

TESTIMONY BY KALBERT K. YOUNG  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE HOUSE COMMITTEE ON JUDICIARY  
ON  
SENATE BILL NO. 702, S.D. 2, H.D. 1

March 18, 2014

RELATING TO CHILD ABUSE

Senate Bill No. 702, S.D. 2, H.D. 1, 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. All unexpended and unencumbered monies remaining in the special fund at the close of each fiscal year that are deemed, by the Director of Finance, to be in excess of monies necessary shall lapse to the State general fund. In addition, the bill appropriates an unspecified sum of general funds and special funds for FY 15 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, H.D. 1, the proposed special fund does not appear to comply with Section 37-52.3.

NEIL ABERCROMBIE  
GOVERNOR



STATE OF HAWAII  
**CRIME VICTIM COMPENSATION  
COMMISSION**

1136 Union Plaza, Suite 600  
Honolulu, Hawai'i 96813  
Telephone: 808 587-1143  
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MARI MCCAIG  
Chair

THOMAS T. WATTS  
Commissioner

ABELINA SHAW  
Commissioner

PAMELA FERGUSON-BREY  
Executive Director

TESTIMONY ON SENATE BILL 702, SD 2 HD 1  
RELATING TO CHILD ABUSE

Pamela Ferguson-Brey, Executive Director  
Crime Victim Compensation Commission

House Committee on Judiciary  
Representative Karl Rhoads, Chair  
Representative Sharon E. Har, Vice Chair

Tuesday, March 18, 2014; 2:30 PM  
State Capitol, Conference Room 325

Chair Rhoads, Vice Chair Har, and Members of the House Committee on Judiciary:

Thank you for providing the Crime Victim Compensation Commission ("Commission") with the opportunity to testify before you today. The Commission supports the passage of Senate Bill 702, SD2, HD1, Relating to Child Abuse. Senate Bill 702, SD2, HD1 seeks to create an internet crimes against children special fund.

The Commission was established in 1967 to mitigate the suffering and financial impact experienced by victims of violent crime by providing compensation to pay un-reimbursed crime-related expenses. Since fiscal year 2003, victim compensation has been funded solely from the collection of the Crime Victim Compensation Fee (hereafter "Compensation Fee"), the collection of restitution, and matching federal funds. Without compensation from the Commission, many victims of violent crimes could not afford to pay their medical bills, receive needed mental health or rehabilitative services, or bury a loved one.

The Commission 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 also recognizes that the collection of the fee shall be subject to the priority set forth in Hawai'i Revised Statutes (HRS) § 706-648 which recognizes the importance of compensating crime victims by making restitution and the Commission's Compensation Fee top priority.

Thank you for providing the Commission with the opportunity to testify in support of Senate Bill 702, SD2, HD1.

Representative Karl Rhoads, Chair  
Representative Sharon E. Har, Vice Chair  
Judiciary Committee

Paul Jagosh  
Legislative Advisor  
PROTECT

Thursday March 18, 2014

Support for S.B. 702, S.D. 2, HD1 Relating to "Alicia's Law"

Chairman Rhoads and members of the Judiciary 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.

Child victims of sexual abuse often offend themselves continuing the cycle of abuse 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 many of our homeless population suffered sexual abuse as children.

**Using criminal justice related fines to prevent child victims would have a direct nexus on preventing further crimes in the future and therefore reduce criminal justice related costs.**

Comments: I have attached a spread sheet provided by the Hawaii courts on what a \$10 increase on misdemeanor and felony convictions will bring in. It is estimated that between \$247,000 to \$287,000 will be generated each year for the special fund based on a three year average. Typically it takes 8 to 12 months for the full amount to be generated once law is passed.

Hawai'i State Judiciary

Traffic Court Felonies & Misdemeanors  
Fines and fees Assessed

Amount collected 2011-2013	\$7,149,597
Amount Assessed 2011-2013	\$14,275,157
Collection rate	50.1%
<u>Number of Felony &amp; Misdemeanor</u>	

Convictions  

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2011-2013 Mean 36,940

Number of Circuit Court Criminal  
Convictions  

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2011 to 2013 Mean 2757

Number of District Court Criminal  
Convictions  

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2011 to 2013 Mean 9,833

Total Mean F&M Convictions 2011 to  
2013 49,530

Non-Traffic Court Felonies &  
Misdemeanors  
From 1/2011 through 12/2013  

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Overall collection rate, all categories of  
fee  
(see spreadsheet for detail) 58.1%

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Anticipated # of Felony & Misdemeanor  
Convictions/year 49,530  
Alicia's Law Fee \$10  
Projected Total Assesment/year \$495,300

Collection amount at 50% collection rate \$247,650  
Collection amount at 54% collection rate \$267,462  

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Collection amount at 58% collection rate \$287,274

**SB702**

Submitted on: 3/17/2014

Testimony for JUD on Mar 18, 2014 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dara Carlin, M.A.	Individual	Support	No

Comments: Please support this proposal to implement an additional measure against those who would prey on our children and to support the effort in bringing these pedophiles to justice.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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**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, H.D. 1, RELATING TO CHILD ABUSE.

**LATE**

**BEFORE THE:**

HOUSE COMMITTEE ON JUDICIARY

**DATE:** Tuesday, March 18, 2014

**TIME:** 2:00 p.m.

**LOCATION:** State Capitol, Room 325

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

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Chair Rhoads 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 fee upon every defendant for each criminal conviction at sentencing, by appropriation from the general fund, and by other moneys appropriated by this bill. We agree that there is great need to fund the ICAC Task Force and share the following funding concern.

While we believe that the ICAC Task Force should be funded, it has been pointed out that the funding mechanism of imposing and collecting a fee on each criminal defendant does not meet the requirements of section 37-52.3, Hawaii Revised Statutes, which requires special or revolving funds to reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program. However, upon re-review of section 37-52.3(2), we believe that the alternative requirement, "or a clear link between the program and the sources of revenue," applies to this special fund and satisfies the requirement of section 37.52.3(2).

We suggest that the link be further emphasized by adding a reference to "internet crimes against children" in section -3 of the new chapter on page 2, line 21, to page 3, line 1, to read "for each felony or misdemeanor conviction of internet crimes against children."

We are also in agreement with the priority of payments laid out in section 706-648, Hawaii Revised Statutes.

We respectfully support passage of this bill with the suggested amendments.



**Justin F. Kollar**  
Prosecuting Attorney

**LATE**



**Rebecca A. Vogt**  
Second Deputy

**Kevin K. Takata**  
First Deputy

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

**OFFICE OF THE PROSECUTING ATTORNEY**

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

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TESTIMONY IN SUPPORT OF  
S.B. 702, SD2, HD1  
A BILL FOR AN ACT RELATING TO CHILD ABUSE

Justin F. Kollar, Prosecuting Attorney  
County of Kauai

House Committee on Judiciary

Tuesday, March 18, 2014  
2:00 p.m., Room 325

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Honorable Chair Rhoads, Vice-Chair Har, and Members of the House  
Committee on Judiciary:

The Office of the Prosecuting Attorney, County of Kauai submits the following  
testimony in support of S.B. 702, SD2, HD1, Relating to Child Abuse.

While the age in internet technology is rapidly growing as a source of  
networking and learning, it still serves as a vessel of opportunity for predators  
to prey on young children.

Thereby, the purpose of S.B. 702, SD2, HD1 is to create an Internet Crimes  
Against Children Special Fee to be charged to a defendant for each felony or  
misdemeanor conviction. The bill also establishes an Internet Crimes Against  
Children Special Fund in order to collect and utilize these fees to provide  
resources/equipment for local law enforcement agencies and investigators  
regarding internet crimes against children.

This bill also provides additional training opportunities for law enforcement to  
better understand the nature of these types of crimes, and to help effectively  
investigate and prosecute these types of crimes.

For this reason, we strongly support S.B. 702, SD2, HD1 as this bill would not only help to provide the necessary resources and training for law enforcement, but in consideration to help in the added protection and safety of our keiki.

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

Respectfully,

A handwritten signature in black ink, appearing to read "Justin F. Kollar", with a large, sweeping flourish extending to the right.

Justin F. Kollar  
Prosecuting Attorney  
County of Kaua'i



# THE SEX ABUSE TREATMENT CENTER

# LATE

A Program of Kapi'olani Medical Center for Women & Children

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Gidget Ruscetta

Joshua A. Wisch

DATE: March 18, 2014

TO: The Honorable Karl Rhoads, Chair  
The Honorable Sharon E. Har, Vice Chair  
House Committee on Judiciary

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

RE: S.B. 702 S.D. 2 H.D. 1  
Relating to Child Abuse

Good afternoon Chair Rhoads, Vice Chair Har and members of the House Committee on Judiciary. 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.

SATC supports S.B. 702 S.D. 2 H.D. 1, 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.

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>

It should also be noted that the amendments stating that the collection of the fees are subject to HRS § 760-648 and subject to waiver made by the House Committee on Human Services recognize the importance of addressing the needs of crime victims and are necessary to ensure that they are not adversely affected by this measure.

We urge you to support S.B. 702 S.D. 2 H.D. 1, as it will assist in the investigation and prosecution of Internet crimes against children.

Thank you for this opportunity to testify.

<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.*