



## Office of the Public Defender State of Hawai'i



### Testimony of the Office of the Public Defender, State of Hawai'i to the House Committee on Human Services and Homelessness

January 26, 2020

H.B. No. 1942: RELATING TO CHILD ABUSE REPORTING

Chair San Buenaventura, Vice Chairs Nakamura, and Members of the Committees:

The Office of the Public Defender opposes H.B. No. 1942.

We strongly oppose inclusion of subsection (a) (11) [page 4, lines 12-14] in this measure. This section reads as follows:

*(11) Administrators and employees of any public or private organization whose duties require direct contact with or supervision of children.*

This proposed language can be interpreted to include the Office of the Public Defender and any employee of our organization. We believe the Office of the Public Defender and any attorney representing a person accused of a crime should be exempt from mandatory reporting requirements. Any incursion upon our ability to have confidential communications with our clients is contrary to the long-held protections of the attorney-client privilege. It is essential that any person seeking legal advice or a person accused of a crime has the benefit of the attorney-client privilege. The Office of the Public Defender represents both adults charged with criminal offenses and juveniles charged with criminal offenses. It is necessary that attorneys have the ability to assure their clients that they have the benefit of the attorney-client privilege when discussing ongoing legal matters.

Thank you for the opportunity to comment on this measure.

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January 27, 2020

TO: The Honorable Representative Joy A. San Buenaventura, Chair, and  
The Honorable Nadine K. Nakamura, Vice Chair  
House Committee on Human Services and Homelessness

FROM: Pankaj Bhanot, Director

SUBJECT: **HB 1942 – RELATING TO CHILD ABUSE REPORTING**

Hearing: January 29, 2020, 8:30 a.m.  
Conference Room 329, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) supports this bill.

**PURPOSE:** This bill 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 the Department of Human Services or to police. 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.

The intent of the child abuse and neglect mandated reporting law is to protect children – both reported child victims and other potential child victims by requiring community members who are professionals that have regular interaction with children and families to report suspected incidents of child abuse or neglect.

Hawaii's child abuse and neglect mandated reporting law, section 350, Hawaii Revised Statutes, (HRS) et seq., does not currently include clergy, commercial computer technicians, and commercial film and photographic print or image processors as mandated reporters. DHS agrees

that extending the mandate to report to these professions who may have knowledge of suspected cases of abuse or neglect, or exploited children is important to identify, investigate, and intervene as soon as possible.

If the measure passes, additional appropriation is required to develop and provide training to these new categories of mandated reporters.

DHS takes no position on the "safe harbor" provisions.

Thank you for the opportunity to testify on this bill.

**HB-1942**

Submitted on: 1/26/2020 4:50:56 PM

Testimony for HSH on 1/29/2020 8:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jeana Baudouin	Individual	Support	No

Comments:

HB1942 RELATING TO CHILD ABUSE REPORTING.

Testimony by Jeana Baudouin, MSW student

House Committee on Human Services & Homelessness,

I am a graduate student at the University of Hawaii MSW program and also a social worker in Child Welfare Services. I support HB 1942 because Hawaii does not currently include clergy and information technology professionals in mandated reporting.

Clergy members should be required to report any instances of child abuse and neglect and they should not be protected when concealing harm to children. When people in positions of power that abuse children have prolonged access to children, this abuse occurs over long periods of time and results in chronic, lifetime trauma. Our church members are trusted by the community and they should protect our most vulnerable populations, not be in positions to exploit them.

I also support making information technology professionals mandated reporters as we need to be more aware of the harm that occurs to children in our technologically advancing society. It will be important to collect data on reports of harm that come in from IT and support efforts to intervene and support preventative measures.

I support HB1942 because it will support these professionals with the policies and procedures to take action when witnessing child abuse and neglect.

Thank you for taking the time to read my testimony.



## HB 1942, RELATING TO CHILD ABUSE REPORTING

JANUARY 29, 2019 · HOUSE HUMAN SERVICES AND HOMELESSNESS COMMITTEE · CHAIR REP. JOY A. SAN BUENAVENTURA

**POSITION:** Support.

**RATIONALE:** IMUAlliance supports HB 1942, 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 the Department of Human Services or to 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.