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January 29, 2020

TO: The Honorable Representative Chris Lee, Chair
Committee on Judiciary

FROM: Pankaj Bhanot, Director

SUBJECT: **HB 1692 – RELATING TO MINORS**

Hearing: Thursday, January 30, 2020, 2:45 p.m.
Conference Room 325, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) supports the proposed bill, provides comments, and suggests an amendment.

PURPOSE: Requires members of the clergy to report child abuse and neglect to the Department of Human Services or to the police. Specifies that the general rule of privilege under the Hawaii Rules of Evidence for confidential communications made to a member of the clergy does not apply to communications relating to child abuse or neglect.

DHS agrees that children are vulnerable to abuse and neglect, and communities have a responsibility to ensure their safety. The intent of the child abuse and neglect mandated reporting law is to protect children – both reported child victims and other potential child victims.

Hawaii's child abuse and neglect mandated reporting law sections 350, et seq., Hawaii Revised Statutes (HRS), does not currently include clergy. Clergy often have close relationships with their parishioners and their families, which would offer unique insight into potential maltreatment. DHS supports the extension of mandated reporting to clergy who may have knowledge of suspected cases of child abuse and neglect.

Regarding the amendment to section 616-1 (b), HRS, for consistency, the Legislature should consider also amending section 350-5, HRS, that states,

"The physician-patient privilege, the psychologist-client privilege, the spousal privilege, and the victim-counselor privilege shall not be grounds for excluding evidence in any judicial proceeding resulting from a report of child abuse or neglect pursuant to this chapter."

If this bill were to pass, funding would be needed for outreach and to train all members of the clergy on mandated reporters of child abuse and neglect.

Thank you for the opportunity to testify on this bill.



Office of the Public Defender State of Hawaii



Testimony of the Office of the Public Defender, State of Hawaii to the House Committee on Judiciary

January 29, 2020

H.B. No. 1692: RELATING TO MINORS

Chair: Representative Chris Lee, Vice Chair: Representative Joy San Buenaventura and Members of the Committee:

The purpose of H.B. 1692 is to require members of the clergy to mandatorily report to DHS or the police any information regarding child abuse even if it is received during a time of confession, counseling or other instances when traditionally there was an understanding of confidentiality. Furthermore, H.B. 1692 would remove clergy confidentiality from the Hawaii Rules of Evidence if the subject matter involves child abuse or child neglect. This bill is a clear invasion of the clergy/penitent relationship that would have a chilling effect upon religious freedom and practice, and may be a violation of the United States Constitution.

Furthermore, this bill would allow for a member of the clergy to be **compelled** to testify against someone who made statements while under the belief of clergy privilege. In other words, a clergy member could be forced, regardless of any currently legal objections, to testify against a congregant if the subject matter of their private conversations involved child abuse or neglect. The need to protect the young people of our society is laudable, but H.B. 1692 is not the answer, and passage of this Bill would invite years of legal challenges to its legitimacy. It should be noted, that other “mandatory reporters” defined in HRS: section 350-1.1, that also share a privilege from testifying, have not had this privilege stripped from them.

Thank you for the opportunity to comment on H.B. 1692

HB-1692

Submitted on: 1/28/2020 3:09:25 PM

Testimony for JUD on 1/30/2020 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Golojuch Jr	LGBT Caucus of the Democratic Party of Hawaii	Support	Yes

Comments:

Aloha Chair Lee, Vice Chair San Buenaventura and Committee Members,

The LGBT Caucus of the Democratic Party of Hawai'i stands in full support of the passage of House Bill 1692.

Protecting our keiki from abuse needs to be everyone's kuelena and there should be no one that is exempt from reporting it to the police.

Mahalo for the opportunity to testify,

Michael Golojuch, Jr.
Chair
LGBT Caucus of the Democratic Party of Hawai'i



HB 1692, RELATING TO MINORS

JANUARY 30, 2020 · HOUSE JUDICIARY
COMMITTEE · CHAIR REP. CHRIS LEE

POSITION: Support.

RATIONALE: IMUAlliance supports HB 1692, relating to minors, which requires members of the clergy to report child abuse and neglect to the Department of Human Services or to the police and specifies that the general rule of privilege under the Hawai'i Rules of Evidence for confidential communications made to a member of the clergy does not apply to communications relating to child abuse or neglect.

IMUAlliance is one of the state's largest victim service providers for survivors of sex trafficking. Over the past 10 years, we have provided comprehensive direct intervention (victim rescue) services to 150 victims, successfully emancipating them from slavery and assisting in their restoration, while providing a range of targeted services to over 1,000 victims and individuals at risk of sexual exploitation. Each of the victims we have assisted has suffered from complex and overlapping trauma, including post-traumatic stress disorder, depression and anxiety, dissociation, parasuicidal behavior, and substance abuse. Trafficking-related trauma can lead to a complete loss of identity. A victim we cared for in 2016, for example, had become so heavily trauma bonded to her pimp that while under his grasp, she couldn't remember her own name. Yet, sadly, many of the victims with whom we work are misidentified as so-called "voluntary prostitutes" and are subsequently arrested and incarcerated, with no financial resources from which to pay for their release.

Sex trafficking is a profoundly violent crime. The average age of entry into commercial sexual exploitation in Hawai'i may be as low as 14-years-old, with 60 percent of trafficked children being under the age of 16. Based on regular outreach and monitoring, we estimate that approximately 150 high-risk sex trafficking establishments operate in Hawai'i. In a recent report conducted by the State Commission on the Status of Women, researchers from Arizona State University found that 1 in every 11 adult males living in our state buys sex online. When visitors are also counted, that number worsens to 1 in every 7 men walking the streets of our island home and a daily online sex buyer market of 18,614 for O'ahu and a total sex buyer population for the island of 74,362, including both tourists and residents.

ASU's findings are grim, but not surprising to local organizations that provide services to survivors of sex trafficking. IMUAlliance, for example, has trained volunteers to perform outreach to victims in high-risk locations, like strip clubs, massage parlors, and hostess bars. More than 80 percent of runaway youth report being approached for sexual exploitation while on the run, over 30 percent of whom are targeted within the first 48 hours of leaving home. With regard to mental health, sex trafficking victims are twice as likely to suffer from PTSD as a soldier in a war zone. Greater than 80 percent of victims report being repeatedly raped and 95 percent report being physically assaulted, numbers that are underreported, according to the United States Department of State and numerous trauma specialists, because of the inability of many victims to recognize sexual violence. As one underage survivor told IMUAlliance prior to being rescued, "I can't be raped. Only good girls can be raped. I'm a bad girl. If I *want* to be raped, I have to *earn* it."

Accordingly, we support measures to advance our state's ability to crack down on sexual slavery, including this proposal's requirement that members of the clergy report child abuse and neglect to the Department of Human Services or to the police. As the preamble to this measure states, Indiana, Oklahoma, Rhode Island, and Tennessee already require reporting by any person who has reason to believe that a child is being abused or neglected, while New Hampshire, Texas, West Virginia, and Wisconsin specifically require members of the clergy to report suspected child abuse and neglect to designated government authorities.

We note that Act 246 of 2013 included minor victims of sex and labor trafficking within the scope of the Child Protective Act and laws relating to child abuse, effectively defining

sexual exploitation as a form of child abuse in Hawai'i for mandatory reporting purposes.

Therefore, this measure would ensure that acts sexual exploitation that are reported to and, at times, committed by members of the clergy (and subsequently reported to one another and to a clergy member's superiors within a church's hierarchy) are not covered up under the guise of protecting the holy cloth. We cannot allow religion to be a barrier to helping sexually exploited youth. As Christ noted in Matthew 25:40, "And the King will answer them, 'Truly, I say to you, as you did it to one of the least of these my brothers, you did it to me.'"

B2HAWAII YOUTH SERVICES NETWORK

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LATE

January 29, 2020

Rick Collins, President

Judith F. Clark, Executive Director

Bay Clinic

Big Brothers Big Sisters of Hawaii

Big Island Substance Abuse Council

Bobby Benson Center

Child and Family Service

Coalition for a Drug Free Hawaii

Collins Consulting, LLC

Domestic Violence Action Center

EPIC, Inc.

Family Programs Hawaii

Family Support Hawaii

Friends of the Children of West Hawaii

Hale Kipa, Inc.

Hale 'Opio Kauai, Inc.

Hawaii Children's Action Network

Hawaii Health & Harm

Reduction Center

Hawaii Student Television

Ho'ola Na Pua

Kahi Mohala

Kokua Kalihi Valley

Kokua Ohana Aloha (KOA)

Maui Youth and Family Services

Na Pu'uwai Molokai Native

Hawaiian Health Care Systems

P.A.R.E.N.T.S., Inc.

Parents and Children Together (PACT)

PHOCUSED

PFLAG – Kona Big Island

Planned Parenthood of the Great Northwest and Hawaiian Islands

Residential Youth Services & Empowerment (RYSE)

Salvation Army Family Intervention Services

Sex Abuse Treatment Center

Susannah Wesley Community Center

The Catalyst Group

To: Representative Chris Lee, Chair
And members of the Committee on Judiciary

Testimony in Support of HB1692 Relating to Minors

Hawaii Youth Services Network, a statewide coalition of youth-serving organizations, supports HB 1692 Relating to Minors.

All children deserve to be protected from abuse and neglect and it should be the duty of all adults to report known or suspected child abuse.

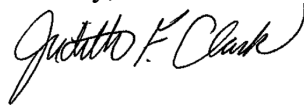
Members of the clergy are often viewed by children as trusted adults to whom they can disclose their experiences with abuse or neglect. It is important that those disclosures be shared with the authorities.

Furthermore, there is much evidence that members of the clergy themselves may be the perpetrators of child abuse and neglect. In many cases, their superiors and colleagues have been aware of the abuse but have failed to take appropriate steps to intervene or report it. This should not be tolerated.

Requiring members of the clergy to be mandated reports of abuse or neglect of a minor will increase the safety of our children.

Thank you for this opportunity to testify.

Sincerely,



Judith F. Clark, MPH
Executive Director

HB-1692

Submitted on: 1/29/2020 6:07:48 PM

Testimony for JUD on 1/30/2020 2:45:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Lynn Robinson-Onderko	Individual	Support	No

Comments:

LATE

HB-1692

Submitted on: 1/29/2020 11:53:27 PM
Testimony for JUD on 1/30/2020 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ann S Freed	Individual	Support	No

Comments:

Aloha Chair Lee and members,

I am in strong support.

Ann S. Freed

HB-1692

Submitted on: 1/30/2020 12:43:47 PM

Testimony for JUD on 1/30/2020 2:45:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Andre Bisquera	Individual	Support	No

Comments:

I strongly support and ask to have other groups like the Boy Scouts or sports teams be added as well. Thank you.