

STATE OF HAWAII – KA MOKU'ĀINA 'O HAWAII
**CRIME VICTIM COMPENSATION
COMMISSION**

Ke Komikina Uku Luaahi Kalaima

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TESTIMONY ON HOUSE BILL 359
RELATING TO COVERED OFFENDER REGISTRATION

by

Pamela Ferguson-Brey, Executive Director
Crime Victim Compensation Commission

House Committee on Human Services and Homelessness
Representative Lisa Marten, Chair
Representative Ikaika Olds, Vice Chair

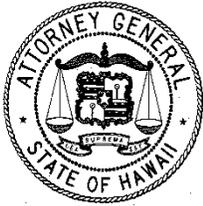
Tuesday, February 11, 2025; 10:00 AM
State Capitol, Conference Room 329 & Videoconference

Good morning Chair Marten, Vice Chair Olds, and Members of the House Committee on Human Services and Homelessness. Thank you for providing the Crime Victim Compensation Commission (the "Commission") with the opportunity to testify before you today in strong support of House Bill 359. The purpose of the bill is to close the gap in the current registration laws for certain offenses committed against minors. Currently, public disclosure is not required for offenders who, while acting in their professional capacity, commit the offense of sexual assault in the fourth degree against a minor who is at least 16 years old.

The Commission provides compensation for victims of violent crime to pay un-reimbursed expenses for crime-related losses due to physical or mental injury or death. Many victims of violent crime could not afford to pay their medical bills, receive needed mental health or rehabilitative services, or bury a loved one if compensation were not available from the Commission. A significant number of the Commission's applications are for victims of sexual assault.

The legislature created Hawai'i's sex offender registry to protect the community by providing relevant information about the presence of convicted sex offenders. Currently, offenders who commit the offense of sexual assault in the fourth degree against a minor while acting in a position of trust and power, are not required to publicly disclose registration information. This loophole allows these offenders to evade public detection thus allowing them to continue to prey on children in our community.

The Commission strongly urges the legislature to close this loophole to protect the children of Hawai'i. Thank you for providing the Commission with the opportunity to testify in strong support on House Bill 359.



**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, RELATING TO COVERED OFFENDER REGISTRATION.

BEFORE THE:

HOUSE COMMITTEE ON HUMAN SERVICES & HOMELESSNESS

DATE: Tuesday, February 11, 2025 **TIME:** 9:45 a.m.

LOCATION: State Capitol, Room 329

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

Chair Marten 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.

To be consistent with the offense in sections 707-731 and 707-733, HRS, the Department recommends amending one of the purposes of the bill on page 2, lines 3-6, as follows: "[i]nclude offenders, while acting in a professional capacity, commit either the offense of sexual assault in the fourth degree or sexual assault in the second degree against a minor who is at least sixteen years old;".

In accordance with the amendments to section 846E-1, HRS, we recommend that section 846E-10, HRS, be amended to categorize how the added offenses will be tiered. We recommend amending section 846E-10, HRS, to include section 707-731(1)(d), HRS, as a Tier 2 offense and section 707-733(1)(d), HRS, as a Tier 1 offense for purposes of seeking termination of registration requirements.

Suggested wording for section 846E-10(c)(1), HRS, is as follows:

"(1) Any offense set forth in section 707-730(1)(c), 707-731(1)(c)[;] or (d), 707-732(1)(c), 707-750, 707-751, 712-1202, or 712-1203(1)(b), as section 712-1203(1)(b) read before its amendment pursuant to section 9 of Act 147, Session Laws of Hawaii 2008;"

Additionally, section 846E-10(d)(1), HRS, should be amended to read as follows:

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

To further update the covered offender registration laws, the Department would suggest including 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. The Department further notes that section 711-1109.8, HRS, sexual assault of an animal, is an offense that could be included as it was recently added pursuant to Act 31, Session Laws of Hawaii 2021. We recommend adding these offenses to the definition of "sexual offense" under section 846E-1, HRS, and tiering under section 846E-10, HRS.

Additionally, the Department recommends including a provision to amend section 846E-9(a)(2), HRS, as follows:

"§846E-9 Failure to comply with covered offender registration requirements. (a) A person commits the offense of failure to comply with covered offender registration requirements if the person is required to register under this chapter and the person intentionally, knowingly, or recklessly:

. . .

(2) Fails to report in person every five years until June 30, 2009, and beginning on July 1, 2009, once every year, during the thirty-day period following the offender's [~~date of birth,~~ birthday], to the chief of police where the covered offender's

residence is located, or to such other department or agency
designated by the attorney general;"

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

JON N. IKENAGA
STATE PUBLIC DEFENDER

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Committee on Human Services & Homelessness
Rep. Lisa Marten, Chair
Rep. Ikaika Olds, Vice Chair
415 South Beretania Street, Conf. Rm. 329
State Capital
Honolulu, HI 96813

RE: Testimony in Opposition of H.B. 359
Hearing: Tuesday, February 11, 2025, 9:45 AM

Chair Marten, Vice Chair Olds and Committee Members:

The Office of the Public Defender opposes H.B. 359 which would require registration and public disclosure on the sex offender registry for an offender who commits sexual assault in the fourth degree while acting in a professional capacity against a minor who is at least sixteen years old.

Notwithstanding the nonscientific nature and unproven efficacy of the sex offender registry, H.B. 359 is not necessary for HRS § 707-733(d), based on the severity of the offense and the potentially young age of the offender.

The offense that the bill addresses is a less severe misdemeanor offense based on the conduct, sexual contact, and the age of the minor, at least sixteen years old, and that the offender is not less than five years older than the minor. This means that the offender could be as young as twenty-one and forced to register, have their information disclosed and be branded with a life-long stigma. Notably, the overwhelming number of offenders are males and studies have established that the male brain does not finish developing until age 30 years. When youths, including young adults, are placed on the sex offender registry, not only are they subjected to the same difficulties as the much more serious adult offenders, which includes difficulty in finding housing and employment, subjected to harassment and social isolation, but the youth will also have additional negative impact on their social, mental and emotional development and rehabilitation. Requiring registration and public

disclosure for all offenders of this misdemeanor offense constitutes excessive punishment where the untested and purported benefit of protecting the public would be outweighed by the negative impacts.

Thank you for taking these comments into consideration.

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HONOLULU POLICE DEPARTMENT
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DEPUTY CHIEFS
HOPE LUNA NUI MĀKA'I

OUR REFERENCE **CL-DNK**

February 11, 2025

The Honorable Lisa Marten, Chair
and Members
Committee on Human Services
and Homelessness
House of Representatives
415 South Beretania Street, Room 329
Honolulu, Hawai'i 96813

Dear Chair Marten and Members:

SUBJECT: House Bill No. 359, Relating to Covered Offender Registration

I am Carlene Lau, Acting 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, 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, Relating to Covered Offender Registration.

Thank you for the opportunity to testify.

APPROVED:


Arthur J. Logan
Chief of Police

Sincerely,


Carlene Lau, Acting Major
Records and Identification Division



Date: February 9, 2025

To: Rep Lisa Marten, Chair
Rep Ikaika Olds, Vice Chair
Members of the Committee on Human Services and Homelessness

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

RE: Testimony on HB 359
Relating to Covered Offender Registration

Hearing: February 11, 2025, Conference Room 329; 9:45am

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

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

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 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, 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 would 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 amend HB 359 to include HRS 707-733(1)(d) as a Tier 1 offense under HRS 846E-10(d). Currently, it is not referenced in any Tier level under Chapter 846E, and it is unclear what the default would be. To avoid any ambiguity, we ask for its inclusion as a Tier 1 offense.

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.