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GOVERNOR



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STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
OFFICE OF YOUTH SERVICES
1010 Richards Street, Suite 314
Honolulu, Hawaii 96813

January 27, 2025

TO: The Honorable Representative Lisa Marten, Chair
House Committee on Human Services & Homelessness

The Honorable Representative Ikaika Olds, Vice Chair
House Committee on Human Services & Homelessness

FROM: Leanne Gillespie, Executive Director

SUBJECT: HB 731, RELATING TO MINORS

Hearing: Tuesday, January 28, 2025 @ 9:00 a.m.
Videoconference, Conference Room 329

DEPARTMENT'S POSITION: The Office of Youth Services (OYS) supports the intent of this measure and offers comments.

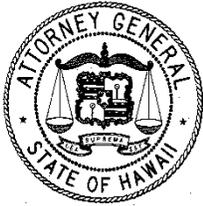
PURPOSE: The purpose of this bill is to authorize physicians, upon consultation with a minor patient who indicates that the minor was the victim of a sexual offense, with the consent of a minor patient, to perform customary and necessary examinations and prescribe for and treat the patient. Provides that the consent of the parent(s) or legal guardian of a minor at the Hawaii Youth Correctional Facility is not necessary to authorize hospital, medical, mental health, dental, emergency health, or emergency surgical care.

The Office of Youth Services, Hawaii Youth Correctional Facility (HYCF) regards the health and well-being of youth in our custody, of utmost importance. The HYCF follows 34 USC Chapter 303: Prison Rape Elimination Act (PREA) guidelines for the detection, prevention, and reduction of sexual assault and harassment. As such, and for the care and custody of youth,

AN EQUAL OPPORTUNITY AGENCY

HYCF has in place policies and procedures to respond immediately to allegations of sexual assault and to minimize medical and psychological trauma of youth. Under Hawaii Revised Statutes, Chapter 352-8 Guardianship and custody of the person committed, the Executive Director of the Office of Youth Services is the guardian of every youth committed to HYCF and has all the powers and duties of a natural guardian. These powers and duties allow for the immediate and/or ongoing hospital, medical, mental health, dental, emergency health or emergency surgical care without the consent of the parent, parents, or legal guardian. As a result of any medical, dental, or behavioral health service provided, the parent, parents or legal guardians have not been charged.

Thank you for the opportunity to provide comments.



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

LATE

ON THE FOLLOWING MEASURE:
H.B. NO. 731, RELATING TO MINORS.

BEFORE THE:
HOUSE COMMITTEE ON HUMAN SERVICES & HOMELESSNESS

DATE: Tuesday, January 28, 2025 **TIME:** 9:00 a.m.

LOCATION: State Capitol, Room 329

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Melissa W.H. Chee, Deputy Attorney General

Chair Marten and Members of the Committee:

The Department of the Attorney General provides the following comments.

This bill: (1) authorizes a physician to examine, treat, and obtain evidence of a sexual offense from, a consenting minor patient who is the victim of one of certain sexual offenses and (2) authorizes a minor offender committed to the Hawaii youth correctional facility to receive care without the consent of the minor's parent or legal guardian.

Although the bill authorizes any physician to examine, treat, and obtain evidence of a sexual offense, these activities are best carried out by trained sexual assault nurse examiners (SANE) or sexual assault forensic examiners (SAFE). SANE and SAFE have completed specialized education and clinical preparation in the medical forensic care of a patient who has experienced sexual assault or abuse, and they follow the protocols as established under chapter 844G, Hawaii Revised Statutes (HRS), relating to the use of sexual assault evidence collection kits. These protocols help ensure that sexual assault victims are not further traumatized and are notified of their rights as established under section 844G-7, HRS. SANE and SAFE are trained in the procedures for transferring the kits to the police for DNA testing, including maintaining chain of custody. Other physicians are not ordinarily trained to perform these procedures. Given these factors, limiting the authority to conduct such examinations to properly trained professionals may be advisable.

Additionally, we recommend the following amendments to the bill to improve clarity.

In the proposed section 577A- (b), (page 1, line 15) we recommend defining the term “reasonable effort” to provide clear guidance to physicians. For instance, the term may be defined to mean “reasonable attempts to call, email, or text.” A definition would provide guidance to the physician as to what is a “reasonable effort.”

In section 1 (page 3, lines 4-7), we recommend replacing the wording of the new section 557A- (f) with the following:

(f) No physician who relies in good faith on the minor’s consent shall be civilly or criminally liable for failure to secure the consent of the minor’s parent, parents, or legal guardian prior to rendering care pursuant to subsection (a).”

As currently written, there could be arguments that a physician who commits a bad act while providing care is shielded from liability as long as they have obtained the minor’s consent first.

Furthermore, the bill in part II proposes adding a new section to chapter 352, HRS (page 3, line 12, to page 4, line 10). However, this may be unnecessary. Currently section 352-8, HRS, provides, in part:

Notwithstanding any law to the contrary, the director shall be the guardian of every youth committed to or received at the Hawaii youth correctional facilities. The director shall have all the powers and duties of a natural guardian of the youth; provided that the director shall not be liable in damages for the tortious acts committed by the youth.

If the reason for part II of the bill is to obtain treatment for the minor in custody, section 352-8, HRS, currently addresses this. The Executive Director of the Office of Youth Services, as the natural guardian of youth committed to the HYCF, can provide consent, authorizing a minor committed to the HYCF to receive treatment without parental or guardian consent. Moreover, as the director may provide consent for a minor to receive treatment, the need for the immunity provisions of the new section’s subsection (b) on

page 4, lines 1-10, is reduced. Accordingly, we recommend deleting part II (page 3, line 11, to page 4, line 10).

We respectfully ask the Committee to make the recommended amendments.

HB-731

Submitted on: 1/26/2025 8:19:22 AM

Testimony for HSH on 1/28/2025 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Heather Milovina	SAFE Team Maui County	Comments	Written Testimony Only

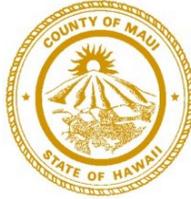
Comments:

Please widen the language of **physician** to include **nurse practitioner, physician assistant or Sex Assault Nurse Examiner**. Alternatively, you could change the word physician to **health care provider**. On all neighbor islands, it is these types of health care providers who are performing sex assault exams on minors.

RICHARD T. BISSEN, JR.
Mayor

ANDREW H. MARTIN
Prosecuting Attorney

SHELLY C. MIYASHIRO
First Deputy Prosecuting Attorney



DEPARTMENT OF THE PROSECUTING ATTORNEY

COUNTY OF MAUI

200 SOUTH HIGH STREET

WAILUKU, MAUI, HAWAII 96793

PHONE (808) 270-7777 • FAX (808) 270-7625

LATE

TESTIMONY ON
H.B. 731
RELATING TO MINORS

January 27, 2025

The Honorable Lisa Marten
Chair
The Honorable Ikaika Olds
Vice Chair
and Members of the Committee on Human Services and Homelessness

Chair Marten, Vice Chair Olds, and Members of the Committee:

The Department of the Prosecuting Attorney, County of Maui respectfully submits the following comments **in support of the intent behind H.B. 731, Relating to Minors, but with concerns regarding its effect on criminal prosecution and the potential for further traumatization of vulnerable individuals.**

The Department of the Prosecuting Attorney, County of Maui supports the intent of the bill to allow minors to exercise their bodily autonomy when seeking medical care, especially when seeking treatment for sexual assaults. However, we are concerned that related criminal prosecutions may be jeopardized if a physician or nurse without forensic examination training attempts to perform a forensic examination, especially with the intent of obtaining evidence for use in future prosecution.

When conducting a forensic examination, it is vital that the examiner be trained in the procedures for sexual assault evidence collection, including use of a sexual assault evidence collection kit and transferring the kit to the police for testing. Improper use of the collection kit or improper storage or transfer procedures can render the evidence unusable for prosecution purposes. To ensure evidence is properly preserved, sexual assault examinations are typically done by a medical professional called a SAFE ("Sexual Assault Forensic Examiner") or a SANE ("Sexual Assault Nurse Examiner"). As drafted, the bill does not account for the specific training and procedures necessary for the collection and preservation of evidence in sexual assault

forensic examinations.

Similarly, we are also concerned about the potential for further traumatizing minors who have been sexually assaulted. While all licensed medical professionals are capable of offering medical care and treatment to patients, not all professionals have been trained in interacting with child sexual assault victims or minimizing the mental and emotional trauma inflicted when treating a recently-assaulted child. Again, as drafted this bill does not account for the training necessary to conduct a trauma-informed examination of a sexually-assaulted child.

For these reasons, the Department of the Prosecuting Attorney, County of Maui **supports the intent behind H.B. 731, but has concerns regarding its effect on prosecution of criminal matters and the potential for further traumatization of vulnerable individuals.** 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.



Date: January 27, 2025

To: Representative Lisa Martens, Chair
Representative Ikaika Olds, Vice-Chair
Members of the House Committee on Human Services and Homelessness

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 731
Relating to Minors

Hearing: January 28, 2025, Conference Room 329; 9:00am

Good morning, Chair Marten, Vice Chair Olds and Members of the Committee on Human Services and Homelessness:

The Sex Abuse Treatment Center (SATC) is submitting testimony in opposition to HB 731. While we appreciate the intent of the bill to allow minors 14 years and older to access medical care and treatment from any licensed physician when disclosing a sexual assault, the bill as proposed has significant impact on the system of care afforded to survivors, minors included, when seeking medical forensic examinations following a sexual assault.

Like many jurisdictions across the nation, Hawai'i has a coordinated system approach to sexual assault survivors, particularly, when seeking medical forensic examinations. These examinations are carefully done, as it involves the collection of evidence from the body of the victim/survivor. Much of the collection of evidence from the body of survivor following a sexual assault was codified by this legislature in Chapter 844G of the Hawai'i Revised Statutes and the efforts led by the Hawai'i Sexual Assault Response and Training team (HSART). To provide an overview of Hawai'i's system of care to sexual assault survivors we highlight the following:

- Medical forensic examinations are free of charge to any survivor;
- Victims/survivors have a right to report or not report their assault to law enforcement,
- Services are available regardless of a survivor's choice to report,
- HRS 844G-2 outlines the responsibility of members of HSART to develop appropriate guidelines and protocols regarding the collection of evidence,
- HRS 844G-5 outlines time deadlines regarding the submittal and testing of sexual assault kits/evidence,
- HRS 844G-4 sets forth the responsibility of "agencies, organizations, and other entities in possession" of unreported sexual assault evidence kits to store kits for a specified period of time;
- HRS 844G-7 mandates sexual assault survivors be provided by "medical professionals" to name a few, a "physical document" setting forth specific rights. Some of these rights include:

- where their evidence is stored,
- the status of the testing of their evidence,
- the period of retention of their evidence,
- information on how to convert an unreported kit/evidence to a reported status for purposes of testing and law enforcement engagement;
- information on Crime Victim Compensation and other available services

This process has been developed in collaboration with medical experts as well as law enforcement partners to include the Honolulu Crime Lab that receives and tests sexual assault evidence, state-wide. The Department of the Attorney General, through HSART, oversees the collection and timely testing of the sexual assault kits. The Department of the Attorney General has designated the Sex Abuse Treatment Center (a member of HSART) to provide medical forensic examinations to survivors, minors and adults that meet the eligibility standards on the Island of Oahu. These examinations are done by specialized trained licensed medical physicians in sexual assault evidence collection, and are accompanied by a crisis worker during the examination, to provide a trauma informed response and support to survivors. The SATC follows established guidelines as to the collection of evidence, packaging, transfer of evidence to the crime lab to include statutory mandates regarding non-reported kits/evidence.

The process as developed by HSART, is victim centered and trauma informed, in an effort to provide survivors with the best possible care and support as they navigate a system of care with multiple agencies.

The concern with the proposed bill is it does not take into consideration the important processes outlined above, and the impact on survivors should their "evidence" be improperly collected, preserved and/or handled for current or future use. Similarly, it does not include training that is vital for licensed physicians who engage in the collection of evidence to avoid any potential negative impact on survivors, especially those who elect to engage with the criminal justice system. Without specific training, licensed physicians could unknowingly compromise forensic evidence to the detriment of survivors. Survivors would not be informed of their rights under Chapter 844G, nor provided crisis support and counseling. As we see it, any licensed physician who engages in the collection of evidence of sexual assault victim/survivor should be held to the requirements of HRS Chapter 844G.

While SATC recognizes the intent of HB 731 to provide wider access to medical care for minors who have been sexually abused/assaulted, as we understand it, that is currently covered under HRS 577A-2 given the cascading health impact of a sexual assault on minors to include "family planning", "sexually transmitted infection" and/or "pregnancy". Naturally, parental engagement can play a significant role in the support of minor who has been sexually assaulted/abused under appropriate circumstances as outlined by HB 731.

We respectfully oppose this legislation and ask this Committee to carefully review HRS Chapter 844G and engage with HSART members who are currently responsible to handle the collection of evidence from sexual assault survivors.

Thank you for your consideration.

Hawai'i Association of Professional Nurses (HAPN)



To: The Honorable Representative Lisa Marten, Chair of the House Committee on Human Services and Homelessness

From: Hawai'i Association of Professional Nurses (HAPN)

Subject: HB731 – Relating to Minors

Hearing: Tuesday, January 28, 2025, 9:00 a.m.

LATE

Aloha Representative Marten, Chair; Representative Olds, Vice Chair; and Members of the Committee,

On behalf of the Hawai'i Association of Professional Nurses (HAPN), we appreciate the opportunity to provide testimony **in support of HB731 with amendments**, which authorizes healthcare providers to conduct necessary examinations and treatments for minors who are victims of sexual offenses. This measure represents a critical step in ensuring that minor victims have access to compassionate, timely, and effective care while balancing the importance of parental notification and child protection.

HAPN supports HB731 with amendments as it highlights the importance of removing barriers to care for minor victims of sexual offenses, ensuring that they receive essential medical attention and support during a vulnerable time. However, **we respectfully request amendments to ensure the language in the bill is provider-neutral by replacing references to “physician” with “licensed healthcare provider.”** This amendment acknowledges Hawai'i's multidisciplinary healthcare system and allows Advanced Practice Registered Nurses (APRNs) to fully contribute to providing these critical services.

APRNs are fundamental to Hawai'i's healthcare infrastructure, especially in rural and underserved areas where access to physicians may be limited. By including APRNs in this legislation, the State continues to align with existing policies that recognize their integral role in delivering high-quality, patient-centered care. This change ensures equitable access to care and removes unnecessary restrictions that could delay treatment for minor victims.

HAPN remains steadfast in our advocacy for equitable healthcare policies that prioritize the needs of Hawai'i's residents. HB731, with the proposed amendments, reflects our commitment to improving healthcare access and outcomes for all individuals in our state.

Thank you for the opportunity to provide testimony on this critical measure. We appreciate your continued dedication to the health and well-being of Hawai'i's communities.

Respectfully,

Dr. Jeremy Creekmore, APRN
HAPN President

**Testimony Presented Before the
House Committee on Human Services & Homelessness
Tuesday January 28, 2025 at 9:00 AM
Conference Room 329 and videoconference**

**By
Laura Reichhardt, APRN, AGPCNP-BC
Director, Hawai'i State Center for Nursing
University of Hawai'i at Mānoa**

TESTIMONY WITH COMMENTS on H.B. 731

Chair Martin, Vice Chair Olds, and members of the committee:

Thank you for hearing this measure. This measure aims to permits a physician, with the consent of a minor patient who reports being a victim of a sexual offense, to conduct customary and necessary examinations to collect evidence of the offense and to prescribe treatment for any immediate conditions resulting from it. Additionally, specifies that parental or legal guardian consent is not required to authorize hospital, medical, mental health, dental, emergency healthcare, or emergency surgical care for minor offenders committed to Hawai'i youth correctional facilities. The Hawai'i State Center for Nursing (HSCN) provides comments with recommendations for amendments.

HSCN thanks the Legislature for its effort support and protect minors in our state by improving access to care for those who report being a victim of sexual offenses. In addition, HSCN recommends that in addition to the physician, this measure be amended to include other qualified healthcare providers to conduct the examination and treat the patient.

HSCN has a longstanding initiative to address barriers to Advanced Practice Registered Nurse (APRN) care as a mechanism to improve access to high quality health care services. In 2022, HSCN started an interprofessional effort to review the Hawai'i Revised Statutes for laws that inform healthcare access that are outside of healthcare professionals' scope of practice laws (primarily in Title 25). The committee found that nearly half of the HRS had language that limited all qualified providers from engaging in certain healthcare activities as described in those statutes. Therefore, in order to optimize the access to care that this measure establishes, where physician appears in this measure, HSCN respectfully requests the addition of the below language:

Physician, advanced practice registered nurse, physician assistant or other qualified licensed healthcare provider

Further, this aligns with the HRS 557A Legal Capacity of Minor Regarding Medical Care.

The Hawai'i State Center for Nursing commends the legislature for introducing this measure and for your commitment to the health and safety of minors in our state. Thank you for the opportunity to testify with comments on this measure.

The mission of the Hawai'i State Center is to engage in nursing workforce research, promote best practices and disseminate knowledge, cultivate a diverse and well-prepared workforce, support healthy work environments, champion lifelong learning, and strategically plan for sound nursing workforce policy.

HB-731

Submitted on: 1/25/2025 12:57:33 PM

Testimony for HSH on 1/28/2025 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Michael Olderr	Individual	Support	Written Testimony Only

Comments:

I support this bill. While I understand the need to keep Parents in the loop for their child's well-being, we cannot kid ourselves into thinking that every child's parents have their best interest at heart. In an ideal world, we would like to think that all adults have the best interest of the children in their care in mind, but we have to accept that will not always be the case.

LATE

Dennis M. Dunn

Kailua, Hawaii 96734

dennismdunn47@gmail.com

Re: HB 731, Relating to Minors

Date: January 28, 2025, 9:00 a.m.

To: House Committee on Human Services and Homelessness

Representative Lisa Marten, Chair

Representative Ikaika Olds, Vice Chair

Good morning, Chair Marten, Vice Chair Olds, and Members of the House Committee on Judiciary and Hawaiian Affairs. My name is Dennis Dunn, and I am the retired Director of the Victim Witness Kokua Services in the Honolulu Prosecuting Attorney's Office. It is through the lens of my 48 years of assisting victims of sexual assault that I am testifying in **opposition to HB 731, Relating to Minors**.

I have worked with sex assault victims and the medical-legal forensic examination process since 1977, when I first started as a volunteer with Women Against Rape. I subsequently was Chair for People Against Rape and became a Victim Witness Counselor for the Honolulu Prosecutor's Office in 1979. I became Director of the Victim Witness Assistance Program in 1985, at which time I joined the Advisory Board for the Sex Abuse Treatment Center, a body on which I still serve. During the intervening years covering my experience cited above I been acutely interested and actively involved in the development of the protocols surrounding the emergency treatment of sexual assault victims and the forensic collection of evidence in such cases. A primary focus of the early development of the protocols surrounding evidence collection during sexual assault exams has been the establishment of meticulous procedures for the collection, preservation, and maintenance of evidence collected during the exams. It took years of careful planning and consultation with both local and national experts to develop protocols that would govern the collection, processing, analysis, and preservation of forensic evidence. These professional protocols have insured the integrity and credibility of this evidence collection process that was sufficient to gain the confidence of judges and appellate courts in Hawai'i. Essential to this respected evidence collection process has been the careful training of doctors, nurses, and forensic analysts involved in this process and the ultimate designation of Kapiolani Medical Center and the Sex Abuse Treatment Center, specifically as the sole source for this task.

While I appreciate the intent of H.B. 731 to broaden the pool of physicians tasked with conducting forensic exams, the authorization of physicians operating outside the supervision of

the protocol and training established and maintained by the Sex Abuse Treatment Center at Kapiolani Hospital risks the invitation of legal and technical challenges to the process of evidence collection for sexual assault exams in Hawai'i. While there may be ways to integrate the intended purposes of H.B. 731 into existing protocols, I believe that the matter is best left to a careful examination by qualified experts that could develop proposals to accomplish these purposes for potential introduction at a later date. The technical and procedural expertise necessary for developing any new procedures, especially if legislatively mandated, dictate a carefully managed process that is best prepared by the current experts in the field.

For the above stated reasons, I urge the Committee to hold HB 731. Thank you for your time and consideration.

Mahalo!