



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2025**

ON THE FOLLOWING MEASURE:

H.B. NO. 359, H.D. 1, RELATING TO COVERED OFFENDER REGISTRATION.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

DATE: Wednesday, February 19, 2025 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Elyse C.N. Oyama, Deputy Attorney General, or
Loren E. Haugen, Deputy Attorney General

Chair Tarnas and Members of the Committee:

The Department of the Attorney General (Department) provides the following comments on this bill.

The bill seeks to amend the covered offender registration laws within chapter 846E, Hawaii Revised Statutes (HRS), by adding offenders who, while acting in a professional capacity, commit the offense of sexual assault against a minor who is at least sixteen years old; and requiring public disclosure for covered offenses that are committed against minors, regardless of whether the conviction is for a first-time misdemeanor offense.

The Department is concerned that there are gaps in the covered offender registration laws that are not only limited to offenses committed against minors. For example, if an offender is convicted of incest, in violation of section 707-741, HRS, which involves an act of sexual penetration with another who is within the degrees of consanguinity or affinity within which marriage is prohibited, that individual would not be considered a covered offender. Additionally, if an offender is convicted of use of a computer in the commission of a separate crime, in violation of section 708-893, HRS, and that separate crime is sexual assault in the second degree, promoting child abuse in the second degree, or violation of privacy in the first degree, that person would not be

considered a covered offender, despite the fact that a conviction for any of these separate crimes would involve being on the covered offender registry.

To further update the covered offender registration laws, chapter 846E, HRS, should be amended to include the offenses of sexual assault in the fourth degree, section 707-733(1)(b); HRS; incest, section 707-741, HRS; and use of a computer in the commission of a separate crime, section 708-893, HRS, if the separate crime is for a "covered offense" as defined in section 846E-1, HRS, and section 711-1109.8, HRS, sexual assault of an animal. These offenses should be added to the definition of "sexual offense" under section 846E-1, HRS, and added to the tiered offenses under section 846E-10, HRS.

Suggested amended wording for the definition of "sexual offense" in section 846E-1, HRS, in section 2 of the bill, found at page 3, line 1, to page 5, line 2, is as follows (revisions compared to the bill are in bold font):

""Sexual offense" means an offense that is:

- (1) Set forth in section 707-730(1), 707-731(1), 707-732(1), 707-733(1)(a), **(b), and (d)**, 707-733.6, **707-741, 711-1109.8**, 712-1200.5(4), 712-1202(1), or 712-1203(1), but excludes conduct that is criminal ~~[only because of the age of the victim]~~, as provided in section 707-730(1)(b), ~~[or section]~~ 707-732(1)(b), **or 707-741**, if the perpetrator is under the age of eighteen;
- (2) An act defined in section 707-720 if the charging document for the offense for which there has been a conviction alleged intent to subject the victim to a sexual offense;
- (3) An act that consists of:
 - (A) Criminal sexual conduct toward a minor, including but not limited to an offense set forth in section 707-759;
 - (B) Solicitation of a minor who is less than fourteen years old to engage in sexual conduct;
 - (C) Use of a minor in a sexual performance;

- (D) Production, distribution, or possession of child pornography chargeable as a felony under section 707-750, 707-751, or 707-752;
 - (E) Electronic enticement of a child chargeable under section 707-756 or 707-757 if the offense was committed with the intent to promote or facilitate the commission of another covered offense as defined in this section; or
 - (F) Commercial sexual exploitation of a minor in violation of section 712-1209.1;
- (4) A violation of privacy under section 711-1110.9;
- (5) **An act that consists of use of a computer in the commission of a separate crime under section 708-893, wherein the separate crime is a "covered offense," as defined in this section;**
- [5](6)** An act, as described in chapter 705, that is an attempt, criminal solicitation, or criminal conspiracy to commit one of the offenses designated in paragraphs (1) through **[4;](5)**;
- [6](7)** A criminal offense that is comparable to or that exceeds a sexual offense as defined in paragraphs (1) through **[5;](6)**; or
- [7](8)** Any federal, military, out-of-state, tribal, or foreign conviction for any offense that under the laws of this State would be a sexual offense as defined in paragraphs (1) through **[6;](7)**."

Suggested amended wording for section 846E-10(d)(1), HRS, in section 5 of the bill, found at page 11, lines 4-6, is as follows (revisions compared to the bill are in bold font):

"(1) Any offense set forth in section 707-732(1)(d), (e), or (f); 707-733(1)(a)[;], **(b)**, or **(d)**; **707-741**; 707-752; 707-759; **711-1109.8**; 711-1110.9; 712-1203(1); or 712-1209.1;"

Lastly, to include the offense of using a computer to commit one of the covered offenses under section 708-893, HRS, we recommend adding a new subsection (e) to section 846E-10, in section 5¹ of the bill to read as follows:

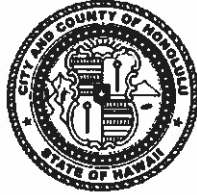
"(e) If the covered offender's most serious covered offense is set forth in section 708-893, then the designated tier of the separate crime as provided in section 708-893, shall set forth the covered offender's appropriate termination of registration requirements."

Thank you for this opportunity to provide comments on this bill.

¹ Adding a subsection to section 846E-10, would necessitate setting forth section 846E-10 in its entirety in section 5 of the bill, instead of only subsections (c) and (d), which are the only subsections of section 846E-10 being amended in the House Draft 1 of the bill.

HONOLULU POLICE DEPARTMENT
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OUR REFERENCE **CL-DNK**

February 19, 2025

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. 359, H.D. 1, Relating to Covered Offender Registration

I am Carlene Lau, Major of the Records and Identification Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports House Bill No. 359, H.D. 1, Relating to Covered Offender Registration.

This bill will allow the public to better detect and identify sex offenders, especially those in positions of trust, power, or authority over minors, by preventing sex offenders from holding these positions. It will reduce their access to minors and assist the State in reducing sexual recidivism.

The HPD urges you to support House Bill No. 359, H.D. 1, Relating to Covered Offender Registration.

Thank you for the opportunity to testify.

APPROVED:

A handwritten signature of Arthur J. Logan, consisting of a stylized 'A' and 'L'.

742 Arthur J. Logan
Chief of Police

Sincerely,

A handwritten signature of Carlene Lau, featuring a large, stylized 'C' and 'L'.

Carlene Lau, Major
Records and Identification Division

DEPARTMENT OF THE PROSECUTING ATTORNEY
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THE HONORABLE DAVID A. TARNAS, CHAIR
HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS
Thirty-Third State Legislature
Regular Session of 2025
State of Hawai'i

February 18, 2025

RE: H.B. 359 H.D. 1; RELATING TO COVERED OFFENDER REGISTRATION.

Chair Tarnas, Vice Chair Poepoe, and members of the House Committee on Judiciary and Hawaiian Affairs, the Department of the Prosecuting Attorney for the City and County of Honolulu submits the following testimony in support of H.B. 359 H.D. 1.

H.B. 359 H.D. 1 extends the sex offender registration requirement to offenders who, while acting in a professional capacity, sexually assault minors aged sixteen or seventeen. It requires public access to sex offender registration for misdemeanor sexual assaults committed against minors. And it clarifies that covered offenders must annually report in person within a month following their successive birthdays.

The world would be a better place if sexual predators were readily identifiable. But this crime happens in secret, and its perpetrators are skilled at deception.¹ Sex offender registries are a reasonable response to the overwhelming danger posed by these criminals. This is particularly true where the offender has abused a position of trust, authority, or supervision to access minors. These crimes compound sexual predation with a colossal betrayal of trust. Parents, guardians, and the whole community deserve information that can stop convicted sex offenders from accessing minors again.

Thank you for the opportunity to testify.

¹ See Anna C. Salter, PREDATORS: PEDOPHILES, RAPISTS, AND OTHER SEX OFFENDERS—WHO THEY ARE, HOW THEY OPERATE, AND HOW WE CAN PROTECT OURSELVES AND OUR CHILDREN 31 (2003) (“There are specific techniques sex offenders and other predators use to fool people. First and most important is setting up a double life. Many offenders will deliberately establish themselves as the kind of person who wouldn’t do that kind of thing.”).



Date: February 18, 2025

To: Rep David Tarnas, Chair
Rep Mahina Poepoe, Vice Chair
Members of the Committee on Judiciary and Hawaiian Affairs

From: Lynn Costales Matsuoka, Executive Director
The Sex Abuse Treatment Center
A Program of Kapi'olani Medical Center for Women & Children

RE: Testimony on HB 359 HD1
Relating to Covered Offender Registration

Hearing: February 19, 2025, Conference Room 325; 2:00pm

Good morning Chair Tarnas, Vice Chair Poepoe, and Members of the Committee on Judiciary and Hawaiian Affairs

The Sex Abuse Treatment Center (SATC) submits testimony in support of HB 359 HD1.

This bill seeks to provide wider protection of minors, by requiring public access to sex offender registration information of individuals convicted of a single misdemeanor sexual offense, when committed against a minor. The bill does not apply nor does seek any changes as it relates to misdemeanor sex assault convictions committed against adults.

HB 359 HD1 goes further to seek inclusion of misdemeanor Sexual Assault in the Fourth Degree, specifically HRS 707-733(1)(d) under the definition of "sexual offense" under HRS 844G-1. The inclusion of 707-733(1)(d) as a covered sexual offense is particularly important, insofar as a person having sexual contact with a minor, at least 16 years old, while acting in their **professional capacity**, should be subject to sex offender registration, and public disclosure.

Without this bill, those acting in their professional capacity, ie. coach, teacher, youth leaders, religious authorities, to name a few, could essentially evade registration and public detection, despite sexually assaulting a minor, who is at least 16 years old. Minors are deserving of broader protection especially from those who would abuse their position of trust and authority. There have been too many instances, where older minors, have been subjected to sexual contact by someone in a position of trust, often associated with educational institution, religious organization or athletics. These individuals who take advantage of their position of authority should not escape public detection, allowing them to continue their predatory behavior. Similarly, minors should not have to endure multiple acts of abuse, before their victimization rises to a level of public disclosure. A single act of sexual abuse committed against a minor should require registration, regardless of the age of the minor. In the end they are still children, in the end, they are often targeted because of their age.

Additionally, we ask this Committee to adopt HB359, HD1 that seeks to include offenses of sexual penetration against a minor, at least 16 years old, by someone acting in their professional capacity (Sexual Assault in the 2nd Degree), as a Tier 2 offense as well as sexual contact against a minor at least 16 years old, by someone acting in their professional capacity (Sexual Assault in the 4th Degree) as a Tier 1 offense under HRS 846E-10(c) and (d). respectively. . Currently, neither sexual offense is referenced in any Tier level under Chapter 846E, and it is unclear what the default would be. To avoid any ambiguity, we ask for these offenses to be included as set forth above.

We respectfully ask this committee to renew its commitment to the children of our community and pass this legislation noted herein.

Thank you for your consideration.



February 17, 2025

Position: Support of HB359 HD1, Relating to Covered Offender Registration

To: Representative David A. Tarnas, Chair
Representative Mahina Poepoe, Vice Chair
Members of the House Committee on Judiciary & Hawaiian Affairs

From: Llasmin Chaîne, LSW, Executive Director, Hawai'i State Commission on the Status of Women

Re: Testimony in Support of HB359 HD1, Relating to Covered Offender Registration

Hearing: Wednesday, February 19, 2025, 2:00 p.m.
Conference Room 325, State Capitol

On behalf of the Hawai'i State Commission on the Status of Women, I would like to thank the committee for hearing this important bill. I would like to express my **strong support for HB359 HD1**, which closes the public disclosure loophole on the state's offender registry for those who commit the offense of sexual assault in the fourth degree against a minor who is at least sixteen, while they are acting in a professional capacity.

Youth-serving organizations, whether they are schools, sports teams, or after-school programs, **need better mechanisms to detect and identify sex offenders**. They need to know if their employees and volunteers can be trusted to conduct themselves appropriately with the youth in their care¹. **We need this change to ensure these offenders** with a history of sexually inappropriate behavior **aren't put into another position of power, enabled to abuse again**².

I respectfully urge this Committee to **pass HB359 HD1**, to keep our children safe and to support protective environments³ in which they can thrive⁴.

Thank you for this opportunity to submit testimony in **strong support of HB359 HD1**.

¹ Child Sexual Abuse By K-12 School Personnel in Canada – Executive Summary. Canadian Centre for Child Protection. https://content.c3p.ca/pdfs/C3P_CSInSchoolsReport_en.pdf

² What Parents Need to Know – Grooming in Sport. U.S. Center for SafeSport. https://uscenterforsafesport.org/wp-content/uploads/2021/06/2021_HPCourse_Grooming_v7.pdf

³ Preventing Child Abuse and Neglect. CDC – Child Abuse and Neglect Prevention. <https://www.cdc.gov/child-abuse-neglect/prevention/index.html>

⁴ Preventing Adverse Childhood Experiences. CDC – Adverse Childhood Experiences (ACEs). <https://www.cdc.gov/aces/prevention/index.html>

HB-359-HD-1

Submitted on: 2/16/2025 8:36:02 PM

Testimony for JHA on 2/19/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ruth Love	Individual	Support	Written Testimony Only

Comments:

Thank you for correcting this oversize.

Mrs Ruth Love

HB-359-HD-1

Submitted on: 2/18/2025 4:18:13 PM

Testimony for JHA on 2/19/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Dara Carlin, M.A.	Individual	Support	Written Testimony Only

Comments:

Stand in Support