#### HOUSE OF REPRESENTATIVES TWENTY-SEVENTH LEGISLATURE, 2014 STATE OF HAWAII

# H.B. NO. 1982

### A BILL FOR AN ACT

RELATING TO VIDEO TESTIMONY OF CHILD.

#### BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Section 626, Hawaii Revised Statutes, Rule 616
is amended to read as follows:

3 Rule 616 [Televised] Video testimony of child.

4 (a) In any prosecution of an abuse offense or sexual 5 offense alleged to have been committed against a child less than [cighteen] fourteen years of age at the time of the [testimony,] 6 7 offense, the court may [order that the testimony of the child be 8 taken in a room other than the courtroom and be televised by 9 two-way closed circuit video equipment to be viewed by the 10 court, the accused, and the trier of fact, if the court finds 11 that requiring the child to testify in the physical presence of 12 the accused would likely result in serious emotional distress to 13 the child and substantial impairment of the child's ability to 14 communicate. During the entire course of such a procedure, the attorneys for the defendant and for-the-State-shall have-the 15 16 right to-be-present with-the-child, and full direct and cross-17 examination shall be available as a matter of right.] allow the ÷.



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1	child's evidence-in-chief to be admitted by way of, but not
2	limited to, video recording, provided:
3	(1) Upon considering the video recording and other
4	relevant evidence the trial court finds on the balance of
5	probabilities the child was competent to give evidence at the
6	time the video recording of the child's evidence was made in
7	addition to being competent to give evidence at trial; and
8	(2) The video recording of the child's evidence is
9	made contemporaneously with initial complaint made to police
10	authorities; and
11	(3) The person interviewing the child is a police
12	officer or forensic interviewer and is made available at trial
13	and authenticates the video recording; and
14	(4) The person interviewing asks the child non-leading
15	questions; and
16	(5) The child is made available at trial for cross-
17	examination.
18	(b) A forensic interviewer shall be an expert witness and
19	may include but shall not be limited to persons who are licensed
20	counsellors, social workers, psychologists and psychiatrists
21	acting under or for a law enforcement agency or government
22	department.
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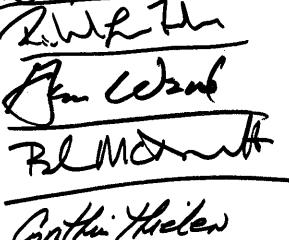
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1	(c) If a video recording of a child's evidence contains
2	one or more leading questions and responses to the leading
3	question(s) such leading evidence may be excluded by editing the
• 4	video recording without excluding the entire video recording
5	provided the leading question or questions do not substantially
6	impair the reliability of the remaining video recorded evidence.
7	(d) A full copy of unedited recording of the child's
8	evidence shall be supplied to the accused or the accused's
9	attorney at least 14 days prior to hearing or as required by
10	subpoena.
11	(e) If the court orders the exclusion of any evidence from
12	the video recording as leading evidence or for any other reason
13	and the recording is subsequently edited a copy of the edited
14	tape shall be supplied to accused or the accused's attorney with
15	reasonable time for the accused to view the edited video
16	recording before the evidence is played to the trier of fact and
17	admitted into evidence.
18	(f) Notwithstanding any other provision in this section a
19	court may exclude the video recording of the child's evidence if
20	there is clear and convincing evidence that the video recorded
21	evidence is otherwise unreliable.



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1	(g) Notwithstanding any other provision in this section a
2	video recording of the child's evidence may be presented and
3	played to a grand jury.
4	SECTION 2. Statutory material to be repealed is bracketed.
5	New statutory material is underscored.
6	SECTION 3. This Act shall take effect upon its approval.
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	INTRODUCED BY:



1. - Rei Ma tanto

JAN 1 7 2014



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Report Title: Video Evidence of Child Victims

#### Description:

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Provides for evidence of child victims of serious crimes to be admitted into evidence through recorded interview provided interview is made around time of initial complaint; provides for the child to be made available for cross-examination; provides for exclusion of evidence that is elicited through leading questions by law enforcement; intended to lessen retraumatization of child victims and minimize of loss of evidence from young children victims.

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