

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
PHONE: (808) 547-7400 • FAX: (808) 547-7515

KEITH M. KANESHIRO
PROSECUTING ATTORNEY

ARMINA A. CHING
FIRST DEPUTY PROSECUTING ATTORNEY



THE HONORABLE HENRY J.C. AQUINO, CHAIR
HOUSE COMMITTEE ON PUBLIC SAFETY
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawai'i

March 21, 2013

RE: S.B. 880, S.D. 1; RELATING TO SENTENCE OF IMPRISONMENT FOR SEXUAL ASSAULT OF A MINOR UNDER THE AGE OF TWELVE YEARS.

Chair Aquino, Vice Chair Ing and members of the House Committee on Public Safety, the Department of the Prosecuting Attorney, City and County of Honolulu, submits the following testimony in support of S.B. 880, S.D. 1, which is part of the 2013 Honolulu Prosecuting Attorney Legislative Package.

In the 2011 Uniform Crime Reporting Program (UCR) that is administered by the Federal Bureau of Investigation (FBI), there were 353 forcible rapes reported in the State of Hawaii in 2011 with a rate of 25.7 forcible rapes per a population of 100,000. [Pursuant to the UCR, “forcible rape” is defined as: The carnal knowledge of a female forcibly and against her will. Assaults or attempts to commit rape by force or threat of force is also included. Statutory rape (without force), any sexual assaults against males, and other sex offenses are not included in this category].

According to “Sexual Assault Victims in Honolulu, A Statistical Profile” that was put together by the Department of the Attorney General of the State of Hawaii in partnership with the Sex Abuse Treatment Center (SATC), in the eleven-year period between 1990 and 2001, the SATC has assisted an average of 460 victims per year in Honolulu, with as many as 541 in 1994 to 368 in 1999. We would like to note that 32.5% or almost one-third of the victims getting treatment from SATC had been under the age of 12. Specifically 18.8% of the victims were ages 0 to 5 and 13.7% of the victims were ages 6 to 11.

To help curb the amount of sexual assault on minors in Hawaii, the Department of the Honolulu Prosecuting Attorney of the City and County of Honolulu introduced this bill to amend Chapter 706 of the Hawaii Revised Statutes by adding a new section that creates mandatory

minimum terms of imprisonment for any person convicted of sexual assault in the first degree, sexual assault in the second degree, and sexual assault in the third degree where the victim was subjected to sexual penetration.

At least 25 states have enacted mandatory 25 year minimum sentences for various types of first time child sex crime offenders. Our bill is narrowly focused by creating mandatory minimum imprisonment for offenders who are convicted of certain sexual offenses that involve sexual penetration of a minor under the age of 12. We excluded statutory sexual offenses and sexual offenses solely involving sexual contact.

For all of the reasons noted above, the Department of the Prosecuting Attorney of the City and County of Honolulu is in support of S.B. 880, S.D. 1. Thank for you the opportunity to testify on this matter.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulu-pd.org

KIRK W. CALDWELL
MAYOR



LOUIS M. KEALOHA
CHIEF

DAVE M. KAJIHIRO
MARIE A. McCAULEY
DEPUTY CHIEFS

OUR REFERENCE LM-NTK

March 21, 2013

The Honorable Henry J. C. Aquino, Chair
and Members
Committee on Public Safety
House of Representatives
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Aquino and Members:

Subject: Senate Bill No. 880, S. D. 1, Relating to Sentence of Imprisonment for Sexual Assault of a Minor Under the Age of Twelve Years

I am Lisa Mann, Captain of the Criminal Investigation Division of the Honolulu Police Department, City and County of Honolulu.

The Honolulu Police Department supports Senate Bill No. 880, S. D. 1, Relating to Sentence of Imprisonment for Sexual Assault of a Minor Under the Age of Twelve Years.

The protection of our children is vital to the well-being of our community. Mandatory sentencing will reduce a sexual offender's ability to re-offend, thus protecting our community.

The Honolulu Police Department urges you to support Senate Bill No. 880, S. D. 1, Relating to Sentence of Imprisonment for Sexual Assault of a Minor Under the Age of Twelve Years.

Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa Mann", written over a horizontal line.

LISA MANN, Captain
Criminal Investigation Division

APPROVED:

A handwritten signature in black ink, appearing to read "Louis M. Kealoaha", written over a horizontal line.
LOUIS M. KEALOHA
Chief of Police



THE SEX ABUSE TREATMENT CENTER

A Program of Kapi'olani Medical Center for Women & Children

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DATE: March 21, 2013

TO: The Honorable Henry J.C. Aquino, Chair
The Honorable Kaniela Ing, Vice Chair
House Committee on Public Safety

FROM: Adriana Ramelli, Executive Director
The Sex Abuse Treatment Center

RE: S.B. 880 S.D. 1
Relating to Sentence of Imprisonment for Sexual Assault of a Minor under
the Age of Twelve Years

Good morning Chair Aquino, Vice Chair Ing and members of the House Committee on Public Safety. My name is Adriana Ramelli and I am the Executive Director of the Sex Abuse Treatment Center (SATC), a program of the Kapi'olani Medical Center for Women & Children (KMCWC), an affiliate of Hawai'i Pacific Health.

SATC supports S.B. 880 S.D. 1 to require the court to impose a mandatory minimum term of imprisonment without the possibility of parole or probation for a person convicted of certain acts of sexual assault against a minor under the age of twelve years.

Between 2001 and 2010, 23.5 percent of the sexual assault survivors seeking treatment at SATC were under the age of twelve.¹ These survivors were more likely to be sexually assaulted by family members, and to a lesser extent authority figures or acquaintances, than by strangers.²

S.B. 880 S.D. 1 would hold accountable the perpetrators of the most violent assaults against children. The bill would further ensure that, for a definite period of time, the perpetrator, who is often someone known and who has access to the survivor, will not be able to harm the survivor or the public.

We are aware of the position that "long" mandatory minimums can have unintended consequences. These arguments have generally been presented in opposition to versions of so-called "Jessica's Laws," which typically provide for 25-year mandatory minimum sentences without parole for first time child sex offenders. Opponents of these mandatory minimums have cited the potential for more defendants to choose to take the case to trial, which may be difficult for survivors; more prosecutors to refrain from or reduce charges; or more judges and juries to be less willing to find a defendant guilty.

We believe that S.B. 880 is distinguishable, in that the mandatory minimums proposed are significantly lower than the 25-year or longer sentences imposed by other

jurisdictions. We are not convinced that even the harshest mandatory minimum proposed by S.B. 880 S.D. 1, a six year, eight month sentence of imprisonment, will produce the adverse consequences that have been mentioned.

Moreover, instead of avoiding trials, we believe focus should be placed on opportunities to facilitate the effective participation of child witnesses in the judicial process. We are well-aware of the challenges survivors, especially young survivors, can encounter in the criminal justice system. SATC provides legal systems advocacy to support survivors through the judicial process. Our clinicians attend court proceedings with them and provide counseling and other services as they navigate the criminal justice system. Although these times are often extremely emotional, with the proper preparation and support, experiences such as testifying in court and preparing and delivering victim witness statements can be empowering and therapeutic steps in the healing process.

In addition, we support legislation that provides accommodations to child witnesses, which may make them more amenable to providing testimony. For example, the Uniform Child Witness Testimony by Alternative Methods Act, introduced this session as H.B. 129, would authorize courts to allow children to testify in a place other than open court or away from the finder of fact, court, or parties. These types of measures could also help to mitigate any adverse impacts of trial.

We believe that S.B. 880 S.D. 1 will serve the public interest by holding child sex offenders accountable and by protecting survivors and the public from harm.

Thank you for the opportunity to testify.

¹ See Dawna Nelson et al., *Sexual Assault Victims in Honolulu: A 2001-2010 Statistical Profile* at 20 (Sex Abuse Treatment Center 2012).

² See *id.* at 24.