

NEIL ABERCROMBIE
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STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

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TESTIMONY ON SENATE BILL 2253, SENATE DRAFT 1
RELATING TO FORENSIC IDENTIFICATION

by
Ted Sakai, Director
Department of Public Safety

House Committee on Public Safety
Representative Henry J.C. Aquino, Chair
Representative Kaniela Ing, Vice Chair

Thursday, March 13, 2014; 10:00 a.m.
State Capitol, Conference Room 309

Chair Aquino, Vice Chair Ing, and Members of the Committee:

The Department of Public Safety (PSD) **supports** this bill, which amends and clarifies Chapter 844D – 111, making it a first degree offense for failure, or refusal, to provide a specimen for forensic identification. This measure assists the criminal justice system in the State of Hawaii by strengthening the compliance of legal requests to provide a forensic specimen by various methods. Individuals who do not provide a sample will now be charged with a class C felony. This change will help to ensure the health, safety and welfare of the people of Hawaii.

Thank you for the opportunity to present this testimony.



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

ON THE FOLLOWING MEASURE:

S.B. NO. 2253, S.D. 1, RELATING TO FORENSIC IDENTIFICATION.

BEFORE THE:

HOUSE COMMITTEE ON PUBLIC SAFETY

DATE: Thursday, March 13, 2014

TIME: 10:00 a.m.

LOCATION: State Capitol, Room 309

TESTIFIER(S): David M. Louie, Attorney General, or
Lance M. Goto, Deputy Attorney General.

Chair Aquino and Members of the Committee:

The Department of the Attorney General strongly supports this bill.

The purpose of this bill is to amend section 844D-111, Hawaii Revised Statutes (HRS), and add a new section to chapter 844D to clarify the grading of the offense of refusing to provide a required blood specimen, buccal swab sample, or print impression for forensic identification by creating first and second degree offenses that make an intentional or knowing violation a class C felony offense, and a negligent or reckless violation a misdemeanor.

Section 844D-111(a), HRS, provides that a person commits the offense of refusal to provide specimen for forensic identification if the person is required to provide any blood specimens, buccal swab samples, or print impressions, and intentionally or knowingly refuses or fails to do so after receiving written notice of the requirement. The problem, however, is that section 844D-111, when establishing the grade and penalty for the offense under subsection (b), only provides that a negligent or reckless violation shall be a misdemeanor offense. There is no penalty provision for an intentional or knowing violation, as set out in the statute.

All individuals convicted of a felony offense are required to submit DNA buccal swab samples for the purpose of establishing a DNA database that can be used to solve crimes, including cold cases, and exonerate the innocent. Under current law, however, if a felon refuses to comply with the law, the only mechanism to obtain compliance is the threat of a misdemeanor prosecution for a negligent or reckless violation. For offenders who have already been convicted of felony offenses, an additional misdemeanor charge is not likely to deter their actions, or induce compliance with the requirements of the law. An intentional or knowing refusal to

provide a DNA buccal swab sample should amount to a felony offense because a felony level offense will be more likely to induce compliance by offenders.

This bill makes an intelligent or knowing refusal to comply with the forensic identification requirements a class C felony. It makes a negligent or reckless violation a separate misdemeanor offense.

This bill will allow for more effective enforcement of DNA sample collection requirements. The public will also benefit from the more efficient collection of buccal swab samples because such collection will result in a more complete and reliable DNA database that will be of greater assistance in solving crimes, including cold cases, and will also help to exonerate innocent parties.

The Department respectfully requests the passage of this bill.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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OUR REFERENCE KH-NTK

March 13, 2014

The Honorable Henry J. C. Aquino, Chair
and Members
Committee on Public Safety
House of Representatives
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Aquino and Members:

Subject: Senate Bill No. 2253, S.D. 1, Relating to Forensic Identification

I am Keith Horikawa, Captain of the Criminal Investigation Division of the Honolulu Police Department, City and County of Honolulu.

The Honolulu Police Department supports Senate Bill No. 2253, S.D. 1, Relating to Forensic Identification.

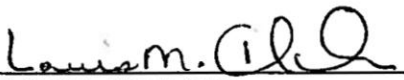
Forensic evidence has become such a valuable tool in criminal investigations, and its use will increase in the future. This bill will strengthen the ability to gather forensic information and evidence from individuals who are legally required to submit a specimen. The Honolulu Police Department continues to focus on the importance of forensic evidence at every crime scene. This bill will assist in our efforts to identify the offender and eliminate the innocent.

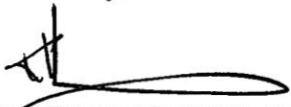
The Honolulu Police Department urges you to support Senate Bill No. 2253, S.D. 1, Relating to Forensic Identification.

Thank you for the opportunity to testify.

APPROVED:

Sincerely,


LOUIS M. KEALOHA
Chief of Police


KEITH HORIKAWA, Captain
Criminal Investigation Division