



STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96808

April 4, 2017

TO: The Honorable Gilbert S.C. Keith-Agaran, Chair
Senate Committee on Judiciary and Labor

FROM: Pankaj Bhanot, Director

SUBJECT: **HB 1099 HD1 SD1 — Relating to Reports of Child Abuse**

Hearing: Tuesday, April 4, 2017, 9:45 a.m.
Conference Room 016, State Capitol

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

PURPOSE: The purpose of this bill is to bring the State into compliance with the federal Justice for Victims of Trafficking Act of 2015 (P.L. 114-22) by amending the definition of child abuse and neglect to include sex trafficking. Additionally, in accordance with the Child Abuse and Prevention and Treatment Act of 2010, (P.L. 111-320), the bill clarifies that child abuse and neglect reports that are expunged from the State's central registry may be retained by the department for the purposes of future risk and safety assessments.

The proposed revisions achieve the following:

- Adds sex trafficking and severe forms of trafficking to the definition of child abuse and neglect in Section 350-1.
- Deletes the child abuse investigation disposition of "unsubstantiated" and replaces it with "not confirmed". As the federal law has only two categories for child abuse investigation dispositions (confirmed and unconfirmed), "unsubstantiated" is not necessary. The elimination of unsubstantiated simplifies and provides clarity to families and staff.

- Clarifies that reports of child abuse and neglect that are expunged from the State's central registry may be retained by the department for future risk and safety assessment purposes.

Provisions in the Victims of Trafficking Act of 2015 (P.L. 114-22) require states to come into compliance two years after the bill was signed into law or May 29, 2017. DHS has already implemented procedures to ensure that trafficked children are identified and receive appropriate services; however, these federal mandates cannot be fully met without this proposed statute revisions, therefore May 29, 2017 is the proposed effective date.

Additionally, the Child Abuse and Prevention Act of 2010, P.L. 111-320, requires reports where there is no finding of child abuse or neglect to be expunged from the central registry, so the report cannot be used for employment or background check purposes.

However, federal law allows states to maintain expunged reports for future risk and safety assessment purposes in the event another investigation is necessary. If someone requested a Child Abuse and Neglect clearance for employment or background check and there was an expunged report, the expunged information would not be shared. However, if another subsequent child abuse or neglect report is received and an investigation is conducted, the prior report would allow DHS to see a pattern over time that may put a child at risk even if the individual reports were unconfirmed. Without the ability to keep these reports, DHS would have no way of seeing any kind of pattern.

Thank you for the opportunity to provide testimony in support of this measure.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: dabitbol@chowproject.org
Subject: *Submitted testimony for HB1099 on Apr 4, 2017 09:45AM*
Date: Friday, March 31, 2017 5:03:30 PM

HB1099

Submitted on: 3/31/2017

Testimony for JDL on Apr 4, 2017 09:45AM in Conference Room 016

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---|---------------------------|---------------------------|
| Heather Lusk | The Community Health Outreach Work to Prevent AIDS Project (CHOW Project) | Oppose | 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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FamilyProgramsHawaii.com

TO: COMMITTEE ON JUDICIARY AND LABOR
Senator Gilbert S.C. Keith-Agaran, Chair
Senator Karl Rhoads, Vice Chair

HEARING: Tuesday, April 4, 2017
9:45 a.m.
Conference Room 016

FROM: Judith Wilhoite
Family Programs Hawaii

RE: HB 1099 - RELATING TO REPORTS OF CHILD ABUSE

Thank you for this opportunity to testify in favor of HB 1099. I am a resource caregiver and a family advocate for resource caregivers and adoptive parents, the families in Hawaii who open their hearts and homes to children and youth in foster care.

HB1099 will align Hawaii's state statutes with the federal *Preventing Sex Trafficking and Strengthening Families Act* (H.R. 4980) of 2014. Title I of that act, *Protecting Children and Youth At Risk of Sex Trafficking*, requires each "state plan for foster care and adoption assistance to demonstrate that the state agency has developed policies and procedures for identifying, documenting in agency records, and determining appropriate services with respect to, any child or youth over whom the state agency has responsibility for placement, care, or supervision who the state has reasonable cause to believe is, or is at risk of being, a victim of sex trafficking or a severe form of trafficking in persons." The Hawaii Department of Human Services (DHS) has completed many of these directives. If HB 1099 is passed, it will bring Hawaii into compliance with the federal requirements of Title I of H.R. 4980.

Let us join together to help our hard working DHS identify the young people who have been victimized and create a plan to further support their healing.

Thank you for this opportunity to support HB1099.

We help kids

TESTIMONY

Harm Reduction Hawaii
c/o 1658 Liholiho St #205
Honolulu, HI 96822

April 2, 2017

RE: HB 1099 to be heard Tuesday April 4, 2017, in Room 016at 9:45 AM

To the members of the Senate Committee on Judiciary and Labor

We **oppose** this bill that would require service providers to turn over youthful clients to the police as “sex trafficking victims”. The various organizations within the Harm Reduction Coalition here have decades of first-hand experience dealing with runaway youth. These include the Youth Outreach Project, The Waikiki and Diamond Head Health Centers, the CHOW Project, the Life Foundation, and many others. I do not believe any of these people can or will comply with this poorly considered idea. These youth, who are being described as “sex trafficking victims” under the definition being suggested, are not under the control of traffickers except for a handful of exceptions. The trust that is essential between service provider and youth would be destroyed by this bill if providers must call the police to inform on them whenever they come in for services.

Further we strongly disagree with the claims made by certain advocates in favor of this bill. First it is false to claim the average age of entry into commercial sexual exploitation is 13 years of age. The average age of entry into prostitution is around age 18, and only a small number are victims of exploitation. The claim that 60 percent of sex trafficked children are under age 16 has no basis either. The sole individual claiming these things seems to be simply making them up. We do not believe claims made of having provided “direct intervention services to 130 victims” over the past ten years are truthful. Nor do we accept the claims that there are 150 high-risk establishments for sex trafficking in Honolulu. Finally the claim that there are 1500 to 2500 estimated sex trafficking victims made by these people is wildly exaggerated. One or two percent of that number is likely close to the truth.

As for following the Federal law, why should we? Should Hawaii now adopt all of Donald Trump’s new policies since they are coming from the Federal government? The US government is widely regarded as a bad actor in the sex trafficking discussion. Their policies reflect the moral attitudes of anti-prostitution advocates and are not in line with best practices. If the State of Hawaii is really concerned about sex trafficking they should look into the policies outlined by the Global Alliance Against Trafficking in Women the South Asia, based group with affiliates on six continents. Then we could adopt practical policies based on actual facts and evidence, rather than moralizing fear based ones, suggested by anti-prostitution groups.

Signed:



Tracy Ryan, Chair

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: jusbecuz@hotmail.com
Subject: Submitted testimony for HB1099 on Apr 4, 2017 09:45AM
Date: Friday, March 31, 2017 11:52:05 AM

HB1099

Submitted on: 3/31/2017

Testimony for JDL on Apr 4, 2017 09:45AM in Conference Room 016

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|-----------------------------|---------------------------|---------------------------|
| Marilyn Yamamoto | Hawaii Family Advocacy Team | Oppose | No |

Comments: Senator Agaran As a family advocate for parents and CHILDREN in the child welfare system, I strongly oppose the option for DHS to retain Not Confirmed records for the purpose of seeing a "pattern" of abuse or neglect, per the previous DHS testimony. First, the deletion of Unsubstantiated makes it impossible for the department to know if a previous report was vindictive and made in bad faith, under the category of Unsubstantiated. Those reports should never be held for the possibility of mistaken identity of a red flag of abuse or allowed to be included in a subsequent assessment report. Vindictive calls are likely to be repeated. I have personal experience with that scenario. Second, I have first hand knowledge of parents whose cases were dismissed at either great expense in legal fees or in trauma to the entire family during the process of proving innocence at a trial or an administrative hearing and while children were being held in foster care. For those families to know that they are at risk of being targeted again, is unacceptable. Third, DHS has failed both federal CFSR's in 2003 and 2009. In October 2016 the department was held non-compliant of CAPTA notification allegations for the last decade, a violation of 14th amendment due process. I assert that careless inattention to department law, policy and federal standards poses a risk of the same if Not Confirmed reports are retained. Finally, DHS argues that the finding Unsubstantiated is unnecessary, even though the definition is quite different than Not Confirmed. I argue that retention of Not Confirmed abuse or neglect is UNNECESSARY.

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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46-063 Emepela Pl. #U101 Kaneohe, HI 96744 · (808) 679-7454 · Kris Coffield · Co-founder/Executive Director

**TESTIMONY FOR HOUSE BILL 1099, HOUSE DRAFT 1, SENATE DRAFT 1,
RELATING TO REPORTS OF CHILD ABUSE**

**Senate Committee on Judiciary and Labor
Hon. Gilbert S.C. Keith-Agaran, Chair
Hon. Karl Rhoads, Vice Chair**

**Tuesday, April 4, 2017, 9:45 AM
State Capitol, Conference Room 016**

Honorable Chair Keith-Agaran and committee members:

I am Kris Coffield, representing IMUAlliance, a nonpartisan political advocacy organization that currently boasts over 350 members. On behalf of our members, we offer this testimony in strong support of House Bill 1099, HD 1, SD 1, relating to reports of child abuse.

IMUAlliance is one of the state's largest victim service providers for survivors of sex trafficking. Over the past 10 years, we have provided comprehensive direct intervention services to 130 victims, successfully emancipating them from slavery and assisting in their restoration, while providing a range of targeted services to over 1,000 victims in total. Each of the victims we have assisted has suffered from complex and overlapping trauma, including post-traumatic stress disorder, depression and anxiety, dissociation, parasuicidal behavior, and substance abuse. Trafficking-related trauma can lead to a complete loss of identity. A victim we cared for in 2016, for example, had become so heavily bonded to her pimp that while under his grasp, she couldn't remember her own name.

Sex trafficking is a profoundly violent crime. The Average age of entry into commercial sexual exploitation is 13-years-old, with 60 percent of sex trafficked children being under the age of 16. Approximately 150 high-risk sex trafficking establishments are operational in Hawai'i. An estimated 1,500-2,500 women and children are victimized by sex traffickers in our state annually. Over 110,000 advertisements for Hawai'i-based prostitution are posted online each year, a number that has *not* decreased with the recent shuttering of Backpage.com's "adult services" section. More than 80 percent of runaway youth report being approached for sexual exploitation while on the run, over 30 percent of whom are targeted within the first 48 hours of leaving home.

With regard to mental health, sex trafficking victims are twice as likely to suffer from PTSD as a soldier in a war zone. Greater than 80 percent of victims report being repeatedly raped

and 95 percent of report being physically assaulted, numbers that are underreported, according to the United States Department of State and numerous trauma specialists, because of the inability of many victims to recognize sexual violence as such. As one underage victim—now a survivor—told IMUAlliance prior to being rescued, “I can’t be raped. Only good girls can be raped. I’m a bad girl. If I *want* to be raped, I have to *earn* it.”

Accordingly, we support adding the federal definitions of sex trafficking to the definition of child abuse and neglect under HRS §350-1, thereby expanding the mandatory reporting requirements of child abuse and neglect to include the broadest nationally recognized understandings of minor sex trafficking. We note that the federal definition of sex trafficking remains more expansive than our current state definition. For example, the federal definition includes solicitation of person under the age of 18 for a commercial sex act as a form of sex trafficking, while our state’s criminal code currently does not. Since launching our interagency “Stop the Sale” hotline in January, we have received 203 calls from victims and at-risk individuals. Moreover, when we provide anti-trafficking instruction in the Department of Education and private schools, students report that themselves or someone they know are being or at risk of being trafficking at a 2:1 ratio—two victims for every class we teach. Including a more expansive definition of sex trafficking in our mandatory reporting laws would ensure that a greater proportion of the victimized and at-risk population we serve are able to receive the care they need and allow appropriate interventions to be facilitated before a child is lost to our state’s prolific slave trade.

Mahalo for the opportunity to testify in support of this bill.

Sincerely,
Kris Coffield
Executive Director
IMUAlliance

HB1099 HD1 SD1: RELATING TO REPORTS OF CHILD ABUSE

In Opposition

Hearing Date: Tuesday April 4th, 2017

Hearing Time: 9:45AM in conference room 016

Committee: Judiciary and Labor

Aloha members of the JDL committee,

Thank you for hearing HB 1099 HD 1 SD 1, relating to reports of child abuse. My name is Jared Perez and I am in my final semester completing my masters in social work at University of Hawai'i at Mānoa in the Myron B. Thompson School of Social Work. I am in strong opposition to the language used within HB 1099 HD 1 SD 1, re: Section 3 and the expungement of records by the Department of Human Services. Viewing this measure under the scope of the 4th amendment from the US Constitution, It is my opinion that the language used within this bill is too vague and overbroad.

Given the sensitive nature of this topic, this bill should lay out what the specific purposes of the "risk and safety assessments", including but not limited to: how this information can be accessed, when it will be accessed, and what personnel will have clearance. Additionally, this bill dilutes the definition of expunged by making it synonymous with sealed, secured, and maintained.

One of the main motivations for rehabilitative courts such as the Mental Health Court, Veterans Treatment Court, etc. is expungement, it is my opinion that this language will undermine the effectiveness of the rehabilitative process for victims and abusers. It is also my opinion that this bill should provide clear guidelines including but not limited to: what are the restrictions to protect privacy of the victims? Who will provide clear procedural guidance to employees of the department of human services and to whom?

I sincerely appreciate your time and energy in hearing our voices on items such as this one that truly have a lasting impact on our most marginalized community members. Mahalo!

Best Regards,

Jared W. Perez
MSW Candidate 2017

April 3, 2017

To whom it may concern,

I am glad to learn that the state will finally be in compliance with the federal Justice for Victims of Trafficking Act of 2015 and the federal Child Abuse Prevention Treatment Act of 2010.

I, however, disagree with the Department of Human Services obtaining expunged records. Expunged means to erase or remove completely. I also disagree with categorizing frivolous reporting as not confirmed. How would obtaining the original non confirmed/frivolous reports affect the department's investigation if there was the possibility of another future claim? In the United States, a person is innocent until proven guilty. By retaining non confirmed/frivolous records parents/guardians are put in the unfair state of purgatory/limbo.

SB965 is the companion bill to HB1099 which deals with sex trafficking. More time and resources should be spent on monitoring foster care. This is where most sex trafficking occurs. A survey by the Administration for Justice and Families revealed that fifty nine percent of the one hundred and seventy four children arrested for prostitution were in foster care (www.acf.hhs.gov/Administration; Foster Care and Human Trafficking).

Thank you for this opportunity to send in my testimony. I would appreciate a response as I am unable to be present due to work responsibilities.

Nancy Harber
75-233 Nani Kailua Drive, #104
Kailua-Kona, HI 96740
(808) 640-2194

Addendum: I asked Senator Green the same questions at the Hawaii Legislative Outlook forum held on March 30 in Kailua-Kona. He stated "the non confirmed/frivolous reports should be expunged and not used against families". I asked why he signed off on the bill and he said he could not answer and would be talking to the judiciary.