

**SB2253**

**LATE**



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

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**ON THE FOLLOWING MEASURE:**

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

**BEFORE THE:**

SENATE COMMITTEE ON JUDICIARY AND LABOR

**DATE:** Tuesday, January 28, 2014 **TIME:** 10:00 a.m.

**LOCATION:** State Capitol, Room 016

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

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Chair Hee 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

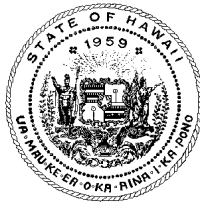
provide a DNA buccal swab sample should amount to a felony offense because a felony level offense will be more likely to induce compliance by offenders.

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.

NEIL ABERCROMBIE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
919 Ala Moana Boulevard, 4th Floor  
Honolulu, Hawaii 96814

**TED SAKAI**  
DIRECTOR

**Martha Torney**  
Deputy Director  
Administration

**Max Otani**  
Deputy Director  
Corrections

**Shawn Tsuha**  
Deputy Director  
Law Enforcement

TESTIMONY ON SENATE BILL 2253  
RELATING TO FORENSIC IDENTIFICATION

by  
Ted Sakai, Director  
Department of Public Safety

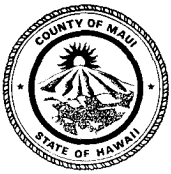
Senate Committee on Judiciary and Labor  
Senator Clayton Hee, Chair  
Senator Maile S.L. Shimabukuro, Vice Chair

Tuesday, January 28, 2014; 10:00 a.m.  
State Capitol, Conference Room 016

Chair Hee, Vice Chair Shimabukuro, 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.



ALAN M. ARAKAWA  
MAYOR

OUR REFERENCE  
YOUR REFERENCE

# POLICE DEPARTMENT

## COUNTY OF MAUI

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GARY A. YABUTA  
CHIEF OF POLICE

CLAYTON N.Y.W. TOM  
DEPUTY CHIEF OF POLICE

January 27, 2014

The Honorable Clayton Hee, Chair  
And Members of the Committee on Judiciary and Labor  
The Senate  
State Capitol  
Honolulu, HI 96813

RE: SB No. 2253 – RELATING TO FORENSIC IDENTIFICATION

Dear Chair Hee and Members of the Committee:

The Maui Police Department supports SB No. 2253, which clarifies the grading of the offense of refusal or failure to provide a specimen for forensic identification by grading an intentional or knowing violation as a class C felony, and a negligent or reckless violation as a misdemeanor offense.

The passage of this bill will help to ensure compliance by offenders to provide specimen for forensic identification purpose and identifies penalties for those who intentionally, knowingly, negligently or recklessly violate this process.

The Maui Police Department supports SB No. 2253.

Thank you for the opportunity to testify.

Sincerely,

  
GARY A. YABUTA  
Chief of Police