

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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PROSECUTING ATTORNEY

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THE HONORABLE BRIAN T. TANIGUCHI, CHAIR
SENATE COMMITTEE ON JUDICIARY
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawai'i

March 15, 2018

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

Chair Taniguchi, Vice Chair Rhoads, and members of the Senate Committee on Judiciary, 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, H.D. 1, with amendments proposed in the Department of the Attorney General.

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. With that in mind, we do support the amendments proposed in the AG’s testimony, which were previously discussed by members of the multi-disciplinary group.

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 amendments submitted by the Department of the Attorney General. Thank for you the opportunity to testify on this bill.

HAWAII
STATE
COMMISSION
ON THE
STATUS
OF
WOMEN



Chair
LESLIE WILKINS

COMMISSIONERS:

SHERRY CAMPAGNA
CYD HOFFELD
MARILYN LEE
JUDY KERN
AMY MONK
LISA ELLEN SMITH

Executive Director
Khara Jabola-Carolus

Email: kjabola-carolus@dhs.hawaii.gov

235 S. Beretania #407
Honolulu, HI 96813
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March 13, 2018

To: Sen. Taniguchi, Chair
Sen. Rhoads, Vice Chair
Honorable Members of the S. Committee on Judiciary

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

Re: Testimony in Support, HB2131 HD1

Thank you for this opportunity to testify in strong support of HB2131, which would appropriate funds to create a Hawai`i Sexual Assault Response and Training Program. The measure would also establish mandatory submission, testing, and storage requirements for rape kits. Critically important to transparency, the bill mandates annual reporting from the Attorney General to the legislature.

Many rape kits continue to 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.ⁱ Further, only 12.5 percent of sexual assault reports results in conviction.ⁱⁱ

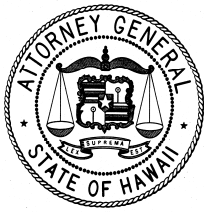
Our community deserves a more transparent, uniform, and robust rape kit process. HB2131 would create a better mechanism for Hawai`i to respond to sexual assault. The Commission therefore supports HB2131 and urges the Committee to pass this important measure.

Sincerely,

Khara Jabola-Carolus

ⁱ Bureau of Justice Statistics, *An Analysis of Data on Rape and Sexual Assault*

ⁱⁱ Daly, Kathleen, *Rape and Attrition in the Legal Process*, 2010,



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

ON THE FOLLOWING MEASURE:

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

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY

DATE: Thursday, March 15, 2018

TIME: 10:00 a.m.

LOCATION: State Capitol, Room 016

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

Chair Taniguchi and Members of the Committee:

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

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.

Representatives from the Hawaii Sexual Assault Kit Initiative (Hawaii SAKI) 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. The 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.

The Department worked with a few representatives of Hawaii SAKI and representatives of the Women's Legislative Caucus, and respectfully recommends the following amendments.

Page 9, line 1: Change "five years" to "six years."

Page 17, lines 4-21: Delete current sections 3 and 4 in the bill and insert a new section 3 as follows:

SECTION 3. There is appropriated out of the DNA Registry Special Fund the sum of \$ or so much thereof as may be necessary for fiscal year 2018-2019 for the staffing, training, materials, and travel expenses of the Hawaii sexual assault response and training program and for costs related to testing and storage of sexual assault evidence collection kits.

Page 18, line 1: Renumber "Section 5" as "Section 4" and amend it to read as follows:

This Act shall take effect on July 1, 2018, provided that section -4 of the new chapter, starting on page 8, shall take effect on January 1, 2019.

The Department respectfully requests that the Committee pass this bill with these amendments.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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KIRK CALDWELL
MAYOR

SUSAN BALLARD
CHIEF

JOHN D. McCARTHY
JONATHON GREMS
DEPUTY CHIEFS

OUR REFERENCE
WK-WK

March 15, 2018

The Honorable Brian T. Taniguchi, Chair
and Members
Committee on Judiciary
House of Representatives
Hawaii State Capitol
415 South Beretania Street, Room 016
Honolulu, Hawaii 96813

Dear Chair Taniguchi 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,

A handwritten signature in black ink, appearing to read "Wayne Kimoto", is written over a horizontal line.

Wayne Kimoto, Director
Scientific Investigation Section

APPROVED:

A handwritten signature in black ink, appearing to read "Susan Ballard", is written over a horizontal line.

Susan Ballard
Chief of Police

Executive Director
Adriana Ramelli

Advisory Board

President
Mimi Beams

Joanne H. Arizumi

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Councilmember
Carol Fukunaga

Senator
Josh Green, MD

David I. Haverly

Linda Jameson

Michael P. Matsumoto

Nadine Tenn Salle, MD

Deane Salter

Joshua A. Wisch

Date: March 15, 2018

To: The Honorable Brian Taniguchi, Chair
The Honorable Karl Rhoads, Vice Chair
Senate Committee on Judiciary

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 with Amendments
Relating to Sexual Assault

Good morning Chair Taniguchi, Vice Chair Rhoads, and members of the Senate Committee on Judiciary:

The Sex Abuse Treatment Center (SATC) supports H.B. 2131 H.D. 1, with the proposed amendments submitted for the Committee's consideration by the Department of the Attorney General.

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 conferred with members of the Women's Legislative Caucus concerning H.B. 2131 H.D. 1, and SATC notes in particular our support for the following amendments:

- On page 8, line 1, changing the retention and storage period for non-reported kits from "five years" to "six years"; and
- On page 18, line 1, amending the effective date for provisions in the bill to reflect, "This Act shall take effect on July 1, 2018, provided that section -4 of the new chapter, starting on page 8, shall take effect on January 1, 2019."

We appreciate this opportunity to testify in support of H.B. 2131 H.D. 1, and respectfully ask that the Legislature adopt the amendments recommended by the Department of the Attorney General.



Hawaii Women's Coalition

COMMITTEE ON JUDICIARY
Senator Brian T. Taniguchi, Chair
Senator Karl Rhoads, Vice Chair

DATE: Thursday, March 15, 2018
TIME: 10:00 a.m.
PLACE: Conference Room 016

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 some of 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 Phone: 808-623-5676

COMMUNITY ALLIANCE ON PRISONS

P.O. Box 37158, Honolulu, HI 96837-0158

Phone/E-Mail: (808) 927-1214 / kat.caphi@gmail.com



COMMITTEE ON JUDICIARY

Sen. Brian Taniguchi, Chair

Sen. Karl Rhoads, Vice Chair

Thursday, March 15, 2018

10:00 am

Room 016

STRONG SUPPORT FOR HB 2131 HD1 - SEXUAL ASSAULT EVIDENCE

Aloha Chair Taniguchi, Vice Chair Rhoads and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies in Hawai'i for more than two decades. This testimony is respectfully offered on behalf of all the people who have died in our facilities including, JESSICA FORTSON, JOEY O'MALLEY, DAISY KASITATI, ASHLEY GREY. and the approximately 5,500 Hawai'i individuals living behind bars or under the "care and custody" of the Department of Public Safety on any given day. We are always mindful that approximately 1,600 of Hawai'i's imprisoned people are serving their sentences abroad thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Kanaka Maoli, far, far from their ancestral lands.

HB 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, 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. Appropriates funds.

Community Alliance on Prisons is in strong support of this measure. Many of our imprisoned women are survivors of sexual assault. In many cases, that is what led them to self-medicate and then landed them in jail or prison. Sexual assault has a lifetime effect on people and communities.

Survivors of this heinous crime deserve to be treated with respect, to be taken seriously, and to have the evidence of the crime appropriately tested.

We implore the committee to pass this important bill, especially in these perilous times, where women are treated with incredible disrespect from the highest level of the federal government. Please stand for justice and the rights of our people.

Mahalo for this opportunity to testify.

When you stand for something, you've got to stand for it all the way, not half way.

Kevin Gates



March 14, 2018

Senator Brian T. Taniguchi, Chair
Senator Karl Rhoads, Vice Chair
Senate Committee on Judiciary

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

Hearing: Thursday, March 15, 2018, 10:00 a.m., Room 016

Dear Chair Taniguchi, Vice Chair Rhoads and Members of the Committee on Judiciary:

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 H.D.1 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 H.D.1.

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

To: Hawaii State Senate Committee on Judiciary
Hearing Date/Time: Thursday, Mar. 15, 2018, 10:00 a.m.
Place: Hawaii State Capitol, Rm. 016
Re: Testimony of Planned Parenthood Votes Northwest and Hawaii in strong support of H.B. 2131, HD1, relating to Sexual Assault

Dear Chair Taniguchi and Members of the Committee,

Planned Parenthood Votes Northwest and Hawaii (“PPVNH”) writes in strong support of H.B. 2131, HD1.

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: 3/12/2018 1:45:26 PM

Testimony for JDC on 3/15/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Courtney Mrowczynski	Individual	Support	No

Comments:

HB-2131-HD-1

Submitted on: 3/12/2018 3:53:19 PM

Testimony for JDC on 3/15/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Joy Marshall	Individual	Support	No

Comments:

HB-2131-HD-1

Submitted on: 3/13/2018 10:24:07 AM

Testimony for JDC on 3/15/2018 10:00:00 AM

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

Comments:

HB-2131-HD-1

Submitted on: 3/12/2018 5:23:11 PM

Testimony for JDC on 3/15/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lea Minton	Individual	Support	No

Comments:

HB-2131-HD-1

Submitted on: 3/14/2018 8:05:26 AM

Testimony for JDC on 3/15/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Testifying for OCC Legislative Priorities Committee, Democratic Party of Hawai'i	Support	No

Comments:

To the Honorable Brian T. Taniguchi, Chair; the Honorable Karl Rhoads, Vice-Chair and the Members of the Senate Committee on Judiciary:

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 **HB2131 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 **HB2131 HD1** and supports its passage.

HB2131 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, 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; 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 **HB2131 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, 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; 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, Text/Tel.: (808) 258-8889

HB-2131-HD-1

Submitted on: 3/14/2018 2:25:28 PM

Testimony for JDC on 3/15/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melissa Ferguson	Individual	Support	No

Comments:

the expediant processing of sexual assault evidence kits are vital to prosecuting the perpatrator, mental health of the victim, and the future safety of the general public. Without these provisions you are putting more and more women at risk of sexual assault.