

SB 702

Measure Title: RELATING TO CHILD ABUSE.

Report Title: Internet Crimes Against Children Fund; Department of Public Safety;
Alicia's Law

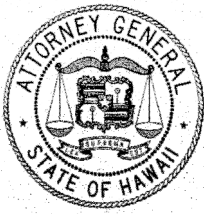
Description: Establishes an internet crimes against children fee upon each felony or misdemeanor conviction. Requires deposit of the fees into an internet crimes against children special fund to provide training and resources for local law enforcement agencies' and investigators' use in investigating and prosecuting internet crimes against children. Establishes an internet crimes against children advisory committee.

Companion:

Package: None

Current Referral: HMS/TEC/JDL, WAM

Introducer(s): ESPERO, CHUN OAKLAND, Baker, Ruderman



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SEVENTH LEGISLATURE, 2013**

ON THE FOLLOWING MEASURE:

S.B. NO. 702, RELATING TO CHILD ABUSE.

BEFORE THE:

SENATE COMMITTEE ON HUMAN SERVICES,
SENATE COMMITTEE ON TECHNOLOGY AND THE ARTS,
and SENATE COMMITTEE ON JUDICIARY AND LABOR

DATE: Thursday, February 7, 2013 **TIME:** 2:30 p.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): David M. Louie, Attorney General, or
Lisa M. Itomura, Deputy Attorney General

Chairs Chun Oakland, Wakai, and Hee and Members of the Committees:

This bill adds a chapter to the Hawaii Revised Statutes (HRS) to create a special fund for “fighting child pornographers and helping child victims” to be funded in part by a fee of \$10 “for court costs” imposed on every defendant for each felony or misdemeanor conviction that would be deposited into the special fund. The Department of Public Safety is given the authority to expend moneys from this special fund to provide training and equipment and to enable investigators to “follow the trail of child pornography traffic to locate children in need of protection.”

While we support the intent of this bill, we share the following concerns and suggestions for amendment to the bill.

The Department of the Attorney General has maintained an “Internet Crimes Against Children” (ICAC) unit for many years. As a result, the Department is experienced in investigating and prosecuting internet crimes against children. For this reason, we suggest that, if this measure is advanced, references to the Department of Public Safety be replaced with references to the Department of the Attorney General.

We also suggest that the definition of “internet crimes against children” be expanded. Currently, the definition is defined only to include offenses of Promoting Child Abuse in the First Degree and Promoting Child Abuse in the Second Degree found in sections 707-750 and 707-751, HRS. This is a limited definition. We suggest adding the offenses of Promoting Child

Abuse in the Third Degree and Indecent Electronic Display to a Child as defined by sections 707-752 and 707-759, HRS as well as solicitation to commit such offenses.

This bill also establishes an advisory committee to “develop policy, planning, and strategy, and publicize issues relating to internet crimes against children.” As a condition of the federal grants it receives, the ICAC unit in the Department of the Attorney General reports to the federal government concerning policy, planning, and strategy and also meets with numerous task forces across the country investigating child pornography concerning policy and strategy. While the committee established by this bill is merely advisory in nature, it would create an additional and overlapping effort duplicating the ICAC’s activities in this regard. For more efficient use of resources, we suggest that this provision of the bill be deleted.

Finally, we are not sure of the intent behind using the words “for court costs” on page 2, line 13, of the bill. If the intent is for the criminal defendant to pay this fee to the court and then require the court to deposit the fee into the fund, the wording of the statute should be amended to so provide.

If this bill is advanced, we respectfully ask that the Committees incorporate these suggested amendments.

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEES ON HUMAN SERVICES,
TECHNOLOGY AND THE ARTS AND JUDICIARY AND LABOR
ON
SENATE BILL NO. 702

February 7, 2013

RELATING TO CHILD ABUSE

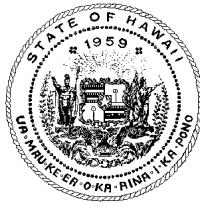
Senate Bill No. 702 establishes an Internet Crimes Against Children Special Fund into which shall be deposited the funds from fees for court costs imposed upon every defendant for each felony and misdemeanor conviction, moneys appropriated by the Legislature, grants and gifts made to the fund, and income 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 internet crime investigators to follow the trail of child pornography. Senate Bill No. 702 also establishes an internet crimes against children advisory committee.

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, the proposed special fund does not appear to comply with Section 37-52.3.

In addition, the bill does not make an appropriation to allow the Department of Public Safety, Department of the Attorney General or the Department of Human Services to expend the funds to combat internet crimes against children.



Martha Torney
Deputy Director
Administration

Deputy Director
Corrections

Keith Kamita
Deputy Director
Law Enforcement

STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

TESTIMONY ON SENATE BILL 702
RELATING TO CRIMES AGAINST CHILDREN

By
Ted Sakai, Interim Director
Department of Public Safety

Senate Committee on Human Services
Senator Suzanne Chun Oakland, Chair
Senator Josh Green, Vice Chair

Senate Committee on Technology and the Arts
Senator Glen Wakai, Chair
Senator Clarence K. Nishihara, Vice Chair

Senate Committee on Judiciary and Labor
Senator Clayton Hee, Chair
Senator Maile S. L. Shimabukuro, Vice Chair

Thursday, February 7, 2013; 2:30 p.m.
State Capitol, Room 16

Chairs Chun Oakland, Wakai, and Hee, Vice Chairs Green, Nishihara, and Shimabukuro, and Members of the Committees:

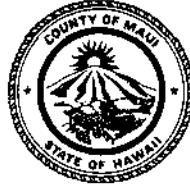
The Department of Public Safety (PSD) **supports the intent** of Senate Bill 702 which would establish internet crimes against children fee upon each felony or misdemeanor conviction, requires deposit of the fees into an Internet crimes against children special fund to be expended by PSD to provide training and resources for local law enforcement agencies and investigators' use to investigate and prosecute Internet crimes against children, establishes Internet crimes against children advisory committee.

The Department of the Attorney General already has a Hawaii Internet & Technology Crimes (HITeC) Unit established with the goal to assist the citizens of

Hawaii in internet and technology related crimes and the HITEC Unit already combines Local, State, and Federal Law Enforcement resources in addressing two forms of technology related crimes. Therefore, PSD feels that the monies collected in the Internet crimes against children special fund should be expended by the Department of the Attorney General instead of PSD.

Also, the Department recommends that the internet crimes against children advisory committee be placed within the Department of the Attorney General, instead of PSD.

Thank you for the opportunity to testify on this matter.



DEPARTMENT OF THE PROSECUTING ATTORNEY
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Deputy Prosecuting Attorney
Supervisor, Appellate, Asset Forfeiture and Administrative Services Division

TESTIMONY
ON
SB 702 - RELATING TO CHILD ABUSE

February 7, 2013

The Honorable Suzanne Chun Oakland
Chair
The Honorable Josh Green
Vice Chair
and Members
Senate Committee on Human Services

The Honorable Glenn Wakai
Chair
The Honorable Clarence K. Nishihara
Vice Chair
and Members
Senate Committee on Technology and the Arts

The Honorable Clayton Hee
Chair
The Honorable Maile S. L. Shimabukuro
Vice Chair
and Members
Senate Committee on Judiciary and Labor

Chair Chun Oakland, Vice Chair Green and Members of the HMS Committee, Chair Wakai,
Vice Chair Nishihara and Members of the TEC Committee, and Chair Hee, Vice Chair
Shimabukuro and Members of the JDL Committee:

The Department of the Prosecuting Attorney, County of Maui, SUPPORTS SB 702,
Relating to Child Abuse.

SB 702 will establish an internet crimes against children fee on each felony or misdemeanor conviction, which will be deposited into a special fund to provide training and resources for local law enforcement agencies, as well as assist in the investigation and prosecution of internet crimes against children. We believe that SB 702 will be of tremendous support to the efforts of our law enforcement community to protect our children from these internet dangers.

We ask that SB 702 be PASSED.

Thank you very much for the opportunity to provide testimony on this bill.



CYBERSPACE CHILD PROTECTION CAMPAIGN

January 31, 2013

The Senate - Twenty-Seventh Legislature 2013
State of Hawaii
415 South Beretania Street
Honolulu, HI 96813
Re: Support of S.B. No. 702 Relating to Child Abuse

To:

The Senate Committee on Human Services:

Hon. Chair Suzanne Chun Oakland, Hon. Vice Chair Josh Green, Hon. Members Michelle N. Kidani, Sam Sloan, Brian T. Taniguchi.

Senate Committee on Technology and the Arts:

Hon. Chair Glenn Wakai, Hon. Vice Chair Clarence K. Nishihara, Hon. Members Mike Gabbard, Jill N. Tokuda, Sam Sloan.

Senate Committee on Judiciary and Labor:

Hon. Chair Clayton Hee, Hon. Vice Chair Maile S.L. Shimabukuro, Hon. Members Mike Gabbard, Les Ihara Jr., Sam Sloan.

Senate Committee on Ways and Means:

Hon. Chair David Y. Ige, Hon. Vice Chair Michelle N. Kidani, Hon. Members Suzanne Chun Oakland, Ronald D. Kouchi, Donovan M. Dela Cruz, Russell E. Ruderman, J. Kalani English, Laura H. Ghielen, Will Espero, Jill N. Tokuda, Gilbert Kahele, Sam Sloan, Gilbert S.C. Keith-Agaran.

Honorable Senators,

I am a retired law enforcement officer presently working as an educator and consultant after spending the last thirteen 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 am a frequent visitor to Hawaii and maintain a home on Oahu. I reviewed SB702 and I submit this testimony in partial 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 most of the Bill and recommend revisions and further consideration to other sections of the Bill as follows:

- ✓ **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, with 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 discovered.
- ✓ **SUGGEST** that wording of the Bill be revised to include not only child pornography crimes but also the crimes of luring/enticement. Alicia Kozakiewicz was the victim of a luring/enticement predator who befriended her via the Internet and who then also victimized her by creating contraband images. The legislative intent of the Bill should encompass both child pornography and luring/enticement offenses because the two are separate but sometimes related offenses. Investigations of luring/enticement offenses sometimes develop along a different path than child pornography offenses and the training for each offense requires a different law enforcement skill-set.

Suggested additional wording: (3) To enable internet crimes investigators and prosecutors to apprehend and prosecute offenders who use the Internet and Cyberspace to unlawfully lure or entice minors.

- ✓ **AGREE** that training and equipment for law enforcement agencies is very important 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 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.
- ✓ **CAUTION** that the legislative intent to train only enforcement personnel should be maintained throughout the implementation of this law. This funding should not be re-directed to the crime prevention education of school-children. Many private and public sector organizations already address those important crime prevention needs. The

critical need addressed by this Bill is the specific demand for the training and equipping of law enforcement investigators, digital forensic examiners and prosecutors of Internet crimes against children. The funds should not be used for the purpose of having law enforcement officers supplant classroom educators. Too often law enforcement resources that are needed at the critical investigation, arrest and prosecution phases are instead used for community-relations and education purposes. While sworn law enforcement officers sometimes act as teachers in classrooms; most teachers are not trained nor authorized to act as law enforcement officers in Cyberspace. Community education is important but sworn officers should be doing the work of law enforcement. It is my hope that this Bill will increase the law enforcement “boots on the ground” in Cyberspace, thus helping victims of Internet crimes against children.

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.)
Founder/Director Cyberspace Child Protection Campaign
Consultant – see: <http://www.kardasz.org/ICAC>
Arizona Internet Crimes Against Children Task Force (retired)
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From: mailinglist@capitol.hawaii.gov
To: [HMS Testimony](#)
Cc: ypeia01@yahoo.com
Subject: *Submitted testimony for SB702 on Feb 7, 2013 14:30PM*
Date: Sunday, February 03, 2013 8:03:16 PM

SB702

Submitted on: 2/3/2013

Testimony for HMS/TEC/JDL on Feb 7, 2013 14:30PM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
christine johnson	Individual	Support	No

Comments:

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Subject: *Submitted testimony for SB702 on Feb 7, 2013 14:30PM*
Date: Saturday, February 02, 2013 12:14:06 PM

SB702

Submitted on: 2/2/2013

Testimony for HMS/TEC/JDL on Feb 7, 2013 14:30PM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

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