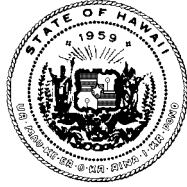


DAVID Y. IGE
GOVERNOR



PANKAJ BHANOT
DIRECTOR

CATHY BETTS
DEPUTY DIRECTOR

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

June 21, 2020

TO: The Honorable Senator Russell E. Ruderman, Chair
Senate Committee on Human Services

FROM: Pankaj Bhanot, Director

SUBJECT: **HB 1942 HD2 – RELATING TO CHILD ABUSE REPORTING - revised**

Hearing: June 22, 2020, 3:25 p.m.
Conference Room 016, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) respectfully continues to oppose HB 1942 HD2 as drafted, re-offers the comments of the department's March 16, 2020 testimony, and agrees with the proposed amendments circulated by Representative Ichiyama. Representative Ichiyama's proposed amendments are consistent with suggested amendments included in the department's March 16, 2020 testimony. Representative Ichiyama's proposed bill draft is attached hereto.

Thank you for the opportunity to testify on this bill.

A BILL FOR AN ACT

RELATING TO CHILD ABUSE REPORTING.

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

1 SECTION 1. The legislature finds that in 2017, the child
2 welfare services branch of the State's department of human
3 services received 3,702 reports of child abuse. More than half
4 of these reports were made by mandated reporters working in
5 fields such as medicine, law enforcement, and social services.
6 Unfortunately, despite the extent of reporting that does occur,
7 many other instances of child abuse go unreported.

8 The legislature further finds that Hawaii is one of only a
9 handful of states that do not include members of the clergy as
10 mandatory reporters of child abuse and neglect. Additionally,
11 sexual exploitation of children occurs online, making it easier
12 for some predators to avoid detection and arrest. By requiring
13 commercial computer technicians and commercial film and
14 photographic print or image processors to report computer files
15 containing child pornography to law enforcement, the State can
16 protect more children from exploitation and abuse.



1 The purpose of this Act is to update Hawaii's child abuse
2 and neglect mandated reporting law by adding members of the
3 clergy, commercial computer technicians, and commercial film and
4 photographic print or image processors to the categories of
5 persons who are required to report, based on California's Child
6 Abuse and Neglect Reporting Act.

7 SECTION 2. Section 350-1, Hawaii Revised Statutes, is
8 amended by adding a new definition to be appropriately inserted
9 and to read as follows:

10 "Electronic medium" includes any recording, synthetic
11 media, magnetic disc memory, magnetic tape memory, compact disk,
12 digital video disk, thumb drive, or any other data recording
13 hardware or media used with a computer."

14 SECTION 3. Section 350-1.1, Hawaii Revised Statutes, is
15 amended to read as follows:

16 **"§350-1.1 Reports.** (a) Notwithstanding any other state
17 law concerning confidentiality to the contrary, the following
18 persons who, in their professional or official capacity, have
19 reason to believe that child abuse or neglect has occurred or
20 that there exists a substantial risk that child abuse or neglect
21 may occur in the reasonably foreseeable future, shall



1 immediately report the matter orally to the department or to the
2 police department:

3 (1) Any licensed or registered professional of the healing
4 arts or any health-related occupation who examines,
5 attends, treats, or provides other professional or
6 specialized services, including but not limited to
7 physicians, including physicians in training,
8 psychologists, dentists, nurses, osteopathic
9 physicians and surgeons, optometrists, chiropractors,
10 podiatrists, pharmacists, and other health-related
11 professionals;

12 (2) Employees or officers of any public or private school;

13 (3) Employees or officers of any public or private agency
14 or institution, or other individuals, providing
15 social, medical, hospital, or mental health services,
16 including financial assistance;

17 (4) Employees or officers of any law enforcement agency,
18 including but not limited to the courts, police
19 departments, department of public safety, correctional
20 institutions, and parole or probation offices;



1 (5) Individual providers of child care, or employees or
2 officers of any licensed or registered child care
3 facility, foster home, or similar institution;

4 (6) Medical examiners or coroners; [~~and~~]

5 (7) Employees of any public or private agency providing
6 recreational or sports activities[~~-~~];

7 (8) Commercial film and photographic print or image
8 processors;

9 (9) Commercial computer technicians; and

10 (10) Members of the clergy or custodians of records
11 therefor.

12 (b) Whenever a person designated in subsection (a) is a
13 member of the staff of any public or private school, agency, or
14 institution, that staff member shall immediately report the
15 known or suspected child abuse or neglect directly to the
16 department or to the police department and also shall
17 immediately notify the person in charge or a designated delegate
18 of the report made in accordance with this chapter.

19 (c) The initial oral report shall be followed as soon as
20 possible by a report in writing to the department[~~-~~]; provided
21 that:



1 (1) If a police department or the department of public
2 safety is the initiating agency, a written report
3 shall be filed with the department for cases that the
4 police or the department of public safety takes
5 further action on or for active cases in the
6 department under this chapter~~[7]~~;

7 (2) All written reports shall contain the name and address
8 of the child and the child's parents or other persons
9 responsible for the child's care, if known, the
10 child's age, the nature and extent of the child's
11 injuries, and any other information that the reporter
12 believes might be helpful or relevant to the
13 investigation of the child abuse or neglect~~[7]~~; and

14 (3) This subsection shall not be construed to serve as a
15 cause of action against the department, the police, or
16 the department of public safety.

17 (d) Any person subject to subsection (a) [~~shall~~], upon
18 demand of the department or any police department, shall provide
19 all information related to the alleged incident of child abuse
20 or neglect, including~~[7]~~ but not limited to~~[7]~~ medical records
21 and medical reports~~[7, which]~~ and any image, film, video, or



1 other electronic medium, that was not included in the written
2 report submitted pursuant to subsection (c).

3 (e) The director may adopt, amend, or repeal rules,
4 subject to chapter 91, to further define or clarify the specific
5 forms of child abuse or neglect enumerated in section 350-1 for
6 use in implementing this chapter; provided that rules adopted
7 under this subsection shall be limited to such further or
8 clarifying definitions."

9 SECTION 4. Before January 1, 2021, a member of the clergy
10 or a custodian of records thereof, may report to the department
11 of human services or a county police department that the clergy
12 member or custodian of records, in the person's professional
13 capacity or within the scope of the person's employment, has
14 acquired knowledge or has a reasonable suspicion that a child
15 was a victim of abuse or neglect and that the clergy member or
16 custodian of records did not previously report the abuse or
17 neglect. A report may be made regardless of whether the victim
18 of the known or suspected abuse or neglect has reached the age
19 of eighteen at the time the report is made. A person who makes
20 a report pursuant to this section shall not be subject to the



1 penalty for nonreporting under section 350-1.2, Hawaii Revised
2 Statutes.

3 SECTION 5. This Act does not affect rights and duties that
4 matured, penalties that were incurred, and proceedings that were
5 begun before its effective date.

6 SECTION 6. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 7. This Act shall take effect upon its approval.



H.B. NO.

1942
H.D. 2
S.D. 1
PROPOSED

Report Title:

DHS; Child Abuse and Neglect; Mandatory Reporting

Description:

Adds members of the clergy, commercial computer technicians, and commercial film, and photographic print or image processors to the categories of persons who are required to report child abuse and neglect to Department of Human Services or police. Provides a "safe harbor" through 12/31/2020, for reporting by clergy of known or suspected child abuse that was previously unreported. Effective 12/31/2059. (SD1 PROPOSED)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

HB1942 SD1 PROPOSED LRB 20-1928.doc





TO: Chair Ruderman, Vice Chair Rhoads, and Members of the Senate Committee on Human Services

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

DATE/LOCATION: June 22, 2020; 3:25 p.m., Conference Room 016

RE: TESTIMONY IN SUPPORT OF HB 1942 HD 2– RELATING TO CHILD ABUSE REPORTING

We ask you to support **HB 1942 HD 2** which adds members of the clergy, commercial computer technicians, and commercial film, and photographic print or image processors to the categories of persons who are required to report child abuse and neglect to DHS or police and provides a "safe harbor" through December 31, 2020, for reporting by clergy of known or suspected child abuse that was previously unreported and that did not arise during a penitential communication. This bill would help to strengthen current child abuse reporting laws and continue to help keep our keiki safe.

IT IS NOT OK THAT ONCE EVERY MINUTE A CHILD IS ABUSED physically, sexually, emotionally somewhere in America. Nearly 1,000,000 cases are reported annually across the nation and roughly 4,000 cases of abuse are reported annually in Hawaii. While current child abuse and neglect mandated reporting laws are in effect and are intended to protect children, the current law does not include all individuals and professions who play an important role in helping to protect our keiki. We support including clergy, computer technicians, and film or photographic print or image processors as mandated reporters. Mandated reporting is critical to keeping our keiki safe.

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 15,000 people across the state annually, PACT helps families identify, address and successfully resolve challenges through its 18 programs. Among its services are: early education programs, domestic violence prevention and intervention programs, child abuse prevention and intervention programs, childhood sexual abuse supportive group services, child and adolescent behavioral health programs, sex trafficking intervention, and poverty prevention and community building programs.

Thank you for the opportunity to testify in **support of HB 1942 HD 2**, please contact me at (808) 847-3285 or rkusumoto@pacthawaii.org if you have any questions.

HAWAII YOUTH SERVICES NETWORK

677 Ala Moana Boulevard, Suite 904 Honolulu, Hawaii 96813

Phone: (808) 489-9549

Web site: <http://www.hysn.org> E-mail: info@hysn.org

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

June 20, 2020

To: Senator Russell Ruderman, Chair
And members of the Committee on Human Services

Testimony in Support of HB 1942 HD 2 Relating to Child Abuse Reporting

Hawaii Youth Services Network, a statewide coalition of youth-serving organizations, supports HB 1942 HD 2 Relating to Child Abuse Reporting.

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.

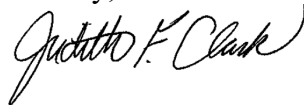
There is evidence that members of the clergy themselves may be the perpetrators of child abuse. In some cases, their superiors and colleagues have been aware of the abuse but have failed to take appropriate steps to intervene or report it. This should not be tolerated.

Computer technicians and photographic print or image processors may, through their work, become aware of pornographic and other images of children that indicate abuse or neglect.

Requiring members of the clergy, computer technicians, and print or image processors to be mandated reporters 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-1942-HD-2

Submitted on: 6/20/2020 5:40:53 PM

Testimony for HMS on 6/22/2020 3:25:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Benton Kealii Pang, Ph.D.	Individual	Support	No

Comments:



HB 1942, HD2, RELATING TO CHILD ABUSE REPORTING

JUNE 22, 2020 · SENATE HUMAN SERVICES
COMMITTEE · CHAIR SEN. RUSSELL E. RUDERMAN

POSITION: Support.

RATIONALE: Imua Alliance supports HB 1942, HD2, relating to child abuse reporting, which adds members of the clergy, commercial computer technicians, and commercial film, and photographic print or image processors to the categories of persons who are required to report child abuse and neglect to DHS or police, and provides a "safe harbor" through December 31, 2020, for reporting by clergy of known or suspected child abuse that was previously unreported and that did not arise during a penitential communication.

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.'"

Finally, commercial computer technicians and commercial film and photographic print or image processors are asked provide services—often basic technological repair services—to digital tools on which child pornography is created and stored. We are heartened that this measure makes employees of these industries mandatory reporters of child abuse and neglect, including sexual abuse, and hope that the Legislature will work with tech companies in the future to establish training protocols for the identification of potential cases of harm.

HB-1942-HD-2

Submitted on: 6/21/2020 4:30:51 PM

Testimony for HMS on 6/22/2020 3:25:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Eileen M Gawrys	Individual	Support	No

Comments:

LATE

HB-1942-HD-2

Submitted on: 6/22/2020 12:25:44 PM
Testimony for HMS on 6/22/2020 3:25:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Marilyn R Yamamoto	Testifying for Hawaii Family Advocacy Team	Oppose	No

Comments:

This testimony is late but submitted for future consideration. It is noted that child welfare services has failed all three federal evaluations on casework practices since 2003 and violated for failure to apply due process in federal funding law (CAPTA) twice since 2016. Yet, bills that add to the power of child welfare are readily passed while those that hold the department accountable to its own rules are summarily deferred. See the 1999 recommendation by Susan Orr published by the Reason Foundation.,

Repeal mandatory reporting laws that are in effect in all the states. Mandatory reporting laws, designed to encourage those who work with children to report incidents of maltreatment, have had two negative effects. First, they encourage unnecessary reporting because professionals must report all of their suspicions under threat of prosecution. While such prosecutions are rare, one shouldn't have to report suspicions. Reporting should be restricted to more concrete evidence of a crime. Second, mandatory reporting discourages fellow citizens from taking positive neighborhood action with families in trouble. Citizens tend to consider that their responsibilities have been met when they call an anonymous hotline, because that is what the law tells them to do. Knocking on the door and offering help to a family, which is troubled, but not engaged in criminal behavior, may be the more appropriate alternative.

LATE

HB-1942-HD-2

Submitted on: 6/22/2020 9:32:47 PM

Testimony for HMS on 6/22/2020 3:25:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Brandon Sugiura	Individual	Comments	No

Comments:

We all know that abuse is everywhere, tangible or not. Being able to show abuse can come in different ways, but it can be interpreted differently like a foreign language.

Child abuse, an issue that is severely ignored by many professionals, tends to think that it intrudes on the personal life of someone else's. For example, in the movie "Kindergarten Cop", a substitute teacher finds a big bruise on the child's back after patting on it. After a verbal statement of reason from the child, the teacher demanded answers from the parent and wanted to get to the bottom or the root of the issue. After hearing ongoing excuses, the parent was then protective and asked that the question should not be asked again. This resulted in being able to physically abuse the spouse of that parent which the teacher explained and was relieved that the teacher had done a great deed.

Many people in Hawaii are afraid to tell people that they are abusing child, but they can voice the protection of the land?! It's sounds stupid, but if you think about it, the pic is clear enough to understand that the kids involved, are technically property and that once they are waived to another person, that trust in their hands. Should we sue them, that's a maybe, it may not be a law, but, considering the people involved in the bill, they should think this through. Waivers are given and provided for a reason, but people relinquishing the child/property don't seem to know what they are getting themselves into.

So I ask the senate and the house body to reconsider all angles of this bill and hopefully a resolution that can be passed. Being able to be fined will be ok enough, but being in jail is another thing, in my eyes it should not be considered if other people think that being in jail is an appropriate measure to take. I don't think that jail time should be done because of the number of crimes Hawaii can get jailed for and the overcrowding of the cells. Hawaii doesn't need another facility and that we should focus on being able to show good demeanor toward the community that the people serve in. This is a great issue to ponder and it can be argued for many days, but in minutes, a child will be abused.