



**WRITTEN 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, H.D. 2, S.D. 1, RELATING TO COVERED OFFENDER REGISTRATION.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY

DATE: Tuesday, March 25, 2025

TIME: 10:01 a.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**

(For more information, contact Elyse C.N. Oyama,
Deputy Attorney General, at (808)586-1160)

Chair Rhoads and Members of the Committee:

The Department of the Attorney General opposes the bill as currently drafted, but would support this bill if section 2 of the bill is deleted.

The purposes of this bill are: (1) to amend the offense of sexual assault in the fourth degree in section 707-733, Hawaii Revised Statutes (HRS), by including a minimum age to the offender; (2) to update the covered offender registration laws within chapter 846E, HRS, by adding a number of sexual assault offenses, such as incest, sexual assault against a minor while the offender is acting in a professional capacity, and sexual assault of an animal; (3) to require public disclosure for covered offenses that are committed against minors, regardless of whether the conviction is for a first-time misdemeanor offense; (4) to require a covered offender to report every year during the thirty-day period following the offender's birthday, rather than on the date of birth; and (5) to specify how each updated covered offense would be tiered within the covered offender registration requirements.

While the Department generally supports this bill, the Department has constitutional and criminal-justice concerns regarding section 2 of the current version of the bill on page 3, line 20, to page 5, line 4, which amends the offense of sexual assault in the fourth degree, section 707-733, HRS. The offense of sexual assault in the fourth degree, under section 707-733(1)(d), HRS, criminalizes sexual contact, referring to any

touching of the sexual or other intimate parts of another, with a minor who is at least sixteen years old, while the offender was acting in a professional capacity to instruct, advise, or supervise the minor. This offense already currently contains an age exception in the statute, that would require the offender to be not less than five years older than the victim and not legally married to the victim, in order to prove the offense. Section 2 of the bill would additionally provide a minimum age requirement for the offense—that the offender “is at least twenty-four years of age at the time of the offense[.]”

First, section 2 of the bill could subject the bill to a constitutional challenge under article III, section 14, of the Constitution of the State of Hawaii, which mandates that “[e]ach law shall embrace but one subject, which shall be expressed in its title.” There are two parts to the analysis of this Constitutional provision—(1) that there be only one subject, and (2) that this subject be expressed in the law’s title. Here, the bill’s title embraces only one subject—“the Covered Offender Registration.” But section 2 of the current draft includes a provision to amend the substantive criminal offense of section 707-733(1)(d), HRS, sexual assault in the fourth degree, in order to create an age requirement for the offender. By proposing an amendment to a criminal offense—and where the impacts of such amendment extend far beyond the covered offender registration—the bill could be subject to challenge on the grounds that it does not meet the constitutional single-subject and title requirement.

Second, the Department has concerns about the criminal-justice implications of section 2 of the bill. The current law already provides that a person does not commit the offense of sexual assault in the fourth degree if the person “is not less the five years older than the minor.” Section 707-733(1)(d)(i), HRS. Adding a minimum age requirement for the offense—that the offender be at least 24 years old—would swallow the current exception to the offense for a five-year age gap. Under section 2 of the bill, penal responsibility would not attach to a person who is 23 years and 364 days old and commits otherwise prohibited acts upon a minor who just turned 16 years old. The addition of such an age limitation for the offender strays away from the purpose of section 707-733(1)(d), which was passed in 2016 in order to penalize those adult

individuals who abused their position of trust, power, authority, or supervision of a minor.¹

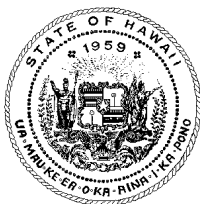
Based upon the above concerns, the Department opposes section 2 of this bill, found on page 3, line 20, to page 5, line 4, and respectfully asks that it be deleted.

The Department supports the provisions in sections 3-6 of the bill. The proposed amendments to chapter 846E, HRS, will improve Hawaii's covered offender registration laws, which keep track of sex offenders in our communities, especially those offenders who travel between jurisdictions. This bill also includes provisions to strengthen the laws regarding offenses that impact minor victims.

We respectfully ask the Committee to pass this bill with the proposed amendments to chapter 846E, HRS, but without the proposed amendment to section 707-733, HRS. Thank you for the opportunity to testify on this matter.

¹ See Hawaii State Legislature, *Stand. Com. Rep. No. 3309 for the Regular Session of 2016* (April 4, 2016) https://www.capitol.hawaii.gov/sessions/session2016/CommReports/HB1044_SD1_SSCR3309_.htm (last visited March 22, 2025).

JOSH B. GREEN, M.D.
GOVERNOR



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

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LATE

TESTIMONY ON HOUSE BILL 359, HD2, SD1
RELATING TO COVERED OFFENDER REGISTRATION

by

Pamela Ferguson-Brey, Executive Director
Crime Victim Compensation Commission

Senate Committee on Judiciary
Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair

Tuesday, March 25, 2025; 10:01 AM
State Capitol, Conference Room 016 & Videoconference

Good morning, Chair Rhoads, Vice Chair Gabbard, and Members of the Senate Committee on Judiciary. Thank you for providing the Crime Victim Compensation Commission (the "Commission") with the opportunity to testify before you today in support of House Bill 359, HD2, SD1, as it relates to sex offender registration requirements for those convicted of sexual assault against a minor, but in strong opposition to the amendments that decriminalize Sexual Assault in the Fourth Degree for offenders who are 18-24 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 location 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.

However, the amendments under SD1 of HB 359 leave children at risk by decriminalizing Sexual Assault in the Fourth Degree for those acting in their professional capacity who are 18-24 years old. Under SD2, any teacher, coach, band instructor, youth pastor, summer camp leader, youth instructor or aide, college counselor, or other person of authority who is 18-24 years old, could commit the crime of Sexual Assault in the Fourth Degree against a minor at least 16 years old without

consequence. These amendments make children more vulnerable to harm and give adults of a certain age who are in positions of power, a free pass to sexually abuse children who trust and look up to them.

The Commission strongly urges the legislature to oppose the amendments decriminalizing Sexual Assault in the Fourth Degree for offenders acting in their professional capacity who are 18-24 years old and to support the original amendment and purpose of the bill to require sex offender registration for those convicted of sexual assault against a minor. Thank you for providing the Commission with the opportunity to testify in support of House Bill 359, HD2, SD1, as it relates to sex offender registration requirements for those convicted of sexual assault against a minor but in strong opposition to the amendments that relate to a carve out for a certain group of offenders under HRS 707-733(1)(d) Sexual Assault in the Fourth Degree

DEPARTMENT OF THE PROSECUTING ATTORNEY
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THE HONORABLE KARL RHOADS, CHAIR
SENATE COMMITTEE ON JUDICIARY
Thirty-Third State Legislature
Regular Session of 2025
State of Hawai'i

March 24, 2025

RE: H.B. 359 H.D. 2 S.D. 1; RELATING TO COVERED OFFENDER REGISTRATION.

Chair Rhoads, Vice Chair Gabbard, and members of the Senate Committee on Judiciary, the Department of the Prosecuting Attorney for the City and County of Honolulu submits the following **comment** on H.B. 359 H.D. 2. S.D. 1.

The Department supported the House draft of this bill, as it extends the sex offender registration requirement to adults who abuse their professional status to engage in sexual conduct with minors aged sixteen or seventeen.

S.D. 1 modified the fourth-degree sexual assault statute, not simply the covered offender registration requirement. Under the current law, the adult must be at least five years older than the minor to qualify for prosecution. S.D. 1 raised the age threshold to twenty-four years: eight years older than a sixteen-year-old, seven years older than a seventeen-year-old.

The Department opposes this change to the offense definition. It also notes that the amendment exceeds the stated purpose of the bill, which only addresses the covered offender registration requirement.¹

The Department otherwise supports the provisions in this bill that extend the sex offender registration requirement to offenders who, while acting in a professional capacity, sexually assault minors aged sixteen or seventeen. It requires public access to sex offender registration for misdemeanor sexual assaults committed against minors. And it clarifies that covered offenders must annually report in person within a month following their successive birthdays.

¹ See *League of Women Voters of Honolulu v. State*, 150 Hawai'i 182, 499 P.3d 382 (2021); *Territory v. Kua*, 22 Haw. 307 (Terr. 1914).

The world would be a better place if sexual predators were readily identifiable. But this crime happens in secret, and its perpetrators are skilled at deception.² Sex offender registries are a reasonable response to the overwhelming danger posed by these criminals. This is particularly true where the offender has abused a position of trust, authority, or supervision to access minors. These crimes compound sexual predation with a colossal betrayal of trust. Parents, guardians, and the whole community deserve information that can stop convicted sex offenders from accessing minors again.

Thank you for the opportunity to testify.

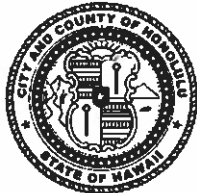
² See Anna C. Salter, PREDATORS: PEDOPHILES, RAPISTS, AND OTHER SEX OFFENDERS—WHO THEY ARE, HOW THEY OPERATE, AND HOW WE CAN PROTECT OURSELVES AND OUR CHILDREN 31 (2003) (“There are specific techniques sex offenders and other predators use to fool people. First and most important is setting up a double life. Many offenders will deliberately establish themselves as the kind of person who wouldn’t do that kind of thing.”).

HONOLULU POLICE DEPARTMENT
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DEPUTY CHIEFS
HOPE LUNA NUI MĀKA'I

OUR REFERENCE CL-DNK

March 25, 2025

The Honorable Karl Rhoads, Chair
and Members
Committee on Judiciary
State Senate
415 South Beretania Street, Room 016
Honolulu, Hawai'i 96813

Dear Chair Rhoads and Members:

SUBJECT: House Bill No. 359, H.D. 2, S.D. 1, Relating to Covered Offender
Registration

I am Carlene Lau, Major of the Records and Identification Division of the
Honolulu Police Department (HPD), City and County of Honolulu.

The HPD appreciates the intent of House Bill No. 359, H.D. 2, S.D. 1, Relating to
Covered Offender Registration, and submits the following concern.

The amendment to the sexual assault in the fourth degree statute would place
our juvenile community at greater risk of being victimized, as it would legalize sexual
contact by anyone under the age of 24 years to a victim who is at least 16 years old.

The HPD appreciates your consideration of this concern regarding House Bill
No. 359, H.D. 2, S.D. 1, Relating to Covered Offender Registration, and thanks you for
the opportunity to testify.

APPROVED:


Arthur J. Logan
Chief of Police

Sincerely,


Carlene Lau, Major
Records and Identification Division



HAWAII STATE COMMISSION

ON THE STATUS OF WOMEN

March 23, 2025

Position: Support of HB359, HD2, SD1

To: Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair
Members of the Senate Committee on Judiciary

From: Llasmin Chaîne, LSW, Executive Director, Hawai'i State Commission on the Status of Women

Re: Testimony in Support of HB359, HD2, SD1, Relating to Covered Offender Registration

Hearing: Tuesday, March 25, 2025, 10:01 a.m.
Conference Room 016, State Capitol

On behalf of the Hawai'i State Commission on the Status of Women, I would like to thank the Committee for hearing this important bill. I would like to express my **support for HB359, HD2, SD1**, which closes the public disclosure loophole on the state's offender registry for those who commit the offense of sexual assault in the fourth degree against a minor who is at least sixteen, while they are acting in a professional capacity, **and provide comments.**

Youth-serving organizations, whether they are schools, sports teams, or after-school programs, **need better mechanisms to detect and identify sex offenders.** They need to know whether their employees and volunteers can be trusted to conduct themselves appropriately with the youth in their care¹. **We need this change to ensure these offenders with a history of sexually inappropriate behavior aren't put into another position of power, enabled to abuse again²**, given the **detrimental effects of sexual violence (SV) on survivors' well-being³.**

If it is the intent of the Legislature to move forward with this measure, please consider amending HB359, HD2, SD1's verbiage regarding sex offenders' age threshold, given:

- the **threshold for legal adulthood is 18 years of age** (to enter into legal contracts, to join the military, to vote, etc.),
- the **rate of recidivism of sex offenders**, "child molesters, rapists, and sex offenders overall are far more likely than non-sex offenders to reoffend with a sexual crime"⁴, and
- **creating protective environments** is one of CDC's strategies for stopping sexual violence from happening in the first place. "Such approaches address community-level risk factors by changing, enacting, or enforcing laws, regulations, or organizational policies or by changing the physical environment, economic or social incentives (or consequences) for behavior, or other characteristics of

the community, which have the **potential for population-level impact on SV outcomes**, often at low cost for implementation.”⁵

Suggested bill amendment regarding the removal of the recently added verbiage on page 5, lines 3-4, for the Committee’s consideration:

- ~~• (iii) The person is at least twenty four years of age at the time of the offense.~~

I respectfully urge this Committee to **pass HB359, HD2, SD1, with the suggested amendment**, to keep our children safe and to support protective environments⁶ in which they can thrive⁷.

Thank you for this opportunity to submit testimony in **support of HB359, HD2, SD1**.

¹ Child Sexual Abuse By K-12 School Personnel in Canada – Executive Summary. Canadian Centre for Child Protection. https://content.c3p.ca/pdfs/C3P_CSainSchoolsReport_en.pdf

² What Parents Need to Know – Grooming in Sport. U.S. Center for SafeSport. https://uscenterforsafesport.org/wp-content/uploads/2021/06/2021_HPCourse_Grooming_v7.pdf

³ About Sexual Violence. CDC – Sexual Violence Prevention. <https://www.cdc.gov/sexual-violence/about/index.html>

⁴ Recidivism of Adult Sexual Offenders. U.S Department of Justice – Office of Justice Programs. <https://www.ojp.gov/library/publications/recidivism-adult-sexual-offenders>

⁵ Sexual Violence Prevention: Resource for Action: A Compilation of the Best Available Evidence. CDC. <https://stacks.cdc.gov/view/cdc/158967>

⁶ Preventing Child Abuse and Neglect. CDC – Child Abuse and Neglect Prevention. <https://www.cdc.gov/child-abuse-neglect/prevention/index.html>

⁷ Preventing Adverse Childhood Experiences. CDC – Adverse Childhood Experiences (ACEs). <https://www.cdc.gov/aces/prevention/index.html>



Date: March 23, 2025

To: Senator Karl Rhoads, Chair
Senator Michael Gabbard, Vice Chair
Members of the Senate Committee on Judiciary

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 359, HD 2, SD1
Relating to Covered Offender Registration

Hearing: March 25, 2025, Conference Room 016; 10:01 am (decision making only)

Good morning, Chair Rhoads, Vice Chair Gabbard, and Members of the Senate Committee on Judiciary

The Sex Abuse Treatment Center (SATC) submits comments on HB 359, HD 2, SD1 as it relates to sex offender registry under Chapter 844G of the Hawai'i Revised Statutes.

As this Committee is well aware the Hawai'i, through legislative efforts, established sex offender registrations laws to require public disclosure of certain information of individuals convicted of sex offenses and other child related crimes. This measure was created to address the danger sex offenders pose on the public safety of our community.

The purpose of HB 359' was 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. Particularly, those acting in their "professional capacity" who sexually abuse a minor who is at least 16 years old under HRS 707-733(1)(d).

Currently, HRS 844G-1 has a gaping hole, which leaves minor victims, vulnerable to sexual predators who use their position of trust to perpetrate sexual abuse. Indeed, the introduction of HB 359, was meant to close this gap, and broaden protection of children. This legislation recognizes that minors are, and have been, repeatedly abused by those entrusted with their care, whether a coach, educator or other professional. Subsequent amendments to HB 359 further recognized and addressed other sexual offenses that were presumably inadvertently omitted from Chapter 844G, to include having HRS 707-733 included as a Tier 1 offense under section 844G-10(g).

However, amendments under SD1 of HB 359, leaves children at risk, by decriminalizing, Sexual Assault in the Fourth Degree for those acting in their professional capacity who are 18 – 24 years old. Under SD2, any teacher, coach, band instructor, youth pastor, summer camp leader, youth instructor or aide, college counselor, or other professional, who is 18 -24 years old, could perpetrate against a minor at least 16 years old, without consequence. As written, it is no longer

an offense for these individuals to sexually abuse children, no longer an offense to use their position of authority to prey upon children, no longer protects children who are too often the subject of sexual abuse, especially within our schools.

Here it is important to note that HRS 707-733(1)(d) prohibits trusted adults from using their position of authority to perpetrate sexual abuse against minors. The age of the person in that position of authority is inconsequential to conduct that statute seeks to prohibit. As a community, we have seen too many teenaged victims, who are groomed and abused by someone who used their position of trust to harm them. The abuse results in profound feelings of betrayal, and mistrust of those who victims believed, and were taught to, trust. These victims are particularly at risk as these trusted adults more often, than not, hold the key to their futures as they prepare for college and life beyond high school. Unfortunately, predatory sexual behaviors are not isolated to any particular age group. Whether the person of authority is 18 or 38, they cannot, and should not be allowed to use their position to prey upon a minor,

The amendments to HRS 707-733(1)(d) as proposed in SD1 make children more vulnerable to harm and essentially, gives trusted adults, who would sexually abuse minors, a free pass to do so.

For these reasons, we support HB 359 SD1 as it relates to sex offender registration requirements for those convicted of sex assault against a minor, but strongly oppose the amendments as it relates to a carve out for a certain group of offenders under Sexual Assault in the Fourth Degree (707-733(1)(d)).

Thank you for your consideration.

HB-359-SD-1

Submitted on: 3/21/2025 2:15:14 PM

Testimony for JDC on 3/25/2025 10:01:00 AM

Submitted By	Organization	Testifier Position	Testify
Frank Schultz	Individual	Oppose	Written Testimony Only

Comments:

Oppose

HB-359-SD-1

Submitted on: 3/24/2025 5:03:33 PM

Testimony for JDC on 3/25/2025 10:01:00 AM

Submitted By	Organization	Testifier Position	Testify
Dara Carlin, M.A.	Individual	Support	Written Testimony Only

Comments:

Stand in Support