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CATHY BETTS
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809-0339

February 25, 2018

TO: The Honorable Senator Brian T. Taniguchi, Chair
Senate Committee on Judiciary

FROM: Pankaj Bhanot, Director

SUBJECT: **SB 2097 – RELATING TO CHILD SAFETY**

Hearing: Tuesday, February 27, 2018, 9:30 a.m.
Conference Room 016, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent of the bill and provides comments.

PURPOSE: The purpose of the bill is to authorize the disclosure of child abuse and neglect reports for incidents occurring in group child care homes or group child care centers to parents or guardians of children enrolled in the home or center at the time of the alleged abuse or neglect or to parents considering enrolling their children in the home or center. The bill also seeks to authorize the disclosure of a report involving a finding of a felony or misdemeanor to be disclosed to anyone upon request.

Pursuant to Section 350-1.4, Hawaii Revised Statutes (HRS), "all reports to the department concerning child abuse or neglect made pursuant to this chapter, as well as records of such reports, are confidential."

The department understands parents' concerns about the safety of their children while in child care, particularly when that care is provided by persons unknown to the family, not family, friend, or neighbor care, and reflects the complexity of competing laws regarding child care licensing and child welfare.

For parents or guardians who have children enrolled in, or are considering enrollment in, an unlicensed group child care center or an unlicensed group child care home, DHS Child Welfare Services Branch can release information on child abuse and neglect to these parents or guardians with the signed consent of the unlicensed group child care center or unlicensed group child care home.

However, as to the proposed (e), last year the legislature passed Act 16 (2017), and brought the state into compliance with, amongst other things, the Child Abuse and Prevention and Treatment Act (CAPTA) of 20110, P.L. 111-320. Act 16 (2017) amended section 350-2 (d), HRS, and now reads:

"(d) The department shall maintain a central registry of reported child abuse or neglect cases and shall promptly expunge the reports in cases if:

- (1) The report is determined not confirmed by the department, an administrative hearing officer, or a Hawaii state court on appeal; or
- (2) The petition arising from the report has been dismissed by order of the family court after an adjudicatory hearing on the merits pursuant to chapter 587A.

Records and information contained in a report that is expunged may be retained by the department solely for future risk and safety assessment purposes

The department shall adopt rules as may be necessary in carrying out this section."

The result of Act 16 (2017) is that child abuse and neglect reports that are determined "not confirmed" are expunged from the State's central registry, though the record and information may be retained by the department for future risk and safety assessment purposes. Consequently, the proposed measure will conflict with section 350-2, HRS, and potentially violate the applicable provisions of CAPTA, as the central registry will no longer contain all of the reports of child abuse and neglect.

Given the mandate of section 350-1, HRS, and provisions of section 350-2, HRS, DHS Child Care Licensing (CCL) conducts background checks upon hires and annually thereafter. Any background check history, such as a substantiated finding as a perpetrator of child abuse or neglect that are in the central registry, is assessed by CCL to determine if the person is suitable to provide care for children. If the circumstances of the background checks indicates

the person is not suitable, then CCL will notify the person and the child care facility that the person is not suitable to provide care.

The department's child care licensing and registration standards require that persons providing care to children to be of reputable and responsible character. As authorized by section 346-154, HRS, the CCL conducts comprehensive background checks including state and federal fingerprint checks, state and national sex offender registry checks, child abuse and neglect registry check, and adult abuse perpetrator checks. The CCL staff review a person's background checks to determine whether the person is suitable to provide care at a licensed or registered child care facility or home.

In the situation where CCL receives a new report of allegations of possible child abuse or neglect for a person already working in a licensed group child care home or registered family child care home, CCL will suspend the license of a group child care home or registration of a family child care home until the investigations by the DHS Child Welfare Services (CWS) branch and the CCL investigation are completed, and the determination whether the allegations are confirmed or not. If the person is employed at a group child care center, CCL will request that the center suspend the person until the CWS investigation for child abuse or neglect and the CCL investigation are completed. The concurrent CCL investigation is conducted to determine whether there were any violations of Part VIII of Chapter 346, HRS, or the licensing or registration requirements by the center or home.

If the allegations of child abuse or neglect are not confirmed by CWS, the CCL staff will assess whether there were any violations of the Part VIII of Chapter 346, HRS, or licensing or registration requirements, including whether the person is of suitable to provide care to children. If the person is not suitable to provide care to children, the CCL will request the group child care center terminate the employment of the person, otherwise the center's license may be suspended or revoked. If the person operating the group child care home or family child care home is determined not suitable, the home's license or registration will be revoked. The salient issue for parents is that the pending the completion of the CWS and CCL investigations, and the determination that the person is

suitable, the person is not allowed to provide care to children at a group child care center, group child care home, or family child care.

The subject individual's right to due process is currently preserved in that CWS findings are confidential, and reports which end up being unconfirmed by CWS are also not disclosed. The subject person has the right to appeal the CWS confirmation of abuse or neglect. The person also has the right to appeal adverse decisions made by CCL that result in suspension of the license or registration or the suspension or termination from employment at the center.

Furthermore, DHS points out that the CWS investigation does not make a determination of criminal penalties, including felony or misdemeanor convictions. Those criminal penalties would be pursued by police and law enforcement, and prosecuted by the Counties.

Any information regarding criminal convictions may be accessed through the Department of Attorney General's Hawaii Criminal Justice Data Center. Section 846-2.7, HRS, prohibits DHS from releasing the information it receives from criminal history record checks that it is authorized to conduct.

Thank you for the opportunity to provide comments on this measure.

Senate Committee on Judiciary
Tuesday, February 27, 2018
9:30am, Room 016
State Capitol

Chair Sen. Brian Taniguchi, Vice Chair Sen. Karl Rhoads,
& Members of the Judiciary Committee:

RE: Testimony IN SUPORT of SB2097, Relating to Child Safety to Increase Disclosure of Child Abuse & Neglect Records

My name is Laurie Hirohata, and I not only Support SB2097, I helped draft the bill. I refer to this bill as Peyton Valiente's legacy to all of the other children in Hawaii.

The reason why I am leading the efforts to pass SB2097 is I reviewed Peyton's case as a pro bono summer project after seeing the media coverage on this terribly botched case. Peyton was severely injured and nearly died while at his babysitter's (Manuela Ramos) house in January 2015. I was pretty appalled at the numerous errors and sloppy work done by both the Honolulu Police Dept. (HPD) and the DHS, Child Welfare Services (CWS) [aka, Child Protective Services-CPS].

The 'bottom line' is that there will never be 'justice for Peyton and his family because the 'perpetrator' (term used for the babysitter by the Family Court Judge) will never be indicted for any kind of crime for the injury to Peyton while being paid to babysit him, including negligence and/or child endangerment.

Furthermore, although the Family Court Judge ruled the babysitter, Manuela Ramos, as the 'perpetrator' for Peyton's near fatal injuries; the CWS has never completed the investigation on Manuela Ramos, or her (now adult children) who were in the home when Peyton was injured. Since the CWS investigation was never completed, the babysitter nor her family members have been added to the DHS, Child Abuse & Neglect (CAN) Registry database. And in fact, it appears that the CWS has purged Peyton's child abuse case file. Purging a child abuse case file for a fatal or near fatal case goes against the federal CAPTA (Child Abuse Prevention & Treatment Act), which mandates that pertinent information on all fatal or near fatal child abuse cases be made available to the public upon request. So, how can Peyton's case file, which was a near fatal case, be made available upon request if it no longer exists?

Peyton's abusers will never be charged with a crime or sanctioned by the CWS.

Therefore, the babysitter, Manuela, and her family are free to continue to care for, or work with children, because when a background check is done on Manuela or her (now adult children) there will be NO RECORD of Peyton's abuse on file with the DHS, Child Welfare Services or in the Criminal Justice database, or with the Honolulu Police Dept. because of the botched investigations.

The current secretive and clandestine child abuse investigation & treatment system is really protecting the predators instead of protecting and preventing children from abuse and neglect!

There are more rules and regulations within the Hawaii DCCA to protect customers using services such as barbers & cosmetologists, purchasing a car, hiring a plumber or electrician or even using cable TV than there are for families using child care services or other children's services such as educational programs, after school programs, recreational programs or sports programs.

The intent of SB2097 is to increase public disclosure on child abuse & neglect cases so the families will have a better opportunity to protect their most 'precious asset,' their child(ren). If the public is given more opportunity to review background information on the people who care for their child(ren) it will force the systems (CWS & HPD) to be more careful and diligent in their investigation and treatment of child abuse cases.

The Valiente's and I really believe that although there will never be 'justice' for Peyton; his "legacy" of surviving a horrific experience will live on if we use his story to help change the policies and procedures on the investigation and treatment of child abuse and neglect cases so other children will be made a little safer while in the care of others.

SB2097 focuses on providing the families, who use any type of child care services, more depth and detail in background information on who is taking care of their child(ren).

The proposed changes to the HRS, CH350 in SB2097 is not only to increase the parents' right to access important information to keep their children safe while in the care of others; it is to make the State Department of Human Services more accountable to the general public in insuring that the children are safe while in the care of people providing (a range of) child care services.

To accomplish this very important goal, I am appealing to the members of the Senate Judiciary Committee to please revise the language in SB2097 for the following reasons:

- 1) The current language in SB2097 is incomplete because Hawaii's current statute on 'child abuse' reporting and public disclosure (HRS CH 350-1.6) is not in compliance with the intent of the federal CAPTA (Child Abuse Prevention & Treatment Act).

I recommend that the following language be added to the HRS CH350 to make Hawaii more in compliance with the CAPTA: In child abuse and neglect cases that has resulted in a fatality or near fatality; when requested, the State shall disclose, at a minimum, the following information:

- (a) The child's date of birth and gender;
- (b) The cause of the fatality or near fatality, if it has been determined;
- (c) The alleged offender's relationship with the child;

- (d) A summary of any previous child maltreatment reports and investigations;
- (e) A description of any services offered or provided by the Department currently and in the past; and
- (f) In the case of a fatality, the name of the child.]

- 2) Expand the proposed language in SB2097, Sec. CH250-2(e), **to include** not only “licensed child care providers,” but **also include ALL individuals, programs and agencies who receive state or federal funds for providing services to children.**

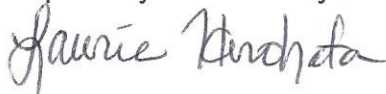
All individuals who receive state or federal stipends for babysitting as well as the POS contract agencies that provide children’s services and programs are required to go through a criminal history background check and a Child Abuse & Neglect (CAN) Registry search before they are hired. All of these employers, including the DHS Child Care Licensing Div., DOE & DOH are using the same CAN Registry. If the DHS, CWS is not inputting data correctly and in a timely manner, all of the individuals, programs and agencies servicing children will NOT HAVE ACCESS To Correct and Up-to-Date Information.

Therefore, it is not unreasonable that parents be given access to information to insure that their children are safe from abusers and child predators while in the care of these individuals, programs or agencies. Also, by allowing the parents to review the CAN registry information they will in turn be able to assist the agencies and programs with spotting questionable employee’s records, which will lead to increased safety for the children.

Please consider the following addition to the language in the bill, in Sec. CH250-2(e), line 21, “. . .or group child care center licensed pursuant to section 346-163, [or any persons receiving a stipend or a POS-(purchase of service) program or service provided to children that are paid with state or federal funds] to any parent or guardian. . .”

If SB2097 is passed, it will allow for more “eyes” to protect our children. The vigilance by the families to “weed out” persons with nefarious reasons for wanting to care for, or work with children will help both the families and the agencies better protect the children from abuse and exploitation.

Respectfully Submitted by:



Laurie Hirohata, MSW, MEd

SB-2097

Submitted on: 2/24/2018 6:59:31 PM

Testimony for JDC on 2/27/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Joan Kutzer	Testifying for Hawaii Nurses Association, OPEIU local 50	Support	Yes

Comments:

Hawaii Nurses Association

3374 Koapaka St, Suite B217

Honolulu, HI 96819

(808) 531-1628

jkutzer@hinurse.org

February 24, 2018

Committee on Judiciary,

To Chairs and Committee members;

My name is Joan Kutzer. I am a Registered Nurse and a member of the Hawaii Nurses Association Board of Directors. Hawaii Nurses Association is in strong support of SB2097. As health care providers we are mandated to report suspected cases of child abuse. This bill will serve to protect our vulnerable keiki. Please vote in favor of SB 2097

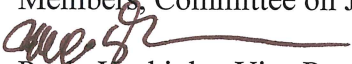
Sincerely yours,

Joan Kutzer, RN, Hawaii Nurses Association



THE QUEEN'S HEALTH SYSTEMS

To: The Honorable Brian T. Taniguchi, Chair
The Honorable Karl Rhoads, Vice Chair
Members, Committee on Judiciary

From:  Paula Yoshioka, Vice President, The Queen's Health Systems

Date: February 26, 2018

Hrg: Senate Committee on Judiciary Decision Making; Tuesday, February 27, 2018 at
9:30AM in Room 016

Re: **Support on SB 2097, Relating to Child Safety**

My name is Paula Yoshioka and I am the Vice President at The Queen's Health Systems (Queen's). We would like to express our **support** for SB 2097, Relating to Child Safety. This bill authorizes child abuse and neglect reports for incidents occurring in group child care homes or group child care centers to be disclosed to parents or guardians of children enrolled in the home or center at the time of the alleged abuse or neglect or to parents or guardians considering enrolling their children in the home or center. It also authorizes the disclosure of a report involving a finding of a felony or misdemeanor to be disclosed to any person upon request.

Queen's is committed to providing care for all the people of Hawaii including our most vulnerable. As the only Level I Trauma Center in the state, Queen's sees patients who are victims of trauma, abuse, and other serious incidents that require emergency department intervention. We hope with the passage of this bill that awareness and action towards preventing child abuse and neglect cases will be increased.

Thank you for your time and attention to this important issue.

Senate Committee on Judiciary

Tuesday, February 27, 2018

9:30 am, Room 16

To: Chair Senator Brian Taniguchi, Vice Chair Senator Karl Rhoads, & Members of the Committee:

RE: Testimony IN SUPPORT of SB2097, Relating to Child Safety to Increase Disclosure of Child Abuse & Neglect Records

My name is Chelsea Valiente and I am in **strong Support of SB2097** because I am a mother of a child that had been severely abused while in the care of his babysitter, Manuela Ramos. This particular bill is extremely important to my family and most especially my son, Peyton. He sustained such serious injuries that he was near death at the time emergency medical responders arrived at the Ramos' home. To date, his abuser has never been brought to justice due to the botched initial HPD investigation. Throughout our ordeal, the babysitter had been deemed the perpetrator by the family court judge along with DHS/CWS yet they did not place her on a Child Abuse & Neglect Registry. The fact that she was never placed on this registry, poses a continued risk to the entire public. We are graciously asking the committee to expand the language on the bill from the way it is currently written to **include not just licensed child care centers or homes, but to also include any or all individuals, programs, or agencies that receives state or federal funding to render child care services.** Peyton's babysitter, Manuela Ramos, was unlicensed, but received state subsidies for providing child care. By allowing this change in language in the current bill, it broadens the scope of providers in which this bill will pertain to, which in turns holds more people accountable and deters them from any harmful acts against children. With no bill currently in place such as SB2097, the babysitter, Manuela Ramos and her household members may very well be able to seek employment at places such as preschools, day cares, or even hospitals, which have the most vulnerable population in our community. This bill will help to increase public awareness and allow parents to become better consumers when it comes to choosing the best care providers for their most precious gift, their children. Just as anything else, many people look to reviews or research on products and

services. Why wouldn't we as parents be able to do such a thing for our children especially when it involves their safety and well-being. If pedophiles or sexual predators are registered and made available for public disclosure, then **shame on Hawaii for keeping known persons who harm children confidential.**

During a time when transparency is an issue at the forefront of government, it is my dire hope that this bill gets passed to allow for more transparency. Why should we have laws in place to protect the abusers when we really should be advocating for our keiki. Majority of the time, they have no voice or are afraid to speak up against their abuser, so when it is confirmed, lets be transparent to protect any further abuse and neglect from happening. If we continue to ignore it and make them less of a priority, the results may very well end in a tragic fatality or near fatality. Prevention and awareness is key, which is why this bill is so extremely important. I would also like to point out that the bill emphasizes that parents of children enrolled at a child care home/facility during the time of a confirmed abuse or neglect incident, should have the right to know about that incident. How is that not something already in place? I pose this question to all members in the committee and to the public.....Would you not want to be informed of an abuse/neglect case in a place that your loved ones are cared for and make a decision for yourselves whether to continue to allow your loved one to remain there? It was appalling to find out from the other parents that they were never notified of the incident, especially because their children were present on the day of my son's incident. **For that very reason it is imperative that additional language be expanded on in SB2097 to disclose certain information to the public, especially parents that request the information, to include at minimum the following to be in compliance with the Child Abuse & Treatment Act (CAPTA):**

- (a) The child's date of birth and gender; (b) The cause of the fatality or near fatality, if it has been determined; (c) The alleged offender's relationship with the child; (d) A summary of any previous child maltreatment reports and investigations; (e) A description of any services offered or provided by the Department currently and in the past; and (f) In the case of a fatality, the name of the child**

We as parents should have a right to know about our child's caregiver, especially because we make a very difficult decision to entrust them with their well-being while we work to earn a living in a state that has a very expensive cost of living.

I kindly ask Honorable Chair Senator Brian Taniguchi, Vice Chair Senator Karl Rhoads, & the Senate committee members to **pass SB2097 with amended language**. Our experience has been extremely painful, traumatic, and frustrating to say the least. No family should be put through the sorrow and anguish as we went through, but we believe that from this horrible experience, something positive can come from it. The positivity that stems from the incident is identifying some gaps we have in Hawaii laws to protect children and to come up with ways to make the necessary changes. I believe this bill will help keep parents more aware and informed and hopefully prevent any further tragedies from occurring and to also have a more accurate database of those that harm child. We hope & pray that with the passage of SB2097 we can work on making Hawaii a safe place to raise our children; for they are our future. Thank you for allowing me to testify.

Mahalo,

Chelsea Valiente

Senate Committee on Judiciary
Tuesday, February 27, 2018
9:30 am, Room 16

Chair: Senator Brian Taniguchi, Vice Chair: Senator Karl Rhoads, & Members of the Committee:

RE: Testimony IN SUPPORT of SB2097, Relating to Child Safety to Increase Disclosure of Child Abuse & Neglect Records

My name is Lauren Ono and I support SB2097 because I feel that individuals (parents/family/friends) deserve to have access to information that affect their loved ones, especially children. We need to be able to inform/share with others if there are child care facilities that are unsafe or have been known to cause harm to children.

When parents drop their children off to a day care facility, there is an expectation that their children will be cared for and ensured safe. However, when this isn't the case and the child care provider is inadequate to properly care for children, parents deserve a right to know.

I am asking that the bill be passed into law to ensure that information is available to families moving forward.

Sincerely,

Lauren Ono

Senate Committee of Judiciary
Tuesday, February 27, 2018
9:30 am, Room 16

To: Chair Senator Brian Taniguchi, Vice Chair Senator Karl Rhoads, & Members of the
Committee:

**RE: Testimony IN SUPPORT of SB2097, Relating to Child Safety to Increase
Disclosure of Child Abuse & Neglect Records**

My name is Leslie Sing and I support SB2097 because access to truthful and transparent information is important in making decisions regarding the safety of children. As an educator and school counselor, I hold in high regard the responsibility of adults, especially child care providers, to ensure a safe environment for children to learn and grow. I believe that parents have a right to truthful and transparent information regarding alleged abuse or neglect that occurs within a child care facility.

While dropping off a child at a school or child care facility is commonplace in today's society, it is important to acknowledge that this everyday action is based on a foundation of trust between the parent, child, and care providers. Parents trust that their child will be cared for in a safe environment and protected from threat and harm. Child care providers have a responsibility to the parents of the children in their care. Parents have a responsibility to select a child care program that ensures their child's safety. The State of Hawaii has a responsibility to provide the information necessary to allow parents to make decisions regarding the care of their children.

I kindly ask that SB2097 be passed into law to ensure that parents and families have access to this information.

Sincerely,
Leslie Sing

Senate Committee of Judiciary
Tuesday, February 27, 2018
9:30 am, Room 16

Chair: Senator Brian Taniguchi, Vice Chair: Senator Karl Rhoads, & Members of the Committee:

RE: Testimony IN SUPPORT of SB2097, Relating to Child Safety to Increase Disclosure of Child Abuse & Neglect Records

My name is Jessica Lynn R. Daquioag and I support SB2097 because I am a mother of two beautiful girls – Zoey, 7, and Ava, 3. Peyton James Valiente is the son of one of my longest and dearest friends, Chelsea, and her husband, Rey. When Peyton was in the hospital, I had just given birth to Ava at the same hospital, and my husband and I were able to see him during his stay. I was devastated. To hear Chelsea and Rey’s experience and to see Peyton bandaged in his recovery crib was heart-breaking and infuriating. This ordeal was one of our biggest reasons as to why this type of childcare was not an option for our daughter. We are supposed to trust the people that are taking care of our children, and we were not going to take that risk.

The outcome of Peyton’s case was very upsetting and concerning for my family and I. To know that his former babysitter will not face any consequences, nor was she added to the Child Abuse and Neglect Registry (CAN), is unacceptable, especially since she is still allowed to babysit other people’s children! We, as parents, have a right to be fully informed in regards to who is taking care of, or will be taking care of our children, and we should have the CAN Registry as a regularly updated resource when researching all forms of childcare.

It is difficult enough trying to make a sustainable life in Hawaii for our growing family. We should not have to worry about the well-being of our children while they are in the hands of their caregivers; for this reason, it is imperative that SB2097 is passed.

Peyton's former babysitter, HPD, the state, and the judicial system have already failed Peyton and his family, please protect the rest of our keiki and pass SB2097.

Thank you,

Jessica Lynn R. Daquioag

Senate Committee of Judiciary

Tuesday, February 27, 2018

9:30am, Room 16

Chair: Senator Brian Taniguchi, Vice Chair Representative: Karl Rhoads, &
Members of the Committee:

**RE: Testimony IN SUPPORT of SB2097, Relating to Child Safety to Increase
Disclosure of Child Abuse & Neglect Records**

My name is Charisa Sumner and I support SB2097 because I am an aunt related to Peyton Valiente. My heart was broken when I heard the news about Peyton in 2015; but more broken when I found out that the state of Hawaii did nothing to arrest the people who put Peyton in the hospital. This state needs a bill like this enforced to protect our keiki, the future. If the state can inform its people about sex offenders; parents should have the right to know the childcare/ babysitter has no record of harming innocent children. This bill could bring so much more peace to our minds.

Thank you,
Charisa Sumner

Senate Committee on Judiciary

Tuesday, February 27, 2018

9:30 am, Room 16

Chair: Senator Brian Taniguchi, Vice Chair: Senator Karl Rhoads, & Members of the
Committee:

**RE: Testimony IN SUPPORT of SB2097, Relating to Child Safety to Increase
Disclosure of Child Abuse & Neglect Records**

Dear Senators,

My name is Loida Legapsi and I **strongly support SB2097**. As the aunt of Peyton Valiente I am deeply concerned about the possibility of this bill not being passed. I have witnessed firsthand accounts of the frustration, pain and sorrow my family, especially my brother and sister in law have experienced over these many years. A sense of trust, normalcy and joy have been forever shattered by the lack of justice, compassion, and acknowledgement that my family seeks. I am hoping and praying that no other family had to endure the same problems, pain and frustration.

Therefore, I am hoping that SB2097 be passed so that people will have better access to the CAN registry so updated information will be accurate and more up to date. Hopefully with more accurate information there will be more assurances that people taking care of the children/grandchildren do not have a history of harming children.

If you need any clarification or have further questions please call me. I am sincerely praying that you will do the right thing and pass SB2097 to ensure

the safety of the children and offer some piece of mind for my loved ones and myself.

Sincerely yours,

Loida Legaspi

Senate Committee on Judiciary

Tuesday, February 27, 2018

9:30 am, Room 16

Chair: Senator Brian Taniguchi, Vice Chair: Senator Karl Rhoads, & Members of
the Committee:

**RE: Testimony IN SUPPORT of SB2097, Relating to Child Safety to Increase
Disclosure of Child Abuse & Neglect Records**

My name is Wesley Armacost and I support SB2097. I don't have children, but if I did, I'd like to know there's a bill that allows us to see the background of the people taking care of my kids.

Thank you,

Wesley Armacost

Senate Committee on Judiciary

Tuesday, February 27, 2018

9:30 am, Room 16

Chair: Senator Brian Taniguchi, Vice Chair: Senator Karl Rhoads, & Members of
the Committee:

**RE: Testimony IN SUPPORT of SB2097, Relating to Child Safety to Increase
Disclosure of Child Abuse & Neglect Records**

My name is Tricia Bolosan Buchanan and I support SB2097. SB2097 will allow parents & guardians to make informed decisions when searching for child care. It is ludicrous to imagine a parent/ guardian to knowingly allow their child to be cared for by an alleged abuser. SB2097 gives transparency of a caregiver's background (ie alleged abuse/neglect). I humbly ask your support to pass SB2097 to law, so we can protect the children of Hawaii.

Aloha,

Tricia B. Buchanan



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Aiea, HI 96701
(808) 488-2211
www.sospreschool.org

Senate Committee on Judiciary
Tuesday, February 27, 2018
9:30 am, Room 016

Chair: Senator Brian Taniguchi, Vice Chair: Karl Rhoads, & Members of the Committee

RE: Testimony IN SUPPORT of SB2097, Relating to Child Safety to Increase Disclosure of Child Abuse & Neglect Records

Hi, my name is Laurie Castro. I am the Co-Founder and Administrator of a state licensed group childcare center, Sounds of Success Preschool located in Aiea, Hawaii. I am testifying in support of SB2097 because this bill will do the right thing to help protect innocent children from being unknowingly placed in a potentially dangerous situation. By allowing full disclosure and release of findings of an investigation into an allegation of child abuse or neglect within a licensed group childcare home or center to any parent or guardian of a child who was enrolled at the time of the alleged abuse or is considering enrolling is a critical piece of information that I feel all parents would want to know about. Just as we have the Hawaii State Sex Offender Registry, which is a very popular website that I know a lot of parents do go online to look at, we should also have a public Child Abuse and Neglect Registry or some means by which full disclosure can be provided upon request. This will help the general public as well as childcare providers or centers like ourselves go online at any time to research potential risks or dangers our children may face.

When it comes to finding childcare for your most precious gift in the world, parents want to make sure their child is left in good hands while they are at work. We've had the privilege of knowing Peyton Valiente the past few months as a student at our preschool and have enjoyed his contagious smile and bright personality. We are lucky that Peyton is alive and thriving. In Peyton's child abuse case which occurred in a childcare provider's home in 2015 when he was only 17 months old, it is extremely unsettling that no one has been held accountable for this tragic incident that almost resulted in his death. The childcare provider that was investigated is still free to continue to provide childcare services for other unknowing families who have no clue that an investigation of alleged child abuse occurred. If this bill is passed, then families can have this critical piece of information and make an educated decision on what is the best placement for their child. It would be a disgrace on our state childcare system if we allow another child to be placed with this provider and a second incident of child abuse or neglect occurs and another child has to suffer what Peyton had to go through or worse with the countless surgeries, rehab, speech therapy, physical therapy, mental health impacts and not to

mention all the extreme stress and frustration for his parents. No parent should ever have to go through that and for our state to sit back and allow it to potentially happen again to another innocent child is terribly frightening.

Through the Hawaii State Department of Human Services, federal and state criminal history background checks are conducted on all our employees that we hire at our preschool, however, it would be very helpful to also have something like a Child Abuse and Neglect registry or be able to get this information released to us somehow so we can research for ourselves any potential employees that we may be considering hiring. Since no conviction was ever made in Peyton's case, the childcare provider or providers in that case could apply for a position to work at our preschool and how would we know that he/she was ever involved in a child abuse and neglect investigation? Right now, the stark reality is we wouldn't. Nothing would come up on their criminal history background check and we could potentially hire this person to work at our facility around our children putting our children at risk of abuse.

Thank you for your time and consideration of my testimony in support of Bill SB2097. I hope you also see the importance of supporting and approving this bill for the sake and safety of all of Hawaii's keiki. Our children rely on us to look out for their best interest and keep them safe from undue harm and this bill would help do just that.

Sincerely,
Laurie Castro
Co-Founder & Administrator
Sounds of Success Preschool
98-029 Hekaha Street
Aiea, HI 96701
Phone: (808) 488-2211

Senate Committee on Judiciary

Tuesday, February 27, 2018

9:30 am, Room 16

Chair: Senator Brian Taniguchi, Vice Chair: Representative Senator Karl Rhoads, &
Members of the Committee:

RE: Testimony IN SUPPORT of SB2097, Relating to Child Safety to Increase Disclosure of Child Abuse & Neglect Records

My name is Imelda de Jesus and I strongly support SB2097. Peyton Valiente is my grand nephew. No innocent child should suffer like he did nor should the family have to go through this. The cause of his injuries was due to severe abuse at the babysitter's home. I am saddened with the way the legal system has handled the case. It has caused a lot of grief and stress for everyone especially the parents. No other family should have to feel this way. We as parents and guardians will do the right things to protect our children and grandchildren.

Today Peyton is continuing to heal and overcome his injuries. I happy to how well he is doing. He is such a strong, bright, and talented boy. I hope he continues to stay healthy always.

I feel the committee should pass SB2097. Parents should have the right to know firsthand if there was any abuse or harm done to their own child especially when their child is not old enough to know what is right from wrong and don't understand the importance of such things. Parents should have right to review such records and documents in such case.

Due to poor handling in the case, the system has failed Peyton and his parents in trying to get justice. I am in favor of this bill for no child or family should have to go through this. By passing this bill, it may prevent unfortunate events from happening in the future.

In cases like this, I hope that you all will do what's best to prevent this from happening to the innocent children and people of Hawaii.

Thank you for allowing me to submit testimony.

Sincerely,
Imelda B. de Jesus



TO: Chair Taniguchi, Vice Chair Rhoads, and Members of Senate Committee on Judiciary

FROM: Ryan Kusumoto, President & CEO of Parents And Children Together (PACT)

DATE/LOCATION: February 27, 2018; 9:30 a.m., Conference Room 16

RE: TESTIMONY TO PROVIDE COMMENTS ON SB 2097 – RELATING TO CHILD SAFETY

We wanted to provide comments on SB 2097 – Relating to disclosure of felony or misdemeanor child abuse or neglect reports to any person upon request. We support the intent of this bill which would require the disclosure of abuse and neglect incidents and investigations, upon request, to parents or guardians with children currently enrolled in or to those considering enrolling their child(ren) in the child care home or center. It is a parent's foremost responsibility to ensure the safety of their child(ren) and we hope that you would consider all legislation that would help assist parents in making informed decisions when it comes to child care.

PACT is a provider of licensed, center-based and home visiting child care programs. We wholeheartedly believe in providing information to families that aids them in choosing a program that fits their needs and where they feel their child will be safe. It is disheartening that children have suffered under the care of others. It is even more disheartening that individuals who have caused harm to children could continue to operate their child care without disclosing this information to others, which could potentially place other children in danger. We can never bring back the lives lost or combat the irreparable harm that has taken place in the past but we can help to protect our keiki and prevent repeat offenses from happening again in the future.

Founded in 1968, Parents And Children Together (PACT) is one of Hawaii's not-for-profit organizations providing a wide array of innovative and educational social services to families in need. Assisting more than 18,000 people across the state annually, PACT helps families identify, address and successfully resolve challenges through its 16 programs. Among its services are: early education programs, domestic violence prevention and intervention programs, child abuse prevention and intervention programs, child and adolescent behavioral health programs, sex trafficking intervention, and community building programs.

Thank you for the opportunity to **provide comments on SB 2097**, please contact me at (808) 847-3285 or rkusumoto@pacthawaii.org if you have any questions.

SB-2097

Submitted on: 2/24/2018 11:30:34 PM

Testimony for JDC on 2/27/2018 9:30:00 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:

**PRESENTATION OF THE
OAHU COUNTY COMMITTEE ON LEGISLATIVE PRIORITIES
DEMOCRATIC PARTY OF HAWAII'
TO THE COMMITTEE ON JUDICIARY
THE SENATE
TWENTY-NINTH LEGISLATURE
REGULAR SESSION OF 2018
Tuesday, February 27, 2018
9:30 a.m.
Hawaii State Capitol, Conference Room 016**

RE: Testimony in Support of Senate Bill **2097** RELATING TO CHILD SAFETY

To the Honorable Brian T. Taniguchi, Chair; the Honorable Karl Rhoads, Vice-Chair, and Members of the Committee on Commerce, Consumer Protection and Health:

Good morning. My name is Melodie Aduja. I serve as Chair of the Oahu County ("OCC") Legislative Priorities Committee of the Democratic Party of Hawaii. Thank you for the opportunity to provide written testimony on Senate Bill No. **2097** relating to Child Abuse; Child Neglect; Reports; Group Child Care Home; and Group Child Care Center.

The OCC Legislative Priorities Committee is in favor of Senate Bill No .**2097** and supports its passage.

Senate Bill No.**2097** is in accord with the Platform of the Democratic Party of Hawai'i ("DPH"), 2016, as it authorizes child abuse and neglect reports for incidents occurring in group child care homes or group child care centers to be disclosed to parents or guardians of children enrolled in the home or center at the time of the alleged abuse or neglect or to parents or guardians considering enrolling their children in the home or center and authorizes the disclosure of a report involving a finding of a felony or misdemeanor to be disclosed to any person upon request.

Specifically, the DPH Platform provides that "[w]e must protect our children, our future, from violence and neglect and provide them with a safe and healthy environment in which to grow and thrive." (Platform of the DPH, P. 4, Lines 186-187 (2016)).

Given that Senate Bill No.**2097** authorizes child abuse and neglect reports for incidents occurring in group child care homes or group child care centers to be disclosed to parents or guardians of children enrolled in the home or center at the time of the alleged abuse or neglect or to parents or guardians considering enrolling their children in the home or center and authorizes the disclosure of a report involving a finding of a felony or misdemeanor to be disclosed to any person upon request, 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

SB-2097

Submitted on: 2/23/2018 8:46:35 PM

Testimony for JDC on 2/27/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kat Culina	Individual	Support	No

Comments:

Senate Committee on Judiciary

Tuesday, February 27, 2018

9:30am, Room 016

Chair: Senator Brian Taniguchi, Vice Chair: Karl Rhoads, & Members of the Committee:

RE: Testimony IN SUPPORT of SB2097, Relating to Child Safety to Increase Disclosure of Child Abuse & Neglect Records

Dear Senators,

My name is Rey Valiente and I **strongly support SB2097**. I am the father of Peyton Valiente, a child that was severely abused at his babysitter's home. I am completely frustrated with how the outcome has been in obtaining justice for the heinous crime that was committed. No one has been held responsible for his nearly fatal injuries. What is more concerning is that the perpetrator, the babysitter, deemed by CWS was not placed on a Child abuse & neglect registry. This places more children at risk of harm because the perpetrator is still at-large and the public currently does not have access to the information of the abuse.

In today's society, it is common that both parents need to work full time jobs to sustain a living. More so here in Hawaii where the cost of living is one of the most expensive places to live. With that said, many of your fellow constituents probably utilizes some type of child care services. Some are not as fortunate to have family members that are able or capable to stay home to provide that care for their loved ones. Choosing a provider for child care is extremely difficult because we can do our own due diligence to research the provider, but the most important thing is, are they known to harm children? That's where we need more reassurance. SB2097 provides that for parents by allowing parents access to information pertinent in making one of the most crucial decisions as a parent. However, the bill could be strengthen if additional language be added concerning

which providers it would pertain to. **The way the bill is currently written, it would only include licensed child group homes/centers, but I am hoping that this committee keep in mind the many children that this bill would impact if it would include any and all individuals, agencies, or programs that receives state or federal funding for providing child care services.** The fore mentioned change is significant because it would include many other providers not just a handful, such as Peyton's former babysitter, Manuela Ramos.

It was difficult to hear that parents continued to utilize the same babysitter where the abuse occurred because they had no knowledge of an investigation nor were they ever alerted to the incident. I can't blame them for being upset, because I would be too. Hopefully with the passing of SB2097, parents can be a little more at ease knowing that there is a bill out there to receive information in regards to a child abuse/neglect incident that may affect their own child's well-being and safety. **Another pertinent aspect the we feel the bill needs to be strengthen is the type of information disclosed. According to the Child Abuse Prevention & Treatment Act (CAPTA), it is at minimum to disclose the following when abuse/neglect results in a fatality or near fatality:**

(a) The child's date of birth and gender; (b) The cause of the fatality or near fatality, if it has been determined; (c) The alleged offender's relationship with the child; (d) A summary of any previous child maltreatment reports and investigations; (e) A description of any services offered or provided by the Department currently and in the past; and (f) In the case of a fatality, the name of the child

The above changes would make the bill and Hawaii laws in compliance with CAPTA.

The traumatic events that my family and most especially my son has gone through over the past years has been daunting. So many entities have failed my son, Peyton, to obtain justice. We pray that no other family has to ever endure the pain and suffering we have gone through and still continue to go through. Which is why SB2097 is so important to us. My son's incident has brought to light many inadequacies in Hawaii's laws to protect our children. So, if something is broken, let's fix it. With that being said, let's not continue to protect the perpetrator. It's time we protect the children.

I pray that this committee do what is in the best interest of the public and most especially the children of Hawaii by passing SB2097. Thank you for allowing me to submit testimony.

Mahalo,

Rey Valiente

Senate Committee on Judiciary
Tuesday, February 27, 2018
9:30am, Room 016

Chair: Brian Taniguchi, Vice Chair: Senator Karl Rhoads, & Members of the Committee:

RE: Testimony IN SUPPORT of SB 2097, Relating to Child Safety to Increase Disclosure of Child Abuse & Neglect Records

My name is Prescila de Jesus and I **Strongly SUPPORT SB2097**. Peyton Valiente is my precious grandson. It was heartbreaking to have seen him in the ICU bed fighting for his life after he was severely abused at his babysitter's home. My grandson is my world and I am sure that all other parents and grandparents feel the same way that I feel, which is why I am so deeply sadden at the injustice Peyton has received to this very day. I just can not come to terms on how our legal system allowed a perpetrator "off the hook" so to speak. I worry every night and day that another child will be harmed so brutally as Peyton was or even worse because of the inadequacies in our governments system. I have witnessed first hand at how devastating this entire experience has been for my daughter Chelsea, my son in law Rey, and most especially my precious grandson Peyton. SB2097 means so much to our family and we are graciously asking that this committee please pass SB2097 to allow for more transparency. Parents should have the right to know about anyone who has harmed children, especially if their own children are in their care or are possibly considering placing them in their care.

The system has unfortunately failed Peyton and his parents, and I beg you all to help prevent the same thing from happening to others. Let's allow parents to be able to make better informed decisions on child care providers so they can be assured that they are leaving their precious children in the hands of someone capable, honest, and most importantly safe. May you do what is in the best interest of the children of Hawaii. Thank you for allowing me to submit testimony.

Sincerely,

Prescila de Jesus

SB-2097

Submitted on: 2/26/2018 9:37:05 AM

Testimony for JDC on 2/27/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jessica Pang	Individual	Support	No

Comments:

I, Jessica Pang support SB 2097.

I have two children 7 and 5 years old. My job as a parent is protect, love and teach my children. My husband and I both have full time jobs and our parents are still working as well. I have had to placed my child into group child care home when they were younger and currently group child care centers during school breaks. I look carefully at the facility and trust and pray that they will protect love and teach my children as well. The facility may be perfect; however we our left to the judgement of the facility of hiring individuals. We leave our vulnerable children in their hands.

Everyone, including our family should deserve transparency, the truth and justice if any adverse event happens in a timely matter.

Everyone makes mistakes; however everyone should be responsible for the mistake they make.

We need to move forward and pass this bill to protect our future generations for abuse and neglect. This will stop individuals who work at group child care home and group child care centers to immediately stop their business/ fire an individual as they are unfit caregivers for our children.

This will save many of our childrens lives as from possibly physical and psychological issues growing up.

Thank you for listening!



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

ON THE FOLLOWING MEASURE:

S.B. NO. 2097, RELATING TO CHILD SAFETY.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY

DATE: Tuesday, February 27, 2018 **TIME:** 9:30 a.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**
(For more information, contact Ian T. Tsuda,
Deputy Attorney General, at (808) 693-7081)

Chair Taniguchi and Members of the Committee:

The Department of the Attorney General (Department) appreciates the intent of this bill and provides the following comments.

The purpose of this bill is to allow disclosure of findings of investigations conducted by the Department of Human Services (DHS) relating to child abuse or neglect that occurred within a group child care home or group child care center to parents or guardians of children enrolled in the group child care home or center or to parents or guardians who are considering placing a child in one of those settings. It would also allow disclosure to anyone of any investigation involving a finding of a felony or misdemeanor.

There are several concerns the Department has for this bill as currently written. To start, the wording that the DHS may release “findings of an investigation into an allegation of child abuse or neglect” is problematic because it is (1) ambiguous and may hinder the ability of DHS to comply with this bill and (2) could result in misleading and potentially prejudicial disclosures of confidential information. The term “findings” is ambiguous because it is not clear whether it is DHS’s findings or those of another entity, such as law enforcement or the Family Court. To resolve this ambiguity, the Department recommends that subsection (e) on page 2, lines 18 – 20, be amended to read as follows:

“(e) The department may release the disposition of an assessment from an investigation into an allegation or report of child abuse or neglect that was confirmed by the department and to have occurred within a group child care home or group child care”

Next, the wording regarding “child abuse and neglect occurring within” these homes or centers does not differentiate between incidents perpetrated by agents or employees of those sites and those perpetrated by other individuals, unassociated with the home or center. This could lead to a disclosure of confidential information in violation of section 350-1.4, Hawaii Revised Statutes (HRS), which makes it a misdemeanor to intentionally disclose a report made to the DHS concerning child abuse or neglect. To avoid this, the Department recommends that subsection (e) on page 2, line 21, be amended to read as follows:

“. . . center licensed pursuant to section 346-163 perpetrated by an agent, employee, or independent contractor of that group child care home or group child care center to any parent or”

Another concern is that the wording permitting the release of findings to any “parent or guardian who is considering placing a child in the group child care home or group child care center” is so broad that it could permit disclosure that is beyond the scope of this bill. Without further guidance on how a parent or guardian comes under this category, any person could assert this qualification even if the person had no intent of placing a child in that center. To remedy this, the Department recommends that subsection (e) on page 3, lines 3-4, be amended to read as follows:

“. . . or neglect or to a parent or guardian who has submitted an application or request to place a child in the group child care home or group child care center;”

In addition, the wording in subsection (e) on page 3, lines 5-6, should be deleted because a DHS investigation does not make a determination regarding whether a felony or misdemeanor has been committed.

Finally, the prohibition on page 3, lines 8-9, against disclosing identifying information of only children is too narrow to ensure the confidentiality of these investigations. There are limited circumstances under which the DHS is permitted to

disclose information relating to child abuse and neglect. To that end the family court has adopted the safeguard of in camera review to prevent unnecessary disclosure. To protect confidentiality, the Department recommends that subsection (e) on page 3, lines 8-9, be amended to read as follows:

“ . . . contain the names or other identifying information of any individual [children] whose name or other information is otherwise protected from disclosure.”

Incorporating all of the Department’s recommendations, section 350-2(e), HRS, will read as follows:

- (e) The department may release the disposition of an assessment from an investigation into an allegation or report of child abuse or neglect that was confirmed by the department and to have occurred within a group child care home or group child care center licensed pursuant to section 346-163 perpetrated by an agent, employee, or independent contractor of that group child care home or group child care center to any parent or guardian of a child who was enrolled in the group child care home or group child care center at the time of the alleged abuse or neglect to a parent or guardian who has submitted an application or request to place a child in the group child care home or group child care center; Information disclosed pursuant to this subsection shall not contain the names or other identifying information of any individual [children] whose name or other information is otherwise protected from disclosure.

We request that the bill be amended as recommended.