

HB-563

Submitted on: 1/31/2021 5:00:33 PM

Testimony for JHA on 2/2/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
cathy lee	Individual	Support	No

Comments:

I believe the physical safety as well as the mental stability of a victim is of the utmost importance when we consider transformative justice. Given the offense, it doesn't seem at all unreasonable to require a sex offender to distance themselves from their victims, unnecessary proximity can be emotionally traumatizing.

HB-563

Submitted on: 1/31/2021 5:22:24 PM

Testimony for JHA on 2/2/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Glenn Nagao	Individual	Support	No

Comments:

I am writing to support HB563. This is one of the bills that should be common sense law.

Given the trauma already experience by the victim, all efforts should be made to avoid further impact from the offender. Hawaii is small but 2000ft is a very low threshold to require the perpetrator to distance from the victim. Also to avoid any potential conflicts the offender should have to provide notice and approval for relocation. This is a burden on the offender, but I believe the rights and safety of the victim have to be taken into account.

Please vote in support of HB563.



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-FIRST LEGISLATURE, 2021**

ON THE FOLLOWING MEASURE:

H.B. NO. 563, RELATING TO SEX OFFENDERS.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

DATE: Tuesday, February 2, 2021 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Via Videoconference

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**
(For more information, contact Michelle M.L. Puu,
Deputy Attorney General, at 586-1160)

Chair Nakashima and Members of the Committee:

The Department of the Attorney General appreciates the intent of this bill but respectfully opposes it in light of constitutional and practical considerations.

This bill seeks to prohibit a covered offender from residing within 2,000 feet of his/her victim or the victim's immediate family member (spouse, parent, child, or grandparent). It further requires the Department of the Attorney General to engage in rule making, pursuant to chapter 91, Hawaii Revised Statutes (HRS), to develop a procedure to effectuate this prohibition.

The Sex Offender Registry has routinely received significant scrutiny in our court system. In response, these requirements have been revised so as to withstand constitutional privacy, due process, equal protection, and cruel and unusual punishment challenges. Up until now, registration was designed exclusively to equip the public with the ability to identify where these individuals might be located at a given time in our community. The registration did not restrict a covered offender's movement, it simply required that particular movements be reported to ensure that the stored information was current.

Conversely, this bill seeks to restrict the covered offender's ability to relocate by limiting where the offender may take up residence. This restriction of movement will receive strict scrutiny as to whether the offender's constitutional freedoms are impermissibly abridged. Certainly, our courts will recognize the compelling

governmental interest in protecting victims from their offenders. However, that interest must be achieved in a measured manner. Likely, our courts will want to examine whether orders for protection are a more appropriate tool to accomplish the intent of this bill.

Moreover, there are practical concerns as to how this Department will go about overseeing and administering this restriction. First, victim information is rightfully guarded and not readily available to this Department. Second, maintaining and ensuring the accuracy of this information initially and for the duration of a covered offender's registration period will be a daunting task. Third, the development of a monitoring system will require added expense and resources during an already strained financial situation. Fourth, a victim might not want an offender to have any information as to the residential whereabouts of those sought to be protected by this bill—certainly a rejection of approval (pursuant to this provision) would readily provide sensitive information to the covered offender. Fifth, one cannot ignore the potential for abuse whereby a victim or immediate family member might resort to providing residential information in a manner that would effectively prevent an offender's ability to relocate.

Finally, although the provisions of this bill apply to "covered offenders," the subject of this bill as expressed in its title is "sex offenders." The definition of "covered offender" in section 846E-1, HRS, includes both sex offenders and offenders against minors and "offender against minor" is defined to *not* be "sex offenders." Section 14 of article III of the State Constitution provides in part that "[e]ach law shall embrace but one subject, which shall be expressed in its title." Because the single subject of this bill as expressed in its title is "sex offenders," the provisions of this bill that apply to "offenders against minors" are in violation of the single-subject requirement of section 14 of article III of the State Constitution.

For the foregoing reasons, we respectfully ask the Committee to hold this bill.

STATE OF HAWAI‘I
OFFICE OF THE PUBLIC DEFENDER

**Testimony of the Office of the Public Defender,
State of Hawai‘i to the House Committee on
Judiciary & Hawaiian Affairs**

February 2, 2021

H.B. No. 563: RELATING TO SEX OFFENDERS

Chair Nakashima, Vice Chair Matayoshi, and Members of the Committee:

The Office of the Public Defender opposes H.B. No. 563.

The bill as written may lead to violations of the law which are completely unintended and will create restrictions that not all victims or family members of victims may want or support.

We acknowledge the need for residential housing restrictions for victims or family members of victims. However, not all victims or their families are interested or seek these restrictions imposed without their input. The language of this provision removes the valued input from the victim to determine whether a housing restriction is wanted or needed. The provision fails to take into consideration that perpetrators and victims may be members of the same family, and that victims and families may wish to support a perpetrator who has taken the time to seek treatment, education, and therapy with the support of their family. Our concern is that the provision does not allow for input from those it seeks to “protect” and may hinder restorative justice, impede family reunification, and may prevent probationers or parolees from seeking the help and support that they may need at the time of re-entry to successfully find appropriate housing with family members.

We strongly encourage this Committee to consider amendments to this provision that would allow exceptions upon approval of the victim or the victim’s immediate family members.

Mahalo and thank you for the opportunity to comment on this measure.

Executive Director
Cindy Shimomi-Saito

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Date: February 2, 2021

To: The Honorable Mark Nakashima, Chair
The Honorable Scot Matayoshi Vice Chair
House Committee on Judiciary and Hawaiian Affairs

From: Cindy Shimomi-Saito, Executive Director
The Sex Abuse Treatment Center
A Program of Kapi'olani Medical Center for Women & Children

RE: Testimony in Support of HB 563, Relating to Sex Offenders.

Hearing: Tuesday, February 2, 2021, Via videoconference

Good afternoon Chair Nakashima, Vice Chair Matayoshi, and Members of the Committee:

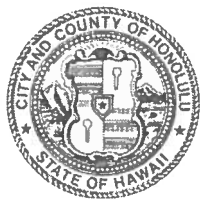
The Sex Abuse Treatment Center supports the intent of HB 563. In many situations, such a ban would result in a feeling of heightened safety as many victims live with a sense of hypervigilance and fear that the offender may be nearby. Knowing that a residential restriction is in place, or could be put in place, could bring these victims relief and hasten their ability to return to some sense of normalcy. In the case of family-related offenses, this measure could alleviate family and cultural pressures sometimes placed on the victim to agree to the offending family member living nearby; it would not be up to the victim if the ban was instituted automatically. In cases where family reunification is the goal, it would be beneficial if the family could petition the court for an exception to an automatic ban.

The SATC favors measures to heighten victim safety; perhaps a situational ban, instituted on behalf of the victim, as appropriate, rather than a blanket ban could be considered. A committee comprised of victim and offender advocates and/or service providers, in addition to the entity that would be responsible for implementation of the measure, would allow for a collaborative discussion, research into the pros and cons of such a measure, and development of a process by which this residential restriction might realistically be applied.

Thank you for the opportunity to provide testimony. We encourage the development of HB 563.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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RICK BLANGIARDI
MAYOR

SUSAN BALLARD
CHIEF

JOHN D. MCCARTHY
AARON TAKASAKI-YOUNG
DEPUTY CHIEFS

OUR REFERENCE **RP-KK**

February 2, 2021

The Honorable Mark M. Nakashima, Chair
and Members
Committee on Judiciary
and Hawaiian Affairs
House of Representatives
Hawaii State Capitol
415 South Beretania Street, Room 325
Honolulu, Hawaii 96813

Dear Chair Nakashima and Members:

SUBJECT: House Bill No. 563, Relating to Sex Offenders

I am Randall Platt, Captain of the Criminal Investigation Division of the Honolulu Police Department (HPD), City and County of Honolulu.

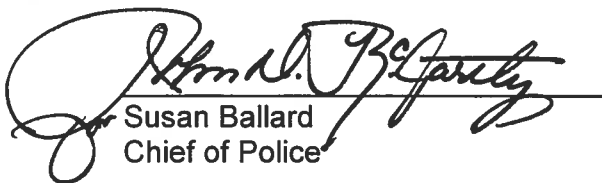
The HPD supports House Bill No. 563, Relating to Sex Offenders.

The HPD recognizes that the trauma of a sexual assault can be multifaceted and long lasting. Seeing the offender can bring back memories of the assault and cause the victim to be fearful of engaging in necessary everyday tasks. Prohibiting the offender from living within 2,000 feet of the victim or the victim's immediate family provides a small safety zone for the victim to be without fear of "running into" or coming upon a chance encounter with the offender.

The HPD urges you to support House Bill No. 563, Relating to Sex Offenders. Thank you for the opportunity to testify.

APPROVED:

Sincerely,


Susan Ballard
Chief of Police


Randall Platt, Captain
Criminal Investigation Division

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
HAWAII PAROLING AUTHORITY
1177 Alakea Street, First Floor
Honolulu, Hawaii 96813

EDMUND "FRED" HYUN
CHAIR

CLAYTON H.W. HEE
FITUINA F. TUA
MEMBERS

ANDREW MORGAN
ACTING ADMINISTRATOR

No. _____

**TESTIMONY ON HOUSE BILL 563
RELATING TO SEX OFFENDERS**

By
Andrew Morgan
Acting Paroles & Pardons Administrator
Hawaii Paroling Authority

Committee on Judiciary & Hawaiian Affairs
Representative Mark M. Nakashima, Chair
Representative Scot Z. Matayoshi, Vice Chair

Tuesday, February 2, 2021- 2:00 p.m.
Via Videoconference – State Capitol

The Hawaii Paroling Authority (HPA) supports the intent of House Bill 563 which seeks to restrict sex offenders from residing within two thousand feet from the victim or the victim's immediate family. However, we do not support obtaining approval from the Attorney General's office prior to moving.

HPA agrees that a sex offender should not reside near the victim and establishing boundaries will assist in the supervision of the offender. HPA believes that the most qualified person to determine suitable residence for a sex offender would be the offender's Parole Officer who interacts with the offender on a regular basis. Waiting for approval from the Attorney General's office would not only delay the movement of the offender but prevent the parole officer from making critical decisions regarding the offender's residence.

Thank you for the opportunity to provide testimony on HB 563.