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CITY AND COUNTY OF HONOLULU

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THE HONORABLE GILBERT S.C. KEITH-AGARAN, CHAIR
SENATE COMMITTEE ON JUDICIARY AND LABOR
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawai`i

February 23, 2016

RE: SB 2522; RELATING TO SEXUAL ASSAULT.

Chair Keith-Agaran, Vice-Chair Shimabukuro and members of the Senate Committee on Judiciary and Labor, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony supporting the intent of S.B. 2522 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 ages 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, S.B. 2522 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, S.B. 2522 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 S.B. 2522, 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

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
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KIRK CALDWELL
MAYOR



LOUIS M. KEALOHA
CHIEF

MARIE A. McCAULEY
CARY OKIMOTO
DEPUTY CHIEFS

OUR REFERENCE KH-NTK

February 23, 2016

The Honorable Gilbert S. C. Keith-Agaran, Chair
and Members
Committee on Judiciary and Labor
State Senate
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Keith-Agaran and Members:

SUBJECT: Senate Bill No. 2522, 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 Senate Bill No. 2522, 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 will be held accountable for their actions, and serve as a deterrent.


The Honolulu Police Department urges you to support Senate Bill No. 2522, Relating to Sexual Assault.

Thank you for the opportunity to testify.

APPROVED:



LOUIS M. KEALOHA
Chief of Police

Sincerely,

for KEITH HORIKAWA, Captain
Criminal Investigation Division

**Testimony of the Office of the Public Defender,
State of Hawaii to the Senate Committee on
Judiciary and Labor**

February 23, 2016

S.B. No. 2522: RELATING TO SEXUAL ASSAULT

Chair Keith-Agaran and Members of the Committee:

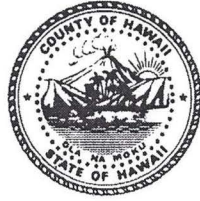
We oppose passage of S.B. No. 2522 which makes sexual contact illegal if the subject is between sixteen and eighteen years of age and the perpetrator is at least five years older than the subject and the perpetrator holds a position of trust, power, authority, or supervision over the subject.

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.

DENNIS "FRESH" ONISHI
Council Member
District 3



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HAWAI'I COUNTY COUNCIL

County of Hawai'i
25 Aupuni Street
Hilo, Hawai'i 96720

TESTIMONY IN **SUPPORT** OF SENATE BILL NO. 2522

A BILL FOR AN ACT
RELATING TO SEXUAL ASSAULT

COMMITTEE ON JUDICIARY AND LABOR

Senator Gilbert S.C. Keith-Agaran, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

Tuesday, February 23, 2016, 9:00 a.m.
State Capitol, Conference Room 016

Honorable Chair Keith-Agaran,
And Members of the Committee on Judiciary and Labor

Thank you for the opportunity to provide testimony in **support** of SB 2522, relating to sexual assault.

I strongly agree with the purpose of this bill which amends sexual assault in the fourth degree to include persons who abuse their position of trust, power, authority or supervision of a person between sixteen and eighteen years old.

Please recommend approval of this measure. Thank you.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: [REDACTED]
Subject: *Submitted testimony for SB2522 on Feb 23, 2016 09:00AM*
Date: Saturday, February 20, 2016 8:32:29 PM

SB2522

Submitted on: 2/20/2016

Testimony for JDL on Feb 23, 2016 09:00AM in Conference Room CR016

Submitted By	Organization	Testifier Position	Present at Hearing
Rachel L. Kailianu	Ho`omana Pono, LLC	Support	Yes

Comments:

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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Subject: *Submitted testimony for SB2522 on Feb 23, 2016 09:00AM*
Date: Friday, February 19, 2016 4:50:22 PM

SB2522

Submitted on: 2/19/2016

Testimony for JDL on Feb 23, 2016 09:00AM in Conference Room CR016

Submitted By	Organization	Testifier Position	Present at Hearing
Kalawai'a Goo	Individual	Support	No

Comments:

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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