



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

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**ON THE FOLLOWING MEASURE:**

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

**BEFORE THE:**

HOUSE COMMITTEE ON JUDICIARY

**DATE:** Thursday, February 15, 2018      **TIME:** 2:00 p.m.

**LOCATION:** State Capitol, Room 325

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

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Chair Nishimoto and Members of the Committee:

The Department of the Attorney General ("the Department") appreciates the intent of this bill and offers the attached proposed House Draft 1 for the Committee's consideration. This draft is being submitted on behalf of members of the Hawaii Sexual Assault Kit Initiative (Hawaii SAKI), who worked with representatives of the Women's Legislative Caucus to develop this proposal.

The purpose of this bill is to create a Hawaii Sexual Assault Response Team 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 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 the attached draft.

The Department appreciates this opportunity to share the hard work of the Hawaii SAKI members and the Women's Legislative Caucus.

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# A BILL FOR AN ACT

RELATING TO SEXUAL ASSAULT.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that deoxyribonucleic  
2 acid (DNA) evidence is a powerful law enforcement tool that can  
3 identify unknown suspects, connect crimes to known perpetrators,  
4 and exonerate the innocent. The legislature further finds that  
5 establishing standard and efficient sexual assault evidence  
6 collection kit handling procedures and a statewide tracking  
7 system would ensure that victims of sexual assault receive  
8 accurate information that enables them to take steps to protect  
9 their rights, and prevent the misplacement of kits, delays in  
10 testing, and destruction of evidence.

11           It is the intent of the legislature that sexual assault  
12 evidence collection kits are tested in a timely manner to  
13 enhance public safety by protecting sexual assault survivors,  
14 exonerating the innocent, and holding offenders accountable.

15           The purpose of this Act is to address the manner in which  
16 sexual assault evidence collection kits are processed and  
17 tracked and to ensure that victims of sexual assault are  
18 informed of their rights under the law.

1 SECTION 2. The Hawaii Revised Statutes is amended by  
2 adding a new chapter to title 38 to be appropriately designated  
3 and to read as follows:

4 "CHAPTER

5 **SEXUAL ASSAULT EVIDENCE COLLECTION KITS**

6 § -1 **Definitions.** As used in this chapter:

7 "Accredited and approved DNA laboratory" means a DNA  
8 laboratory that:

9 (1) Meets the requirements of section 844D-54; and

10 (2) Conducts DNA analysis eligible for upload to  
11 the Combined DNA Index System, as approved by its state  
12 administrator.

13 "Combined DNA Index System" means the Federal Bureau of  
14 Investigation's program of support for criminal justice DNA  
15 databases as well as the software used to run these databases.

16 "Department" means the department of the attorney general.

17 "DNA" means deoxyribonucleic acid.

18 "DNA analysis" refers to the following process:

19 (1) The taking of DNA samples from evidence containing DNA  
20 from a known individual or DNA of unknown origin;

21 (2~~1~~) The isolation of autosomal deoxyribonucleic acid  
22 (DNA) to develop DNA profiles ~~that are eligible for~~  
23 ~~entry into the Combined DNA Index System;~~ and

24 ~~(2) The taking of DNA samples from evidence containing DNA~~

1 ~~from a known individual or DNA of unknown origin;~~

2 (3) The determination of the DNA test results; ~~and~~

3 ~~(4) Entry of resulting DNA profiles into the Combined DNA~~  
4 ~~Index System.~~

5 "Law enforcement agency" means a county police department,  
6 ~~the office of a sheriff, the office of a county prosecuting~~  
7 ~~attorney, or a federal, state, or local governmental body that~~  
8 ~~enforces criminal laws and whose employees have statutory powers~~  
9 ~~of arrest.~~

10 "Medical forensic examination" means an examination  
11 provided to a victim of a suspected sexual assault by a health  
12 care provider to address medical concerns resulting from the  
13 sexual assault and to collect and preserve evidence that may be  
14 used in a police investigation and any subsequent prosecution.

15 "Reported sexual assault evidence collection kit" or  
16 "reported kit" means a sexual assault evidence collection kit  
17 for a case in which:

18 (1) The victim reported a sexual offense to a law  
19 enforcement agency; or

20 (2) The victim reported a sexual offense to a law  
21 enforcement agency and a formal complaint was  
22 generated; the victim subsequently requested that the  
23 complaint be withdrawn; but now the victim has chosen  
24 to reinstate the complaint.

1 "Sexual assault evidence collection kit" means a kit that  
2 contains a human biological specimen or specimens collected by a  
3 health care provider during a medical forensic examination from  
4 the victim of a suspected ~~sexually-oriented~~ criminal sexual  
5 offense.

6 "Status" refers to the location, date, and time that a  
7 sexual assault evidence collection kit is transferred within the  
8 chain of custody.

9 "Unreported sexual assault evidence collection kit" or  
10 "unreported kit" means a sexual assault evidence collection kit  
11 for a case in which:

- 12 (1) The victim chose not to report a sexual offense to a  
13 law enforcement agency; or
- 14 (2) The victim reported a sexual offense to a law  
15 enforcement agency and a formal complaint was  
16 generated; but the complaint was subsequently  
17 withdrawn at the victim's request.

18 § -2 **Hawaii sexual assault response ~~team and training~~**  
19 **program**. (a) The department shall establish a Hawaii sexual  
20 assault response ~~team and training program~~ that shall consist of  
21 members who are directly involved with the use, management, and  
22 testing of sexual assault evidence collection kits, or are  
23 involved with, communicate with, or otherwise support sexual  
24 assault victims, including but not limited to the respective

1 | police departments of each county, ~~accredited and approved DNA~~  
2 | ~~laboratories,~~ the State or county CODIS administrator, the  
3 | respective prosecuting attorney departments of each county, and  
4 | sexual assault service providers.

5 | (b) The Hawaii sexual assault response ~~team and training~~  
6 | ~~program~~ shall have regularly scheduled meetings to strengthen  
7 | the coordinated community response and level of quality care for  
8 | victims of sexual assault, and shall develop and maintain:

9 | (1) ~~Develop and regularly update a protocol~~ Specific  
10 | guidelines for all medical forensic examinations in the  
11 | State. ~~The medical forensic examination protocol shall be used~~  
12 | ~~by, which shall be issued to all medical facilities, rape~~  
13 | ~~erisissex assault programs and~~ centers, county contractors, and  
14 | any other facilities that perform medical forensic examinations;

15 | (2) Protocol for collection of forensic evidence included  
16 | within a sexual assault evidence collection kit;

17 | (23) ~~Develop and adopt a~~ statewide standard data set,  
18 | including status and location information, that all counties  
19 | shall include in their respective sexual assault evidence  
20 | collection kit tracking systems;

21 | (34) ~~Establish standard policies~~ Policies and procedures  
22 | for any sex assault programs and centers, county contractors,  
23 | and any other facilities ~~facility~~ that ~~performs medical forensic~~  
24 | ~~examinations and~~ retains possession of sexual assault evidence

1 collection kits under this chapter. ~~The policies and procedures~~  
2 ~~shall address, regarding~~ proper preservation ~~of kits, transfer,~~  
3 ~~recordkeeping requirements, and chain of custody~~  
4 ~~requirementstracking and disposal of kits;~~ and

5 (45) ~~Establish r~~Required disclosures that shall be made to  
6 any person undergoing a medical forensic examination, including  
7 but not limited to the length of time a kit may be stored or  
8 retained, the point at which a kit may be ~~disposeddestroyed,~~ and  
9 the person's ability to access the status of their kit through  
10 the appropriate county tracking system.

11 § -3 **Annual statewide inventory and report of sexual**  
12 **assault evidence collection kits.** ~~Reports containing the~~  
13 ~~following information shall be submitted to the department on an~~  
14 ~~annual basis, in the manner directed by the department, by law~~  
15 ~~enforcement agencies, medical facilities, rape crisis centers,~~  
16 ~~DNA laboratories, and any other facilities in the State that~~  
17 ~~collect, receive, maintain, store, or preserve sexual assault~~  
18 ~~evidence collection kits:~~

19 ~~— (1) The total number of all kits containing forensic~~  
20 ~~samples;~~

21 The Department of the Attorney General shall prepare and  
22 submit an annual report to the President of the Senate and the  
23 Speaker of the House of Representatives no later than twenty  
24 days prior to the convening of each regular session, beginning



1 with the Regular Session of 2019, detailing for the prior fiscal  
2 year:

3 (1) The number of sexual assault evidence collection kits  
4 collected in each county;

5 (2) The number of reported sexual assault evidence  
6 collection kits collected in each county;

7 (3) The number of unreported sexual assault evidence  
8 collection kits collected in each county;

9 (4) The number of reported sexual assault evidence  
10 collection kits that were submitted to an accredited and  
11 approved lab for analysis;

12 (5) Of the reported sexual assault evidence collection  
13 kits submitted to an accredited and approved lab for  
14 analysis, the number for which analysis has been completed;

15 ~~Of the reported sexual assault evidence collection kits~~  
16 ~~submitted to an accredited and approved lab for analysis,~~  
17 ~~the number of backlogged kits;~~

18 (6) The number of reported sexual assault evidence  
19 collection kits that were not submitted to an accredited  
20 and approved lab for analysis;

21 (7) The number of sexual assault evidence collection kits  
22 disposed of in each county, pursuant to Section -4;

1 ~~(9)(8)~~ The number of sexual assault evidence collection kits  
2 disposed of in each county, for reasons not provided in  
3 Section -4, and the reason for disposal; and

4 ~~(2) For each kit:~~

5 ~~(A) The date of collection or receipt;~~

6 ~~(B) Whether the kit's existence was reported to law~~  
7 ~~enforcement; and~~

8 ~~(C) The status of the kit, with respect to its~~  
9 ~~handling by each of the following types of~~  
10 ~~entities:~~

11 ~~(i) For facilities performing medical forensic~~  
12 ~~examinations, the date the kit was collected~~  
13 ~~by the facility; and the date the facility~~  
14 ~~reported the collected kit's existence to a~~  
15 ~~law enforcement agency;~~

16 ~~(ii) For law enforcement agencies, the date the~~  
17 ~~kit was retrieved by a law enforcement~~  
18 ~~agency from the facility that performed the~~  
19 ~~medical forensic examination; the date a law~~  
20 ~~enforcement agency sent a request for~~  
21 ~~testing to an accredited and approved DNA~~  
22 ~~laboratory; and the date a law enforcement~~  
23 ~~agency delivered the kit to the accredited~~  
24 ~~and approved DNA laboratory; provided that~~

1 ~~for kits originating from another~~  
2 ~~jurisdiction, the information to be reported~~  
3 ~~shall include the date that a law~~  
4 ~~enforcement agency in Hawaii notified a law~~  
5 ~~enforcement agency in the other jurisdiction~~  
6 ~~and the date the kit was retrieved, on~~  
7 ~~behalf of the other jurisdiction, from the~~  
8 ~~facility that performed the medical forensic~~  
9 ~~examination; and~~

10 ~~(iii) For accredited and approved DNA~~

11 ~~laboratories, the date the kit was received~~  
12 ~~by the laboratory; the law enforcement~~  
13 ~~agency from which the kit was received; the~~  
14 ~~date a DNA analysis was performed on the~~  
15 ~~kit; the date any resulting information from~~  
16 ~~the kit was entered into the Combined DNA~~  
17 ~~Index System; and all reasons a kit was not~~  
18 ~~tested or a DNA profile was not created;~~

19 (39) All reasons any kit was in an entity's possession for  
20 longer than the periods allowed under  
21 section -5, and

22 ~~(4) The total number of kits destroyed and reason for~~  
23 ~~destruction of each.~~

1 ~~The department shall compile the reported information into a~~  
2 ~~summary report.~~ The ~~summary~~ report shall also be made available  
3 to the public on the department's website ~~and shall be submitted~~  
4 ~~to the legislature annually no later than twenty days prior to~~  
5 ~~the convening of each regular session.~~

6 § -4 **Unreported sexual assault evidence collection**

7 **kits.** (a) A victim who chooses not to file a police report at  
8 the time of undergoing a medical forensic examination:

9 (1) May request in writing that the unreported kit be held  
10 by the ~~facility that performed the medical forensic~~  
11 ~~examination~~ sexual assault program or center in that county;

12 provided that if the victim does not so request, then the  
13 appropriate law enforcement agency shall take possession of the  
14 unreported kit pursuant to section -5;

15 (2) Shall not be deemed to have waived the victim's right  
16 to report the crime and to have the victim's kit tested in the  
17 future; and

18 (3) Shall be informed of the date the victim's kit will be  
19 ~~destroyed~~ disposed, in writing at the time of the examination.

20 (b) Agencies, organizations, and other entities in  
21 possession of unreported sexual assault evidence collection kits  
22 shall store the kits for at least ~~a duration of twenty years~~ five  
23 years if the victim was 18 years of age or older at the time of

1 incident, and at least twenty years if the victim was under 18  
2 years old at the time of incident.

3 § -5 **Mandatory submission and testing requirements for**  
4 **ed-sexual assault evidence collection kits.** (a) An agency,  
5 organization program, center, or other entity that collects a  
6 sexual assault evidence collection kit shall notify the  
7 appropriate law enforcement agency as soon as practicable after  
8 the kit's collection; provided that the notification shall be no  
9 later than twenty-four hours after the collection occurred.

10 (b) A notified law enforcement agency shall:

11 (1) Take possession of the sexual assault evidence  
12 collection kit from the agency, organization program, center, or  
13 other entity that collected the kit within three business days  
14 of receiving notification, if it is either a reported sexual  
15 assault evidence collection kit or an unreported sexual assault  
16 evidence collection kit that the victim has not requested to be  
17 held by the sexual assault program or center in that county;

18 (2) Submit a written request for testing of the reported  
19 sexual assault evidence collection kit to an accredited and  
20 approved DNA laboratory within ~~ten working~~ fifteen business days  
21 of taking possession of the kit, ~~unless the suspected offender~~  
22 ~~has been entered into the Combined DNA Index System database;~~  
23 and

1 (3) Within seven-ten business days of acceptance for  
2 testing by an accredited and approved DNA laboratory, ~~deliver~~  
3 submit the kit to the laboratory for testing.

4 (c) An accredited and approved DNA laboratory in the State  
5 shall:

6 (1) Notify a law enforcement agency that has submitted a  
7 written request for testing, within fourteen days of receiving  
8 the request, as to whether the laboratory accepts the request or  
9 instead recommends providing the reported sexual assault  
10 evidence collection kit to another laboratory for testing;

11 (2) Pursue DNA analysis of a sexual assault evidence  
12 collection kit that was accepted from a law enforcement agency  
13 to develop autosomal DNA profiles that are eligible for entry  
14 into the Combined DNA Index System; and

15 (~~d3~~) The State CODIS Administrator or designee shall Enter  
16 enter a DNA profile into the Combined DNA Index System database,  
17 provided that the testing of a sexual assault evidence  
18 collection kit resulted in an eligible DNA profile; provided  
19 further that:

20 (i) Prior to July 1, 2023, the average completion  
21 rate for this analysis and classification shall  
22 not exceed one hundred eighty days; and

1 (ii) On or after July 1, 2023, the average completion  
2 rate for this analysis and classification shall  
3 not exceed ninety days.

4 (ed) For cases in which no judgment of conviction has been  
5 entered, and there has been no acquittal or, final dismissal, or  
6 negative results from a DNA analysis of the kit, a law  
7 enforcement agency that is in possession of a reported sexual  
8 assault evidence collection kit shall retain the kit for ~~a~~  
9 ~~duration of~~ fifty years, or until the expiration of the period  
10 of limitation for any prosecutable offense under section 701-  
11 108, whichever is longer. For cases in which a judgment of  
12 conviction has been entered, a law enforcement agency that is in  
13 possession of a reported sexual assault evidence collection kit  
14 shall retain the kit pursuant to the requirements of section  
15 844D-126.

16 (e) A law enforcement agency's lack of compliance with any  
17 of the time requirements of this section shall not:

18 (1) Constitute grounds on which to challenge the validity  
19 of DNA evidence in any criminal or civil proceeding;

20 (2) Justify a court to exclude any evidence generated from  
21 a sexual assault evidence collection kit; or

22 (3) Provide a basis for a person who is accused or  
23 convicted of committing a crime against a victim to request that  
24 the person's case be dismissed or conviction be set aside.

1 (f) This section shall not establish a private cause of  
2 action or claim on the part of any individual, agency,  
3 organization, or other entity against any law enforcement agency  
4 or against any accredited and approved DNA laboratory.

5 (g) The requirements of this section concerning notice and  
6 transfer of a sexual assault evidence collection kit to a law  
7 enforcement agency, and a law enforcement agency's handling of  
8 the kit, shall not apply to:

9 (1) Cases that are under the primary jurisdiction of ~~law~~  
10 ~~enforcement~~ agencies outside of the authority of the State; or

11 (2) Cases in which jurisdiction may be asserted by more  
12 than one ~~law enforcement~~ agency; provided that all reasonable  
13 efforts shall be made to determine jurisdiction as soon as  
14 practicable; provided further that if primary jurisdiction is  
15 determined to belong to a law enforcement agency under the  
16 authority of the State, then notice and transfer of a sexual  
17 assault evidence collection kit to the law enforcement agency,  
18 and the law enforcement agency's handling of the kit shall be in  
19 accordance with the requirements of this section as of the date  
20 on which jurisdiction was established with respect to the kit's  
21 collection.

22 **§ -6 Tracking system for sexual assault evidence**

23 **collection kits.** (a) No later than January 1, 2020, each  
24 county shall establish an electronic tracking system for sexual



1 assault evidence collection kits. At a minimum, each system  
2 shall:

3 (1) Track the status of sexual assault evidence collection  
4 kits from the specimen collection site ~~throughout the criminal~~  
5 ~~justice process~~ to final storage or disposal, including but not  
6 limited to the initial collection, inventory, and storage by law  
7 enforcement agencies or accredited and approved DNA  
8 laboratories, analysis at accredited and approved DNA  
9 laboratories, and storage or ~~destruction~~ disposal after  
10 completion of analysis;

11 (2) Allow all entities, approved by the Department, that  
12 collect, receive, maintain, store, or preserve sexual assault  
13 evidence collection kits to ~~continuously~~ update the status and  
14 location of the kits;

15 (3) Allow victims of sexual assault to ~~anonymously~~ access  
16 the system ~~and receive secure updates regarding for~~ the location  
17 and status of their respective sexual assault evidence  
18 collection kits; ~~and~~

19 ~~(4) Use electronic technology that allows continuous~~  
20 ~~access by victims, entities that collect sexual assault evidence~~  
21 ~~collection kits, law enforcement agencies, and accredited and~~  
22 ~~approved DNA laboratories.~~

23 ~~(b) Law enforcement agencies may contract with public or~~  
24 ~~private entities, including private software and technology~~

1 ~~providers, for the creation, operation, or maintenance of a~~  
2 ~~tracking system.~~

3        ~~(e)~~ (b) All agencies, organizations, and other entities  
4 approved by the Department and in the chain of custody of sexual  
5 assault evidence collection kits shall participate in the  
6 tracking system by updating the status and location of kits, as  
7 appropriate. The Department shall have access to all tracking  
8 systems statewide, at all times.

9        **§ -7 Victims' right to notification and other**

10 **information.** (a) A sexual assault victim has the right to  
11 receive a medical forensic examination, regardless of whether  
12 the victim chooses to report the assault to a law enforcement  
13 agency.

14        (b) Each law enforcement agency shall designate at least  
15 one person, who is trained in trauma and victim response, to  
16 receive all inquiries concerning sexual assault evidence  
17 collection kits and to serve as a liaison between the agency and  
18 victims.

19        (c) A sexual assault victim shall be provided with the  
20 contact information for the designated liaison or liaisons at  
21 the time that the victim's sexual assault evidence collection  
22 kit is collected.

23        (d) In advance of or during a medical forensic examination  
24 or law enforcement agency interview, medical professionals,

1 victim advocates, law enforcement officers, or prosecutors shall  
2 provide a sexual assault victim with a physical document  
3 developed by the Hawaii sexual assault response ~~team~~ and  
4 training program that identifies the victim's rights under this  
5 chapter, including:

6 (1) Support from, and consultation with, a crisis worker  
7 at the time that a sexual assault evidence collection kit is  
8 collected, provided that sufficient funding is available ;

9 (2) Information about the current location, analysis date  
10 and status, and estimated disposal date of the victim's sexual  
11 assault evidence collection kit;

12 (3) Notification when there is any major development, as  
13 defined in section 801D-2, in a case that the victim reported to  
14 a law enforcement agency, including whether the case has been  
15 closed or reopened;

16 (4) Designation of a person of the victim's choosing to  
17 act as a recipient of the information provided under this  
18 subsection;

19 (5) Information on how to report an offense to a law  
20 enforcement agency and how to request that the victim's sexual  
21 assault evidence collection kit be analyzed in the future,  
22 provided that the victim either chose not to report the offense  
23 at the time the victim's kit was collected, or previously

1 withdrew the report but later chooses to reinstate the report;  
2 and

3 (6) Information about the availability of crime victim  
4 compensation and other services for victims of sexual assault,  
5 as appropriate."

6 SECTION 3. There is appropriated out of the general  
7 revenues of the State of Hawaii the sum of ~~\$135,000~~\$145,000 or  
8 so much thereof as may be necessary for fiscal year 2018-2019  
9 for the staffing, training, materials and travel expenses of the  
10 Hawaii sexual assault response ~~team and training program, and the~~  
11 ~~sum of \$10,000 or so much thereof as may be necessary for fiscal~~  
12 ~~year 2018-2019 for the purchase of sexual assault evidence~~  
13 ~~collection kits.~~

14 The sum appropriated shall be expended by the department of  
15 the attorney general for the purposes of this Act.

16 SECTION 4. There is appropriated out of the general  
17 revenues of the State of Hawaii the sum of \$13,145 for the  
18 County of Kauai; \$27,836 for the County of Maui; \$34,021 for the  
19 County of Hawaii; and \$140,741 for the County of Honolulu, or so  
20 much thereof as may be necessary for fiscal year 2018-2019, for  
21 all costs related to testing sexual assault evidence collection  
22 kits.

23 The sum appropriated shall be expended by the counties for  
24 the purposes of this Act.

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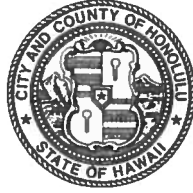
SECTION 45. This Act shall take effect on July 1, 2019.

INTRODUCED BY: \_\_\_\_\_



POLICE DEPARTMENT  
**CITY AND COUNTY OF HONOLULU**

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OUR REFERENCE **WK-WK**

February 15, 2018

The Honorable Scott Y. Nishimoto, Chair  
and Members  
Committee on Judiciary  
House of Representatives  
Hawaii State Capitol  
415 South Beretania Street, Room 325  
Honolulu, Hawaii 96813

Dear Chair Nishimoto and Members:

SUBJECT: House Bill No. 2131, 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, Relating to Sexual Assault, with the amendments proposed by the Attorney General.

Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read "Wayne Kimoto".

Wayne Kimoto, Director  
Scientific Investigation Section

APPROVED:

A handwritten signature in black ink, appearing to read "Susan Ballard".  
Susan Ballard  
Chief of Police

DEPARTMENT OF THE PROSECUTING ATTORNEY  
**CITY AND COUNTY OF HONOLULU**

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**THE HONORABLE SCOTT Y. NISHIMOTO, CHAIR**  
**HOUSE COMMITTEE ON JUDICIARY**  
**Twenty-Ninth State Legislature**  
**Regular Session of 2018**  
**State of Hawai'i**

February 15, 2018

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

Chair Nishimoto, Vice-Chair San Buenaventura and members of the House 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, with amendments proposed in the Department of the Attorney General's "Proposed H.D. 1."

The purpose of H.B. 2131 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 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 a SAECK would no longer be tested solely for its 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"). 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 strongly supports continuing the multi-disciplinary group's work, to maintain strong lines of communication between all agencies and programs involved in these



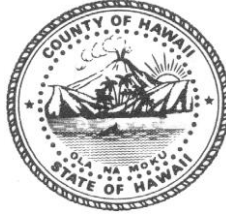
cases statewide, and continue developing policies and procedures around the new philosophy for testing SAECK. We support the Proposed H.D. 1 submitted by the AG's, which was jointly discussed and prepared by members of the multi-disciplinary group.

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.

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, with amendments submitted by the Department of the Attorney General's Proposed H.D. 1. Thank for you the opportunity to testify on this bill.

**MITCHELL D. ROTH**  
PROSECUTING ATTORNEY

**DALE A. ROSS**  
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## OFFICE OF THE PROSECUTING ATTORNEY

TESTIMONY IN SUPPORT OF HOUSE BILL 2131

A BILL FOR AN ACT RELATING TO RELATING TO  
SEXUAL ASSAULT

COMMITTEE ON JUDICIARY

Rep. Scott Y. Nishimoto, Chair

Rep. Joy a. San Buenaventura, Vice Chair

Friday, February 15, 2018 2:00 P.M.  
State Capitol, Conference Room 325

Honorable Chair Nishimoto, Vice-Chair San Buenaventura and Members of the Committee on Judiciary, the Office of the Prosecuting Attorney, County of Hawai'i submits the following testimony in support of House Bill 2131.

This measure 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 to the Attorney general and appropriates funds.

This bill supports the work started in 2016 by Act 207 SLH 2016 working group to inventory and submit for testing sexual assault kits collected prior to June 30, 2016, determine best practices for handling and testing and prosecuting cases, and to identify objectives, tasks and processes to ensure the proper handling and testing of cases collected from July 1, 2016. Since the introduction of this bill, this office has actively consulted with the Attorney General and others in the working group to propose amendments to be introduced by the Attorney General. This office supports the passage of the bill with amendments with one small caveat on page 10, section -4 related to unreported sexual assault evidence collection. As proposed in the amendment, (1) states:

(1) May request in writing that the unreported kit be held by the sexual assault program or center in that county...

We recommend that the following in red be added after the word "county" **if the program or center has adequate facilities to store and secure the sexual assault kits.** The reason for this recommendation is twofold: (1) In Hawaii county, the provider does not have adequate storage facilities for the kits and all kits for unreported cases are collected unanimously by Hawaii County Police Department; and (2) National Best Practices for Sexual Assault Kits,

recommendation 16 states that Law enforcement or laboratories should be responsible for the long-term storage of all sexual assault kits (reported and unreported).

The Office of the Prosecuting Attorney, County of Hawai‘i supports the passage of House bill 2131 with amendments submitted by the Attorney General with the additional amended stated above. Thank you for the opportunity to testify on this matter.

**HB-2131**

Submitted on: 2/13/2018 4:23:28 PM

Testimony for JUD on 2/15/2018 2:00:00 PM

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

Comments:



February 13, 2018

To: Hawaii State House Committee on Judiciary  
Hearing Date/Time: Thursday, February 15, 2018 (2:00 pm)  
Place: Hawaii State Capitol, Rm. 325  
Re: Testimony in support of SB2131

Dear Representative Scott Y. Nishimoto (Chair), Representative Joy San Buenaventura (Vice Chair) and Members of the Committee,

I am grateful for this opportunity to testify in **strong support of S.B. 2131** 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 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 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.

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Date: February 15, 2018

To: The Honorable Scott Nishimoto, Chair  
The Honorable Joy San Buenaventura, Vice Chair  
House 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 with Amendments  
Relating to Sexual Assault

Good afternoon Chair Nishimoto, Vice Chair San Buenaventura, and members of the House Committee on Judiciary:

The Sex Abuse Treatment Center (SATC) supports H.B. 2131, with the proposed H.D. 1 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 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 proposed H.D. 1.

We offer the following comments in support of the proposed H.D. 1:

- The proposed H.D. 1 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, while providing HSART the flexibility to collaboratively address broader issues involving Hawai'i's system response to crimes of sexual violence.
- The proposed H.D. 1 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.

- The proposed H.D. 1 gives the victim a choice of whether an unreported kit should be stored with the police or with their county sexual assault program/center, with retention periods that will be clearly communicated to survivors at the time a kit is collected.

We appreciate this opportunity to testify on this measure, and respectfully ask that the Legislature adopt the amendments recommended by the Department of the Attorney General in its proposed H.D. 1.



JOYFUL  
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February 15, 2018

To: Representative Scott Y. Nishimoto, Chair  
Representative Joy A. San Buenaventura, Vice Chair  
Members of the House Committee on Judiciary

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

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

Thank you for this opportunity to submit testimony in support of House Bill 2131, 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 have 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.

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 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. Finally, 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.

### **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.

Expeditious 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 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 sustain this spirit of transparency and public accountability by requiring annual inventory reporting for all law enforcements 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 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 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 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 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.

### **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 to local jurisdictions with implementing 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, as well.

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.

**HB-2131**

Submitted on: 2/14/2018 1:05:39 PM

Testimony for JUD on 2/15/2018 2:00:00 PM

| <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 Hawaii | Support                   | No                        |

Comments:

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

**DEMOCRATIC PARTY OF HAWAII**

TO THE COMMITTEE ON JUDICIARY

THE HOUSE OF REPRESENTATIVES

TWENTY-NINTH LEGISLATURE

REGULAR SESSION OF 2018

Thursday, February 15, 2018

2:00 a.m.

Hawaii State Capitol, Conference Room 329

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

To the Honorable Scott Y. Nishimoto, Chair; the Honorable Joy A. San Buenaventura, Vice-Chair and the Members of the Committee on Judiciary:

Good afternoon, 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, relating to Sexual Assault, DNA Testing, and the Hawaii Sexual Assault Response Team.

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

House Bill No.2131 is in alignment with the Platform of the Democratic Party of Hawai'i ("DPH"), 2016, as it creates a Hawaii Sexual Assault Response Team 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 and it requires annual reports to the Attorney General on the status of sexual assault evidence collection kits and annual summary reports by the Attorney General to the legislature.

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 creates a Hawaii Sexual Assault Response Team 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, 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](mailto:legislativepriorities@gmail.com), Tel.: (808) 258-8889

**LATE**



February 13, 2018

Representative Scott Nishimoto, Chair  
House Committee on Judiciary

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

**Hearing: Thursday, February 15, 2018, 2:00 pm, Room 325**

Dear Chair Nishimoto and Members of the Committee on Judiciary:

Hawaii Women Lawyers submits testimony in **strong support** of H.B. 2131. 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.



**LATE**

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February 14, 2018

JUDICIARY COMMITTEE  
Thursday, February 15, 2018, 2:00 PM

HB2131 RELATING TO SEXUAL ASSAULT  
Laurie Tomchak, League of Women Voters  
TESTIMONY

Chair Nishimoto, Vice Chair San Buenaventura and Committee Members:

HB 2131: Creates a Hawaii Sexual Assault Response Team 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 to the Attorney General on the status of sexual assault evidence collection kits and annual summary reports by the Attorney General to the legislature. Appropriates funds. Effective 7/1/19.

On October 7, 2016, then-President Obama signed into law the Survivor's Bill of Rights Act, which established statutory rights in federal code for victims of sexual assault. Among the rights that are guaranteed are the right to have a rape kit preserved for the length of the case's statute of limitations, to be notified of an evidence kit's destruction, and to be informed about results of forensic exams. The main aim is to lessen the burden of those who were assaulted.

In conjunction with the landmark sexual assault law, Hawaii lawmakers are working to improve the way DNA kits are processed. Currently, DNA kits gathered from rape victims are tested only if an investigator or prosecutor requests it, in an attempt to save money and resources. There is a backlog of 1500 untested DNA kits, some dating back over a decade.

Lawmakers and crime victims' advocates who support HB 2131 say across-the-board testing would bring Hawaii in line with other states that have sought reforms, and in line with federal code.

"There's a lot of data that demonstrates that it is important to test rape kits, regardless. One of the pieces of data is that we know that rapists are serial offenders not just of sexual assault but other crimes." said Kata Issari, executive director of Joyful Heart Foundation- Hawaii. Having a tax force to monitor sexual assault cases would improve the fair processing of these cases.

Therefore, to improve the uniformity and fairness of prosecution of sexual assault, the League of Woman voters strongly supports the passage of HB 2131





**COMMITTEE ON JUDICIARY**

**Rep. Scott Y. Nishimoto, Chair**

**Rep. Joy A. San Buenaventura, Vice Chair**

**DATE: Thursday, February 15, 2018**

**TIME: 2 p.m.**

**PLACE: Conference Room 325**

**STRONG SUPPORT FOR HB 2131**

Aloha Chair Nishimoto, Vice Chair San Buenaventura and members,

The Coalition strongly supports this measure that is the result of the task forces long hard work on eliminating the backlog of untested rape kits in our state.

In 2016, the Hawai'i Department of the Attorney General completed an audit and found 1,951 untested rape kits. This travesty is part of a nationwide pattern in law enforcement that the film "I Am Evidence" documents. Detroit was particularly horrific with rape kits in a rat-infested unsecured warehouse. While Hawaii is not as bad as Detroit on this issue, we still lacking in a coherent policy concerning the testing of rape kits. Better testing protocols with entry into CODIS will help identify serial offenders and prevent them from committing further rapes.

This bill does not require testing of all kits, since some victims do not want to have their kits tested, but we feel that, the creation of a Hawaii Sexual Assault Response Team to address the manner in which sexual assault evidence collection kits are processed and tracked, along with ensuring that victims of sexual assault are informed of their rights under the law, is an achievable beginning.

We are also encourage by the requirement for annual reports to the Attorney General on the status of sexual assault evidence collection kits and annual summary reports by the Attorney General to the legislature.

Please pass this bill and help to stop the epidemic of sexual assault in our state and the nation.

Mahalo for the opportunity to testify,

Ann S. Freed Co-Chair, Hawaii Women's Coalition

Contact: [annsreed@gmail.com](mailto:annsreed@gmail.com) Phone: 808-623-5676