

DAVID Y. IGE
GOVERNOR OF
HAWAII



SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

Testimony of
SUZANNE D. CASE
Chairperson

Before the House Committee on
JUDICIARY & HAWAIIAN AFFAIRS

Wednesday, February 23, 2022
2:00 PM

State Capitol, Conference Room 325, Via Videoconference

In consideration of
HOUSE BILL 1979, HOUSE DRAFT 1
RELATING TO HABITAT CONSERVATION PLANS

House Bill 1979, House Draft 1 proposes to amend Chapter 195D, Hawaii Revised Statutes (HRS), so that any person engaging in an activity with a high likelihood of take of an endangered or threatened species, must enter into a planning process with the Department of Land and Natural Resources (Department) and requires additional components in approved Habitat Conservation Plans (HCP). The Department shall identify in administrative rule what activity has a high likelihood of take. **The Department supports this measure and offers the following comments.**

The Department recognizes that some activities have a high likelihood of take of threatened and endangered species. Currently, under Section 195D-23, HRS, entry by a landowner into a HCP shall be voluntary. The Department notes that although HCPs are voluntary, incidental take of a listed species is prohibited without a permit. Requiring responsible persons, regardless of land ownership, to engage with the Department under Chapter 195D, HRS, for certain activities that have a high likelihood of take, identified by administrative rule, will appropriately place the burden of compliance and accountability with the entity engaging in such activity and would likely decrease unauthorized take of listed species in the State.

The Department notes that the additional requirements set forth in the proposed bill under Section 195D-22(b)(2)(I) (i), (ii), (iv) and (v), HRS, are already requirements of an HCP. Specifically, minimization and mitigation measures are required elements described in Section 195D-22(b)(2)(C), HRS. Monitoring for take levels and achieving goals of the HCP are required under Section 195D-22(b)(2)(D) and (G), HRS, and providing for an adaptive management strategy is described in Section 195D-22(b)(2)(H), HRS.

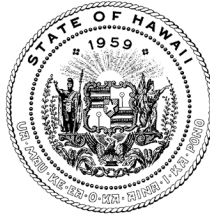
The Department recommends amending SECTION 3, page 9, lines 7 through 21 as follows, to prevent repetitive and unnecessary statutory language:

- (I) Include effective measures to
 - ~~(i) Minimize incidental take;~~
 - ~~(ii) Monitor for the presence of any threatened or endangered species that are injured;~~
 - ~~(iii) Retrieve] retrieve any injured threatened or endangered species in a timely manner and provide emergency medical treatment for and long-term rehabilitation of the injured species so that they can be released into the wild;~~
 - ~~[(iv) Mitigate potential incidental take by protecting additional habitat areas and through the proper design and construction of structures, lighting, wires, and other obstructions; and~~
 - ~~(v) Implement adaptive management;]~~ and

New provisions proposed in the bill under Section 195D-22(b)(2)(I)(iii), HRS, and Section 195D-22(b)(2)(J) recognize the need to provide for the care of injured listed species covered under an HCP. The Department supports this addition so long as the rehabilitative care expected is reasonable and practicable.

Thank you for the opportunity to comment on this measure.

DAVID Y. IGE
GOVERNOR OF
HAWAII



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Thank you for the opportunity to comment on this measure.



Hawai'i Wildlife Center
P.O. Box 551752 • Kapa'au, HI 96755

**TESTIMONY OF LINDA ELLIOTT,
PRESIDENT AND CENTER DIRECTOR, HAWAII WILDLIFE CENTER**

**PRESENTED TO THE
HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS**

DATE: Wednesday, February 23, 2022

TIME: 2:00 PM

PLACE: Via Videoconference, Conference Room 325

TESTIMONY IN SUPPORT OF H.B. 1979, Relating to Habitat Conservation Plans

To the honorable Senator Mark Nakasima, Vice Chair Scot Z. Matayoshi, and members of the Committee:

I am submitting testimony in **strong support** of HB 1979. Thank you for the opportunity to provide comment.

The Hawai'i Wildlife Center provides professional, state-of-the-art treatment for native Hawaiian wildlife affected by injury, disease and contamination. HWC staff members have the experience and capability to manage wildlife-related response, including assessment, training, mobilization, supervision, facilities management, wildlife capture, handling, stabilization and transportation. At the Center, staff performs triage, assessment, stabilization, rehabilitation, husbandry, quarantine, hydration, feeding, cleaning, monitoring, recovery and release into the wild. The Center also provides emergency response training for agency staff, interns, students and volunteers.

HB 1979 helps expand the range of activities that would require a Habitat Conservation Plan (HCP) before proceeding. The Hawai'i Wildlife Center cares for hundreds of native patients each year that come from throughout the state. Last year we ended 2021 with 790 native bird patients between our wildlife hospital, satellite operations, and partner projects. Many of these patients had been affected by commercial activities of entities that did not have an HCP and under the current rules are not required to create one.

While Hawai'i's native populations are nowhere near their historical numbers, certain species like endangered waterbirds (Nēnē/Hawaiian Goose, A'e'o/Hawaiian Stilt, 'Alae ke'oke'o/Hawaiian Coot, and 'Alae 'ula/Hawaiian Gallinule) and seabirds ('Ua'u/Hawaiian Petrel, 'A'o/Newell's Shearwater) are becoming more common around businesses and recreational industries. As numbers grow, it will become increasingly more important for a plan to be in place that covers what to do when native wildlife is injured by business activities and supports the resources necessary to respond appropriately.

In addition to expanding the circumstances that would make an HCP necessary, I also appreciate that the bill amendments explicitly inserts language for timely retrieval of injured wildlife and provide for the emergency medical treatment and rehabilitation of those species. Our native wildlife hospital works with patients affected by various types of recreational and commercial industries and I want to stress that not all wildlife impacted by industry activities are automatic kills. Being proactive in search and rescue, along with timely response is one of the most critical factors in maximizing the odds that affected wildlife will be able to be released back into their habitats. Having an HCP will help ensure follow-through and commitment to these efforts.

I would like to conclude my comments by emphasizing that native wildlife hospital care and rehabilitation are important mitigation actions. Our work to treat and return wildlife to the wild has net population benefits that we can quantify through our years of patient records. As native wildlife become increasingly more prevalent in our daily lives, it adds additional responsibility on all of us to continue to protect them to the best of our ability.

Thank you for the opportunity to testify on this important matter.

HB-1979-HD-1

Submitted on: 2/21/2022 5:25:59 AM

Testimony for JHA on 2/23/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Hob Osterlund	Kauai Albatross Network	Support	No

Comments:

Aloha members of the the House Judiciary & Hawaiian Affairs Committee,

We strongly support HB 1979. It provides critical support for native wildlife care services from all activities that have a likelihood of injury to a native wildlife species and will ensure help is available when a native animal needs it.

Mahalo for standing strong for our native wildlife. Their lives depend on it.



Save Our Shearwaters

Testimony of MOLLY BACHE
Program Coordinator; Save Our Shearwaters

Before the House Committee on JUDICIARY & HAWAIIAN AFFAIRS
Thursday, February 23RD, 2022 2:00 PM State Capitol, Via Videoconference
In consideration of HOUSE BILL 1979, HD 1; RELATING TO HABITAT CONSERVATION PLANS

Dear Senators:

Thank you for the opportunity to submit comment on HB 1979. I am in **strong support** of this bill.

The odds are stacked against Hawai'i's threatened and endangered species. The rise of urbanization and development will continue to strain the ecosystems they rely on to survive. The changing climate will exacerbate environmental pressures they already face. While the State has taken many steps to help protect these habitats and the indigenous species they support, we must continue to evaluate and improve processes in order to be effective against rapid change. HB 1979 would bring more accountability to the way we interact with Hawai'i's natural environment, at a time that it is desperately needed.

This bill is relevant to those that engage in an activity that has a high likelihood of resulting in an incidental take of a threatened or endangered species. Given Hawai'i's historical and continued loss of biodiversity, requiring these parties to take the beginning steps towards a plan designed to minimize and mitigate the effects of their actions is overwhelmingly logical.

When it comes to conserving Hawai'i's natural environment, the density of threatened and endangered species throughout varied habitats Statewide presents a formidable challenge. We must remember that with this challenge comes opportunity. The impact of a single bill like HB 1979 does not stop at conserving the species directly involved. It also supports the preservation of biological interactions that have evolved over millions of years. These deep-rooted relationships form the core of a healthy ecosystem, which supports us all.

I agree with the State's declaration that "All indigenous species of aquatic life, wildlife, and land plants are integral parts of Hawai'i's native ecosystems and comprise the living heritage of Hawai'i, for they represent a natural resource of scientific, cultural, educational, environmental, and

economic value to future generations of Hawai'i's people. To ensure the continued perpetuation of indigenous aquatic life, wildlife, and land plants, and their habitats for human enjoyment, for scientific purposes, and as members of ecosystems, it is necessary that the State take positive actions to enhance their prospects for survival" HI Rev. Stat. § 195D-1.

If we don't consider it necessary to minimize and mitigate the effects of our actions on threatened and endangered species when incidental take is anticipated, we can only expect their prospects for survival to diminish.

Thank you for the opportunity to provide comment.



Molly Bache
Program Coordinator
Save Our Shearwaters

HB-1979-HD-1

Submitted on: 2/18/2022 4:36:29 PM

Testimony for JHA on 2/23/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Douglas Perrine	Individual	Support	No

Comments:

I support HB1979 to make sure our native wildlife will receive care when needed.

HB-1979-HD-1

Submitted on: 2/18/2022 4:40:18 PM

Testimony for JHA on 2/23/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Rae Okawa	Individual	Support	No

Comments:

I strongly support HB1979. Habitat Conservation Plan requirements are currently relatively narrow and I believe the State's conservation efforts overall would benefit greatly from a wider range of HCP participants. The expanded participant pool would also make native species protection more equitable because it would share the responsibilities among a wider range of businesses and entities that have an impact on these species.

HB-1979-HD-1

Submitted on: 2/18/2022 5:18:36 PM

Testimony for JHA on 2/23/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Renee Breeden	Individual	Support	No

Comments:

I support this bill; it provides critical support for native wildlife.

Mahalo for your consideration.

HB-1979-HD-1

Submitted on: 2/19/2022 10:14:34 AM

Testimony for JHA on 2/23/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Carol Davies	Individual	Support	No

Comments:

I am pleased that this bill is back on the agenda.....I strongly support it as it provides critical aid for native wildlife care services from all activities that have a likelihood of injury to a native wildlife species and will ensure help is available when a native animal needs it. Thank you.

HB-1979-HD-1

Submitted on: 2/19/2022 1:08:36 PM

Testimony for JHA on 2/23/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Cindy Granholm	Individual	Support	No

Comments:

I strongly support this bill, it provides critical support for native wildlife care services from all activities that have a likelihood of injury to a native wildlife species. It will ensure that help is available when a native species needs it. Mahalo for your consideration.

Cindy Granholm

Volcano, HI

HB-1979-HD-1

Submitted on: 2/19/2022 1:57:23 PM

Testimony for JHA on 2/23/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
peter L Hendricks	Individual	Support	No

Comments:

I strongly support this bill as it provides critical support for native wildlife care services from all activities that have a likelihood of injury to native wildlife species and will ensure help is available when a native animal needs it. Mahalo for your consideration. Aloha...pete hendricks

HB-1979-HD-1

Submitted on: 2/20/2022 8:36:41 AM

Testimony for JHA on 2/23/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Jan Wizinowich	Individual	Support	No

Comments:

We need to constantly be aware of our impact on our small beautiful island and take steps to mitigate and prevent damage.

HB-1979-HD-1

Submitted on: 2/20/2022 10:05:28 AM

Testimony for JHA on 2/23/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Jennifer Barrett Fajardo	Individual	Support	No

Comments:

I strongly support this bill as it provides critical support for native wildlife care services from all activities that have a likelihood of injury to a native wildlife species and will ensure help is available when a native animal needs it. Mahalo for your consideration.

HB-1979-HD-1

Submitted on: 2/20/2022 2:58:57 PM

Testimony for JHA on 2/23/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Angela Huntemer	Individual	Support	No

Comments:

Please support HB1979 as it provides critical support for native wildlife care services. I drive an average to 10-20 birds to Feather and Fur every year from the Kahuku Area, mainly Turtle Bay Resort on Oahu. Many of those birds go on the the incredible Hawaii Wildlife Center on Hawaii Island. All activities that have a likelihood of injury to a native wildlife species need to be accountable for the damage they do and take responsibility for that. This bill will ensure help is available when a native animal needs it by having the entities causing the injuries support the funding of care. Mahalo.

HB-1979-HD-1

Submitted on: 2/20/2022 8:37:14 PM

Testimony for JHA on 2/23/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Meredith Miller	Individual	Support	No

Comments:

I strongly support this bill as it provides critical support for native wildlife care services from all activities that have a likelihood of injury to a native wildlife species and will ensure help is available when a native animal needs it.

Mahalo for your consideration.

Meredith Miller, M.A.

HB-1979-HD-1

Submitted on: 2/20/2022 9:37:39 PM

Testimony for JHA on 2/23/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Lee R Miller	Individual	Support	No

Comments:

I strongly support this bill as it provides critical support for native wildlife care services from all activities that have a likelihood of injury to a native wildlife species, and will ensure help is available when a native animal needs it.

Mahalo for your consideration.

Lee R Miller

HB-1979-HD-1

Submitted on: 2/21/2022 11:55:00 AM

Testimony for JHA on 2/23/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
HANNAH MOON	Individual	Support	No

Comments:

I strongly support this bill as it provides critical support for native wildlife care services from all activities that have a likelihood of injury to a native wildlife species and will ensure help is available when a native animal needs it. Mahalo for your consideration.

HB-1979-HD-1

Submitted on: 2/21/2022 8:26:18 PM

Testimony for JHA on 2/23/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Ruth Yender	Individual	Support	No

Comments:

I strongly support this bill because it provides critical support for native wildlife care services from all activities that have a likelihood of injury to a native wildlife species. As a professional oil spill responder, I am quite familiar with how essential wildlife response and rehabilitation services are and with the excellent work provided by the organizations that provide these critical services 24/7, 365 days a year. It is only fair that all types of activities that are likely to injure wildlife do their fair share to help support these important facilities and services. This bill will ensure these services are available when needed to help rescue and rehabilitate Hawaii's precious native wildlife, including threatened and endangered species. I urge you to pass this bill.

Thank you for your consideration,

Ruth Yender, Kailua, Oahu

HB-1979-HD-1

Submitted on: 2/21/2022 9:21:48 PM

Testimony for JHA on 2/23/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Caren Loebel-Fried	Individual	Support	No

Comments:

To Whom it May Concern,

I strongly support this bill as it provides critical support for native wildlife care services from all activities that have a likelihood of injury to a native wildlife species and will ensure help is available when a native animal needs it.

Mahalo for your consideration,

Caren Loebel-Fried

HB-1979-HD-1

Submitted on: 2/22/2022 1:52:14 PM

Testimony for JHA on 2/23/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Nancy Rustad	Individual	Support	No

Comments:

I strongly support HB1979

This bill is critical to provide support for those native wildlife services that have the expertise to provide care to injured animals. A multitude of activities can cause such injury and this bill will ensure that help is available when native animals need it. Thank you for your consideration.

HB-1979-HD-1

Submitted on: 2/22/2022 5:58:43 PM

Testimony for JHA on 2/23/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Dr. Jason Turner	Individual	Support	No

Comments:

The Endangered Species Act (ESA) of 1973 (P. L. 93–205) is considered a landmark of conservation law and is perhaps the most powerful natural resources law in the nation or, for that matter, in the world. Academic researchers have referred to it as one of the nation's most significant environmental laws as it is one of the most powerful environmental statutes in the U.S. and one of the world's strongest species protection laws.

One of the many strengths of this U.S. law is Section 6 which is titled “Cooperation with the States”. Here the ESA states that in carrying out the program authorized by this Act, the Secretary shall cooperate to the maximum extent practicable with the States. Such cooperation shall include consultation with the States concerned before acquiring any land or water, or interest therein, for the purpose of conserving any endangered species or threatened species. Therefore Section 6 of the ESA is specific to the need for State bills like HB 1979.

In addition, the 1982 amendment to the ESA provided for the development of Habitat Conservation Plans (HCPs) to give incentives to private landowners to help protect listed and unlisted species. This is extremely important as more than half of habitat for listed species is on non-federal property, owned by citizens, states, local governments, tribal governments and private organizations.

HB1979 requires any person, before engaging in an activity with a high likelihood of resulting in an incidental take of a threatened or endangered species, to enter into a planning process with DLNR for the purpose of preparing and implementing a habitat conservation plan. Requires habitat conservation plans to include additional components. Not only is this bill relevant and important but to me most importantly was literally what the framers of the ESA has in mind with Section 6 and the later 1982 amendment and the addition of HCPs.

As we are all aware development in Hawai'i has taken its toll on both the ecosystems and species of Hawai'i nei. As of May 2016, there were 2,389 endangered and threatened species protected under the Endangered Species Act in the 50 states. Hawai'i contained the most protected species (434 species) while by comparison Vermont contained the fewest species (5 species). Hawai'i has also recorded the most extinctions far surpassing numbers found in the other 49 U.S. States. Therefore, the time for action is now and HB1979 is a step in the right direction.