shelter and related services provided by a provider. A parent, legal guardian, or legal custodian whose consent has not been obtained or who has no prior knowledge that a minor has consented to the provision of emergency shelter and related services shall not be liable for any costs incurred by virtue of the minor's consent.

(Emphases added.)

We believe this section should be deleted because it is unclear whether the terms "legal obligations" and "costs incurred" refer to damages caused by tortious acts committed by the minors or just the cost of the services provided.

Section 577-3, Hawaii Revised Statutes (HRS), provides in part:

The father and mother of unmarried minor children shall jointly and severally be liable in damages for tortious acts committed by their children, and shall be jointly and severally entitled to prosecute and defend all actions in which the children or their individual property may be concerned.

As a policy matter, parents, guardians, and legal custodians of minors should be responsible for the acts of their minor children, whether or not the minors need the services of an emergency shelter home. We do not believe this bill intends to create an exception to the requirements of section 577-3, HRS. Perhaps the "legal obligations" and "costs incurred" discussed in subsection (f) are solely intended to mean that the emergency shelter and related services shall be provided without charge to the minor or the minor's parents, as per proposed section 346-_(b). If so, then we recommend that wherever the phrase "emergency shelter and related services" is used (including in the title and in the definition), that the words "no cost" precede the phrase. Thus, the title of the section would be "Consent to no cost emergency shelter and related services." Then, subsection (f) can be deleted and there will be no confusion.

We also recommend that the first sentence of section 346-_(c), at page 3, lines 8-11, be amended as follows to make it

clear that the minors are able to consent to all services involved with providing emergency shelter services, including medical services: "Any consent given by a minor under this section shall, for the duration of the period of shelter and with respect to all services, including medical services, be valid and binding as if the minor had reached the age of majority" (suggested additional language emphasized in bold type). This will ensure that medical providers will not refuse care for the minors without parental consent under these circumstances.

We further recommend that the second sentence of proposed section 346-_(c), on page 3 at lines 11-15, be deleted because it uses the term "legal obligations," but is unclear as to what those obligations might be. That sentence appears to be redundant to the first sentence and is, therefore, unnecessary.

We respectfully request that this measure be amended as suggested.

HAWAII YOUTH SERVICES NETWORK

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Alan Shinn, President
Judith F. Clark, Executive Director
Adolescent Services Program, Kaiser
Permanente Medical Care System
Aloha House
American Civil Liberties Union of Hawaii
Assistive Technology Resource Ctrs. 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 Mohala Behavioral Health
Kama'aina Kids, Inc.
KEY (Kualoa-Heeie Ecumenical Youth)
Project
Kids Behavioral Health
Kids Hurt Too
Kokua Kalihii 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
Susannah Wesley Community Center
The Catalyst Group
The Children's Alliance of Hawaii
Waikiki Health Center
Women Helping Women
YouthVision
YWCA of Kauai

March 28, 2011

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

TESTIMONY IN SUPPORT OF SB 921 SD2 HD2 RELATING TO MINORS

Hawaii Youth Services Network (HYSN), a statewide coalition of more than 50 youth-serving organizations, strongly supports SB 921 SD2 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 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.

Thank you for this opportunity to testify.

Sincerely,

Judith F. Clark, MPH
Executive Director

HYSN page 2

Thank you for this opportunity to testify.

Sincerely,

Judith F. Clark, MPH
Executive Director



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March 30, 2011

To: Chair Marcus Oshiro, Vice Chair Marilyn Lee and Members of the House Committee on Finance
From: Katie Reardon, Director of Government Relations & Public Affairs, Planned Parenthood of Hawaii
Re: **Testimony in Support of SB 921 SD2 HD2**

Planned Parenthood of Hawaii (PPHI) supports SB 921 SD2 HD2, which allows minors to provide informed consent to enter emergency shelters and access services. This bill fills a gap in the safety net needed to care for Hawaii's young people by allowing providers to seamlessly refer youth in need to shelter and related services.

Young people become homeless for a variety of reasons. According to the National Runaway Switchboard, the most common reason for young people wanting to runaway or actually leaving home, reported in 26% of cases, was conflict at home.¹ Too often parental or guardian consent is unable to be obtained because a parent is unreachable or unwilling to consent, or reaching out jeopardizes the child's safety and wellbeing. Helping service providers care for the emergency needs of young people, including referrals and transport to emergency shelters, greatly improves their ability to provide efficient and effective care.

In the past, the State of Hawaii has recognized the need to protect the health and well being of young people and has passed laws allowing them to receive basic health care² and family planning and sexual health care³ without the consent of a parent or guardian. Passing SB 921 SD2 HD2 is a logical step forward towards ensuring that Hawaii's youth population receives the care and services needed to stay safe and go on to build productive and healthy lives. Therefore, PPHI asks this committee to pass SB 921 SD2 HD2.

¹ See [Why the Run: An In-depth Look at America's Runaway Youth](http://www.nrscrisisline.org/media/whytheyrun/report.html), National Runaway Switchboard, May 2010, <http://www.nrscrisisline.org/media/whytheyrun/report.html>

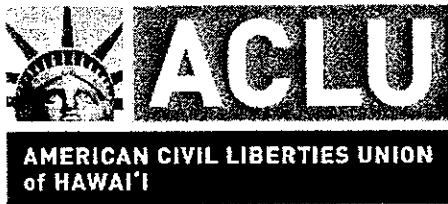
² See Hawaii Revised Statutes Ch. 577D

³ See Hawaii Revised Statutes Ch. 577A

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Kailua Kona Health Center
75-184 Hualalai Road, Suite 205
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Kahului (Maui) Health Center
140 Ho'ohana Street, Suite 303
Kahului, HI 96732
808-871-1176
(A Maui United Way Agency)



Committee: Committee on Finance
Hearing Date/Time: Thursday, March 31, 2011, 4:00 p.m.
Place: Conference Room 308
Re: Testimony of the ACLU of Hawaii in Support of S.B. 921, SD2, HD2
Relating to Minors

Dear Chair Oshiro and Members of the Committee on Finance:

The American Civil Liberties Union of Hawaii ("ACLU of Hawaii") writes in support of S.B. 921, SD2, HD2, Relating to Minors, which will allow a child services provider authorized by the Department of Human Services to provide emergency shelter and related services to a minor under certain circumstances.

This bill recognizes that many youth needing emergency shelter simply cannot obtain parental consent and should not be required to have it. Children are entitled to similar rights and social benefits as other citizens and should not be denied necessary services and forced onto the streets. By removing potential civil or criminal liability for shelters that are otherwise able to satisfy the emergency needs of runaway or abandoned youth, this bill 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 45 years.

Thank you for this opportunity to testify.

Sincerely,

Laurie A. Temple
Staff Attorney
ACLU of Hawaii

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FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 29, 2011 9:39 AM
To: FINTestimony
Cc: web@cartoonistforchrist.org
Subject: Testimony for SB921 on 3/31/2011 4:00:00 PM

Testimony for FIN 3/31/2011 4:00:00 PM SB921

Conference room: 308
Testifier position: oppose
Testifier will be present: No
Submitted by: Lee McIntosh
Organization: Individual
Address:
Phone:
E-mail: web@cartoonistforchrist.org
Submitted on: 3/29/2011

Comments:

Mr. Chair and Members of the Committee on Finance:

Aloha, my name is Lee McIntosh. I live in Kau on the Big Island. I am not in favor of SB 921, which relates to medical service providers. This bill undermines the legal authority of parents, guardians, or custodians by allowing medical service providers to ignore their wishes without fear of civil or criminal liability. If the Legislature insists on passing SB 921, then all references to immunity from civil or criminal liability should be deleted. This bill will act as a check and balance to prevent abuse of this bill. Thank you for the opportunity to testify on SB 921.