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April 4, 2017

**LATE TESTIMONY**

Revised Testimony

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 and respectfully proposes an amendment.

**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 in the State's central registry may be retained by the department for the purposes of future risk and safety assessment.

The proposed revisions achieve the following:

- Adds sex trafficking and severe forms of trafficking as defined in 22 United States Code Annotated section 7102 to the definition of child abuse and neglect in section 350-1, Hawaii Revised Statutes (HRS).
- Deletes the child abuse investigation disposition of "unsubstantiated" to be consistent with Federal law.

- Clarifies that reports of child abuse and neglect that are expunged in the State's central registry may be utilized 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 become compliant two years after the bill was signed into law or by 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 these proposed statutory revisions; May 29, 2017 is the proposed effective date. Should Hawaii not comply with this federal law, there could be serious consequences, including significant financial penalties.

Additionally, the Child Abuse and Prevention Act of 2010 (P.L. 111-320) prohibits reports where there is no finding of child abuse or neglect to be used in employment or background check purposes. However, federal law allows child welfare agencies to retain and utilize reports for future risk and safety assessment purposes. Without the ability to utilize these prior reports, DHS Child Welfare Services would not have the information to determine any kind of pattern of abuse or neglect.

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

## LATE TESTIMONY

**From:** Marilyn Yamamoto  
**To:** JDL Testimony  
**Subject:** TESTIMONY FOR HB1099  
**Date:** Monday, March 27, 2017 1:00:03 PM

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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.

**National Family Advocacy Team**