

DAVID Y. IGE  
GOVERNOR



CATHY BETTS  
DIRECTOR

JOSEPH CAMPOS II  
DEPUTY DIRECTOR

STATE OF HAWAII  
**DEPARTMENT OF HUMAN SERVICES**

P. O. Box 339  
Honolulu, Hawaii 96809-0339

March 21, 2022

TO: The Honorable Senator Karl Rhoads, Chair  
Senate Committee on Judiciary

FROM: Cathy Betts, Director

SUBJECT: **HB 980 HD1 SD1 Proposed SD2 – RELATING TO ADULT PROTECTIVE SERVICES.**

Hearing: March 22, 2022, 9:31 A.M.  
Conference Room 329, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) supports this administration measure and agrees with the proposed SD2. The Department appreciates the assistance of Chair Rhoads and his staff to address the Committee's concerns with the original draft.

**PURPOSE:** The purpose of this bill is to broaden the Department of Human Services' right of entry into a vulnerable adult's premises to cover situations in which there is probable cause to believe a vulnerable adult is subject to any type of abuse, regardless of whether there is physical injury. (SD1)

The HD1 defected the effective date and made technical amendments.

The SD1 amended the effective date to be effective upon approval.

DHS agrees with the amendments of the proposed SD2:

(1) To the purpose section, page 2, lines 1-4, to read as follows:

The purpose of this Act is to broaden the department's right of entry into a vulnerable adult's premises without

a warrant for an investigation of caregiver neglect, self-neglect, or physical abuse.

(2) To Section 2:

"(b) Any employee of the department engaged in an investigation under this part, having probable cause to believe that a vulnerable adult will be [physically] injured through [abuse] caregiver neglect, self-neglect, or by physical abuse before a court order for entry can be obtained, without a warrant, may enter upon the premises where the vulnerable adult may be found for the purpose of ascertaining that person's welfare. Where a warrantless entry is authorized under this section, the employee of the department may request the assistance of a police officer to gain entrance."

As defined in section 346-222, Hawaii Revised Statutes (HRS), abuse includes physical abuse, psychological abuse, sexual abuse, financial exploitation, caregiver neglect, or self-neglect. Section 346-229 (b), HRS, restricts DHS to enter a vulnerable adult's premises without a warrant, only when there is probable cause to believe that the vulnerable adult will be physically injured. As currently written, DHS staff need to obtain a court ordered warrant before entry into the vulnerable adult's premises, prolonging the delay to intervene in the reported abuse.

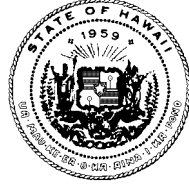
With these amendments, the proposed SD2 will allow DHS staff entry into a vulnerable adult's premises to investigate caregiver neglect, self-neglect, or physical abuse. In these abuse situations, the Department's entry into the vulnerable adult's premises will be the catalyst of change to improve the vulnerable adult's care, stabilize a residential and or health situation, or curb injuries sustained by the vulnerable adult.

The privacy of a vulnerable adult's premises, whether their home or another place of residence, is paramount to a vulnerable adult's self-determination. DHS is aware of our responsibility to place the fewest restrictions on a vulnerable adult's personal liberty to permit

the vulnerable adult to exercise their constitutional rights consistent with protection from abuse.

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

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

**HB-980-SD-1**

Submitted on: 3/19/2022 1:44:52 PM

Testimony for JDC on 3/22/2022 9:31:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Marilyn Yamamoto	Testifying for Hawaii Family Advocacy Team	Oppose	Written Testimony Only

Comments:

Senator Rhoads,

If HRS346-229 doesn't violate the constitutional rights in the 4th amendment, it allows APS and the police department to step on the line and lean on the side of violation of those rights.

There is no such thing as a "right to enter" unless there is consent or a court order. The only way to justify a misdemeanor charge is prevention of entry when there is a court order. Probable cause is required to obtain a court order. Entry without a court order is authorized under caselaw provided there is observed imminent harm that will occur in the time that it would take to get an Order. In the case of a vulnerable adult, compelling evidence that harm has occurred could authorize entry.

Both APS and CWS tout the use of the police to assist investigations but fail to realize that the police have the same requirement to consent or a court order.

It's time for CWS, APS and the police department to review 4th amendment rights and responsibilities because there is substantial evidence that constitutional rights are ignored to the detriment of the very citizens they are charged to protect.

**HB-980-SD-1**

Submitted on: 3/18/2022 6:12:29 PM

Testimony for JDC on 3/22/2022 9:31:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Lynn Murakami Akatsuka	Individual	Support	Written Testimony Only

Comments:

To Members of the Senate Committee on Judiciary,

I strongly support the passage of HB 980, HD 1, SD 1 to broaden the Department of Human Services (DHS) employees right of entry without a warrant into a vulnerable adult's premises to cover situations in which there is probable cause to believe a vulnerable adult will be injured through caregiver neglect, self-neglect, or by physical abuse.

We have an elderly neighbor with Traumatic Brain Injury (TBI) who needs this type of intervention from DHS to assist him and his wife - both are in their 90's. Several attempts from their relatives and police to refer them to DHS's Adult Protective Services have been refused by the couple due to the current law's limitations for APS to intervene. The passage of this bill will prevent a serious injury and/or death of elderly and/or disabled residents to protect them from others or themselves.

Thank you for the opportunity to testify in strong support of HB 980, HD 1, SD 1.



**HB-980-SD-1**

Submitted on: 3/19/2022 7:05:40 PM

Testimony for JDC on 3/22/2022 9:31:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Gerard Silva	Individual	Oppose	Written Testimony Only

Comments:

This will Violate Consitutional Law witch is the Law of the Land. Think this over Before you will be Faceing Felony Charges!!

Madison Smith

HB 980

Relating to Adult Protective Services

Hello Chair, Vice Chair, and committee, my name is Madison Smith, and I am a current social work student at the University of Hawaii at Manoa. I support bill H.B. 980, relating to Adult Protective Services, broadening the department of human service right of entry into a vulnerable adult's premises without a warrant for investigation of any type of abuse, regardless of whether there is physical injury.

Elder Justice Initiative reported that the prevalence of elder abuse of at least 10% of adults aged 60 and older will experience some form of elder abuse in a given year. Abuse can occur in more than one form such as through psychological, sexual, physical, and financial exploitation. Abuse causes harm leading to a lessened quality of life.

As a social work student, it is a responsibility to protect vulnerable people, and elders are no exception. Supporting this bill will allow for Adult Protective services to protect elders and give them the opportunity to live in a safer environment. Thank you for your time and allowing me to testify.