

DEPARTMENT OF THE PROSECUTING ATTORNEY  
**CITY AND COUNTY OF HONOLULU**

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**THE HONORABLE KARL RHOADS, CHAIR**  
**HOUSE COMMITTEE ON JUDICIARY**  
**Twenty-Eighth State Legislature**  
**Regular Session of 2016**  
**State of Hawai`i**

January 26, 2016

**RE: H.B. 1044; RELATING TO SEXUAL ASSAULT.**

Chair Rhoads, Vice Chair San Buenaventura, and members of the House Committee on Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony supporting the intent of H.B. 1044 with questions regarding the definition of “position of trust, power, authority, or supervision over that minor” and the scope of the overall bill.

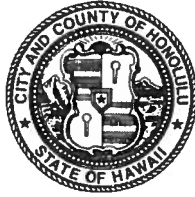
The purpose of this bill is to protect minors between the ages of sixteen (16) and seventeen (17) years of age from individuals who hold a position of trust, power, authority, or supervision over the said minor.

The Department agrees that persons of authority over minors should not be permitted to abuse their position by engaging in sexual contact with those minors, regardless of whether the minor wishes to grant their consent to the sexual contact. However, there are concerns regarding the implementation of this bill. First, H.B. 1044 does not appear to provide a definition or any guidelines regarding what a “position of trust, power, authority, or supervision” entails. It is not clear whether a position of trust includes but is not limited to school teachers, coaches, priests, police officers, etc. Each group that is included in this definition could also potentially create additional questions or concerns. Second, H.B. 1044 appears to apply specifically to Sexual Assault in the Fourth Degree under §707-733 of the Hawaii Revised Statutes. There may be questions or concerns on whether this subsection protecting sixteen (16) and seventeen (17) year olds should also apply to §707-730, §707-731, §707-732 or other similar statutes.

For the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu supports the intent of H.B. 1044, but presents the forgoing questions to promote further discussions. Thank you for this opportunity to testify on this matter.

POLICE DEPARTMENT  
CITY AND COUNTY OF HONOLULU

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OUR REFERENCE KH-NTK

January 26, 2016

**LATE**

The Honorable Karl Rhoads, Chair  
and Members  
Committee on Judiciary  
State House of Representatives  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Rhoads and Members:

SUBJECT: House Bill No. 1044, Relating to Sexual Assault

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 House Bill No. 1044, Relating to Sexual Assault.

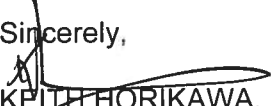
This bill properly amends the offense of Sexual Assault in the Fourth Degree to include persons who abuse their positions of trust, power, authority, or supervision and knowingly engage in or cause sexual contact with a person at least 16 but less than 18 years of age.

We believe that this legislation will provide better protection to minors, ensure that perpetrators are held accountable for their actions, and serve as a deterrent.

The Honolulu Police Department urges you to support House Bill No. 1044, Relating to Sexual Assault.

Thank you for the opportunity to testify.

Sincerely,

  
KEITH HORIKAWA, Captain  
Criminal Investigation Division

APPROVED:

  
LOUIS M. KEALOHA  
Chief of Police

**Testimony of the Office of the Public Defender,  
State of Hawaii to the House Committee on  
Judiciary**

January 26, 2016

H.B. No. 1044: RELATING TO SEXUAL ASSAULT

Chair Rhoads and Members of the Committee:

We oppose passage of H.B. No. 1044 which makes sexual contact illegal if the subject is between sixteen and eighteen years of age and the perpetrator is least five years older than the subject and the perpetrator holds a position of trust, power, authority, or supervision over the subject.

Presumably, this bill is aimed at persons such as teachers or employers who are engaged in sexual contact with a teenager between sixteen and eighteen. The bill would not address sexual contact with those younger than sixteen since Sexual Assault in the Third Degree already punishes those who perpetrate sex acts against those less than sixteen years of age as a felony.

The bill contains no definition or explanation as to the terms “trust,” “power,” “authority,” and “supervision.” These terms are so broad that they could apply to an endless number of relationships which the law might not intend to criminalize. Moreover, the age group which is targeted (16-18 years) is a group which is oftentimes beginning to experiment sexually therefore presenting many opportunities for unjustified prosecutions since consent is not a defense in this proposed offense.

Thank you for the opportunity to provide testimony in this matter.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, January 25, 2016 3:19 AM  
**To:** JUDtestimony  
**Cc:** jenniferhairgrove@gmail.com  
**Subject:** \*Submitted testimony for HB1044 on Jan 26, 2016 14:00PM\*

**HB1044**

Submitted on: 1/25/2016

Testimony for JUD on Jan 26, 2016 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jennifer Hairgrove	Individual	Support	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, January 22, 2016 1:30 PM  
**To:** JUDtestimony  
**Cc:** breaking-the-silence@hotmail.com  
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**HB1044**

Submitted on: 1/22/2016

Testimony for JUD on Jan 26, 2016 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:

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