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February 8, 2021

TO: The Honorable Senator Joy A. San Buenaventura, Chair
Senate Committee on Human Services

FROM: Cathy Betts, Director

SUBJECT: **SB 1134 – RELATING TO RIGHT TO ENTRY**

Hearing: February 11, 2021, 3:00 p.m.
Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) strongly supports this administration measure.

PURPOSE: The purpose of the bill is to broaden the department's right of entry into a vulnerable adult's premises without a warrant to conduct an investigation of a reported allegation of any type of abuse regardless of whether there is physical injury.

DHS Adult Protective & Community Services (APS) staff need broader authority to enter a vulnerable adult's home to ascertain the adult's welfare. Per section 346-222, Hawaii Revised Statutes (HRS), abuse against vulnerable adults is not limited to the visible injuries of physical abuse. Caregiver neglect, self-neglect, and financial exploitation are the most common types of abuse for which injuries are not necessarily visible.

Currently, section 346-229 (b), HRS, allows 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 described above, abuse against vulnerable adults is not limited to physical abuse.

The proposal expands reported abuse from physical injury to “imminent abuse,” as defined in section 346-229 (b), HRS. The proposal will allow DHS the right of entry for all reported forms of “imminent abuse” against vulnerable adults. DHS can more rapidly assess the vulnerable adult, interrupt the reported abuse(s), initiate an investigation, and make prompt referrals to address and/or reduce the severity of risk and harms resulting from the reported abuse(s).

If left unchanged, the current law will continue to restrict entry to alleged physical abuse reports only and reduces DHS’ ability to assess and investigate reports of alleged financial exploitation, caregiver neglect, self-neglect, psychological abuse, and sexual abuse. Currently, DHS needs to obtain a court ordered warrant prior to entry into the vulnerable adult’s premises, prolonging the time to intervene in the reported abuse.

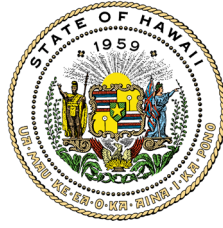
Delays to intervene in these cases could lead to further loss of financial resources to sustain the vulnerable adult in his or her home, shut-off or disconnect of the home’s utilities, lack of health or physical assistance, or prolonged psychological, or sexual abuse.

DHS recognizes our responsibility to place the fewest possible restrictions on a vulnerable adult’s personal liberty and to permit the vulnerable adult to exercise their constitutional rights consistent with protection from abuse. The privacy of a vulnerable adult’s premises, whether their home or other place of residence, is paramount to a vulnerable adult’s self-determination. However, we project reports of abuse against vulnerable adults to rise as Hawaii’s population ages and pandemic conditions continue. With this proposal, DHS intends to be proactive against elder abuse.

Thank you for the opportunity to provide comments on this measure.

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**Testimony in SUPPORT of SB 1134
Relating to Right of Entry**

COMMITTEE ON HUMAN SERVICES
SENATOR JOY A. SAN BUENAVENTURA, CHAIR
SENATOR LES IHARA, Jr., VICE CHAIR

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

Hearing Date: February 11, 2021
3p.m.

Room Number: 225
Via Videoconference

1 **EOA's Position:** The Executive Office on Aging (EOA), an attached agency of the Department
2 of Health (DOH), is in strong support of Senate Bill 1134, Relating to Right of Entry.

3 **Purpose and Justification:** The purpose of this bill is to amend HRS 346-229, subsection (b) to
4 broaden the Department of Human Services' right of entry into a vulnerable adult's premises
5 without a warrant for an investigation of any type of abuse regardless of whether there is
6 physical injury.

7 Elder abuse continues to be a "hidden" problem and continues to be underreported and often
8 unrecognized. Reports of elder abuse continue to rise as Hawaii's elderly population grows.

9 Under the current statute, HRS 349-226, the Department is restricted to warrantless entry when
10 there is probable cause to believe that a vulnerable adult will be physically injured. However,

11 under HRS 346-222 abuse is defined as physical abuse as well as psychological abuse, sexual
12 abuse, financial exploitation, caregiver neglect and self-neglect. The amendment proposed in

1 this bill will allow the Department to fully investigate and assess reports of all types of abuse
2 consistent with abuse as defined in HRS 346-222.

3 EOA strongly supports this bill. Expanding the Department's ability to investigate and assess all
4 types of abuse offers help and hope to vulnerable adults who may be victims of abuse.

5 Thank you for this opportunity to testify.

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TESTIMONY
ON
S.B. 1134 RELATING TO
ADULT PROTECTIVE SERVICES

February 8, 2021

The Honorable Joy A. San Buenaventura
Chair
The Honorable Les Ihara, Jr.
Vice Chair
and Members of the Committee on Human Services

Chair San Buenaventura, Vice Chair Ihara, and Members of the Committee:

The Department of the Prosecuting Attorney, County of Maui respectfully submits the following comments concerning S.B. 1134, Relating to Adult Protective Services. We would like to express our general support for S.B. 1134. We agree with the sponsors of this bill that the abuse of vulnerable adults can take many forms, including financial exploitation and psychological abuse. We believe that vulnerable adults deserve to be protected from all forms of abuse, and expanding the right of entry statute to include non-physical forms of abuse would be a significant step towards achieving that goal.

For these reasons, the Department of the Prosecuting Attorney, County of Maui supports the passage of S.B. 1134. Please feel free to contact our office at (808) 270-7777 if you have any questions or inquiries.

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