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

January 26, 2020

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

FROM: Pankaj Bhanot, Director

SUBJECT: **SB 2334 - RELATING TO CRIMINAL OFFENSES AGAINST SENIORS**

Hearing: Monday, January 27, 2020, 2:45 p.m.  
Conference Room 016, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) supports SB 2334 and provides comments.

**PURPOSE:** The purpose of SB2334 lowers the age of crimes against seniors to sixty years of age and makes certain criminal offenses against seniors applicable regardless of the perpetrator's knowledge of the victim's age.

DHS supports this bill to lower the age of crimes against seniors to sixty years of age. This law will further protect the health, safety and well-being of our vulnerable adults.

However, enhancing criminal laws is but one step; more needs to be invested in prevention, intervention, and support services to victims and families, as well as for those individuals who perpetrate crimes and their family members who are also impacted. In cases where mental health is identified as an issue, appropriate services should be offered and provided.

Thank you for the opportunity to provide testimony on this bill.

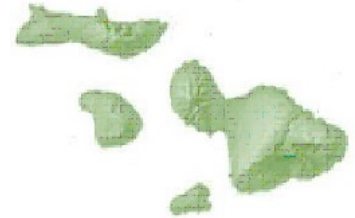


**MICHAEL P. VICTORINO**  
Mayor

**DON S. GUZMAN**  
Prosecuting Attorney

**ROBERT D. RIVERA**  
First Deputy Prosecuting Attorney

**ANDREW H. MARTIN**  
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**THE HONORABLE RUSSELL E. RUDERMAN, CHAIR**  
**THE HONORABLE KARL RHOADS, VICE CHAIR**  
**SENATE COMMITTEE ON HUMAN SERVICES**

**THIRTIETH STATE LEGISLATURE**  
**REGULAR SESSION OF 2020**

January 24, 2020

**RE: SENATE BILL 2334; RELATING TO CRIMINAL OFFENSES AGAINST SENIORS**

Good afternoon, Chair Ruderman, and members of the Human Services Committee, the Department of the Prosecuting Attorney submits the following testimony in support of the purpose and intent of S.B. 2334, which proposes to lower the age of crimes against seniors to sixty years of age, and makes certain criminal offenses against seniors applicable regardless of the perpetrator's knowledge of the victim's age.

In a nutshell, the purpose of S.B. 2334 is not so much revolutionary, as the bill is evolutionary, only seven (7) current sections in the Hawaii Revised Statutes, dealing with property and violent crimes, are being proposed for amendment. The purpose and intent is to lower the age of crimes against seniors to sixty years of age; and, make certain criminal offenses against seniors applicable regardless of the perpetrator's knowledge of the victim's age. The consequences to those who commit crimes against seniors, in part, would also be stepped-up. For instance, a crime which presently make the penalty a misdemeanor offense, would now step-up to a felony, when committed against a senior.

We strongly support this bill. Crimes, in general, are traumatic experiences for their victims; however, we opine, crimes committed against our most vulnerable, our growing elderly population, are especially traumatic experiences for these victims, creating devastating financial and physical consequences. Hawaii's population is aging fast, as a percentage of our population and these proposed amendments are being made in proactive response to a need necessary to protect our aging future.

For such reasons, we respectfully request your favorable consideration of S.B. 2334 and thank you for any opportunity to testify in further support.

**MICHAEL P. VICTORINO**  
Mayor

**DON S. GUZMAN**  
Prosecuting Attorney

**ROBERT D. RIVERA**  
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January 24, 2020

Hawaii State Legislature  
Senate Committee on Human Services  
415 S Beretania Street  
Honolulu, Hawaii 96813

**THE HONORABLE RUSSELL E. RUDERMAN, CHAIR**  
**THE HONORABLE KARL RHOADS, VICE CHAIR**  
**SENATE COMMITTEE ON HUMAN SERVICES**

**THIRTIETH STATE LEGISLATURE**  
**REGULAR SESSION OF 2020**

**RE: SENATE BILL 2334, RELATING TO CRIMINAL OFFENSES AGAINST SENIORS**

Good Afternoon, Chair Ruderman, and members of the House Services Committee. The Office of the Prosecuting Attorney submits the following in full support of Senate Bill 2334. This Bill proposes to standardize the age for crimes against seniors in different laws that now exist. In addition, this Bill provides greater protection for our seniors by making certain criminal offenses against seniors applicable regardless of the perpetrator's knowledge of the senior victim's age. These measures strengthen and standardize and the protections Hawaii offers our kupuna. Standardization of age in criminal laws is common sense so that all citizens of Hawaii clearly understand the laws.

Providing protection for seniors based on their age is a concept that already exists in our law and is a small change that provides a boundless source of protection to senior victims of violent crime and financial exploitation that they currently do not have. Section 708-812.55(1)(a) of the Hawaii Revised Statutes, Unauthorized Entry into a Dwelling in the First Degree, is a prime example of what this Bill hopes to achieve. Section 708-812.55(1)(a) states that a person commits this offense if they intentionally or knowingly enter into the dwelling of another and a person age sixty-two or older is lawfully present.

TO: The Honorable Russell E. Ruderman, Chair  
Senate Committee on Human Services  
Page 2  
January 24, 2020

As noted in the COMMENTARY ON §708-812.55 in the Hawaii Revised Statutes Annotated:

Act 187, Session Laws 2011, established the offense of unauthorized entry in a dwelling in the first degree, a class B felony, for the unauthorized entry in a dwelling if another person, at the time of entry, was lawfully present in the dwelling and the person was sixty-two years of age or older, was an incapacitated person, or had a developmental disability. The legislature found that home invasions are traumatic experiences for the victims and may be especially frightening for vulnerable elderly and disabled individuals present during the intrusion. The legislature intended that the presence of a person lawfully in the dwelling shall be a strict liability element and that it shall not be necessary to prove that a defendant knew or had any reason to know that the person lawfully in the dwelling was sixty-two years of age or older, incapacitated, or disabled. Conference Committee Report No. 32. (Emphasis added.)

Not only are home invasions traumatic experiences for the victims and especially frightening for our vulnerable elderly, but also assaults, thefts, and financial exploitation of our most vulnerable citizens. The protection extended to our kupuna in H.R.S. §708-812.55 needs to be extended to the elder victims of these more frightening and traumatic crimes. For this reason, I humbly request the Senate Committee on Human Services' support in making Senate Bill 2334 a reality.

Respectfully yours,



**LEWIS WARD LITTLEPAGE**  
Deputy Prosecuting Attorney  
County of Maui, Hawaii



**Office of the Public Defender  
State of Hawaii**

**LATE**

**Testimony of the Office of the Public Defender,  
State of Hawaii to the Senate Committee on Human Services**

January 27, 2020

**S.B. No. 2334: RELATING TO CRIMINAL OFFENSES AGAINST  
SENIORS**

Chair: Russell E. Ruderman, Vice Chair: Karl Rhoads and Members of the  
Committee:

The Office of the Public Defender opposes S.B. 2334. This bill amends several current criminal statutes to create special treatment of cases that involve victims who are sixty years of age or older. The Office of the Public Defender has consistently opposed the creation of special victim classes that elevate criminal liability. In the past, the legislature has elevated those individuals that due to their employment, are in positions that have required more protection, and recently elevated those seeking protection from domestic violence. These special classes were created to elevate what would otherwise be a misdemeanor violation to a class C felony violation. This bill does the same thing for those who are sixty years of age or older, and also elevates what would be a class C felony assault into a Class B felony assault. The Office of the Public Defender does not feel that elevating all individuals who are sixty years of age or older into a special victim class is necessary for the protection of the public.

This bill goes even further however, by negating the need for evidence of the required state of mind, as to the attendant circumstances, in different types of criminal cases, by the use of *strict liability*. In other words, in certain types of prosecutions involving the victimization of someone sixty years old or older, the prosecution *would not* be required to put forth evidence regarding the victim's age, as it would be presumed that the defendant knew that the accuser was in fact sixty years old or older. This is an unprecedented change to the basic understanding of criminal law, and would

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open the floodgates to requests from other groups seeking the same accommodation.

The Office of the Public Defender does understand that protecting the senior members of our community is a necessity. However, the Hawaii Revised Statutes already anticipate that need. HRS Section 706-660.2 requires a mandatory jail term for those who commit crimes against those sixty years of age or older for any felony charge which causes death, serious or substantial bodily injury. This current statute should serve as ample deterrence to the victimization of those who are sixty years of age or older.

Thank you for the opportunity to comment on S.B. 2334

**SB-2334**

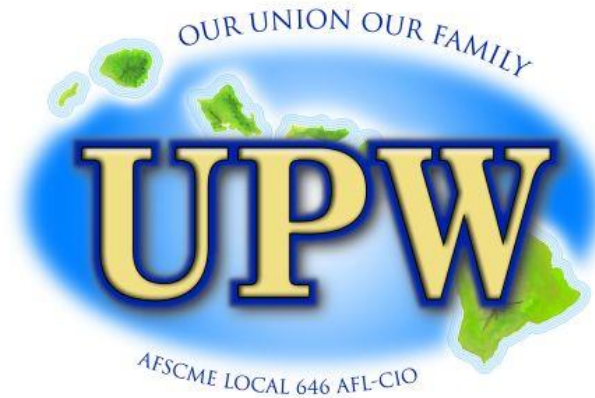
Submitted on: 1/26/2020 5:41:45 AM

Testimony for HMS on 1/27/2020 2:45:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Deborah Stone-Walls	Testifying for Maui County Office on Aging	Support	No

Comments:





**THE HAWAII STATE SENATE**

The Thirtieth Legislature  
Regular Session of 2020

**Committee on Human Services**

Senator Russell E. Ruderman, Chair  
Senator Karl Rhoads, Vice Chair

Date of Hearing: Monday, January 27, 2020  
Time of Hearing: 2:45 p.m.  
Place of Hearing: Conference Room 016  
State Capitol  
415 South Beretania St.

**Testimony in Support of SB2334 Relating to Criminal Offense Against Seniors**

By DAYTON M. NAKANELUA,  
State Director of the United Public Workers,  
AFSCME Local 646, AFL-CIO ("UPW")

My name is Dayton M. Nakanelua, State Director of the United Public Workers, AFSCME, Local 646, AFL-CIO (UPW). The UPW is the exclusive bargaining representative for approximately 13,000 public employees, which include blue collar, non-supervisory employees in Bargaining Unit 01 and institutional, health and correctional employees in Bargaining Unit 10, in the State of Hawaii and four counties. The UPW also represents about 1,500 members in the private sector.

SB2334 lowers the age of crimes against seniors sixty years of age and makes certain criminal offenses against seniors applicable regardless of the perpetrator's knowledge of the victim's age. The UPW strongly supports this bill.

Thank you for the opportunity to submit this testimony.



## KOKUA COUNCIL TESTIMONY

January 27, 2020 2: 45 pm Room 016

### SENATE COMMITTEE ON HUMAN RESOURCES

DATE: Monday, January 27, 2020

TIME: 2:45PM

PLACE: Conference Room 016

**RE: KOKUA COUNCIL SUPPORTS THE FOLLOWING BILLS:** SB 2336; SB 2339; SB 2335; SB 2337; SB 2342; SB 2102; and SB 2334. We also generally support all efforts to further protect Kupuna.

Specifically, we offer comments on

**RE SB 2337 MAKING AN APPROPRIATION FOR THE OFFICE OF THE LONG-TERM CARE OMBUDSMAN PROGRAM:** Kokua Council long been a strong advocate for more funding for the Long-Term Care Ombudsman Program. We urge increases in fund to the minimum amount in this bill, and more if you can find it!

**RE SB 2342 RELATING TO THE KUPUNA CAREGIVERS PROGRAM.** Kokua Council supports the amendment and funding. However, we strongly encourage the program to also develop criteria to prioritize the circumstances of caregivers to ensure that these limited funds go to those who are most likely to continue in the workforce, and less likely to retire in the immediate future.

**RE SB 2339 AND SB 2102 RELATING THE ALZHEIMERS PROGRAMS.** Kokua Council supports these efforts and encourages the Department of Health to include Dementia and Early Dementia in their focus on Mental health. We also encourage amending the insurance statues to ensure that early onset dementia is covered by our Prepaid Health Law.

**RE SB 2334 RELATING TO CRIMINAL OFFENSES AGAINST SENIORS,** Kokua Counsel welcomes the added focus and consequences of elder abuse. We suggest adding an appropriation section so that WAM and other committees can ensure that there is adequate funding not only for the increase in elder abuse prosecution resources that may follow from this bill, but also funding for case managers and other agency complementary support services to work with families to avoid situations that may lead to abuse.

Mahalo for your serious consideration of this testimony.

**SB-2334**

Submitted on: 1/24/2020 8:36:58 AM

Testimony for HMS on 1/27/2020 2:45:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Victor K. Ramos	Individual	Support	No

Comments:

**SB-2334**

Submitted on: 1/26/2020 4:46:55 PM

Testimony for HMS on 1/27/2020 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Sarah Yuan	Testifying for Policy Advisory Board for Elder Affairs	Support	Yes

Comments:

The Policy Advisory Board for Elder Affairs has a statutory obligation to advocate on behalf of the senior citizens of Hawaii. While we advise the Executive Office on Aging, we do not speak on its behalf.

The PABEA strongly supports bill **SB2334** to lower the age of crimes against seniors to 60 years of age in four criminal offenses: (1) assault, first and second degrees, (2) unauthorized entry in a dwelling in the first degree, (3) theft, first and second degrees, and (4) forgery, first and second degrees. This bill also makes sure that these criminal offenses against seniors are applicable regardless of the perpetrator's knowledge of the victim's age.

This bill will expand the population protected under these laws on crimes against seniors. Defining seniors as 60 years of age and older is aligned with the age definition of older citizens in the federal Older Americans Act (OAA), which promotes the well-being of seniors through services and programs administered by Aging Offices across states and counties. A consistent age definition across these offenses would improve the safety of our kupuna.

Thank you for your consideration of this testimony.

**LATE**

**SB-2334**

Submitted on: 1/26/2020 8:23:56 PM

Testimony for HMS on 1/27/2020 2:45:00 PM

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

Comments:

Aloha: This is a very important bill. Violent criminals must be dealt with more harshly. For folks in their retirement years, to be assaulted by street thugs or swindled by con-artists is especially exasperating. Recently there has been an upsurge in violence against senior citizens, who, do their advanced age usually lack the strength to fight back Please pass this good bill.

Sincerely, Dale Head sunnymakaha@yahoo.com

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**THE HONORABLE RUSSELL E. RUDERMAN, CHAIR**  
**SENATE COMMITTEE ON HUMAN SERVICES**  
**Thirtieth State Legislature**  
**Regular Session of 2020**  
**State of Hawai'i**

January 27, 2020

**RE: S.B. 2334; RELATING TO CRIMINAL OFFENSES AGAINST SENIORS.**

Chair Ruderman, Vice Chair Rhoads, and members of the Senate Committee on Human Services, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in support of S.B. 2334.

The purpose of S.B. 2334, is twofold: 1) to provide additional mechanisms within the Hawai'i Revised Statutes to provide protection for elder persons who are the target of physical and financial harm; 2) to make uniformed the age in which an individual would be afforded additional protection. Specifically, the bill seeks to protect persons 60 years of age or older from certain crimes by making the criminal conduct against them specifically have more severe consequences.

The Department believes S.B. 2334, which addresses various forms of elder abuse is a substantial effort in protecting our kupuna. Currently, the Elder Abuse Unit at the Honolulu Prosecutor's Office is handling a trial load which includes 34 violent crimes, 29 property crimes and 17 financial crimes. These numbers are significantly higher than the month of January 2019, where criminal cases set for trial included only 15 violent crimes, 29 property crimes and 17 financial crimes. In addition, with this tragic increase of violent crimes against our elderly, we are now nearing the point at which elder abuse cases have increased to almost double the number of felony domestic violence cases currently being prosecuted.

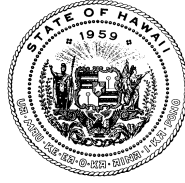
Through a series of amendments to existing statutes, S.B. 2334 will, in short, modify the law in the following manner: 1) if a person assaults a senior causing them physical pain, that crime could be charged as a class C felony instead of being treated as a misdemeanor offense (current law requires more serious injuries, like broken bones, in order for these crimes to be treated more seriously) - this effectively makes Assault in the Third Degree (§707-712, H.R.S.)

and Abuse of Family and Household Member (§709-906, H.R.S. - for parent abuse situations) into Assault in the Second Degree (§707-711, H.R.S.) offenses; 2) if a person steals over \$250 from a senior (current law says over \$750), that crime could now be charged as a class C felony offense of Theft in the Second Degree (§708-831, H.R.S.) as oppose to a misdemeanor offense of Theft in the Third Degree (§708-832, H.R.S.); and 3) if a person forges a senior's name on a document or tries to cash a stolen check belonging to them, that matter is now a more serious felony offense.

Additionally, S.B. 2334 standardizes the definition of who would be considered a senior or elderly under the criminal statutes. Currently, an elder is defined differently throughout the Hawaii Revised Statutes. While most criminal statutes place the age of a senior at 60, there are instances where the ages of 62 and 65 are mentioned as well in the law. S.B. 2334 unifies this age to 60 across the different applicable statutes which will remove unnecessary confusion during the charging and prosecuting elder abuse cases.

The Department believes that the amendments in S.B. 2334 will serve as a strong deterrent for individuals who are targeting seniors and further illustrate that our State will not stand by and leave our kupuna defenseless. For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu supports the passage of S.B. 2334. Thank you for the opportunity to testify on this matter.

DAVID Y. IGE  
GOVERNOR OF HAWAII



CAROLINE CADIRAO  
DIRECTOR

BRUCE ANDERSON  
DIRECTOR OF HEALTH

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**Testimony COMMENTING on SB2334**  
**Relating to Criminal Offenses Against Seniors**

COMMITTEE ON HUMAN SERVICES  
SENATOR RUSSELL E. RUDERMAN, CHAIR  
SENATOR KARL RHOADS, VICE CHAIR

Testimony of Caroline Cadirao  
Director, Executive Office on Aging  
Attached Agency to the Department of Health

Hearing Date: January 27, 2020  
2:45 p.m.

Room Number: 016

- 1 **EOA's Position:** The Executive Office on Aging (EOA), an attached agency to the Department
- 2 of Health, provides comments on SB2334.
- 3 **Purpose and Justification:** The purpose of this bill is to amend HRS Chapter 707 (Offenses
- 4 Against the Person) and Chapter 708 (Offenses Against Property Rights) by lowering the age of
- 5 crimes against seniors to age 60 years of age and making certain criminal offenses against
- 6 seniors applicable regardless of the perpetrator's knowledge of the victim's age. Lowering the
- 7 age to 60 years in both Chapters will provide uniformity and assist with prosecution. In addition,
- 8 this measure would add further protection to our most vulnerable adults. We appreciate this first
- 9 step to address the age inconsistencies in the statutes.
- 10 Thank you for the opportunity to testify.



**LATE**

**SB-2334**

Submitted on: 1/27/2020 11:36:20 AM

Testimony for HMS on 1/27/2020 2:45:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Tanya Aynessazian	Individual	Support	No

Comments: