

**DEPARTMENT OF THE PROSECUTING ATTORNEY**  
**KA 'OIHANA O KA LOIO HO'OPI'I**  
**CITY AND COUNTY OF HONOLULU**

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**THE HONORABLE DAVID A. TARNAS, CHAIR**  
**HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS**  
**Thirty-Second State Legislature**  
**Regular Session of 2024**  
**State of Hawai`i**

February 22, 2024

**RE: H.B. 1870; RELATING TO ELDER CRIME VICTIMS.**

Chair Tarnas, Vice Chair Takayama, and members of the House Committee on Judiciary and Hawaiian Affairs, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony in **strong support** of H.B. 1870. This bill is part of the Department's 2024 legislative package, and we thank you for hearing it.

The purpose of H.B. 1870 is to clarify who is considered an “elder” victim of crime—for purposes of holding perpetrators to more stringent penalties—by removing any requirement that the perpetrator “knew or reasonably should have known” the age of the victim.

Several years ago, this Legislature wisely passed H.B. 490 (2021)—later signed into law as Act 147 (2021)—to better protect Hawaii’s older population from being “targets” of violence, theft, or fraud. As part of that law, it was thought that requiring the State to prove a perpetrator actually “knew or reasonably should have known” the age of the victim, before any of these special protections could apply, was an appropriate safeguard to protect the rights of perpetrators and would-be perpetrators. Unfortunately, in practice, that language has taken much of the effect out of Act 147 (2021), and continues to leave our kupuna vulnerable.

Because one’s perception of “who looks over 60 years old” varies widely between individuals, and the standard of proof used in criminal law—beyond a reasonable doubt—is the highest standard in our country’s legal system, it is very difficult for prosecutors to consistently prove this requirement, particularly when all twelve jurors must agree. Nevertheless, the Department strongly believes that victims who are in fact 60+ years old deserve the added protections that the Legislature contemplated. Moreover, someone who “looks young for their age” may very well have the same health conditions and/or chronic diseases that are common among people of this age, even if those health conditions are not readily visible.

By removing requirements that a perpetrator “knew or reasonably should have known” the victim was 60+ years old, H.B. 1870 removes any “guesswork” on the part of potential

victims, perpetrators, jurors or anyone else who would need to understand the effects of these laws. Most importantly, it would finally provide peace of mind for our older community members, to know they truly have that added layer of protection (deterrence) against violence, theft, or fraud, regardless of how old they may or may not look to a potential perpetrator.

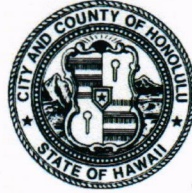
As a final note, most of the offenses addressed by H.B. 1870 are class B or class C felonies. Based on the experiences of our deputies in Circuit Court (of the First Circuit), these offenders are rarely sentenced to additional incarceration time, as most are ordered to probation, or probation with “credit for time served” (i.e. already served while the defendant was in jail, awaiting trial). However, once an offender has an initial conviction on their record, a subsequent felony offense could potentially qualify for repeat offender sentencing (pursuant to section 706-606.5, Hawaii Revised Statutes, “Sentencing of repeat offenders”).

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu **strongly supports** the passage of H.B. 1870. Thank you for the opportunity to testify on this matter.

POLICE DEPARTMENT  
KA 'OIHANA MĀKA'I O HONOLULU  
**CITY AND COUNTY OF HONOLULU**

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HOPE LUNA NUI MĀKA'I

OUR REFERENCE BT-JH

February 22, 2024

The Honorable David A. Tarnas, Chair  
and Members  
Committee on Judiciary and  
Hawaiian Affairs  
House of Representatives  
415 South Beretania Street, Room 325  
Honolulu, Hawaii 96813

Dear Chair Tarnas and Members:

SUBJECT: House Bill No. 1870, Relating to Crimes Against Elders

I am Jarod Y. Hiramoto, Major of the Criminal Investigation Division of the Honolulu Police Department (HPD), City and County of Honolulu.


The HPD supports House Bill No. 1870, Relating to Crimes Against Elders.

As the current laws stand, the HPD finds that after the criminal case is completed then submitted to the Department of the Prosecuting Attorney, issues arise with the prosecution of the accused during trial. This is due to the specific verbiage in the laws where the age of the victim is known or reasonably should be known to the accused. Eliminating this verbiage in the current law allows for the accused to be strictly liable with respect to the attendant circumstance that the victim was 60 years of age or older.

The HPD urges you to support House Bill No. 1870, Relating to Crimes Against Elders. Thank you for the opportunity to testify.

APPROVED:

Sincerely,

  
\_\_\_\_\_  
Arthur J. Logan  
Chief of Police

  
Jarod Y. Hiramoto, Major  
Criminal Investigation Division

Beverly Gotelli  
6286 Opaeka`a Road  
Kapaa, HI 96746

HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

Representative. David A. Tarnas, Chair  
Representative Greg Takayama, Vice Chair

Thursday, February 22, 2024

TIME: 2::00 P.M. PLACE: VIA VIDEOCONFERENCE  
Conference Room 325

RE: H. B. 1870

Title: RELATING TO ELDER CRIME VICTIMS.

Position: Strong Support

Chair Tarnas, Vice Chair Takayama and members of the Committee:

I am Beverly Gotelli, Chair of the Policy Advisory Board for Elder Affairs (PABEA), which is an appointed board tasked with advising the Executive Office on Aging (EOA). My testimony does not represent the views of the EOA but of PABEA.

Several years ago, the Legislature passed H.B. 490 (2021) – later signed in law as Act 147 (2021) – to better protect Hawaii’s older population from being targets of violent, theft or fraud.. As part of that law, it was thought that requiring the State to prove a perpetrator actually “knew or reasonably should have known” the age of the victim, before any of these special protections could apply, was an appropriate safeguard to protect the rights of perpetrators and would-be perpetrators. Unfortunately, in practice, that language has taken much of the effect out of Act 147 (2021) and continues to leave our kupuna vulnerable.

Many of our kupuna look younger than their age so it is difficult to know if they are over 60. Offenders target elderly and vulnerable victims as they are more frail and less likely to resist. It’s the easiest claim, “they didn’t look that old.” Look around you when walking around the Capitol, are you able to recognize. Someone who is over sixty? So please take into consideration that looks can be deceiving.

Many elder victims will suffer more emotionally and become socially isolated due to physical harm.

Members of PABEA strongly support the passage of H.B. 1870. Thank you for the opportunity to testify on this matter.



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**The State Legislature**  
**House Committee on Judiciary and Hawaiian Affairs**  
**Thursday, February 22, 2024**  
**Conference Room 325, 2:00 p.m.**

TO: The Honorable David Tarnas, Chair  
FROM: Keali'i Lopez, State Director, AARP Hawai'i  
RE: Strong Support for H.B. 1870 Relating to Crimes Against Elders

Aloha Chair Tarnas and Members of the Committee:

My name is Keali'i Lopez, and I am the State Director for AARP Hawai'i. AARP is a nonpartisan, social mission organization that advocates for individuals age 50 and older. We have a membership of nearly 38 million nationwide and nearly 140,000 in Hawaii. We advocate at the state and federal level for the issues that matter most to older adults and their families.

**AARP strongly supports H.B. 1870** which clarifies who is consider an "elder" victim of crime for the purposed of holding perpetrators to more stringent penalties.

HB 1870 removes the requirement that the perpetrator "knew or reasonably should have known" the victim was 60 years or older before any of the special protections that the legislature intended for older adults would apply. Hawaii's kupuna deserve the extra deterrence against violence, theft and fraud that target them.

Thank you very much for the opportunity to testify in strong support of H.B. 1870.

**HB-1870**

Submitted on: 2/20/2024 7:23:31 PM

Testimony for JHA on 2/22/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Sandie Wong	Individual	Support	Remotely Via Zoom

Comments:

I strongly support HB1870 and respectfully request that the Committee moves it out. . In June 2023, I was assaulted by a Juvenile while walking my dog at 9a.m. on a weekday morning. Although, I was 62 at the time, the prosecutor advised that they would not be treating my case as a Kupuna case because they did not think that they could prove that the Juvenile knew or should have known that I was Kupuna. I do not think that the Kupuna should have the burden of proof. As a Kupuna when I am being assaulted do I need to stop and tell my perpetrator, "I'm a Kupuna" to be protected? Therefore, I strongly support HB1870 to allow for strict liability for Kupuna cases. Thank you. .

**HB-1870**

Submitted on: 2/20/2024 4:56:24 PM

Testimony for JHA on 2/22/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
B.A. McClintock	Individual	Support	Written Testimony Only

Comments:

Our kupuna must be protected. Please support this important bill. Mahalo.

**HB-1870**

Submitted on: 2/20/2024 10:08:21 PM

Testimony for JHA on 2/22/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Sarah Yuan	Individual	Support	Written Testimony Only

Comments:

I strongly support HB 1870, relating to elder crime victims, which clarifies who is considered an "elder" victim of crime. The current law (Act 147) holds perpetrators to more stringent penalties only if the perpetrator "knew or reasonably should have known" the victim was 60+. In practice, it is challenging for prosecutors to prove this requirement, as the Prosecuting Attorney's Office stated in their testimony. The intent of Act 147 is to add deterrence against violence, theft, or fraud targeting our older community members. To be effective, we must remove the guesswork in the law. Thank you for considering this testimony.



**HB-1870**

Submitted on: 2/21/2024 12:41:16 AM

Testimony for JHA on 2/22/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Greg Misakian	Individual	Support	Written Testimony Only

Comments:

I support HB1870.

Gregory Misakian

Kokua Council, 2nd Vice President

Waikiki Neighborhood Board, Sub-District 2 Vice Chair

**HB-1870**

Submitted on: 2/21/2024 1:30:13 PM

Testimony for JHA on 2/22/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Charlene Iboshi	Individual	Support	Written Testimony Only

Comments:

My name is Charlene Iboshi. Protecting our elders, Kupuna, has been a clear objective of our Legislature and communities. Over the years since retiring from the Office of the Prosecuting Attorney, I have seen laws enacted to discourage crimes against elders and keiki tested in practice. The largest Prosecutor’s Office has identified a problem with the law as enacted years ago. See the Department of the Prosecuting Attorney’s Office of the City and County of Honolulu.

It was recognized that specific laws were needed to protect our kupuna and discourage crimes against this vulnerable kupuna by enacting crimes against elders. Why? In our society, we respect our elders who can grow more physically vulnerable with age, although looking young. Many criminal offenders target the elders because they are considered less likely to resist threats, respond to physical force or deception. “Purse snatching,” burglaries of single elders, etc., have been identified as an area of concern for prosecutors.

The issue of knowing the age of elder victims was identified as an issue for review when the law was passed. Over time, even if the underlying crime is provable, the knowledge of the age of victim has been problematic for charging initially, then the most claimed and disputable issue.

Recognizing that many criminal cases take years to resolve, the elder victims become more anxious than many because of fear of retaliation, and for the prosecutor, victim availability with the death or incapacitation of elderly victims, memory loss, and uncooperativeness are likely with expected court delays.

This is a policy matter of protecting our elders by making it clear that there will be “strict liability” when it comes to the prosecutor proving the age of the victim. I support the proposed changes Relating To Crimes Against The Elderly.

Mahalo for the opportunity to testify.

TESTIMONY ON HOUSE BILL 1870  
RELATING TO CRIMES AGAINST ELDERS  
Before the House Committee on Judiciary and Hawaiian Affairs  
Thursday, February 22, 2024; 2:00 p.m.  
State Capitol Conference Room 325, Via Videoconference  
State Capitol, 415 South Beretania Street  
WRITTEN TESTIMONY ONLY

February 21, 2024

Dear Chair Tarnas, Vice Chair Takayama, and members of the Committee,

Aloha, my name is Tiffany Salek. I am a student in the Bachelor of Social Work Program at the University of Hawai'i at Manoa. I am testifying today in **support** of HB 1870, Relating to Crimes Against Elders.

I support the following proposed amendments to Section 707-710 of the Hawaii Revised Statutes:

1           SECTION 1. Section 707-710, Hawaii Revised Statutes, is  
2 amended to read as follows:  
3           "**§707-710 Assault in the first degree.** (1) A person  
4 commits the offense of assault in the first degree if the person  
5 intentionally or knowingly causes:  
6           (a) Serious bodily injury to another person; or  
7           (b) Substantial bodily injury to a person who is sixty  
8           years of age or older [~~and the age of the injured~~  
9           ~~person is known or reasonably should be known to the~~  
10           ~~person causing the injury~~].  
11           (2) The requisite state of mind for subsection (1)(b) of  
12 this offense is not applicable to the fact that the person who  
13 sustained substantial bodily injury was sixty years of age or  
14 older. A person is strictly liable with respect to the  
15 attendant circumstance that the person who sustained substantial  
16 bodily injury was sixty years of age or older.

As mentioned above in the proposed amendments, regardless of whether a perpetrator was aware of a person's age at the time of bodily or other harm, it does not change the fact that a victim is 60 years or older. This amendment is crucial to ensure that our kupuna receive fair protection when their age becomes subjective and a point of contention. Our kupuna are a more vulnerable subset of our population because of the prevalence of being targeted and the time it takes to recover. Since the elderly are a more vulnerable population, the penalties for crimes

affecting the elderly should reflect this. We must better prevent such crimes targeting the elderly from happening by passing HB 1870.

In closing, I support HB 1870, Relating to Crimes Against Elders because we must revere and protect our kupuna by elaborating the terms and the penalty for crimes against the elderly to better prevent them from occurring.

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