



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-NINTH LEGISLATURE, 2018**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 2131, H.D. 1, RELATING TO SEXUAL ASSAULT.

**BEFORE THE:**

HOUSE COMMITTEE ON FINANCE

**DATE:** Tuesday, February 27, 2018                      **TIME:** 11:00 a.m.

**LOCATION:** State Capitol, Room 308

**TESTIFIER(S):** Russell A. Suzuki, Acting Attorney General, or  
Lance Goto, Deputy Attorney General.

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Chair Luke and Members of the Committee:

The Department of the Attorney General ("the Department") supports this bill.

The purpose of this bill is to create a Hawaii Sexual Assault Response and Training Program (HSART) to address the manner in which sexual assault evidence collection kits (SAKs) are processed and tracked, and to ensure that victims of sexual assault are informed of their rights under the law. The bill requires annual reports to the Department on the status of SAKs, and annual summary reports by the Department to the Legislature.

The Hawaii Sexual Assault Kit Initiative (Hawaii SAKI) includes representatives from the four county police departments and prosecutor offices, the Sexual Abuse Treatment Center of Kapiolani Medical Center for Women & Children, the Child and Family Service-Maui Sexual Assault Center, the YWCA of Hawaii Island-Sexual Assault Support Services, and the YWCA of Kauai-Sexual Abuse Treatment Program. Representatives from this group worked with representatives of the Women's Legislative Caucus on this bill to address the concerns of the interested parties. Those efforts are represented in this bill.

With respect to the appropriation provisions in sections 3 and 4 of the bill on page 17, the Department believes the following amounts are needed. In section 3, the HSART program will need an appropriation of \$135,000 for staffing, training, materials,

and travel expenses. In section 4, the county requests to cover the cost of the testing of the sexual assault evidence collection kits are as follows:

\$140,741 to the city and county of Honolulu;

\$27,836 to the county of Maui;

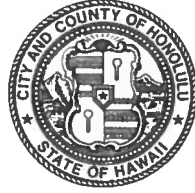
\$34,021 to the county of Hawaii; and

\$13,145 to the county of Kauai.

The Department respectfully requests that these appropriation amounts be inserted and that the Committee pass this bill as so amended.

POLICE DEPARTMENT  
CITY AND COUNTY OF HONOLULU

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MAYOR

SUSAN BALLARD  
CHIEF

JOHN D. MCCARTHY  
JONATHAN GREMS  
DEPUTY CHIEFS

OUR REFERENCE  
WK-WK

February 27, 2018

The Honorable Sylvia Luke, Chair  
and Members  
Committee on Finance  
House of Representatives  
Hawaii State Capitol  
415 South Beretania Street, Room 308  
Honolulu, Hawaii 96813

Dear Chair Luke and Members:


SUBJECT: House Bill No. 2131, H.D. 1, Relating to Sexual Assault

I am Forensic Laboratory Director Wayne Kimoto of the Scientific Investigation Section of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports the intent of House Bill No. 2131, H.D. 1, Relating to Sexual Assault, with the inclusion of appropriated amounts for all costs related to testing sexual assault evidence collection kits as proposed during Fiscal Year 2018 - 2019.

Thank you for the opportunity to testify.

Sincerely,

  
Wayne Kimoto, Director  
Scientific Investigation Section

APPROVED:

  
Susan Ballard  
Chief of Police

Executive Director  
Adriana Ramelli

Advisory Board

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Steven T. Emura, MD

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Josh Green, MD

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Linda Jameson

Michael P. Matsumoto

Nadine Tenn Salle, MD

Deane Salter

Joshua A. Wisch

**Date:** February 27, 2018

**To:** The Honorable Sylvia Luke, Chair  
The Honorable Ty Cullen, Vice Chair  
House Committee on Finance

**From:** Justin Murakami, Policy Research Associate  
The Sex Abuse Treatment Center  
A Program of Kapi'olani Medical Center for Women & Children

**RE:** Testimony Supporting H.B. 2131 H.D. 1  
Relating to Sexual Assault

Good morning Chair Luke, Vice Chair Cullen, and members of the House Committee on Finance:

The Sex Abuse Treatment Center (SATC) supports H.B. 2131 H.D. 1.

SATC serves as a victim services and advocacy member of the Project Mālama Kākou multidisciplinary team brought together by the Department of the Attorney General in response to Act 207 (2016) for the purpose of creating and implementing a plan for the management and testing of old and new kits in the State of Hawai'i. With the Legislature's support, the Project has succeeded in submitting every eligible previously untested sexual assault kit for DNA testing.

The Project Mālama Kākou partners met with members of the Women's Legislative Caucus concerning H.B. 2131 and its Senate Companion S.B. 2345, and together were able to draft and agree upon the language included in H.B. 2131 H.D. 1.

We appreciate this opportunity to testify on this measure, and respectfully ask that the Legislature please pass H.B. 2131 H.D. 1.

**HB-2131-HD-1**

Submitted on: 2/26/2018 6:41:41 AM

Testimony for FIN on 2/27/2018 11:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kat Brady	Community Alliance on Prisons	Support	Yes

Comments:

**HB-2131-HD-1**

Submitted on: 2/25/2018 11:33:52 AM

Testimony for FIN on 2/27/2018 11:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Melodie Aduja	OCC Legislative Priorities Committee, Democratic Party of Hawai'i	Support	No

Comments:

**PRESENTATION OF THE  
OAHU COUNTY COMMITTEE ON LEGISLATIVE PRIORITIES**

**DEMOCRATIC PARTY OF HAWAII**

TO THE COMMITTEE ON FINANCE

THE HOUSE OF REPRESENTATIVES

TWENTY-NINTH LEGISLATURE

REGULAR SESSION OF 2018

Tuesday, February 27, 2018

11:00 A.M.

Hawaii State Capitol, Conference Room 308

RE: Testimony in Support of HB 2131 HD1 RELATING TO SEX ASSAULT

To the Honorable Sylvia Luke, Chair; the Honorable Ty J.K. Cullen, Vice-Chair, and Members of the Committee on Finance:

Good morning, my name is Melodie Aduja. I serve as Chair of the Oahu County Committee ("OCC") Legislative Priorities Committee of the Democratic Party of Hawaii. Thank you for the opportunity to provide written testimony on House Bill No.2131 HD1, relating to Sexual Assault; Evidence; DNA Testing; Hawaii Sexual Assault Response Team; and an Appropriation.

The OCC Legislative Priorities Committee is in favor of House Bill No.2131 HD1, and supports its passage.

House Bill No. **2131 HD1**, is in alignment with the Platform of the Democratic Party of Hawai'i ("DPH"), 2016, as it creates a Hawaii Sexual Assault Response and Training Program to address the manner in which sexual assault evidence collection kits are processed and tracked; ensures that victims of sexual assault are informed of their rights under the law and requires annual reports by the Attorney General to the Senate President and Speaker of the House; and appropriates funds.

The DPH Platform states that "[w]e believe in women's equality and right to privacy, including but not limited to equal access to reproductive services and care, shelter and counseling for victims of domestic violence, and the right of rape victims to emergency contraception in the emergency room." (Platform of the DPH, P. 4, Lines 170-172 (2016)).

Given that House Bill No. **2131 HD1**, creates a Hawaii Sexual Assault Response and Training Program to address the manner in which sexual assault evidence collection kits are processed and tracked; ensures that victims of sexual assault are informed of their rights under the law and requires annual reports by the Attorney General to the Senate President and Speaker of the House; and appropriates funds, it is the position of the OCC Legislative Priorities Committee to support this measure.

Thank you very much for your kind consideration.

Sincerely yours,

/s/ Melodie Aduja

Melodie Aduja, Chair, OCC Legislative Priorities Committee

Email: legislativepriorities@gmail.com, Tel.: (808) 258-8889

To: Hawaii State House of Representatives Committee on Finance  
Hearing Date/Time: Tuesday, Feb. 27, 2018, 11:00 a.m.  
Place: Hawaii State Capitol, Rm. 308  
Re: Testimony of Planned Parenthood Votes Northwest and Hawaii in strong support of H.B. 2131, HD1, relating to Sexual Assault

Dear Chair Luke and Members of the Committee,

Planned Parenthood Votes Northwest and Hawaii (“PPVNH”) writes in strong support of H.B. 2131.

PPVNH supports H.B. 2131 because it seeks to ensure that sexual assault survivors have timely and dignified access to rape kits and information about their rights and that law enforcement submit, track, and process completed kits within a set period time.

Unfortunately, we know that not only are a small percentage of sexual assault cases reported, but charges are filed in even a fewer portion of cases. Assault survivors face myriad obstacles in reporting and seeking justice, so it is essential that local hospitals and law enforcement develop policies and protocols to ensure all assault survivors can have physical evidence collected in a timely and dignified manner. Survivors must also be guaranteed that they will not be billed or charged for the kit or processing—an all too disturbing trend survivors face in this country.

On top of the challenges to accessing sexual assault exam kits in the first place, assault survivors are left waiting years for the results of the kits. The backlog exists at two levels: completed kits that are in police storage facilities but not forwarded to crime labs for analysis, and kits that are submitted to facilities but are awaiting testing. The injustice of this is unthinkable: predators are left on the street and survivors cannot get closure on vicious crimes. Very few states even track how many tests are untested, let alone how quickly they are submitted and processed.

H.B. 2131 will go far to address these issues and promote justice for survivors.

Thank you for this opportunity to testify in support of this important measure.

Sincerely,

Laurie Field  
Hawaii Legislative Director



**HB-2131-HD-1**

Submitted on: 2/26/2018 9:42:20 AM

Testimony for FIN on 2/27/2018 11:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Rachel L. Kailianu	Individual	Support	Yes

Comments:

Will an amend help the public know what is being sent the the heads of the house and senate leaders? The DISTRUST of our GOVERNMENT as hold is overwhelming.

**HB-2131-HD-1**

Submitted on: 2/24/2018 7:11:41 PM

Testimony for FIN on 2/27/2018 11:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Joy Marshall	Individual	Support	No

Comments:



February 25, 2018

Representative Sylvia Luke, Chair  
Representative Ty J.K. Cullen, Vice Chair  
House Committee on Finance

**Re: H.B. 2131 H.D. 1 Relating to Sexual Assault**

**Hearing: Tuesday, February 27, 2018, 11:00 am, Room 308**

Dear Chair Luke, Vice Chair Cullen and Members of the Committee on Finance:

Hawaii Women Lawyers submits testimony in **strong support** of H.B. 2131 H.D. 1. This measure addresses the manner in which sexual assault evidence collection kits are processed and tracked and to ensure that victims of sexual assault are informed of their rights under the law.

The mission of Hawaii Women Lawyers is to improve the lives and careers of women in all aspects of the legal profession, influence the future of the legal profession, and enhance the status of women and promote equal opportunities for all.

Hawaii Women Lawyers supports this measure because it establishes processes for the handling of sexual assault evidence collection kits from the initial testing through judicial proceedings, as well as providing for a retention policy following both convictions and judgments of no conviction. This measure includes a mandatory reporting requirement that should serve to educate the public on the quantity, procedures, and status of the kits to be tested. It also serves to keep victims apprised of their rights, including those who choose to not file a police report at the time the evidence kit is collected - this addresses the realistic and common scenario in which victims are uncertain about proceeding with a criminal investigation at the time of the incident.

Sexual assault is traumatizing for all victims and the legal proceedings can be a disorienting and disheartening experience. We believe that H.B. 2131 will establish a necessary measure of accountability of law enforcement agencies to both the public and to the victims of sexual assault. For these reasons, we respectfully request that the Committee pass H.B. 2131.

Thank you for the opportunity to testify in strong support of this measure.

P.O. Box 2072 • Honolulu, Hawaii 96805  
Email: hawaiiwomenlawyers@gmail.com

{00324756.1}

P.O. Box 2072 • Honolulu, Hawaii 96805  
Email: hawaiiwomenlawyers@gmail.com

**HB-2131-HD-1**

Submitted on: 2/26/2018 10:20:05 AM

Testimony for FIN on 2/27/2018 11:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Esther Dudoit	Individual	Support	No

Comments:

**HB-2131-HD-1**

Submitted on: 2/26/2018 10:42:56 AM

Testimony for FIN on 2/27/2018 11:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dara Carlin, M.A.	Individual	Support	No

Comments:



## Hawaii Women's Coalition

**COMMITTEE ON FINANCE**  
**Rep. Sylvia Luke, Chair**  
**Rep. Ty J.K. Cullen, Vice Chair**

**LATE**

DATE: Tuesday, February 27, 2018  
TIME: 11:00 A.M.  
PLACE: Conference Room 308

**STRONG SUPPORT FOR HB2131 HD1 that creates a Hawaii Sexual Assault Response and Training Program to address the manner in which sexual assault evidence collection kits are processed and tracked, and to ensure that victims of sexual assault are informed of their rights under the law. Requires annual reports by the Attorney General to the Senate President and Speaker of the House**

We are in full support of this much needed legislation. The Women's Coalition has known for years that rape kits were not being processed, allowing serial rapist free to repeat their heinous crimes over and over again.

We think the provision for annual reports to the AG and the Legislature is prudent, as self-regulation by the various police departments has been lacking in this regard.

We fully support the recommendations of Project Mālama Kākou concerning proposed H.D. 1. It provides clarity with respect to the Hawai'i Sexual Assault Response and Training Program's (HSART) mandate to **create appropriate guidelines** for providers of medical-forensic examination services, protocols for the handling of kits, and a standard dataset for kit tracking programs.

It would also allows for aggregate reporting on the status of sexual assault kits, rather than a listing of information for each existing kit, which **protects victims' privacy** with respect to their kit and its individual status while allowing the Legislature and public to monitoring overall compliance with the kit handling timeframes established in this bill.

Let's fervently hope that this bill will address the backlog of untested rape kits providing victims with some measure of justice.

Mahalo for the opportunity to testify,

Ann S. Freed Co-Chair, Hawai'i Women's Coalition  
Contact: [annsreed@gmail.com](mailto:annsreed@gmail.com) Phone: 808-623-5676

**LATE**

**HB-2131-HD-1**

Submitted on: 2/26/2018 4:11:13 PM

Testimony for FIN on 2/27/2018 11:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lucy Miller	Individual	Support	No

Comments:



**LATE**

February 26, 2018

To: Hawaii State House Committee on Finance  
Hearing Date/Time: Tuesday, February 27, 2018 (11:00 am)  
Place: Hawaii State Capitol, Rm. 308  
Re: Testimony in support of SB2131 HD1

Dear Representative Sylvia Luke (Chair), Representative Ty J.K. Cullen (Vice Chair) and Members of the Committee,

I am grateful for this opportunity to testify in **strong support of S.B. 2131 H.D. 1** relating to sexual assault, and specifically to the formation of a Hawaii Sexual Assault Response Team, to formalize how sexual assault evidence collection kits are processed in this state.

My testimony is on behalf of the approximately 400 members of the American Association of University Women (AAUW) in Hawaii, who list gender-based violence as an important current concern. My testimony is informed by many years of work in the field of domestic violence, and research conducted with survivors of intimate partner violence (IPV). It should be noted that typically IPV survivors also experience sexual assault. In addition, when I lived in New Zealand, I managed a 24-hour, 7-days/week domestic violence hotline, and I also trained hotline Advocates to respond skillfully and empathetically to survivors of violence. I provided extensive education to Advocates for Women, and also worked with police, courts, and other service agencies on behalf of survivors.

Based on these experiences, I argue that passage of S.B. 2131 H.D. 1 is important. Survivors of sexual assault need to know what has happened to their sexual assault evidence collection kits, and the processing of said kits needs to be streamlined in Hawaii while maintaining the evidentiary requirements necessary for successful prosecutions. Collection of evidence is a horrible process for an individual, typically a woman, and she undergoes it in the hope that a perpetrator may be stopped from attacking someone else. She does not permit this procedure so that evidence can languish on the shelves of a storage unit, become lost in the system, or be unusable if she wishes to encourage the police to prosecute at a later date.

In conclusion, passage of S.B. 2131 H.D. 1 is an important bill to pass now, since a Task Force is needed to formalize how sexual assault evidence collection kits are processed in Hawaii.

Thank you for the opportunity to testify.

Sincerely

*Susan J. Wurtzburg*, Ph.D.

Policy Chair



**LATE**

**HB-2131-HD-1**

Submitted on: 2/26/2018 9:00:32 PM  
Testimony for FIN on 2/27/2018 11:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lea Minton	Individual	Support	No

Comments:

I strongly support HB2131 HD1. It is important that we have a system in place that processes and keeps track of these sex assault kits, informs victims of their rights, ensures services are available and accessible and notifies victims of any major developments related to their case.

Thank you for considering such an important matter; I urge you to pass HB2131 HD1!

HAWAI'I  
STATE  
COMMISSION  
ON THE  
STATUS  
OF  
WOMEN



Chair  
LESLIE WILKINS

COMMISSIONERS:

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CYD HOFFELD  
JUDY KERN  
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FAX: 808-586-5756

**LATE**

February 26, 2018

To: Chair Sylvia Luke  
Vice Chair Ty Cullen  
Members of the House Finance Committee

From: Khara Jabola-Carolus, Executive Director  
Hawai'i State Commission on the Status of Women

Re: Testimony in Support of HB2131

On behalf of the Hawai'i State Commission on the Status of Women, I would like to thank the committee for hearing this measure and for the opportunity to testify in support of HB2131, which would create a Hawai'i Sexual Assault Response and Training Program.

Across the country, there is a problem with law enforcement agencies not testing all sexual assault evidence collection kits, i.e., "rape kits," leading to a back log of crucially important evidence. Sexual assault evidence kits collect forensic evidence of a rape or sexual assault, including the perpetrator's DNA. Kits often serve as a vital tool in successful prosecutions.

Once tested, an offender's DNA can be matched with other offender samples in the FBI's national database, thereby identifying offenders and linking crimes. Many rape kits sit on shelves, ignored or waiting to be tested. The vast majority of rapists are repeat and serial offenders—rape is not a singular crime that is only committed once and then never re-committed. Self-reports of convicted rape and sexual assault offenders serving time in state prisons indicate that two-thirds of offenders had victims under the age of 18, and nearly 4 in 10 imprisoned violent sex offenders said their victims were age 12 or younger.

In a recent study of college campus sexual assault, it was determined that 9 out of 10 men who commit sexual assaults on college campuses are serial rapists, with up to six victims. Additionally, 8% of university men commit the majority of college campus sexual assault. The numbers and statistics are staggering and frightening.

Victims deserve to have every rape kit tested and our community deserves to know how many rape kits go untested throughout the state. Additionally, they deserve to have comprehensive support services and legal advocacy should they choose to report to law enforcement. HB2131 would provide critical oversight to ensure progress in the testing of rape kits statewide. The Commission supports so long as other services for victims are not endangered due to the requirements found in the bill.

The Commission respectfully requests that the committee pass HB2131. Thank you for this opportunity to provide written testimony in support of this important measure.

Sincerely,

Khara Jabola-Carolus



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(212) 475-2026  
joyfulheartfoundation.org

**LATE**

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February 27, 2018

To: Representative Sylvia Luke, Chair  
Representative Ty J.K Cullen, Vice Chair  
Members of the House Committee on Finance

From: Ilse Knecht  
Director of Policy and Advocacy  
Joyful Heart Foundation

**Re: Testimony in Support, House Bill 2131 HD1, Relating to Sexual Assault**

Thank you for this opportunity to submit testimony in support of House Bill 2131 HD1, which continues the work of stakeholders in Hawai'i to ensure that rape kits are tested in an expeditious manner and offer a path to healing and justice for all sexual assault survivors.

I respectfully submit this testimony on behalf of the Joyful Heart Foundation, which was founded in Kailua-Kona in 2004, and has expanded across the country in service of our mission to transform society's response to sexual assault, domestic violence, and child abuse, support survivors' healing, and end this violence forever. Since 2010, Joyful Heart has made the elimination of the national rape kit backlog our top advocacy priority. The stakes for the local community could not be higher; in Hawai'i, one in seven women has been raped, and the aftermath of a sexual assault is traumatic. Any sexual assault survivor who consents to the invasive and lengthy examination does so with hope that it will lead to justice, and it is up to us to make sure every single rape kit connected to a reported crime is submitted to the laboratory and tested in a timely manner.

H.B. 2131 HD1 includes testing, reporting, victims' rights, and tracking provisions that are essential to furthering this rape kit reform work in Hawai'i. The bill would convene a statewide Sexual Assault Response Team (SART), which must develop forensic examination and rape kit preservation guidelines for all facilities that perform such exams. It also mandates the swift submission and testing of all newly collected rape kits connected to a reported crime, and mandates annual statewide inventory reports of kits in storage at law enforcement agencies, medical facilities, laboratories, and rape crisis centers. The bill grants sexual assault survivors essential rights, including the right to access information regarding the testing status or location of their rape kits, and mandates that stakeholders track all rape kits from collection to analysis. Finally, the bill appropriates state funding to support the Hawai'i sexual assault response and training program and fund all costs related to testing sexual assault evidence collection kits. H.B. 2131 HD1 demonstrates the state's commitment to improving how rape kits are handled and strengthening survivors' rights.

## **Path to Reform**

In 2016, Hawai'i passed Act 207, a critical first step toward rape kit reform. We applaud Senator Laura Thielen, Representative Linda Ichiyama, Majority Leader Belatti, the Hawai'i Women's Legislative Caucus, Attorney General Doug Chin, and members of the Hawai'i Sexual Assault Kit Initiative (SAKI) for their hard work and dedication to rape kit reform in Hawai'i. All have devoted significant time and energy to understanding the issue and exploring possible reforms. We are grateful for this effort.

Act 207 required a one-time inventory of untested rape kits in storage across Hawai'i, uncovering the extent of the backlog for the first time. The law mandated all law enforcement agencies and departments that maintain, store, or preserve rape kits to count and report the number of stored kits in their custody to the Department of the Attorney General. It also required the Attorney General to convene a workgroup to study and make recommendations regarding the handling of sexual assault kits across the state. Law enforcement agencies and departments were required to implement these recommendations: guidelines for the submission and testing of newly collected kits were to be implemented in 2017, and guidelines for the submission and testing of previously untested kits were slated for implementation in 2018.

The Act 207 Report, released in December 2016, identified a total of 2,240 rape kits in the custody of county police departments, 1,951 of which remained untested. Based on these findings, analysis of outcomes in other jurisdictions, and many months of discussions, the Act 207 Working Group developed the Malāma Kākou Project, a plan to reform existing policy and practice for the handling of rape kits across Hawai'i. In 2017, both chambers of the Hawai'i legislature adopted a concurrent resolution urging all law enforcement agencies to follow the Malāma Kākou Project guidelines for testing rape kits. The resolution also requested that the Attorney General conduct an annual statewide inventory of rape kits. Act 207 and HCR 133 were laudable steps toward comprehensive rape kit reform. H.B. 2131 HD1 is a critical next step in legislative reform in Hawai'i.

## **Ensuring Swift Submission of Newly Collected Rape Kits**

DNA evidence is an invaluable investigative tool. When tested, rape kit evidence can identify an unknown assailant, reveal serial offenders, affirm a victim's story, discredit a suspect's version of the events, and exonerate the wrongly convicted. In 2016, Case Western Reserve University published an analysis of serial versus one-time offenders identified by testing previously unsubmitted rape kits in Cuyahoga County, Ohio. Their research showed that more than half of these sexual assaults were committed by serial rapists. When we test DNA evidence, we can establish patterns to find these dangerous serial offenders and take them off the streets. This is why we support the mandatory and swift submission and testing of every rape kit booked into evidence and connected to a reported sexual assault.

Expedient testing of all untested sexual assault kit sends a powerful message to survivors that they—and their cases—matter. It sends a message to perpetrators that they will be held accountable for their crimes. It demonstrates a commitment to survivors to do everything possible to bring healing and justice. It is also the pathway to a more effective criminal justice system and safer communities across the country.

Last August, the U.S. Department of Justice National Institute of Justice released *National Best Practices for Sexual Assault Kits: A Multidisciplinary Approach*, which includes 35 recommendations for victim-centered approaches for responding to sexual assault cases. For the first time, the federal government unambiguously declared that testing every rape kit connected to a reported crime is a best practice. Testing all kits is victim-centered, trauma-informed, and promotes public safety. This approach has been embraced by elected officials,

law enforcement leaders, laboratory professionals, prosecutors, and advocates in jurisdictions across the country.

By establishing uniform, statewide guidelines for the prompt submission of rape kits to the laboratory, we can ensure that all survivors in Hawai'i are offered a path to healing and justice. Explicit and short timelines encourage consistency, submission and testing compliance, and eliminate some of the discretionary decision-making that has governed the handling of rape kits in our state for so long. H.B. 2131 HD1 requires medical facilities to notify law enforcement agencies within 24 hours, law enforcement agencies to pick up the kit within three business days, and submit a request for testing within 10 days. Laboratories must notify law enforcement within 14 days of the request if they accept the kit or ask it to be sent to a different laboratory. Kits must be tested within 180 days of arrival, on average, before July 1, 2023, and within 90 days of arrival, on average, after that date.

### **Promoting Ongoing Transparency and Accountability**

To fully resolve the backlog of untested rape kits in Hawai'i, we must both address the root causes of the problem and take steps to ensure a backlog does not reoccur. Joyful Heart is grateful to county law enforcement agencies, prosecutors, and legislators for their commitment to fulfilling the inventory required by Act 207. This audit revealed the true number of untested kits in the state and shed light on areas for improving rape kit processing.

The reporting provisions of H.B. 2131 HD1 sustain this spirit of transparency and public accountability by requiring annual inventory reporting for all law enforcement agencies, medical facilities, laboratories, and rape crisis centers. These agencies must report key data—including the total number of rape kits in their custody, the status of these kits, the number of kits they have destroyed, and the reasons for which such kits were destroyed—to the Attorney General, who must compile and report these data publicly and to the legislature.

By requiring annual reporting, H.B. 2131 HD1 will ensure that all stakeholders, including survivors and the general public, can monitor the success of the implementation of the Malāma Kākou Project. Regular data collection and reporting allows us to track our progress, assess the impact of the policy changes, and be held accountable for progress. Accountability shows the public and survivors that system stakeholders are committed to the pledge we have taken to improve rape kit handling procedures.

### **Survivors' Rights and Rape Kit Tracking**

As states and local jurisdictions work to process kits, they are faced with the question of how to re-engage survivors whose cases are often years—sometimes decades—old in a manner that is not re-traumatizing, can enhance the probability that a survivor will re-engage with the criminal justice system, and will increase the likelihood that a survivor will access the support services they need and deserve. Many of these communities and states are working to ensure survivors have a legally established right to be notified about the status of their kits. With passage of this bill, Hawai'i would join a growing list of states that are recognizing the importance of affording sexual assault survivors these vital rights.

In 2016, Joyful Heart released *Navigating Notification*, the result of a 3-year research project studying best practices for victim notification and re-engagement. In partnership with researcher Dr. Courtney Ahrens of California State University at Long Beach, we brought together the voices of more than 90 survivors, criminal justice, medical, academic, and advocacy professionals to establish survivor-centered, trauma-informed policies and protocols for victim notification.

One of the key findings of our research was that having access to information and being informed about the status of their case is critical to survivors' healing. The survivors in our study strongly asserted that information about their case "belongs" to them, and limiting access to such information is "unacceptable and misguided." Survivors deserve all the information they need to determine their own involvement in the medical, legal, and healing processes.

H.B. 2131 HD1 would grant survivors key rights to ensure that they have access to information about the status of their cases and of their kits, including:

- The right to receive written information about kit collection and preservation guidelines;
- The right to have their kit preserved, regardless of whether they choose to file police reports;
- The right to a supportive crisis worker during forensic examinations;
- The right to information regarding the status, analysis, location, or intended destruction of their kits; and
- The right to be informed of major developments in their cases.

Furthermore, H.B. 2131 HD1 directs each county to establish a tracking system for rape kits, which must include entities that receive custody of the kits and must be accessible to victims anonymously. The bill requires participation in the tracking system from law enforcement agencies, laboratories, health care providers, and others in the chain of custody. A tracking system is effective when all participants in the medical and legal fields fully participate and regularly update crucial information within their jurisdiction. A rape kit tracking system can also provide status reports and help entities provide updates to the public, legislature, and other stakeholders. It is our understanding that the intention is to have a unified, electronic tracking system across the state, which we applaud.

H.B. 2131 HD1 requires the tracking system to provide a means of secure access to sexual assault survivors. As our research shows, giving survivors a choice about how and when to receive information about their kits can help counter the loss of self-determination and control at the core of the sexual assault experience. This provision is critical because it supports survivors' ability to access critical information about their kits in a secure and easily accessible manner.

### **Appropriating Funds for Rape Kit Reform**

H.B. 2131 HD1 appropriates an undisclosed amount of state budget funding for testing rape kits. By appropriating funding to ensure that all rape kits are swiftly tested, Hawai'i can ensure that serial offenders are apprehended and survivors are offered access to justice.

Research has confirmed what cities and states around the country have already discovered: testing every rape kit and thoroughly investigating every reported rape is financially beneficial for communities. In 2016, the Begun Center for Violence Prevention Research and Education at Case Western Reserve University analyzed the cost of testing backlogged rape kits in Cuyahoga County, Ohio. Factoring in the cost of testing kits, investigating cases, and other related expenses, the study calculated the overall cost effectiveness of testing 4,347 unsubmitted kits. The study found testing all 4,347 kits produced a net savings of \$38.7 million.

To maximize cost savings down the line, Hawai'i officials must ensure that, once these rape kits are tested, the cases are investigated and prosecuted to the full extent of the law. As more sexual assault cases are pursued and more offenders are apprehended, future crimes are averted, and communities save money.

### **Next Steps For Reform**

We are heartened by the leadership of Senator Thielen and Representative Ichiyama, many of their colleagues, and the members of the Women's Caucus, the Attorney General's Working Group, and the Hawai'i Sexual Assault Kit Initiative team, all of whom keep pressing forward on rape kit reform in Hawai'i. The Hawai'i legislature has been tremendously supportive of rape kit reform, and we encourage continued assistance and funding for local jurisdictions to implement a survivor-centered approach to the rape kit handling process and survivor engagement. Doing so will ensure safer communities and create a path to healing and justice for survivors of sexual assault in Hawai'i.

We encourage the Attorney General, members of the Act 207 Workgroup, and members of the legislature to continue engaging in dialogue, study, and action to ensure legislative reform brings about accountability, testing of all backlogged rape kits, and continued access to justice for survivors. We encourage the legislature to allocate sufficient funding not only to processing untested rape kits, but also to investigating leads, moving cases forward to prosecution, and engaging survivors in the criminal justice system.

Joyful Heart is grateful to the committed stakeholders working to improve the handling of rape kits across Hawai'i. We are proud to support this bill and look forward to continuing to advance evidence-informed reforms to fully address the issue going forward.





**LATE**

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**THE HONORABLE SYLVIA LUKE, CHAIR**  
**HOUSE COMMITTEE ON FINANCE**  
**Twenty-Ninth State Legislature**  
**Regular Session of 2018**  
**State of Hawai`i**

February 27, 2018

**RE: H.B. 2131, H.D. 1; RELATING TO SEXUAL ASSAULT.**

Chair Luke, Vice-Chair Cullen and members of the House Committee on Finance, the Department of the Prosecuting Attorney of the City and County of Honolulu (“Department”) submits the following testimony supporting the intent of H.B. 2131, with a friendly amendment.

The purpose of H.B. 2131, H.D. 1, is to establish statewide procedures for the transfer, testing, and tracking of sexual assault evidence collection kits (“SAECK”); re-establish the Hawaii Sexual Assault Response and Training Program (“HSART”) for continued progress and oversight; provide specific rights to victims who provide a SAECK; and appropriate sufficient funding to facilitate these things.

By way of background, in 2016, the Legislature formally established a new policy and philosophy for testing SAECK, such that SAECK would no longer be tested solely for probative value (i.e. to assist the investigation and/or prosecution of the criminal case in which it was collected), but would also be tested to maximize the number of DNA profiles uploaded to the FBI’s Combined DNA Index System (“CODIS”) (i.e. to identify any other cases—nationwide—in which the defendant may be a suspect). Pursuant to Act 207 (2016), the Department of the Attorney General (“AG’s”) prepared a statewide inventory of all untested SAECK in the possession of each county police department, and submitted a report to the Legislature regarding their findings and recommendations. Concurrently, the AG’s convened a multi-disciplinary group of stakeholders from across the State, to develop policies and procedures for testing and tracking the previously untested kits, as well as any SAECK moving forward.

The Department is an active member of the multi-disciplinary group, and strongly supports the intent to continue the group’s work, to maintain strong lines of communication

between all agencies and programs involved in these cases, and continue developing policies and procedures around the new philosophy for testing SAECK. While the Department would greatly prefer that the establishment of policies and procedures be left entirely to the multi-disciplinary group—as opposed to codifying specific timelines and requirements—we do understand that it is entirely within the Legislature’s purview to create uniform standards and procedures when there is a perceived need.

That said, the current language of H.B. 2131, H.D. 1, is based on language that was jointly discussed and prepared by members of the multi-disciplinary group. In addition, however, we would recommend one additional amendment:

- On page 17, line 14, the phrase "and storage" should be added, so that the respective sexual assault programs and centers can receive some funding to store their portion of the unreported kits. Thus, the language would now read "...testing and storage of sexual assault evidence collection kits." It is our understanding that the amounts previously listed under Section 4 of H.B. 2131 only accounted for the police departments’ anticipated increases related to testing, without accounting for storage of unreported kits; so those requested amounts will likely increase slightly, once the sexual assault programs and centers are able to calculate their anticipated needs.

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu supports the intent of H.B. 2131, H.D. 1, with the inclusion of our recommended change. Thank for you the opportunity to testify on this bill.