

DAVID Y. IGE
GOVERNOR



RACHAEL WONG, DrPH
DIRECTOR

PANKAJ BHANOT
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809-0339

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TO: The Honorable Karl Rhoads, Chair
House Committee on Judiciary

FROM: Rachael Wong, DrPH, Director

SUBJECT: **SB 2873 – RELATING TO ORDERS FOR IMMEDIATE PROTECTION**

Hearing: Thursday, March 31, 2016, 2:00 p.m.
Conference Room 325, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) supports this administration measure.

PURPOSE: The purpose of the measure is to address the inconsistency between section 346-231, Hawaii Revised Statutes (HRS), regarding orders for immediate protection and section 346-228, HRS; and to allow DHS discretion as to when to seek an order for immediate protection.

Senate Bill 2873 is the companion measure to HB 2344 HD2. Currently the only differences between HB 2344 HD2 and SB 2873 are minor technical changes, with the House version capitalizing the word "SECTION."

The DHS mission is to promote the health and safety of vulnerable adults and to ensure that the vulnerable adult's right to self-determination is preserved. To promote effective and efficient use of government resources and capacity, DHS is seeking a single-word change to section 346-231(a), HRS, pertaining to orders for immediate protection. The current statute requires DHS to petition the Family Court for the authority to provide necessary services when a vulnerable adult appears to have been abused or is in danger of abuse if immediate action is not taken. However, section 346-228, HRS, gives DHS the authority to exercise other remedial options when a

vulnerable adult appears to have been abused or is in danger of abuse if immediate action is not taken; thus the inconsistency between sections 346-231 and 346-228, HRS.

The word "shall" in section 346-231(a) requires DHS to seek an order for immediate protection for all investigated cases in which DHS believes an adult has suffered or may suffer abuse. The change of "shall" to "may" in section 346-231(a), HRS, will allow DHS to use the other remedial options indicated in section 346-228, HRS, which do not require court intervention.

In FY 2015, DHS investigated 980 vulnerable adult abuse cases statewide. Of the 980 cases, orders for immediate protection were sought in approximately 25 cases. In those cases, court intervention was necessary because the vulnerable adult lacked the capacity to consent to the provision of services and immediate action was necessary to ensure the health and safety of the vulnerable adult. In the remaining 955 cases, the vulnerable adult or the adult's legal representative was able to give consent for the provision of services, therefore court intervention was not necessary.

If the word "shall" is not changed to "may" in section 346-231(a), HRS, DHS will be required to seek orders for immediate protection from the Family Court for every investigated vulnerable adult abuse case, even where court intervention is unnecessary. It would also conflict with the authority of DHS to perform a function already authorized by statute. Additionally, if the change is not made, and DHS is required to seek court intervention for every case, additional resources of the Department of the Attorney General and the Family Courts will be impacted to accommodate the nearly 1,000 petitions for orders for immediate protection DHS will have to file if current trends continue.

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