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Testimony of the Office of the Public Defender to the House Committee on Judiciary and Hawaiian Affairs re: S.B. 281, SD1, HD 1: RELATING TO TORTURE

Chair Rep. David A. Tarnas, Vice-Chair Rep. Mahina Poepoe and Members of the Committee:

With an understanding of the legislature's commitment to public safety, and the recent reported events within our community the Office of the Public Defender understands the purpose of SB 281, SD1, HD1 and does appreciate the changes made to the original language of this measure. However, the OPD respectfully **opposes specific parts of SB 281, SD1 HD1.**

The OPD strongly suggests that subsection (1)(b) be stricken from this bill for the following reasons: The proposed language in subsection (1)(b) reads: "knowingly causes serious bodily injury or substantial bodily injury to another person, and the actor has previously engaged in a pattern and practice of physically abusing the other person". This subsection creates a class A felony for what is currently a class B or C felony under the guise of the term "torture". Currently, anyone who causes another person serious bodily injury is guilty of Assault in the first Degree a class B felony (707-710). Any person that causes another person substantial bodily injury is guilty of Assault in the Second Degree a class C felony (707-711). Subsection (1)(b) of SB 281 would make these same types of assaults a class A felony, because the actor had previously engaged in a ***"pattern and practice of physically abusing the other person"***. Said language is legally confusing and does not give adequate notice as to what behavior is being prohibited. When coupled with the definition language in sub-section (3) which reads: ***"Pattern or practice means two or more acts within a period of two years with a common state of mind"***, this confusion is only compounded.

A statutory prohibition must be clear in what it prohibits, so it is clear as to what behavior can be prosecuted. This measure is not clear regarding the term ***“physically abusing the other person”***. In a prosecution based on this measure, would actual convictions for the crime of Abuse of a Household Member be required, or simply evidence of prior physical contacts that a jury would have to determine are prior incidents of “physical abuse”? The words ***“physically abusing the other person”*** would become elements of the offense, and thus would have to be proven beyond a reasonable doubt. The real question however is what needs to be proven: prior convictions or just allegations? This will make a tremendous difference for a trial judge attempting to properly instruct a jury, and for a defendant to provide any contrary evidence in a trial. The term ***“common state of mind”*** is also confusing and unclear. Within the criminal law the term: “state of mind” usually refers to the thinking of a defendant at the time they commit a criminal act towards another person, and not whether they have acted with one scheme, plan, or purpose to harm someone. As written, this subsection could require proof that a person had physically abused another person two times within two years, and at that time, did so, with the intention of causing that other person serious or substantial bodily injury in the future. As stated above, the OPD would propose that subsection (1)(b) be stricken from this proposed statute, as it is too confusing to enforce or prosecute. The Hawaii revised statutes already prohibit causing another person serious or substantial bodily injury and Chapter 706 (sentencing) already enumerates a host of methods to enhance penalties for repeated conduct including mandatory minimum jail terms and extended jail terms.

Subsection (1)(c) referring to minors or vulnerable persons:

Subsection (1)(c)(iv) would prohibit depriving a minor or vulnerable person of food, water or clothing, which materially endangers the physical or mental health. While it would seem to be clear as to what is being prohibited, this language does not take into consideration the economic and financial differences in our community. What might be thought of as necessary could be considered luxury in other circumstances. The OPD would propose adding the following language at the end of this subsection: “and does so with the intent to cause physical or psychological harm to said minor or vulnerable person”. This added language makes it clear that regardless of what is withheld, precluded or deprived from the minor or vulnerable person it is “torture” if it is done with the intent to cause physical or psychological harm. This is in line with what the proponents of this bill have advocated and speaks directly to what should be prosecuted or deterred within our community.

Subsection (1)(c)(v) discusses the restriction of basic and necessary bodily functions. However, the proposed language is too broad in its definition of prohibited conduct. As written, a person can be prosecuted for a violation of this section for restricting such functions for minutes, hours, days, with or without a pattern of said conduct and without any evil intent. Thus, it is not clear as to what would constitute torture by restricting bodily functions. The OPD would propose the following language at the end of this subsection: “and does so with the intent to cause physical or psychological harm to said minor or vulnerable person”.

Subsection (1)(c)(vi) deals with forcing a minor or vulnerable person to remain in a place unsuitable for human habitation without a definition as to what is suitable, unsuitable or for how long a child is required to remain there. This sub-section does offer an example dealing with a place wherein urine or feces are actively present. However, as written, a person could be prosecuted for leaving a child in a bathroom until said child had cleaned up after themselves. Thus, the OPD would suggest the following language be added to this subsection as well: “and does so with the intent to cause physical or psychological harm to said minor or vulnerable person”.

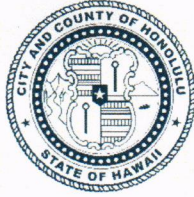
During prior hearings on this measure, the proponents of this bill have testified about prior horrible cases of physical and psychological abuse experienced by members of our community. In doing so, these proponents have implored this body to pass this measure so to be able to combat such behavior. The OPD does not oppose this goal, as we understand the need to protect our most vulnerable community members. However, we would propose that any measure sought to combat this problem be clear in its language, and that is why we have proposed the added language listed above regarding minors or vulnerable people. By doing so, the government would be required to prove that said conduct is for the purpose of torturing another individual, and the legislature would be clear in communicating a desire to prohibit said conduct.

Thank you for the opportunity to comment on this measure.

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DEPUTY CHIEFS  
HOPE LUNA NUI MĀKA'I

OUR REFERENCE VL-KK

April 2, 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: Senate Bill No. 281, S.D. 1, H.D. 1, Relating to Torture

I am Vince Legaspi, Captain of the Criminal Investigation Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports Senate Bill No. 281, S.D. 1, H.D. 1, Relating to Torture.


Currently, there is no clear legal definition of torture in the state, even though it should be explicitly prohibited. It is essential to distinguish between abuse and torture, as they differ in severity, and the penalties should reflect that distinction. In 2024, there were several cases involving the torture of children; however, existing laws provided no framework to charge and penalize the perpetrators appropriately. Passing this bill would establish charges that accurately reflect the severity of such acts, ensuring that offenders are held accountable for the magnitude of their crimes.

The HPD urges you to support Senate Bill No. 281, S.D. 1, H.D. 1, Relating to Torture.

Thank you for the opportunity to testify.

APPROVED:

A handwritten signature of Arthur J. Logan, Chief of Police, is written over a horizontal line.

 Arthur J. Logan  
Chief of Police

Sincerely,

A handwritten signature of Vince Legaspi is written over a horizontal line.

Vince Legaspi, Captain  
Criminal Investigation Division

C. Kimo Alameda, Ph.D.  
*Mayor*



Benjamin T. Moszkowicz  
*Police Chief*

William V. Brilhante Jr.  
*Managing Director*

Reed K. Mahuna  
*Deputy Police Chief*

## County of Hawai`i

### POLICE DEPARTMENT

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March 31, 2025

Representative David A. Tarnas, Chair  
Representative Mahina Poepoe, Vice Chair  
and Members  
Committee on Judiciary and Hawaiian Affairs  
State Capitol  
415 South Beretania Street  
Honolulu, HI 96813

Dear Representative Tarnas:

RE: SENATE BILL 281, SD1, HD1 RELATING TO TORTURE  
DATE: APRIL 2, 2025  
TIME: 2:00 P.M.  
PLACE: CONFERENCE ROOM 325 & VIDEOCONFERENCE

The Hawaii County Police Department (HPD) respectfully submits this testimony in **strong support** of Senate Bill 281, SD1, HD1, Relating to Torture.

Currently, many forms of cruel and degrading treatment are not adequately addressed under the Hawai`i Revised Statutes. Acts such as starvation, deprivation of food, clothing, and water can be challenging to prosecute under existing laws.

By establishing a specific penal offense for Torture and clearly defining the acts that constitute it, this bill will strengthen law enforcement's ability to hold offenders accountable and seek justice for victims.

For these reasons, the Hawai`i Police Department fully **supports** Senate Bill 281, SD1, HD1. Thank you for the opportunity to provide testimony.

Respectfully,

  
BENJAMIN T. MOSZKOWICZ  
POLICE CHIEF



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

April 2, 2025

**RE: S.B. 281, S.D.1, H.D. 1; RELATING TO TORTURE.**

Chair Tarnas, Vice Chair Poepoe, and members of the House Committed on Judiciary & Hawaiian Affairs, my name is Tiffany Kaeo, and I submit the following testimony in **strong support** of S.B. 281, S.D.1, H.D. 1. As the Division Chief and Deputy Prosecuting Attorney of the Family Prosecution Division of the Honolulu Prosecutor's Office, I am acutely aware of the need for a torture statute in this state. In this capacity, I review cases investigated by the Honolulu Police Department and prosecute cases involving the abuse and torture of children on our island.

While S.B. 281, S.D.1, H.D. 1 was submitted as part of the Honolulu Prosecutor's legislative package, there should be no misunderstanding that addressing child torture is not law enforcement centric. The investigation of child torture cases involves the collaborative efforts of multiple disciplines working in the best interest of a child and/or children. It is this coordinated effort that contributes to the lengthy investigation time of these child abuse and torture cases; and the reality is that not every case investigated results in charges. Investigations often involve medical providers, Child Welfare Services, Emergency Medical Services, schools, in addition to police and the prosecutors. Regardless of whether a criminal charge is ever brought against a parent or caregiver, a child who suffers torture will be involved in many different parts of our medical, social services, and court systems.

While child torture may seem shocking and new based on recent media coverage, its presence in communities is not. A medical child torture definition proposed in 2014 is widely

accepted by pediatric clinicians and multidisciplinary professionals.<sup>1</sup> “Child torture is a longitudinal experience characterized by at least two physical assaults or one extended assault, two or more forms of psychological maltreatment, and neglect resulting in prolonged suffering permanent disfigurement or dysfunction, or death.”<sup>2</sup> The language used in S.B. 281, S.D.1, H.D. 1 is purposeful and reflect what has been identified in the available research on child torture.<sup>3</sup>

By using a collaborative approach for cases involving crimes against children, commonly referred to as multidisciplinary teams, we are using a well-accepted practice nationwide. “*An effective system can protect rights of victims and meet the needs of families...* The crime of child abuse is too complex to investigate and far-reaching in its effect to be dealt with by one agency. Working together multiplies your chances of success in protecting child victims and holding offenders accountable.”<sup>4</sup>

Police work with prosecutors for search warrants and legal process that comply with constitutional requirements. However, the investigation also requires experts in various fields. It is imperative that a child’s medical history is known before accusations are lodged against a caretaker. Therefore, law enforcement uses the collective knowledge of medical professionals including pediatricians, neurologists, therapists, and pathologists. Police spend thousands of hours reviewing digital evidence such as cell phone data and surveillance video. Because the consequences to an accused’s liberties are great, everyone has to be assured that there is proof beyond a reasonable doubt, the highest legal standard when a case is finally charged.

It is in my capacity as a one of the trial attorneys who reviews evidence that is brought to me by the police and as an attorney who goes to trial on the child abuse and child torture cases that I can say our statutes are insufficient to deal with what we are seeing. Thirty-six state and District of Columbia criminal codes reference child torture;<sup>5</sup> However, under Hawai’i’s current statutory language, torture is punished as an aggravating circumstance for murder.<sup>6</sup> Even application of that sentence has been substantially weakened because the prosecution must prove the torture was “unnecessary.”<sup>7</sup>

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<sup>1</sup> Stephanie Anne Deutsch, Article in Press, Child Torture Perpetrated by a Caregiver, *Pediatr Clin N Am* (2025) *Citing* Knox, Barbara, et al., Child Torture as a Form Child Abuse, 7 *J Child & Adolesc Trauma* 37-49 (2014)

<sup>2</sup> Knox, Barbara, et al., Child Torture as a Form Child Abuse, 7 *J Child & Adolesc Trauma* 37-49, 44 (2014)

<sup>3</sup> Id.

<sup>4</sup> APRI National Center for Prosecution of Child Abuse, 3 Investigation and Prosecution of Child Abuse (2004).

<sup>5</sup> Stephanie Anne Deutsch & Erin O’Brien, Review of criminal statutes and medico-legal issues, 151 *Child Abuse & Neglect* (2024).

<sup>6</sup> H.R.S. §706-657

<sup>7</sup> State v. Young, 93 Hawai’i 224, 227, 234-38, 99 P.2d, 230, 233, 240-44 (2000) (finding insufficient evidence of torture where Burger King employee was bludgeoned to death with a hammer).

S.B. 281, S.D.1, H.D. 1 is critical to addressing a gap in the criminal justice system. Namely, as prosecutors we need to be able to provide justice to victims who survive torture at the hands of caregivers. That justice must be commensurate with the suffering that those child victims have experienced. Currently, when a child dies, a charge of murder or manslaughter is appropriately lodged against a perpetrator. However, “[c]hild torture perpetrated by a caregiver is frequently characterized by victim physical abuse, psychological abuse, and neglect (including deprivation of basic necessities) with disregard for the extent or the severity of the injury. Victims are frequently isolated, with other household members commonly aware of the unusual abuse.”<sup>8</sup> Therefore, where we are able to recognize the signs of torture and intervene prior to a child’s expiration, there is no criminal charge that would account for the various acts that the child has suffered. This bill address that gap in our system.

It is important for this Committee to know that while we have abuse and assault statutes that cover the physical aspects of what happens to a child when they are tortured, it does not adequately address the mental and emotional harm suffered and that lingers for years beyond discovery of the heinous acts.<sup>9</sup> “Perpetrators of torture frequently engage in orchestrated, systematic attempts to control the victim, create rules and boundaries to manage the victim’s behavior, and damage the victim’s psyche, rendering torture fundamentally distinct from other impulsive acts of abuse.”<sup>10</sup> Thus, S.B. 281 provides true recognition to the suffering of victims and holds perpetrator accountable to a degree commensurate with the acts perpetrated against vulnerable victims.

While it is everyone’s sincere hope that our *keiki* never experience these types of horrific acts, the reality is this is happening in our community. For those children who are surviving this horrendous torture, they deserve justice that adequately reflects the harm they have suffered. S.B. 281, S.D.1, H.D. 1 is an important tool for the safeguarding of families and children and I strongly advocate for the passage of S.B. 281, S.D.1, H.D. 1 in its current form.

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<sup>8</sup> Stephanie Anne Deutsch, Article in Press, Child Torture Perpetrated by a Caregiver, *Pediatr Clin N Am* (2025).

<sup>9</sup> Knox, Barbara, et al., Child Torture as a Form Child Abuse, 7 *J Child & Adolesc Trauma* 37-49, 46-47 (2014) (long-term effects of torture include PTSD as the most common psychological diagnosis. Polyvictimization has been recognized to be associated with worse mental health outcomes in child abuse victims).

<sup>10</sup> Stephanie Anne Deutsch, Article in Press, Child Torture Perpetrated by a Caregiver, *Pediatr Clin N Am* (2025).



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**THE HONORABLE DAVID A. TARNAS, CHAIR**  
**HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS**  
**Thirty-Third State Legislature**  
**Regular Session of 2025**  
**State of Hawai'i**

April 2, 2025

**RE: S.B. 281, S.D. 1, H.D. 1; RELATING TO TORTURE.**

Chair Tarnas, Vice Chair Poepoe and members of the House Committed on Judiciary & Hawaiian Affairs, I submit the following testimony in **strong support** of S.B. 281. My name is Erika Candelario and I am a Deputy Prosecuting Attorney and the Team Captain of the Domestic Violence and Child Abuse Felony Division at the Office of the Prosecuting Attorney here in Honolulu. I am the lead prosecutor in some of our office's child torture cases involving both deceased and living children.

Over the past few years, we have learned that the current statutory framework is not enough to hold those who torture children accountable. It cannot, because it was not designed to do so. Many of current laws in place are designed to punish singular instances of violence that result in substantial or serious bodily injury.<sup>1</sup> However, what we know about child torture is that perpetrators who torture children do so over long periods of time and are extremely creative in their methods. Such methods may not "rise" to the level of injury enumerated in H.R.S. § 707-700 but are just as, if not more, corrosive to a child's body and mind, and can lead to eventual death.

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<sup>1</sup> "Serious bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ." HRS § 707-700. "Substantial bodily injury" means bodily injury which causes: (1) a major avulsion, laceration, or penetration of the skin; (2) a burn of at least second degree severity; (3) a bone fracture; (4) a serious concussion; or (5) a tearing, rupture, or corrosive damage to the esophagus, viscera, or other internal organs. HRS § 707-700.

Child torturers hurt children this way because they are sadists.<sup>2</sup> For them, these extreme methods of hurting children are not about a loss of control. The suffering, the cruelty, and ultimately the control, are the purpose. While most people are distressed by another person's suffering there are those who revel in it, and "experience a positive emotional reaction, to include pleasure, excitement or even sexual arousal."<sup>3</sup> These perpetrators typically display lack of remorse and cognitive distortion and will blame others or the child victims themselves, often justifying the torture as being necessary.<sup>4</sup> This is not the average person who commits a crime.

Child torturers are highly manipulative and extremely skilled at evading detection. Hence the extremely "creative" methods of often causing maximum amount of pain on their victims while leaving minimal visible obvious injury. Such actions include forced exercise, restraint, forced holds in uncomfortable positions for long periods of times, imprisonment, deprivation of excretory functions, and burning or electrocution.<sup>5</sup> Food and water deprivation are increasingly common occurrences in torture type cases.<sup>6</sup> This is followed by isolation and deprivation of basic necessities which seek to cement a perpetrators domination and control over the victim's every breath and every move.<sup>7</sup> Because such actions by a perpetrator can be so varied, and injuries so wide ranging (in a way that does not fit into current definitions), our response in the law should reflect the appropriate additions to hold that type of offender accountable.

As a prosecutor, I hold my responsibility to our community, sacred. The law, in turn, demands that I do so with fairness and integrity - as it should. However, there is a fundamental unfairness in the law if we cannot protect our most vulnerable members of society because we do not have the correct statutory framework in place. This is something that must change. I humbly ask this committee to pass HB 281, S.D. 1, H.D. 1 in its current form. We cannot, and we should not, stand by any longer while children are victimized and hurt in such horrendous ways.

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<sup>2</sup> Shelton, Joy Lynn et.al., Child Torture as a Form of Child Abuse: a Guide for Recognition and Response. Behavioral Analysis Unit 3, Federal Bureau of Investigation (2024). (The repetitive and prolonged nature of [child torture] suggests that some offenders may have an "appetite for cruelty").

<sup>3</sup> Id.

<sup>4</sup> Stephanie Anne Deutsch, Article in Press, Child Torture Perpetrated by a Caregiver, *Pediatr Clin N Am* (2025).

<sup>5</sup> Id.

<sup>6</sup> Id.

<sup>7</sup> Id.

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March 31, 2025

The Honorable David Tarnas, Chair  
Committee on Judiciary and Hawaiian Affairs  
House of Representatives  
State Capitol, Room 325  
Honolulu, Hawai'i 96813

Dear Chair Tarnas:

Subject: Senate Bill (SB) 281, Senate Draft (SD) 1, House Draft (HD) 1 Relating to  
Torture

My name is Sheldon K. Hao, Fire Chief of the Honolulu Fire Department (HFD). The HFD strongly supports SB 281, SD 1, HD 1, which establishes the offense of child torture as a Class A felony. This measure is not only necessary, it is long overdue.

As first responders, we are often the first to arrive at scenes involving child abuse or neglect. Although we do not investigate or prosecute these crimes, we see them, we carry them, and we often cannot forget them.

Our role is to provide immediate medical care, rescue, and protection. However, when we arrive to find children who have been intentionally harmed, deprived, restrained, or threatened, we are left with the emotional and moral weight of what we witnessed. We are the ones who carry those children out of dangerous homes. We are the ones who try to stabilize their injuries. We are the ones who must return to our stations and our families and try to process what no one should ever have to see.

Unfortunately, the trauma does not end at the scene.

SB 281 sends a clear message that Hawaii will no longer tolerate legal ambiguity when it comes to the most severe, prolonged, and intentional forms of abuse. This bill gives law enforcement and prosecutors the legal framework to pursue and provide the justice these children deserve. While the HFD is not part of that legal process, we deeply

The Honorable David Tarnas, Chair  
Page 2  
March 31, 2025

value knowing that our efforts on scene may lead to meaningful consequences for perpetrators and, more importantly, protection for survivors.

Clear definitions around acts, such as starvation, forced ingestion, psychological torment, or unjustified restraint, give first responders the language and legal foundation to report what we see in ways that are actionable. That clarity matters.

As such, the HFD strongly supports SB 281, SD 1, HD, as we have seen the face of child torture firsthand and want protection for our children, and we humbly urge your committee's passage of this bill.

Should you have questions, please contact Fire Captain Ashley Cazimero or our Training and Research Bureau's Medical section at [ashley.cazimero@honolulu.gov](mailto:ashley.cazimero@honolulu.gov) or 808-723-7017.

Sincerely,

SHELDON K. HAO  
Fire Chief

SKH/AC:cn

**KELDEN B.A. WALTJEN**  
PROSECUTING ATTORNEY

**SHANNON M. KAGAWA**  
FIRST DEPUTY  
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## **OFFICE OF THE PROSECUTING ATTORNEY**

### **TESTIMONY IN SUPPORT OF SENATE BILL NO. 281 SD1 HD1 WITH COMMENTS**

#### **A BILL FOR AN ACT RELATING TO TORTURE**

#### **COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS**

Representative David A. Tarnas, Chair  
Representative Mahina Poepoe, Vice Chair

Wednesday, April 2, 2025 at 2:00 p.m.  
Via Videoconference and  
State Capitol Conference Room 325  
415 South Beretania Street

Honorable Chair Tarnas, Vice-Chair Poepoe, and Members of the Committee on Judiciary & Hawaiian Affairs: The County of Hawai'i, Office of the Prosecuting Attorney submits the following testimony in support of Senate Bill No. 281 SD1 HD1, with comments.

In recent years, the Office of the Prosecuting Attorney for the County of Hawai'i has seen and prosecuted multiple cases involving child victims who suffered acts of torture, including at the hands of parents or guardians. In such cases, the heinous nature of the crime and its life-altering effects on the victims and the community may not be adequately reflected by the criminal charges and remedies previously available.

This bill was drafted with the intention to create a new class A felony offense of Torture. This new offense would serve as an enhanced charge for certain acts that might otherwise be charged as lesser offenses under the current penal code, and also would serve to punish some types of torture that current law does not adequately address. This bill reflects the need to hold individuals accountable for acts of torture, particularly when committed against minors or vulnerable persons.

The Office of the Prosecuting Attorney, County of Hawai'i, further adds the following comments as to possible ways to strengthen and clarify this bill:

- SB 281 SD1 HD1 could be strengthened by reducing the number of separate acts of torture that must be proven under subsection (1)(c). The current bill draft requires proof beyond a reasonable doubt of three or more acts of torture, on three or more occasions, within a period of two years. It can be difficult, particularly where torture is ongoing or continuous over a long period of time, or where a child victim is involved, to clearly separate the history of torture into three or more distinct occasions. In addition, certain

acts of torture such as branding or electrocution are especially heinous and deserve enhancement even when committed on a single occasion.

- SB 281 SD1 HD1 could be strengthened by increasing the lookback period under (1)(c). The current bill requires proof of three or more occasions within a limited lookback period of only two years. For comparison, the general statute of limitations for a class A felony is six years, with additional time for certain offenses involving child victims. Increasing the lookback period for the offense under (1)(c) beyond two years would give more flexibility to address cases involving a long history of concealed torture of minors or vulnerable persons.
- SB 281 SD1 HD1 could be strengthened by altering the language under subsection (1)(c)(viii) pertaining to exposure to the elements. The current bill requires proof that the victim was exposed to “extreme temperatures.” Other aspects of exposure to the natural elements may be equally or more hazardous than temperature in Hawai‘i, including precipitation, wind, or sun exposure. The Office of the Prosecuting Attorney, County of Hawai‘i, suggests that this language be modified to more generally criminalize “denying the minor or vulnerable person adequate shelter sufficient to protect the minor or vulnerable person from the natural elements.”
- SB 281 SD1 HD1 could be strengthened by adding the act of confining or restraining a child or vulnerable person within a cage to the acts specified under subsection (1)(c).
- SB 281 SD1 HD1 could be clarified by including or referencing a definition for “strangling” under subsection (1)(c)(i). Current law, under HRS § 709-906(9), makes it a class C felony offense to intentionally or knowingly cause bodily injury to a family or household member by impeding the normal breathing or circulation of the blood by (a) applying pressure on the throat or the neck with any part of the body or a ligature; (b) blocking the nose and mouth; or (c) applying pressure to the chest, and provides that infliction of visible bodily injury is not required to establish an offense. Inclusion of or reference to a similar definition of strangulation would be appropriate here.

The County of Hawai‘i, Office of the Prosecuting Attorney remains committed to pursuing justice with integrity and commitment. For the foregoing reasons, the County of Hawai‘i, Office of the Prosecuting Attorney supports the passage of Senate Bill No. 281 SD1 HD1, with the foregoing comments. Thank you for the opportunity to testify on this matter.



**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**

April 1, 2025

**RE: S.B. 281 S.D. 1 H.D. 1; RELATING TO TORTURE.**

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 strong support of S.B. 281 S.D. 1 H.D. 1. This bill is part of the Department's 2025 legislative package, and we thank you for hearing it.

S.B. 281 S.D. 1 defines and prohibits the offense of torture. More than 25 states have laws prohibiting torture.<sup>1</sup> But Hawai'i currently only punishes torture as an aggravating circumstance for murder.<sup>2</sup> Even application of that sentence has been substantially weakened because the prosecution must prove the torture inflicted was "unnecessary."<sup>3</sup>

Hawai'i lacks adequate laws protecting children and vulnerable adults from torture. In its 2020 report card on child torture laws, the National Center for Child Abuse Statistics and Policy awarded Hawai'i a failing grade.<sup>4</sup> Under Hawai'i law, abuse of a family or household member is a misdemeanor.<sup>5</sup> That may be an appropriate penalty for a parent who rashly beats a child in a moment of anger. But it is far too lenient a response to calculated, malignant, deliberate abuse.

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<sup>1</sup> See, e.g., CAL. PENAL CODE § 206; CONN. GEN. STAT. ANN. § 53-20(a)(1), (b)(1); FLA. STAT. § 827.03(a); KAN. STAT. § 21-5602(a)(1); MICH. COMP. LAWS SERV. § 750.85; MISS. CODE ANN. § 97-5-39(a); OHIO REV. CODE ANN. § 2919.22(B)(2); S.D. CODIFIED LAWS § 26-10-153; WASH. REV. CODE 9A.36.120(1)(a)(ii)(B).

<sup>2</sup> HRS § 706-657.

<sup>3</sup> *State v. Young*, 93 Hawai'i 224, 227, 234-38, 999 P.2d 230, 233, 240-44 (2000) (finding insufficient evidence of torture where Burger King employee was bludgeoned to death with a hammer).

<sup>4</sup> *State Criminal Code Failures: 2020 Report & Report Card*, NATIONAL CENTER FOR CHILD ABUSE STATISTICS AND POLICY, available at <https://www.nccasp.org/fighting-child-torture>.

<sup>5</sup> HRS § 709-906(5).

In drafting this bill, the Department examined statutes and judicial decisions from Hawai‘i and across the United States. We reviewed academic literature and case studies of torture, as well as a guide prepared for law enforcement by the FBI’s Behavioral Analysis Unit.<sup>6</sup> Based on this study, we focused on present inadequacies in Hawai‘i law and the most urgent scenarios presenting heightened danger to victims.

The Department has prosecuted and continues to prosecute murder cases where victims have been tortured as defined by S.B. 281. To illustrate legal principles, we refer to published Hawai‘i cases. But when describing specific factual scenarios, we have selected cases from outside Hawai‘i to avoid extrajudicial comment on evidence in pending prosecutions.<sup>7</sup>

**A. The Department proposes incorporating “restricts” in the current definition of “deprives.”**

The House Committee on Human Services and Homelessness addressed concerns about overbreadth in starvation cases. That Committee defined “deprives” to mean “to withhold in a manner that materially endangers the physical or mental health of a minor or vulnerable person.” This provides a clear result of conduct for judges and juries to evaluate. It separates conduct that may be merely uncomfortable from criminal acts that jeopardize physical or mental health.

We propose taking a similar approach with the term “restricts” in subsection (1)(c). Thus, at page 3, line 18, we suggest this Committee amend the bill to read:

“Deprives” or “restricts” means to withhold in a manner that materially endangers the physical or mental health of a minor or vulnerable person.

This should address the concerns raised by the Office of the Public Defender regarding restriction of basic and necessary bodily functions required for personal hygiene. It also avoids creating compound states of mind, which the proposed language from the Office of the Public Defender uses. In its current form, this bill uses a uniform “knowing” state of mind, and we believe this feature should be retained.

**B. “Physical abuse” has been defined in Hawai‘i case law.**

Subsection (1)(b) uses the term “physically abuse” in defining the predicate conduct for the charge. Hawai‘i case law already treats this phrase by its ordinary meaning, so a separate statutory definition would unnecessarily complicate enforcement of this provision.

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<sup>6</sup> Joy Lynn E. Shelton, James E. Hardie, Barbara L. Knox, & Taylor E. Burd, *Child Torture as a Form of Child Abuse: A Guide for Recognition and Response*, FEDERAL BUREAU OF INVESTIGATION (Aug. 2024).

<sup>7</sup> Hawai‘i Rules of Professional Conduct Rule 3.6 (governing trial publicity)

In *State v. Kameenui*,<sup>8</sup> the defendant challenged his conviction for abusing his girlfriend. Because the domestic abuse statute did not define the term “physical abuse,” he argued the charge was unconstitutionally vague. But the Hawai‘i Supreme Court disagreed. “‘Physical abuse’ is not defined within the statute. An ordinary reading of the statute gives sufficient notice to the Defendants that their conduct was prohibited. In a matter as complex as the physical abuse of household members, to require the legislature to list every type of conduct covered under the statute would be counterproductive.”<sup>9</sup>

This case remains good law. Jury instructions today still follow this guidance.

As with other provisions of this bill, the Department drafted this language to ease judicial interpretation, relying on concepts already established in case law. “Physical abuse” is one such concept that has survived for nearly four decades. It should not endanger enforcement of this bill.

**C. The Department strongly urges retaining the provision criminalizing repeated starvation of children or vulnerable persons.**

All degrees of assault under the Hawai‘i Penal Code require proof of bodily injury.<sup>10</sup> The same holds true for abuse of a family or household member<sup>11</sup> and endangering the welfare of a minor.<sup>12</sup> “Bodily injury,” in turn, “means physical pain, illness, or any impairment of physical condition.” But some methods of torture do not necessarily inflict bodily injury.

Likewise, torture often cannot be prosecuted as attempted murder. Attempted murder requires proof of the intent to kill.<sup>13</sup> But many torturers lack this homicidal goal: they want the victim alive precisely to elongate the suffering.<sup>14</sup>

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<sup>8</sup> 69 Haw. 620, 753 P.2d 1250 (1988).

<sup>9</sup> *Id.* at 622, 753 P.2d at 1252.

<sup>10</sup> *See, e.g.*, HRS § 707-710(1)(a) (“A person commits the offense of assault in the first degree if the person intentionally or knowingly causes [s]erious bodily injury to another person[.]”); HRS § 707-711(1)(b) (“A person commits the offense of assault in the second degree if the person [r]ecklessly causes serious bodily injury to another[.]”); HRS § 707-712(1)(a) (“A person commits the offense of assault in the third degree if the person [i]ntentionally, knowingly, or recklessly causes bodily injury to another person[.]”).

<sup>11</sup> *See State v. Basnet*, 131 Hawai‘i 286, 291-92, 299, 318 P.3d 126, 131-32, 139 (2013) (affirming jury instruction that physical abuse means causing bodily injury to another person).

<sup>12</sup> HRS § 709-903.5 (except in cases of drug ingestion, endangering the welfare of a minor in the first degree requires proof of serious or substantial bodily injury); HRS § 709-904(1)(a) (except in cases of drug ingestion, endangering the welfare of a minor in the second degree requires proof of serious or substantial bodily injury).

<sup>13</sup> *See Briones v. State*, 74 Haw. 442, 450-52, 848 P.2d 966, 971-72 (1993).

<sup>14</sup> *Cf. Commonwealth v. Powell*, 956 A.2d 406, 415-16 (Pa. 2008) (defendant arguing that long history of battering six-year-old son proved he lacked intent to kill because he could have killed the child if he wanted during the prior beatings.).

Starvation illustrates both problems. Food and water deprivation is a common method of child torture.<sup>15</sup> In one nationwide study of extreme child abuse, 89% of the child victims were starved and 79% were fluid-restricted.<sup>16</sup> But starvation does not always cause pain,<sup>17</sup> because hunger selectively inhibits inflammatory pain.<sup>18</sup> So a requirement to prove “bodily injury” will thwart prosecution of deliberate starvation as assault, abuse of a family or household member, or endangering the welfare of a minor.

Similarly, torture by starvation cannot be prosecuted as murder or attempted murder in cases of intermittent feeding. In one North Carolina case,<sup>19</sup> the defendant fed his four-year-old stepson only once a day, while deliberately allowing the boy waste away from malnutrition.<sup>20</sup> On appeal, he argued that intermittent feeding proved he lacked the intent to kill.<sup>21</sup> Starvation, he claimed, required complete deprivation of nutrition.<sup>22</sup> His argument did not succeed in North Carolina. But under our statute, intermittent feeding could defeat an attempted murder prosecution.

It is illegal to starve a dog in Hawai‘i.<sup>23</sup> But it remains legal to starve a child. Only when hunger has ended the child’s life can the prosecution at last prove homicidal intent.

We appreciate the reinstatement of the provision criminalizing repeated starvation and ask that the Committee retain this language.

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<sup>15</sup> See, e.g., *State v. Cheeks*, 858 S.E.2d 566 (N.C. 2021); *People v. Jennings*, 237 P.3d 474 (Cal. 2010);

<sup>16</sup> Barbara L. Knox, et al., *Child Torture as a Form of Child Abuse*, 7 J. CHILD & ADOLESCENT TRAUMA 37, 39 (2014).

<sup>17</sup> See, e.g., Karen Kaplan & Rosie Mestel, *Ceasing Food and Fluid Can Be Painless*, LOS ANGELES TIMES (Mar. 23, 2005), available at <https://www.latimes.com/archives/la-xpm-2005-mar-23-sci-schiavodeath23-story.html>.

<sup>18</sup> Amber L. Alhadeff, et al., *A Neural Circuit for the Suppression of Pain by a Competing Need State*, 173 CELL 140, 141 (2018).

<sup>19</sup> *State v. Cheeks*, 858 S.E. 2d 566, 567-73 (N.C. 2021)

<sup>20</sup> *Id.* at 576

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> HRS § 711-1109(1)(b) (“A person commits the offense of cruelty to animals in the second degree if the person intentionally, knowingly, or recklessly deprives a pet animal of necessary sustenance or causes that deprivation.”).

First, no reasonable person equates poverty with abuse or neglect, let alone torture.<sup>24</sup> Courts must construe a statute reasonably and avoid absurdity.<sup>25</sup> And when a criminal law is unclear, the court must choose the interpretation that favors the defendant.<sup>26</sup> Reasonably construed, the provision would never permit a prosecution solely based on poverty.

Second, the criminal law can only penalize a voluntary act or voluntary omission.<sup>27</sup> Culpability requires choice; for this reason, a punishment assigned solely for status is unconstitutional.<sup>28</sup> But by hypothesis, if poverty alone prevents a parent from providing necessary food, that is not a voluntary choice. No individual controls the economic system. So no reasonable factfinder should assign criminal culpability in such circumstances.

Third, the amendment passed the Housing and Human Services Committee requires the conduct to materially endanger the physical or mental health of the victim. This provides a legal standard for judges to dismiss unwarranted prosecutions. If no reasonable factfinder could ever conclude the victim's physical or mental health was endangered, the court can dismiss as a matter of law. The prosecution must then convince the specific factfinder—judge or jury—to agree beyond reasonable doubt. That's the same approach we take with all other crimes.

It is absolutely urgent that this bill addresses case of deliberate starvation. The law presently allows sadists to run their homes as miniature concentration camps, while facing—at most—only misdemeanor penalties. This is heartbreaking, outrageous, and unacceptable.

We must do better.

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<sup>24</sup> See, e.g., *Brock v. Commonwealth*, 268 S.W.315, 315 (Ky. 1925) (observing that poverty, unemployment, and other external circumstances do not qualify as parental abandonment); *Lewis v. State*, 72 Ga. 164, 167-68 (1883) (jury instruction that criminal starvation requires intentional withholding of food, not simply poverty or destitution).

<sup>25</sup> HRS § 1-15(3) (“Where the words of a law are ambiguous [e]very construction which leads to an absurdity shall be rejected.”).

<sup>26</sup> *State v. Borge*, 152 Hawai‘i 458, 469, 526 P.3d 435, 446 (2023) (“The rule of lenity provides that where a criminal statute is ambiguous, it must be strictly construed against the government and in favor of the accused.”) (cleaned up).

<sup>27</sup> HRS § 702-200(1) (“In any prosecution it is a defense that the conduct alleged does not include a voluntary act or the voluntary omission to perform an act of which the defendant is physically capable.”). See also 4 William Blackstone, COMMENTARIES ON THE LAWS OF ENGLAND, \*20-21 (1769) (“An involuntary act, as it has no claim to merit, so neither can it induce any guilt: the concurrence of the will, when it has its choice either to do or to avoid the fact in question, being the only thing that render human actions either praiseworthy or culpable. Indeed, to make a complete crime, cognizable by human laws, there must be both a will and an act.”).

<sup>28</sup> *Robinson v. California*, 370 U.S. 660 (1962) (striking down state law that criminalized the status of drug addiction).

**D.      Hawai‘i currently does not permit prosecution of assault or physical abuse as a continuing offense.**

The Department has no objection to the Senate amendment requiring the “knowing” state of mind for all offenses defined under this section. Although it increases the prosecutorial burden of proof, the provision still reaches the vast majority of the criminal conduct targeted by this bill.

In principle, we agree no child or vulnerable person should be subjected even once to the cruel and degrading treatment defined here. But we respectfully request that this Committee retain the provisions requiring multiple acts in subsections (b) and (c). This best ensures torture is prosecuted as a continuing offense.

A continuing offense aggregates the individual episodes of a crime as a unified course of conduct with a common state of mind. Theft is a classic example. In *State v. Shaw*,<sup>29</sup> the defendant falsely padded tips on 105 customer receipts. Rather than hold dozens of individual trials on each theft, the law permitted aggregation of the thefts as a single continuing offense.<sup>30</sup>

But Hawai‘i does not permit prosecution of assault or physical abuse as a continuing offense.<sup>31</sup> In other words, the prosecution must charge each offense as a distinct episode. Former Hawai‘i Supreme Court Justice Pollack dissented from that holding.<sup>32</sup> He argued that the abuse of family or household members statute suggests a continuing offense may sometimes be charged.<sup>33</sup> But as a matter of law, the majority disagreed.

For victims of torture, specific occasions may be impossible to parse. S.B. 281 would permit prosecution of these repeated assaults as a continuing offense. Prosecution of the continuing offense will permit evidence regarding the unified course of conduct. For similar reasons, Hawai‘i has long recognized that sexual assault of a child can be prosecuted as a continuing offense.<sup>34</sup> Defining torture as a continuing offense will allow victims to testify regarding the complete unified course of conduct.

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<sup>29</sup> *State v. Shaw*, 150 Hawai‘i 56, 59, 497 P.3d 71, 74 (2021).

<sup>30</sup> *Id.* at 61-63, 497 P.3d at 76-78.

<sup>31</sup> *State v. Decoite*, 132 Hawai‘i 436, 441, 323 P.3d 80, 85 (2014) (categorically refusing to treat repeated abuse as a continuing offense).

<sup>32</sup> *State v. Decoite*, 132 Hawai‘i 436, 441 (Pollack, J., dissenting).

<sup>33</sup> *Id.* at 444-45.

<sup>34</sup> HAW. CONST. art. I, § 25; HRS § 707-733.6. *See also State v. Tran*, 154 Hawai‘i 211, 549 P.3d 296 (2024) (upholding constitutionality of the continuous sexual assault statute).



**E. S.B. 281 identifies torture in circumstances indicating (1) the abuser exercises pervasive control over the victim and (2) the abuser can inflict greater harm to the victim.**

This bill identifies specific aggravating acts and circumstances that heighten the suffering of victims and the cruelty of their torment. Torture is characterized by the pervasive control the abuser exercises over the victim. We identified three contexts of heightened danger to victims: (a) first-degree assault combined with forcible restraint or forcible restriction of movement;<sup>35</sup> (b) felony assault preceded by prior assaults;<sup>36</sup> and (c) specific forms of cruel and degrading treatment repeatedly inflicted against minors or vulnerable persons.<sup>37</sup>

The first category recognizes that forcible restraint permits torturers to inflict greater injury on the victim. For example, restraint facilitates burning or scalding the victim, because flinching from the heat is not possible.<sup>38</sup> The second category focuses on cases where intermittent assaults escalate to severe injuries. It allows prosecution of these crimes as continuing offenses. The third category focuses on persons vulnerable to repeated degrading treatment, especially children. Borrowing from California's torture statute,<sup>39</sup> this category does not require proof of bodily injury. It therefore covers cases such as electrocution, suspension, or forced ingestion of feces that currently cannot be prosecuted as assault.

**F. S.B. 281 does not create strict liability. Nor does it eliminate standard defenses such as choice of evils or reasonable parental discipline.**

Lastly, we should emphasize what this bill does not do. This bill does not create strict liability; it specifies a "knowing" state of mind for each class of offenses.<sup>40</sup> Mistakes, accidents, and episodes of innocent automatism do not fall within the ambit of this law. Nor does the bill impair or abolish standard defenses available to all defendants.

Choice of evils, or the defense of necessity, remains a standard defense that the prosecution must exclude beyond reasonable doubt.<sup>41</sup> For example, although the law generally prohibits felons from possessing firearms,<sup>42</sup> Hawai'i courts recognize that a felon may

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<sup>35</sup> S.B. 281, p. 1, ll. 15-16.

<sup>36</sup> S.B. 281, p. 2, ll. 1-4.

<sup>37</sup> S.B. 281, p. 2, l. 5 to p.3, l. 7.

<sup>38</sup> *Burn Injuries in Child Abuse: Portable Guide to Investigating Child Abuse*, U.S. DEPARTMENT OF JUSTICE (June 2001), available at <https://www.ojp.gov/pdffiles/91190-6.pdf>.

<sup>39</sup> CAL. PENAL CODE § 206 ("The crime of torture does not require any proof that the victim suffered pain.")

<sup>40</sup> See HRS § 702-212; *State v. Gonzalez*, 128 Hawai'i 314, 321, 288 P.3d 788, 795 (2012) (explaining that strict liability requires plain legislative intent to eliminate state of mind requirement).

<sup>41</sup> HRS § 703-302.

<sup>42</sup> HRS § 134-7.

temporarily use a gun in self-defense.<sup>43</sup> The law excuses a technical crimes when necessary to avoid a greater harm. That would not change with passage of S.B. 281. The prosecution must still disprove this defense beyond reasonable doubt

Nor does it stop parents from correcting misbehavior. The law already allows parents and guardians to use reasonable force for the care, discipline, and safety of minors or incompetents.<sup>44</sup> Hawai‘i law provides robust protection to parents who use physical discipline on misbehaving children. For example, in *State v. Dowling*,<sup>45</sup> as punishment for repeated lying, the defendant punched his eleven-year-old son hard enough to leave bruises. The Intermediate Court of Appeals held that these injuries did not lead to extreme mental distress.<sup>46</sup> It also found the use of force reasonably related to the welfare of the child.<sup>47</sup> The legal defense of reasonable parental discipline is not changed by S.B. 281. The prosecution must still disprove this defense beyond reasonable doubt.

This bill is urgently needed to protect the most vulnerable members of our community from the very worst class of criminals. The Department strongly encourages passage of S.B. 281.

Thank you for the opportunity to testify.

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<sup>43</sup> *State v. Padilla*, 114 Hawai‘i 507 (App. 2007).

<sup>44</sup> HRS § 703-309.

<sup>45</sup> 125 Hawai‘i 406, 263 P.3d 116 (App. 2011)

<sup>46</sup> *Id.* at 411-12, 263 P.3d at 121-22.

<sup>47</sup> *Id.* at 413, 263 P.3d at 123.

**SB-281-HD-1**

Submitted on: 3/31/2025 12:12:48 PM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Terri Lum	Hawaii State Chapter of Children's Justice Centers	Support	Written Testimony Only

## Comments:

Aloha Chairperson Tarnas, Vice Chairperson Poepoe and Committee Members,  
I am writing on behalf of the Hawai'i State Chapter of Childrens Justice Centers (HSCCJC), a non-profit organization which supports a coordinated, multidisciplinary, community response to child abuse. Our Chapter strongly supports SB 281 which would clearly demonstrate that this type of serious abuse of minors will not be tolerated in our state. This law provides more specificity on the various ways that children have been severely harmed and would better enable our law enforcement agencies to hold offenders accountable. We urge you to pass SB 281. Thank you for your attention to this most important matter.  
Terri Lum, Coordinator, HSCCJC

**SB-281-HD-1**

Submitted on: 3/28/2025 4:49:19 PM

Testimony for JHA on 4/2/2025 2:00:00 PM

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

Comments:

Stand in STRONG Support!

**SB-281-HD-1**

Submitted on: 3/31/2025 12:28:38 PM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Augie Tulba	Individual	Support	In Person

Comments:

March 31, 2025

Honorable David Tarnas

Chair

House Committee on Judiciary and Hawaiian Affairs

Re: April 2 Hearing on Senate Bill 281, SD1, HD1

Aloha Chair Tarnas,

I am writing in support of Senate Bill 281, SD1, HD1. Our most vulnerable populations, keiki and kupuna, need stronger laws to prevent them from becoming victims of torture.

It is difficult to imagine that in our beautiful state, where the “Aloha Spirit” should be prevalent, any caretaker, parent, foster parent, adoptive parent or relative could be harming children and seniors in such insidious ways.

Unfortunately, the statistics and news reports tell a very different story. We have seen all too many times that our children are being systematically tortured, starved, beaten and kept captive by their so-called caretakers.

Hawai‘i is one of the states that does not have a law specifically addressing the crime of torture. While there is a law that delves out punishment for withholding water from a dog, there is none such law that applies to starving a child or senior. In fact, only when starvation has ended a person’s life can the prosecution finally prove homicidal intent.

Please pass this legislation so that our most vulnerable are protected.

Mahalo for your consideration.

Augie Tulba



**SB-281-HD-1**

Submitted on: 3/31/2025 9:25:14 PM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Crystal Fulfer	Individual	Support	Written Testimony Only

Comments:

Dear Sir or Ma'am,

I am a concerned citizen of Hawai'i having moved here due to military service as an Air Force JAG. Prior to serving in the military, I was a state prosecutor in Florida in the Sexual Battery Unit, Broward County, Ft. Lauderdale. I was responsible for prosecuting capital sexual cases mostly crimes against children.

I strongly support SB281. It is extremely difficult to ensure accountability and sufficient deterrence of such behavior without an accurate definition of the crime as is proposed here. It is important to both the Government and Defense to know exactly what is being prosecuted in order for potential freedoms to be stripped lawfully, if convicted. This bill benefits both sides. It lays out the elements of the crime simply. The Government already has a high burden of proof and without accurate laws to prosecute under, the State fails to protect its citizens from heinous crimes such as Torture.

Thank you for considering my testimony. I am confident the Legislature will move forward in what it sees most benefits the people of Hawai'i when it comes to accountability and deterrence of torture.

**SB-281-HD-1**

Submitted on: 4/1/2025 10:37:31 PM

Testimony for JHA on 4/2/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Bethany Stetson	Individual	Support	Written Testimony Only

Comments:

I am writing to express my strong support for S.B. 281 S.D. 1 H.D. 1. This bill is crucial in explicitly addressing torture, particularly intentional starvation as a method of abuse.

There have been heartbreaking cases in our state where children suffered deliberate and prolonged deprivation of food, water, or other necessities, yet current laws fail to provide an adequate legal remedy. It should not take a child's death for justice to be served in these cases. The fact that our system allows such suffering to go unaddressed is unacceptable and must be corrected.

I urge you to pass S.B. 281 S.D. 1 H.D. 1. to ensure that the law protects Hawai'i's most vulnerable children.

**April 2, 2025**

**TO:** House Committee on Judiciary & Hawaiian Affairs

**FROM:** Brookelyn Freeman, Private Citizen

**SUBJECT:** Support for SB281, SD1, HD1 – Relating to Torture

**Hearing:** Wednesday, April 2, 2025 at 2:00 PM

**Aloha Chair Tarnas, Vice Chair Poepoe, and Members of the Committee,**

My name is Brookelyn Freeman, and I'm a graduate student in Social Work at the University of Hawai'i at Mānoa. I'm testifying as a private citizen in strong support of SB281, SD1, HD1.

I've seen how difficult it can be for survivors—especially children and vulnerable individuals—to get justice in the face of extreme and prolonged harm. In 2022, Hawai'i confirmed over 1,200 cases of child maltreatment, but cases involving acts that amount to torture often fall outside the scope of what's currently covered by existing law.

Torture is not just abuse—it's intentional, targeted harm meant to break someone down physically or psychologically. When those actions aren't clearly defined in our laws, accountability becomes harder to achieve, and survivors are left without the full protection they deserve.

As someone studying trauma and systems of care, I believe our laws should recognize the full extent of harm that individuals can suffer. When acts cause lasting psychological or physical damage, they deserve a clear and appropriate legal response—and this bill moves us in that direction.

It also aligns with a growing understanding of trauma and its impacts, particularly on children. Survivors deserve justice, and communities deserve laws that prioritize dignity, protection, and accountability.

Thank you for the opportunity to testify and for your commitment to improving safety for those most at risk.

**Brookelyn Freeman**

Graduate Student, Social Work

University of Hawai'i at Mānoa

(Testifying as a Private Citizen)