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March 16, 2022

TO: The Honorable Representative Ryan I. Yamane, Chair
House Committee on Health, Human Services, and Homelessness

FROM: Cathy Betts, Director

SUBJECT: **SB 1134 SD2 – RELATING TO ADULT PROTECTIVE SERVICES.**

Hearing: March 17, 2022, 9:30 A.M.
Conference Room 329, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) supports this administration measure. The Department worked with the Senate Committee on the Judiciary to address the Committee's concerns with the original draft and request amendments.

PURPOSE: The purpose of this bill is to broaden the department of human services employees' right of entry into a vulnerable adult's premises without a warrant to investigate any type of abuse regardless of physical injury. Effective 5/6/2137. (SD2)

The SD1 made technical amendments, and the SD2 defected the effective date.

DHS respectfully proposes the following amendments:

(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, to read as follows:

"(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 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 the requested amendments, the proposed measure 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.

SB-1134-SD-2

Submitted on: 3/16/2022 8:13:58 AM

Testimony for HHH on 3/17/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Lisa Amador	DHS APCS	Support	Remotely Via Zoom

Comments:

Will be present to testify on behalf of DHS. Written testimony submitted seperately.

SB-1134-SD-2

Submitted on: 3/14/2022 5:46:46 PM

Testimony for HHH on 3/17/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Gerard Silva	Individual	Oppose	Written Testimony Only

Comments:

Sounds to much like Comunist Cotrol should not be allowed in Hawaii!!

SB-1134-SD-2

Submitted on: 3/15/2022 1:33:47 PM

Testimony for HHH on 3/17/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Marilyn Yamamoto	Individual	Comments	Written Testimony Only

Comments:

Representative Yamane,

Section (a) of this statute is unconstitutional. There is no such thing as a "right to enter" unless certain conditions exist. In the arena of child protection, those conditions are articulable and observed imminent harm.

Section (b) is faulty in that probable cause is grounds for a warrant, not entry without one. The time it takes to get a warrant stated in lawsuits is less than 4 hours.

I have no objection to the addition of harm other than physical, but 4th amendment rights and responsibilities must be upheld.

SB-1134-SD-2

Submitted on: 3/15/2022 3:01:48 PM

Testimony for HHH on 3/17/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Lynn Murakami Akatsuka	Individual	Support	Written Testimony Only

Comments:

To Members of the House Committee on Health, Human Services, & Homelessness,

I strongly support the passage of SB 1134, SD 2 to broaden the Department of Human Services (DHS) employees right of entry into a vulnerable adult's premises to intervene for a vulnerable adult who may be abused beyond physically injuries seen.

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 SB 1134, SD 2.