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## OFFICE OF THE PROSECUTING ATTORNEY

TESTIMONY IN SUPPORT OF SENATE BILL 702 SD2

A BILL FOR AN ACT RELATING TO CHILD ABUSE

COMMITTEE ON HUMAN SERVICES

Rep. Mele Carroll, Chair

Rep. Bertrand Kobayashi, Vice Chair

Tuesday, March 11, 2014, 10:00 AM  
State Capitol, Conference Room 329

Honorable Chair Mele, Vice-Chair Kobayashi, and Members of the Committee on Human Services, the Office of the Prosecuting Attorney, County of Hawai'i submits the following testimony in support of Senate Bill No. 702 SD2, with an amendment to clarify the order of payment.

This measure establishes an Internet Crimes Against Children Fee upon each felony or misdemeanor conviction. Requires deposit of the fees into an Internet Crimes Against Children Special Fund to provide training and resources for local law enforcement agencies' and investigators' use in investigating and prosecuting internet crimes against children.

The Hawai'i County Office of the Prosecuting Attorney supports the intent of this bill which is to create a special fund to enhance law enforcement's ability to investigate and prosecute internet crimes against children. Under this bill, a fee will be imposed on and collected from defendants convicted of felonies and misdemeanors. The bill does not recognize that the collection of the fee shall be subject to the priority set forth in Hawai'i Revised Statutes (HRS) § 706-648(2) nor does it permit the waiving of the fee if the defendant is unable to pay the fee.

HRS § 706-648(2) states that when a defendant is placed on probation, the court shall collect restitution first, the compensation fee second, the probation fee third, all other fees fourth, and fines last. This priority recognizes the importance of addressing the crime victim's needs first. The compensation fee and other fees such as the probation fee are subject to being waived by the court if the court finds that the defendant does not have the ability to pay. The proposed internet crimes against children special fund fee is not subject to being waived. As a result, a court could waive the compensation fee and probation fee while imposing the internet crimes against children special fund fee. Allowing this to occur would be detrimental to the courts, the Commission and ultimately to victims of violent crimes.

The Hawai'i County Office of the Prosecuting Attorney supports the passage of Senate Bill No. 702 SD2, with an amendment to clarify the order of payment. Thank you for the opportunity to testify on this matter.

Respectfully,

A handwritten signature in black ink, appearing to read 'M. Roth', written in a cursive style.

Mitchell D. Roth  
Prosecuting Attorney  
County of Hawai'i

Representative Mele Carroll, Chair  
Representative Bert Kobayashi, Vice Chair  
Human Services Committee

Paul Jagosh  
Legislative Advisor  
PROTECT

Tuesday March 11, 2014

Support for S.B. 702, S.D. 2, Relating to "Alicia's Law"

Chairman Carroll and members of the Human Services committee. My name is Paul Jagosh and I represent PROTECT, a nonpartisan, pro-child, anti-crime membership association. PROTECT is dedicated exclusively to the issue of child protection and have focused efforts on securing dedicated state funding for Internet Crimes Against Children Task Forces (ICAC) by creating a 50 state initiative called "Alicia's Law." This law is named after Alicia Kozakeiwicz who visited your great state last month to tell her story of being kidnapped, raped, tortured and rescued by an ICAC task force.

PROTECT has been successful in securing dedicated funding for ICAC task forces in Virginia, Texas, Mississippi, California, Tennessee, and most recently in Idaho.

In 2008, USA Today reported that Hawaii had almost 2300 leads of people trading child pornography. A 2011 report from the Federal Bureau of Investigation stated that the problem of child pornography is "worse than anticipated and growing exponentially." My research has found that most states have doubled or tripled the number of unique leads since 2008 and I believe Hawaii follows that trend.

The term "child pornography" does not accurately describe the reality of these videos and photographs. Only 1% of people who trade child pornography limit it to simple photos of naked children. These are full length videos of two year old children crying out for their mommy while being anally raped. Photographs of sadistic tortuous abuse of young children. 39% of child pornography is of children 3 to 5 years old. 80% had images of sexual penetration, and 21% had images of bondage, rape and torture. Each one of these photographs and videos is a crime scene that needs to be investigated.

In 2012 one of the largest collectors of child pornography was arrested in Hawaii. Investigators located 1.7 million photographs and 31,000 videos of what the judge in the case described as "incredibly horrific images." The investigation discovered that the offender was also molesting children.

Evidence shows that 50 to 70 percent of those that view child pornography are also raping and molesting children. Most children do not report the abuse and the

average offender rapes or molests 24 children before they are caught. These investigations literally rescue children from horrific sexual abuse who might never have been rescued.

Currently the Hawaii ICAC task force is run by the Attorney General's office and operates off a Federal grant of approximately \$230,000. With these limited funds they are only able to investigate 1 to 2 leads per month.

"Alicia's Law" in Hawaii will help increase these investigations and allow the investigators to prioritize the worst of the worst offenders.



## Cyberspace Child Protection Campaign

March 10, 2014

The Senate - Twenty-Seventh Legislature 2014

State of Hawaii

415 South Beretania Street

Honolulu, HI 96813

Re: Support of S.B. No. 702 S.D. 2 A BILL FOR AN ACT RELATING TO CHILD ABUSE

To: The Senate Committee on Human Services

Hon. Chair Mele Carroll, Hon. Vice Chair Bertrand Kobayashi, Hon. Members; Rep. Della Au

Belatti, Rep. Dee Morikawa, Rep. Richard Creagan, Rep. Marcus R. Oshiro, Rep. Mark J. Hashem,

Rep. Justin H. Woodson, Rep. Jo Jordan, Rep. Beth Fukumoto

Honorable Senators,

I am a retired law enforcement officer now working as an educator and consultant after spending the last fourteen years in the fight against Internet sexual predators. I spent ten years as the Sergeant/Commander of the Arizona Internet Crimes Against Children (ICAC) Task Force. Several years ago I founded the Cyberspace Child Protection Campaign, a group of colleagues and citizens who share information and current events about Internet crimes against children. I live in the Waipio area. I reviewed SB702 and I submit this testimony in support of the Bill.

SB702 is a laudable effort towards assisting law enforcement officers in apprehending offenders who use technology and the Internet to victimize minors. I agree with the Bill and support it.

- ✓ **AGREE** that there is a lack of resources dedicated to combating the exploitation of Internet sexual offenders. Alicia Kozakiewicz, after whom the Bill is named, is also a colleague of ours at the Cyberspace Child Protection Campaign. In my experience working with local and Federal law enforcement throughout the United States I have observed that there is a critical and continuing need for training in this field.
- ✓ **AGREE** that the creation of a special fund is necessary for fighting child pornography and helping child victims. Dedicated funding is critical because so often budgeting for the fight against Internet crimes against children offenders competes, and loses the competition, to other law enforcement demands. When funding is not specifically dedicated to those who fight Internet crimes, children suffer. The true measure of their suffering is mostly hidden from us because so many Internet crimes against children are never uncovered.

Dr. Frank Kardasz

- 
- ✓ **AGREE** that training and equipment for law enforcement agencies is of critical importance in the effort to stop Internet predators and child pornographers. Our colleagues in the Internet crimes against children training community have developed training over the past decade for digital forensics investigators, sex crimes detectives, prosecutors, administrators, citizens and others. Training topics include the following: How to trace an offender through the Internet protocol address, Sex offender characteristics, Peer-to-peer network investigations, Undercover computer chat techniques, Knock-and-talk for child pornography offenses, How to examine a computer hard-drive without destroying evidence, Interview/Interrogation skills and dozens of other critical topics. The names of those topics give you some idea of the sophisticated training required to combat these offenses. Please also consider that the ICAC field is always changing as the offenders find new and unique digital avenues towards victimizing minors. Continuing and updated training is always needed.

I commend the authors of SB702 and hope that the Bill becomes law in Hawaii. Please do not hesitate to contact me if I can be of service in answering any questions you may have about this testimony.

Sincerely,



Dr. Frank Kardasz (Ed.D)  
Consultant - ICAC Task Force Training - NCJTC/Fox Valley Tech  
Director: Cyberspace Child Protection Campaign  
Arizona Internet Crimes Against Children Task Force Commander (ret.)  
Phoenix Police Department (ret.)  
Adjunct faculty: U of Phoenix & Champlain College  
Waipahu, HI 96797  
[www.kardasz.org/ICAC](http://www.kardasz.org/ICAC)  
Cyberspace Child Protection Campaign: <https://www.facebook.com/lists/794226980878>



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-SEVENTH LEGISLATURE, 2014**

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**ON THE FOLLOWING MEASURE:**  
S.B. NO. 702, S.D. 2, RELATING TO CHILD ABUSE.

**BEFORE THE:**  
HOUSE COMMITTEE ON HUMAN SERVICES

**LATE**

**DATE:** Tuesday, March 11, 2014 **TIME:** 10:00 a.m.

**LOCATION:** State Capitol, Room 211

**TESTIFIER(S):** David M. Louie, Attorney General, or  
Albert Cook, Deputy Attorney General

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Chair Carroll and Members of the Committee:

The Department of the Attorney General supports this bill with amendments.

This bill creates a special fund to aid the Internet Crimes Against Children Task Force (the "ICAC Task Force") in investigation and prosecution of internet crimes against children. The fund is to be generated by imposing a \$10 fee upon every defendant for each criminal conviction at sentencing, and by moneys appropriated by this bill. We agree that there is great need to fund the ICAC Task Force and share the following concerns and suggestions for amendments to the bill.

While we believe that the ICAC Task Force should be funded, the funding mechanism of imposing and collecting a fee of \$10 on each criminal defendant does not meet the requirements of section 37-52.3, Hawaii Revised Statutes, which requires special or revolving funds to: (1) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program; (2) provide an appropriate means of financing for the program or activity; and (3) demonstrate the capacity to be financially self-sustaining. The proposed bill does not meet the nexus requirement. If the Legislature is able to find a different funding mechanism, we would be happy to review the provision and provide feedback.

We respectfully support passage of this bill with the noted funding concerns.

TESTIMONY BY KALBERT K. YOUNG  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE HOUSE COMMITTEE ON HUMAN SERVICES  
ON  
SENATE BILL NO. 702, S.D. 2



March 11, 2014

RELATING TO CHILD ABUSE

Senate Bill No. 702, S.D. 2, establishes an Internet Crimes Against Children Special Fund into which shall be deposited the funds from fees for court costs imposed upon every defendant for each felony and misdemeanor conviction, moneys appropriated by the Legislature, grants and gifts made to the fund, and income and capital gains earned by the fund. The funds are to be used to provide training and equipment for local law enforcement agencies and enable law enforcement to investigate and prosecute internet crimes against children. In addition, the bill appropriates an unspecified sum of general funds and special funds for 2015 for this effort.

As a matter of general policy, the department does not support the creation of special funds which do not meet the requirements of Section 37-52.3, HRS. Special or revolving funds should: 1) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program; 2) provide an appropriate means of financing for the program or activity; and 3) demonstrate the capacity to be financially self-sustaining. In regards to Senate Bill No. 702, S.D. 2, the proposed special fund does not appear to comply with Section 37-52.3.



**Justin F. Kollar**  
Prosecuting Attorney

**Kevin K. Takata**  
First Deputy



**Rebecca A. Vogt**  
Second Deputy

**Diana Gausepohl-White, LSW**  
Victim/Witness Program Director

**OFFICE OF THE PROSECUTING ATTORNEY**

**County of Kaua'i, State of Hawai'i**

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Victim/Witness Program 808-241-1898 or 800-668-5734

TESTIMONY IN SUPPORT OF  
SENATE BILL NO. 702 SENATE DRAFT 2  
RELATING TO CHILD ABUSE

**LATE**

Diana Gausepohl-White, Victim/Witness Program Director  
County of Kaua'i

House Committee on Human Services

Tuesday, March 11, 2014  
10:00 a.m., Room 329

Honorable Chair Carroll, Vice-Chair Kobayashi, and Members of the House  
Committee on Human Services:

The Office of the Prosecuting Attorney, County of Kaua'i supports Senate Bill  
No. 702, SD2 with an amendment to recognize HRS 706-648(2) which sets  
forth the priority of payment when defendants are placed on probation. Monies  
received by the court shall be paid in the following order: restitution, Crime  
Victim Compensation (CVC) fee, probation fee, all other fees, and fines.

Currently, the CVC fee is waived if the court determines the defendant has no  
ability to pay. The proposed internet crimes against children special fund fee is  
not subject to being waived. The CVC fee should take priority since other than  
restitution, it is the most important and beneficial source of compensation  
which directly supports crime victims. Therefore, an amendment is needed.

Thank you for the opportunity to testify on this matter.

Sincerely,

*Diana Gausepohl-White*

Diana Gausepohl-White  
Victim/Witness Program Director  
County of Kaua'i

Executive Director  
Adriana Ramelli

DATE: March 11, 2014

Advisory Board

TO: The Honorable Mele Carroll, Chair  
The Honorable Bertrand Kobayashi, Vice Chair  
House Committee on Human Services

President  
Mimi Beams

Vice President  
Peter Van Zile

FROM: Alana Peacott-Ricardos, Policy Research Associate  
The Sex Abuse Treatment Center

Joanne H. Arizumi

Mark J. Bennett

Andre Bisquera

RE: S.B. 702 S.D. 2  
Relating to Child Abuse

Marilyn Carlsmith

Senator  
Suzanne Chun Oakland

Good morning Chair Carroll, Vice Chair Kobayashi and members of the House Committee on Human Services. My name is Alana Peacott-Ricardos and I am the Policy Research Associate for the Sex Abuse Treatment Center (SATC), a program of the Kapi'olani Medical Center for Women & Children (KMCWC), an affiliate of Hawai'i Pacific Health.

Monica Cobb-Adams

Donne Dawson

Dennis Dunn

Councilmember  
Carol Fukunaga

David I. Haverly

Linda Jameson

Michael P. Matsumoto

Phyllis Muraoka

Gidget Ruscetta

SATC supports S.B. 702 S.D. 2, which would establish an Internet crimes against children fee upon each felony or misdemeanor conviction and require the deposit of the fees into a special fund to provide training and resources for local law enforcement agencies' and investigators' use in investigating and prosecuting internet crimes against children. Additionally, we support the amendment proposed by Crime Victim Compensation Commission (Commission) to expressly state that the collection of the fees are subject to Hawai'i Revised Statute (HRS) § 760-648(2).

Joshua A. Wisch

The creation and use of child pornography has broad impacts on both the child victims and the safety of our communities. Survivors of child sexual abuse often experience emotional and psychological effects well after the abuse. In cases where images of the abuse have also been distributed over the Internet, these effects can be exacerbated. Further, a study by the National Center for Missing and Exploited Children found that forty percent (40%) of those arrested for child pornography were "dual offenders," meaning that during the investigation it was discovered that they possessed child pornography and sexually victimized children.<sup>i</sup> An additional 15% were dual offenders who attempted to sexually victimize children by soliciting undercover investigators who posed online as minors.<sup>ii</sup>

While it is a laudable goal to support the investigation and prosecution of Internet crimes against children, it has come to our attention that S.B. 702 S.D. 2 does not acknowledge the payment priority set forth in HRS § 706-648(2). HRS § 706-648(2) recognizes the importance of addressing the needs of crime victims, and requires the payment of restitution and/or the crime victim compensation fee, before other fees and fines. Thus, the Internet crimes against children special fund fee could be paid ahead of or instead of restitution or the crime victim compensation fee. Additionally, the bill

does not state that Internet crimes against children special fund fee is subject to waiver, as other fees are, if the court finds that the defendant does not have the ability to pay. Consequently, a court could waive payment of the crime victim compensation fee but still require the Internet crimes against children special fund fee. Affecting the priority of payment could negatively impact victims of crime, including the survivors of sexual violence that we see in our Center. An amendment stating that the collection of the fees are subject to HRS § 760-648(2) and subject to waiver would help ensure that crime victims are not adversely affected by this measure.

Thank you for this opportunity to testify.

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<sup>i</sup> Janis Wolak, et al., *Child-Pornography Possessors Arrested in Internet-Related Crimes: Findings From the National Juvenile Online Victimization Study* at 16, available at [http://www.missingkids.com/en\\_US/publications/NC144.pdf](http://www.missingkids.com/en_US/publications/NC144.pdf) (Nat'l Center for Missing & Exploited Children 2005).

<sup>ii</sup> *Id.*

## kobayashi1-Joni

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**From:** Tyrell Maae  
**Sent:** Tuesday, March 11, 2014 9:25 AM  
**To:** HUSstestimony  
**Subject:** FW: SB702



-----Original Message-----

From: Paul Jagosh [mailto:pjagosh@hotmail.com]  
Sent: Monday, March 10, 2014 11:27 AM  
To: HMS Testimony  
Subject: SB702

I have already submitted my testimony but wanted to address the concerns of the nexus between a \$10 fee imposed on all misdemeanor and felony convictions and internet crimes against children.

Child victims of sexual abuse often offered themselves and end up self medicating with drugs and alcohol. Which in turn causes many other crimes like burglary, theft, drug sales, etc to support the drug habit that they now have due to the sexual abuse they endured as a child.

Many of these children act out and end up on the wrong side of the law as adults and children due to this abuse. Clearly in this case, using criminal justice related fines to prevent child victims would have a direct nexus on preventing further crimes in the future and would absolutely be a reasonable use of fines for a special fund.

Many of our homeless population suffered sexual abuse as children. This special fund could have a future impact to reduce homelessness. All of which relate to criminal justice revenue raised by this special fund.

This special fund would not only rescue and prevent children from sexual abuse but would in turn prevent future criminal justice costs.

Thank you for your consideration in this important matter

Paul Jagosh  
PROTECT.org  
Pjagosh@hotmail.com  
Sent from my iPad