



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2026**

ON THE FOLLOWING MEASURE:

H.B. NO. 1682, H.D. 1, S.D. 1, RELATING TO THE DISCLOSURE OF INTIMATE IMAGES.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY

DATE: Tuesday, April 7, 2026

TIME: 10:15 a.m.

LOCATION: State Capitol, Room 16

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

(For more information, contact Corinne Carson,
Deputy Attorney General, at (808) 586-1300)

Chair Rhoads and Members of the Committee:

The Department of the Attorney General supports the intent of this bill and shares the Legislature's commitment to providing meaningful remedies for victims of nonconsensual disclosure of intimate images. We also appreciate the Legislature's desire to expand protections to address evolving harms, including those arising from new technologies. However, we respectfully oppose the most recent amendments made by the Senate Committee on Labor and Technology because they introduce structural and legal concerns that may ultimately limit the bill's ability to provide reliable remedies for victims. In this area, careful and narrowly tailored drafting is essential to ensure the law both protects victims and remains enforceable in court.

As originally drafted, this bill was based on the Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act and employed a fault-based framework requiring that a defendant knew or acted with reckless disregard as to key elements of the violation. This approach ties liability to culpable conduct—specifically, the knowing or reckless disclosure of private, nonconsensual images—and reflects a structure that has been carefully developed to provide clear, predictable, and consistently enforceable remedies for victims, while aligning with established First Amendment principles.

The recent amendments shift away from the original knowledge and recklessness standard and instead rely in part on whether a defendant "reasonably should have known" that the depicted individual had a reasonable expectation the image would remain private. While this standard continues to incorporate a mental-

state component, it places less direct emphasis on whether the defendant acted with a high degree of culpability and instead introduces a more context-dependent inquiry focused on the circumstances surrounding the image. This change is also unnecessary, as the original recklessness standard already provides a clear and workable basis for establishing liability in cases involving the disclosure of intimate images.

The amendments also significantly expand the scope of the bill by broadening the definition of "intimate image" to include depictions of self-harm, as well as digital replicas (computer-generated images). While these are important and emerging issues, each raises distinct concerns under the current framework.

With respect to depictions of self-harm, these images are not necessarily private or intimate in the same way as sexually explicit images. Such depictions may involve real-world conduct that occurs in public or in non-private settings and may also include expressive or innocuous content. As a result, applying a legal framework designed for private, nonconsensual intimate images to these types of depictions may be more difficult to justify and may require a more narrowly tailored approach. In addition, the bill defines self-harm broadly to include any act resulting in "bodily injury," which itself includes physical pain or impairment. This definition could extend the law beyond traditionally understood intimate content and make it less clear when the law applies, potentially increasing the risk of unintended or inconsistent applications.

The inclusion of digital replicas presents a different set of challenges. Digital replicas may be entirely fabricated and may depict events that never occurred, often without the knowledge or involvement of the depicted individual. Because the bill's framework is grounded in concepts of privacy—such as whether an image is "private" and whether the depicted individual had a reasonable expectation that the image would remain private—it is unclear how these provisions would apply to images that are not derived from any underlying private conduct. Victims of digital replicas may not clearly fall within the protections of the bill as drafted. At the same time, modifying the framework to address digital replicas without careful limitation could raise additional concerns in the broader application of the law.

These additions introduce distinct and complex issues that do not fit neatly within the existing structure of the bill. These concerns are compounded by the amendments to the liability standard, which rely on a more context-dependent inquiry into privacy expectations that may be more difficult to apply as the scope of covered images expands. This may make it less clear when the law applies and more difficult to establish liability in individual cases. The Department is concerned these changes would jeopardize the remedies for victims that this bill is intended to provide.

For these reasons, we respectfully recommend that the Legislature return the bill to a form that more closely aligns with the original uniform act (House Draft 1), which provides a clearer, more workable, and more established framework. The Department would also welcome the opportunity to work with the Legislature to develop targeted legislation addressing digital replicas and self-harm content in a clear and workable manner.

Thank you for the opportunity to testify.



**Written Testimony of Jane Sternecky, Uniform Law Commission
In Support with Amendments: HB 1682, HD 1, SD 1
Before the Senate Judiciary Committee
April 7, 2026, at 10:15 a.m.**

Dear Chair Rhoads, Vice Chair Gabbard, and Committee Members:

My name is Jane Sternecky and I serve as Legislative Counsel for the Uniform Law Commission, which is a non-profit organization that develops state legislation on topics for which uniformity across the states is beneficial. We appreciate the opportunity to express support and encourage amendments to HB 1682, HD 1, SD 1, which would enact the Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act.

Though HB 1682 was introduced as a uniform version of the Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act (the “uniform act”), two of the changes incorporated as amendments in version HD 1, SD 1 of HB 1682 (“SD 1”) compromise the uniformity of the bill and pose serious concerns.

The first change in SD 1 expands the definition of an intimate image to include a “digital replica.” The definition of “digital replica” is quite expansive, stating that it is a “computer-generated, highly realistic electronic representation that is readily identifiable as the voice or visual likeness of an individual that is embodied in a sound recording, image, audiovisual work, or transmission in which the actual individual either did not actually perform or appear, or the actual individual did perform or appear, but the fundamental character of the performance or appearance has been materially altered.”

Adding the term “digital replica” expands the scope of this bill far beyond what is contemplated by the uniform act. In particular, this definition adds in sound recordings, audiovisual work, and transmissions. These additions are problematic because they do not comport with the remainder of the statute, which is drafted to address only the disclosure of intimate images and video recordings. Similarly, the definition of “digital replica” lacks specificity—“highly realistic” is not a legally-established term of art and therefore fails to provide adequate guidance to the judiciary.

Beyond the expansiveness of the definition itself, this bill is not the appropriate vehicle to regulate digital replicas or “deepfakes.” The uniform act creates a civil cause of action for the unauthorized distribution of an intimate image that is a *true* depiction of the victim. By its very nature, a deepfake is not a true depiction of the victim, and therefore, the remainder of the civil process created by the uniform act is not adequate to address this type of harm. Because of this, legislation regulating deepfakes should instead focus on the creation of a deepfake and aim to remedy the specific harms caused by its distribution. To address these specific harms, we recommend that the legislature consider separate legislation that directly addresses deepfakes and which includes a carefully crafted definition of a digital replica.

The second change in SD 1 expands the definition of an intimate image to include an image or video that depicts a person “committing acts of self-harm, self-mutilation, or other self-injury that results in bodily injury.” While we recognize that this addition, as with the addition of digital replicas, is aimed at creating remedies for a new population of victims, this definition

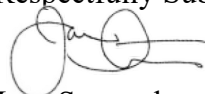
unfortunately raises both constitutional and practical concerns.

From a constitutional perspective, an “act of self-harm” could include many different types of harm beyond attempted suicide or a deliberate act of self-injury—it would not be unreasonable to consider that a video of an individual jumping into freezing water or giving themselves a tattoo could constitute self-harm or self-mutilation under this definition. Similarly, from a practical perspective, it is possible to imagine a hypothetical scenario where a victim takes a video of their abusive partner punching a wall out of rage and injuring themselves. If the victim then sends that video to a friend, under SD 1 as written, the victim could be liable for the distribution of that image because the distribution of the video was intended to assist the victim, not the partner who is the individual depicted. These hypotheticals demonstrate that the statute is not adequately narrowly tailored and may carry unintended consequences that could create a new vector for abusive litigation.

Accordingly, we strongly encourage the committee to amend the bill to match the version that is pending in the Senate—SB 2448, SD 2. This version incorporates suggestions from stakeholders to re-organize the definitions for clarity and to authorize a posthumous claim on behalf of a deceased victim, each of which is thoughtfully drafted and does not compromise the uniformity of the bill.

We thank the committee for its careful consideration of this important issue, and encourage the adoption of HB 1682, HD 1, SD 1, with amendments. Enclosed is a copy of a red-lined version of HB 1682, HD 1, SD 1, which incorporates these suggested amendments.

Respectfully Submitted,



Jane Sternecky
Legislative Counsel
Uniform Law Commission

1 "Depicted individual" means an individual whose body is
2 shown in whole or in part in an intimate image. A "depicted
3 individual" includes a deceased individual.

4 "Digital replica" means a computer-generated, highly
5 realistic electronic representation that is readily identifiable
6 as the voice or visual likeness of an individual that is
7 embodied in a sound recording, image, audiovisual work, or
8 transmission in which the actual individual either did not
9 actually perform or appear, or the actual individual did perform
10 or appear, but the fundamental character of the performance or
11 appearance has been materially altered.

12 "Disclosure" means transfer, publication, or distribution
13 to another person. "Disclose" has a corresponding meaning.

14 "Harm" includes physical harm, economic harm, and emotional
15 distress whether or not accompanied by physical or economic
16 harm.

17 "Identifiable" means recognizable by a person other than
18 the depicted individual:

- 19 (1) From an intimate image itself; or
20 (2) From an intimate image and identifying characteristic
21 displayed in connection with the intimate image.



1 "Identifying characteristic" means information that may be
2 used to identify a depicted individual.

3 "Individual" means a natural person.

4 "Intimate image" means any digital image, ~~digital replica,~~
5 photograph, or ~~live or recorded video or computer-generated~~
6 ~~image~~ or video that depicts a person in a state of undress; ~~in~~
7 nude as defined in section 712-1210; or engaged in sexual
8 conduct, as defined in section 712-1210; ~~or committing acts of~~
9 ~~self-harm, self-mutilation, or other self-injury that results in~~
10 ~~bodily injury.~~

11 "Person" means an individual; estate; business or nonprofit
12 entity; public corporation; government or governmental
13 subdivision, agency, or instrumentality; or other legal entity.

14 "Private" means:

15 (1) Created or obtained under circumstances in which a
16 depicted individual had a reasonable expectation of
17 privacy; or

18 (2) Made accessible through theft, bribery, extortion,
19 fraud, false pretenses, voyeurism, or exceeding
20 authorized access to an account, message, file,
21 device, resource, or property.



1 ~~"Sexual conduct" has the same meaning as in section~~
2 ~~712-1210.~~

3 § -3 Disclosure of intimate images; civil action. (a)

Except as otherwise provided in section -4, a depicted individual who is identifiable and who suffers harm from a person's intentional disclosure or threatened disclosure of a private intimate image without the depicted individual's consent has a cause of action against the person if the person knew or ~~acted with reckless disregard for whether; reasonably should have known, that the depicted individual had a reasonable expectation that the intimate image would remain private.~~ (1) the depicted individual did not consent to the disclosure; (2) the intimate image was private; and (3) the depicted individual was identifiable.

12 (b) The following conduct by a depicted individual shall
13 not establish by itself that the depicted individual consented
14 to the disclosure of the intimate image which is the subject of
15 an action under this chapter or that the depicted individual
16 lacked a reasonable expectation of privacy:

- 17 (1) Consent to creation of the image; or
- 18 (2) Previous consensual disclosure of the image.

19 (c) A depicted individual who does not consent to the
20 sexual conduct or uncovering of the part of the body depicted in
21 an intimate image of the individual shall retain a reasonable



1 expectation of privacy even if the image was created when the
2 individual was in a public place.

3 § -4 **Liability; exceptions.** (a) A person shall not be
4 liable under this chapter if the person proves that disclosure
5 of, or a threat to disclose, an intimate image was:

6 (1) Made in good faith as part of:

7 (A) Law enforcement activity;

8 (B) A legal proceeding; or

9 (C) Medical education or treatment;

10 (2) Made in good faith in the reporting or investigation
11 of:

12 (A) Unlawful conduct; or

13 (B) Unsolicited and unwelcome conduct;

14 (3) Related to a matter of public concern or public
15 interest; or

16 (4) Reasonably intended to assist the depicted individual.

17 (b) Subject to subsection (c), a defendant who is a
18 parent, legal guardian, or individual with legal custody of a
19 child shall not be liable under this chapter for a disclosure or
20 threatened disclosure of an intimate image of the child.



1 (c) If a defendant asserts an exception to liability under
2 subsection (b), the exception shall not apply if the plaintiff
3 proves the disclosure was:

4 (1) Prohibited by law other than as provided this chapter;
5 or

6 (2) Made for the purpose of sexual arousal, sexual
7 gratification, humiliation, degradation, or monetary
8 or commercial gain.

9 (d) Disclosure of, or a threat to disclose, an intimate
10 image shall not be a matter of public concern or public interest
11 solely because the depicted individual is a public figure.

12 (e) As used in this section:

13 "Child" means an unemancipated individual who is under
14 eighteen years of age.

15 "Parent" means a biological, foster, or adoptive parent, a
16 parent-in-law, a stepparent, a grandparent, or a grandparent-in-
17 law.

18 § -5 **Plaintiff's privacy.** In an action under this
19 chapter:

20 (1) The court may exclude or redact from all pleadings and
21 documents filed other identifying characteristics of



1 the plaintiff under applicable state law or procedural
2 rule;

3 (2) A plaintiff to whom paragraph (1) applies shall file
4 with the court and serve on the defendant a
5 confidential information form that includes the
6 excluded or redacted plaintiff's name and other
7 identifying characteristics; and

8 (3) The court may make further orders as necessary to
9 protect the identity and privacy of a plaintiff.

10 § -6 Disclosure of intimate images; civil remedies. (a)

11 In an action under this chapter, a prevailing plaintiff may
12 recover:

13 (1) The greater of:

14 (A) Economic and noneconomic damages proximately
15 caused by the defendant's disclosure or
16 threatened disclosure, including damages for
17 emotional distress whether or not accompanied by
18 other damages; or

19 (B) Statutory damages not to exceed \$10,000 against
20 each defendant found liable under this chapter
21 for all disclosures and threatened disclosures by



1 the defendant of which the plaintiff knew or
2 reasonably should have known when filing the
3 action or which became known during the pendency
4 of the action; provided that in determining the
5 amount of statutory damages under this
6 subparagraph, consideration shall be given to the
7 age of the parties at the time of the disclosure
8 or threatened disclosure, the number of
9 disclosures or threatened disclosures made by the
10 defendant, the breadth of distribution of the
11 intimate image by the defendant, and other
12 exacerbating or mitigating factors;

13 (2) An amount equal to any monetary gain made by the
14 defendant from disclosure of the intimate image;

15 (3) An amount equal to any actual costs incurred by the
16 plaintiff in retrieving and requesting removal of
17 distributed intimate images; and

18 (4) Punitive damages as allowed under any state law other
19 than as provided in this chapter.

20 (b) In an action under this chapter, the court shall order
21 a non-prevailing defendant to:



1 (1) Cease and desist from further disclosing the intimate
2 image;

3 (2) Destruct, delete, or return the original and all
4 copies of the intimate image in the defendant's
5 possession, custody, or control to the prevailing
6 plaintiff; and

7 (3) Identify all persons to whom the defendant disclosed
8 the intimate image.

9 (c) In an action under this chapter, the court may award a
10 prevailing plaintiff:

11 (1) Reasonable attorneys' fees and costs; and

12 (2) Additional relief, including injunctive relief.

13 (d) This chapter shall not affect a right or remedy
14 available under any state law other than as provided in this
15 chapter.

16 § -7 Statute of limitations. (a) An action brought by
17 a depicted individual under section -3(a) for unauthorized
18 disclosure, where the depicted individual was an adult on the
19 date of disclosure, shall not be brought later than eight years
20 from the date the disclosure was discovered or should have been
21 discovered with the exercise of reasonable diligence.



1 (b) An action brought by a depicted individual under
2 section -3(a) for a threat to disclose, where the depicted
3 individual was an adult on the date of the threat to disclose,
4 shall not be brought later than eight years from the date of the
5 threat to disclose.

6 (c) Subject to section 657-1.8(a)(2), an action brought by
7 a depicted individual under section -3(a), where the depicted
8 individual was a minor on the date of the disclosure or threat
9 to disclose, shall not be brought later than:

10 (1) Thirty-two years after the eighteenth birthday of the
11 depicted individual; or

12 (2) Five years after the date the depicted individual
13 discovers or reasonably should have discovered that
14 psychological injury or illness occurring after the
15 depicted individual's eighteenth birthday was caused
16 by the unauthorized disclosure,

17 whichever occurs later.

18 § -8 **Deceased depicted individuals; rights.** (a) For a
19 depicted individual who is deceased, or upon the death of a
20 depicted individual, all rights of the depicted individual under



1 this chapter shall vest in the estate of the deceased depicted
2 individual.

3 (b) The rights vested in the estate pursuant to subsection
4 (a) may be exercised by the personal representative of the
5 estate in accordance with chapter 560.

6 (c) If no personal representative has been appointed, any
7 person authorized under chapter 560 to petition for appointment
8 of a personal representative may petition the court for
9 appointment for the limited purpose of exercising the rights
10 under this chapter.

11 § -9 **Construction.** (a) This chapter shall be construed
12 to be consistent with the Communications Decency Act of 1996,
13 title 47 United States Code section 230.

14 (b) This chapter shall not be construed to alter the law
15 on sovereign immunity.

16 § -10 **Uniformity of application and construction.** In
17 applying and construing this uniform act, consideration shall be
18 given to the need to promote uniformity of the law with respect
19 to its subject matter among states that enact it.

20 § -11 **Severability.** If any provision of this chapter or
21 the application thereof to any person or circumstance is held



1 invalid, the invalidity does not affect other provisions or
2 applications of the chapter that can be given effect without the
3 invalid provision or application, and to this end the provisions
4 of this chapter are severable."

5 SECTION 2. This Act does not affect rights and duties that
6 matured, penalties that were incurred, and proceedings that were
7 begun before its effective date.

8 SECTION 3. This Act shall take effect on January 1, 2077.



Report Title:

Unauthorized Disclosure of Intimate Images; Civil Remedies

Description:

Enacts the Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act (Modified). Effective 1/1/2077. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.





**Written Testimony by Elizabeth Kent
In Support with Amendments: HB 1682, HD 1, SD 1
Before the Senate Judiciary Committee
April 7, 2026, at 10:15 a.m.**

Aloha Chair Rhoads, Vice Chair Gabbard, and Committee Members:

Thank you for the opportunity to express support and encourage amendments to HB 1682, HD 1, SD 1, which would enact the Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act (Uniform Act). HB 1682 is based on a bill drafted by the Uniform Law Commission (ULC), a non-partisan organization of volunteer attorneys appointed by their states. I serve as one of the ULC's commissioners from Hawaii. There are three main points that I would like to make in my testimony.

1. Expanding the Definition of “Intimate Images” to Include Digital Replicas and Self-Harm Presents Significant Issues

The Uniform Law was narrowly tailored to address the issue of intimate images. Expanding the definition of intimate images to add digital replicas and depictions of self-harm greatly expands the scope of the bill beyond that for which it was intended. Although the ULC appreciates that harm can be caused to victims by the disclosures of such depictions, imposing liability for them requires distinct First Amendment analysis and tailoring. The Uniform Law was tailored to address the narrower definition. The expansions to the bill make it vulnerable to challenges for overbreadth and vagueness.

The Uniform Act has not been subject to constitutional challenges in any of the 11 states that have enacted it, the earliest of which were Nebraska and Colorado in 2019. The Uniform Law Commission is confident that the uniform act provides victims with the most expansive civil remedy possible without violating constitutional boundaries. Therefore, we strongly recommend that HB 1682, HD 1, SD 1, be amended to return to the original definition as in SB 2448, SD 2.

2. A Narrow Approach Offers a Reliable Remedy for Victims

Amending HB 1682, HD 1, SD 1 by deleting the expanded definition of “Intimate Image” would provide victims with an immediate remedy that they could rely on. Ultimately, that would bring more stability to victims that a promise of hope for an all-encompassing remedy might not be able to fulfill. If there was a challenge to the bill, it could leave victims without remedies for years as the legal issues are analyzed by the courts. And I believe that victims want stability in their lives as they try to recover from the harm that was done to them. Based on the track record for the Uniform Act, the ULC believes that this approach would best be suited to offer a dependable remedy.

We believe that the issue of deepfakes could be studied in the interim, and that a working group could give it the kind of intellectual rigor and discussion that the topic merits, and that the group’s recommendation could be brought to the Legislature for the 2027 session. Professor Mary Anne Franks, the reporter for the Uniform Act, has agreed to assist in that effort.

3. Uniformity Benefits Hawaii

Uniformity of laws between the states on subjects for which there is no federal jurisdiction is important because it reduces legal complexity, provides certainty for those who use them, and provides more consistent legal outcomes. Uniformity can also foster interstate commerce. Many members of the military live in Hawaii, and our economy is dependent on tourism. Because people often come and go, and because incidents of the unauthorized release of intimate images may take place over social media where recipients are in different states, uniformity may be especially beneficial.

In conclusion, the ULC encourages this committee to pass HB 1682, HD 1, SD 1, using the language from SB 2448, SD 2, which reorganizes the definitions for additional clarity and provides posthumous remedies to the families of a deceased victim, but which keeps the scope of the bill focused on the distribution of real intimate images. We believe the

Legislature should consider regulating deepfakes and may wish to also address the distribution of images or video depicting self-harm but given their unique nature, each issue should be addressed with a separate piece of legislation.

We thank you for your careful consideration of this important issue, and encourage you to adopt HB 1682, HD 1, SD 1, with amendments so that it conforms to the language in SB 2448, SD 2.

Respectfully Submitted,

Elizabeth Kent
Uniform Law Commissioner, Hawaii



April 5, 2026

Position: **SUPPORT of HB 1682 HD1 SD1 with COMMENTS**, Relating to the Disclosure of Intimate Images

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

From: Llasmin Chaine, LSW, Executive Director, Hawaii State Commission on the Status of Women

Re: Testimony in SUPPORT of HB 1682 HD1 SD1 with COMMENTS, Relating to the Disclosure of Intimate Images

Hearing: Tuesday, April 7, 2026, 10:15 a.m.
Conference Room 016, State Capitol

The Hawaii State Commission on the Status of Women **supports HB1682 HD1 SD1**, which enacts the Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act (Modified).

As a statewide feminist government body dedicated to advancing equality and well-being for women and girls in Hawaii, our organization recognizes the profound harm caused by the unauthorized disclosure of intimate images. This form of abuse disproportionately impacts women and girls, undermining their safety, dignity, and opportunities for full participation in society. **Providing clear civil remedies is essential to addressing this modern form of gender-based violence and upholding the rights and agency of survivors.**

The bill aligns with our mission by offering a legal pathway for those harmed to seek redress, reinforcing protections against discrimination and violence. By establishing a civil cause of action, the **measure empowers individuals to pursue accountability and deters future violations.**

We are not opposed to the suggested amendments of the Uniform Law Commission, regarding the adoption of conforming language from SB2448 SD2, and we encourage the Committee to **advance HB1682 HD1 SD1**, providing civil remedies to survivors.

Thank you for this opportunity to submit testimony.



April 7, 2026

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

Re: H.B. 1682, H.D. 1, S.D. 1, Relating to the Disclosure of Intimate Images

Hearing: Tuesday, April 7, 2026, 10:15 AM, Conference Room 016 & Videoconference

Dear Chair Rhoads, Vice Chair Gabbard, and the Members of the Committee:

Hawaii Women Lawyers is a lawyer's trade organization that aims to improve the lives and careers of women in all aspects of the legal profession, influence the future of the legal profession, and enhance the status of women and promote equal opportunities for all.

Hawaii Women Lawyers submits testimony in support of H.B. 1682, H.D. 1, S.D. 1, which enacts the Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act and provides critical civil protections for individuals who have suffered harm from the nonconsensual sharing or threat of sharing intimate images.

The bill acknowledges the severe emotional, economic, and reputational harm that image-based abuse can cause, especially when victims are targeted online by perpetrators acting anonymously or for personal gain. H.B. 1682, H.D. 1, S.D. 1 provides a clear civil cause of action and tailored remedies, including damages, injunctive relief, and privacy protections.

This measure promotes gender equity and bodily autonomy by ensuring that no one's most private moments can be weaponized against them without consequence. It sends a strong message that Hawaii will protect the dignity and safety of all its residents, especially those vulnerable to digital abuse.

For the above reasons, we support H.B. 1682, H.D. 1, S.D. 1 and respectfully request that the Committee pass this measure.

Thank you for the opportunity to testify in support of this measure.



APRIL 7, 2026

HOUSE BILL 1682 HD1 SD1

CURRENT REFERRAL: JDC

808-679-7454
kris@imuaalliance.org
www.imuaalliance.org
@imuaalliance

Kris Coffield,
President

David Negaard,
Director

Mireille Ellsworth,
Director

Justin Salisbury,
Director

Eileen Roco,
Director

Beatrice DeRego,
Director

Corey Rosenlee,
Director

Amy Zhao,
*Policy and Partnerships
Strategist*

POSITION: SUPPORT WITH AMENDMENTS

Imua Alliance supports and suggests amendments for HB 1682 HD1 SD1, relating to the disclosure of intimate images, which enacts the Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act.

Imua Alliance is a Hawai‘i-based organization dedicated to ending sexual exploitation and gender violence. Increasingly, our services are being requested by survivors of image-based sexual abuse (IBSA), a growing problem facilitated by the exponential progression of technology and a key issue in battling modern-day exploitation.

Please amend this measure by replacing it with the contents of SB 2448 SD2, which your committee passed on February 26th of this year. We respectfully request that you remove “digital replicas” from the definition of intimate images in this bill. The current definition of digital replicas is extremely broad and extends beyond the scope of the proposed civil remedies framework, which is designed to address the disclosure of actual intimate images.

Digital replicas and deepfakes present distinct harms and First Amendment legal challenges that may be better addressed through separate, carefully tailored legislation focused specifically on the creation and distribution of deepfakes, rather than being incorporated into this statute in a way that may create legal ambiguity and unintended consequences.

We also have concerns regarding the inclusion of self-harm within the definition of intimate images. While we understand the intent is to protect vulnerable individuals from harmful distribution of such content, the definition as written could unintentionally capture a wide

range of conduct that may be interpreted as self-harm, creating uncertainty and potential legal risks for individuals who share images or videos for legitimate purposes, including assault and exploitation survivors seeking help, documenting violent behavior by their assailants, or reporting abusive behavior.

The redlined amendments contained in the testimony of the Universal Law Commission and attached at the end of our testimony would make these changes effective and narrowly tailor the bill to address image-based sexual abuse in a manner that comports with recent case law regarding synthetic images and protects survivors' rights.

IBSA is a widespread and deeply harmful phenomenon. According to a 2020 study in the Journal of the American Medical Association, approximately 1 in 5 adults in the U.S. reported having had a nude image shared without their consent, and among those, the majority experienced significant psychological distress. A 2023 report by the Cyber Civil Rights Initiative (CCRI) found that non-consensual pornography survivors experience elevated rates of anxiety, depression, PTSD, and suicidality, and many face practical harms such as job loss, educational disruption, and relationship breakups. These harms can persist indefinitely because sexually explicit images can circulate online without effective removal or accountability.

The National Center for Missing & Exploited Children (NCMEC) has documented dramatic increases in reports of child sexual abuse material (CSAM), much of which includes images originally created by minors or shared without consent. In 2023, NCMEC's CyberTipline received over 36 million reports of suspected child sexual abuse imagery, underscoring both the volume and severity of image-based abuse circulating online. Criminal law alone is often too slow or narrow to address these harms, especially for adult survivors, leaving many without meaningful recourse.

This proposal fills a critical gap by providing a civil cause of action. Survivors of IBSA often face barriers to criminal justice remedies: burden of proof, evidentiary hurdles, and limited prosecutorial resources. A civil remedy complements criminal law by allowing survivors to pursue accountability, monetary damages, and injunctive relief, including expedited removal orders and prohibitions on further distribution. Civil actions also incentivize platforms and third parties to act responsibly and support removal and takedown efforts.

Civil remedies for IBSA have proven their impact elsewhere. States that have adopted civil remedies for IBSA report greater survivor satisfaction, increased compliance with removal requests, and

measurable reductions in reposting and re-sharing of harmful content. Civil causes of action empower survivors to be proactive partners in their own protection, rather than reliant solely on reactive enforcement to obtain justice and restore their dignity.

Prioritizing civil remedies also reduces inequities in justice access. Survivors from marginalized communities—including LGBTQ+ people, women, and young adults—are statistically more likely to be targeted for non-consensual image distribution. According to research published by the Journal of Interpersonal Violence, women and gender minorities reported higher rates of online sexual victimization than men, and survivors with limited financial resources often cannot afford privacy, counseling, or legal assistance without a civil cause of action that can bring damages and attorneys' fees.

This bill sets reasonable procedural standards—including statutes of limitations calibrated to modern digital harms, protections for anonymous reporting, and safeguards against frivolous claims—while ensuring that survivors have the tools to protect their privacy.

With aloha,

Kris Coffield

President, Imua Alliance

1 "Depicted individual" means an individual whose body is
2 shown in whole or in part in an intimate image. A "depicted
3 individual" includes a deceased individual.

4 "Digital replica" means a computer-generated, highly
5 realistic electronic representation that is readily identifiable
6 as the voice or visual likeness of an individual that is
7 embodied in a sound recording, image, audiovisual work, or
8 transmission in which the actual individual either did not
9 actually perform or appear, or the actual individual did perform
10 or appear, but the fundamental character of the performance or
11 appearance has been materially altered.

12 "Disclosure" means transfer, publication, or distribution
13 to another person. "Disclose" has a corresponding meaning.

14 "Harm" includes physical harm, economic harm, and emotional
15 distress whether or not accompanied by physical or economic
16 harm.

17 "Identifiable" means recognizable by a person other than
18 the depicted individual:

- 19 (1) From an intimate image itself; or
20 (2) From an intimate image and identifying characteristic
21 displayed in connection with the intimate image.



1 "Identifying characteristic" means information that may be
2 used to identify a depicted individual.

3 "Individual" means a natural person.

4 "Intimate image" means any digital image, ~~digital replica,~~
5 photograph, or ~~live or recorded video or computer-generated~~
6 ~~image~~ or video that depicts a person in a state of undress; ~~in~~
7 nude as defined in section 712-1210; or engaged in sexual
8 conduct, as defined in section 712-1210; ~~or committing acts of~~
9 ~~self-harm, self-mutilation, or other self-injury that results in~~
10 ~~bodily injury.~~

11 "Person" means an individual; estate; business or nonprofit
12 entity; public corporation; government or governmental
13 subdivision, agency, or instrumentality; or other legal entity.

14 "Private" means:

15 (1) Created or obtained under circumstances in which a
16 depicted individual had a reasonable expectation of
17 privacy; or

18 (2) Made accessible through theft, bribery, extortion,
19 fraud, false pretenses, voyeurism, or exceeding
20 authorized access to an account, message, file,
21 device, resource, or property.



1 ~~"Sexual conduct" has the same meaning as in section~~
2 ~~712-1210.~~

3 § -3 **Disclosure of intimate images; civil action.** (a)
Except as otherwise provided in section -4, a depicted
individual who is identifiable and who suffers harm from a
person's intentional disclosure or threatened disclosure of a
private intimate image without the depicted individual's consent
has a cause of action against the person if the person knew or
~~acted with reckless disregard for whether; reasonably should have~~
~~known, that the depicted individual had a reasonable expectation~~
~~that the intimate image would remain private. (1) the depicted~~
~~individual did not consent to the disclosure; (2) the intimate image was~~
~~private; and (3) the depicted individual was identifiable.~~

12 (b) The following conduct by a depicted individual shall
13 not establish by itself that the depicted individual consented
14 to the disclosure of the intimate image which is the subject of
15 an action under this chapter or that the depicted individual
16 lacked a reasonable expectation of privacy:

17 (1) Consent to creation of the image; or

18 (2) Previous consensual disclosure of the image.

19 (c) A depicted individual who does not consent to the
20 sexual conduct or uncovering of the part of the body depicted in
21 an intimate image of the individual shall retain a reasonable



1 expectation of privacy even if the image was created when the
2 individual was in a public place.

3 § -4 **Liability; exceptions.** (a) A person shall not be
4 liable under this chapter if the person proves that disclosure
5 of, or a threat to disclose, an intimate image was:

6 (1) Made in good faith as part of:

7 (A) Law enforcement activity;

8 (B) A legal proceeding; or

9 (C) Medical education or treatment;

10 (2) Made in good faith in the reporting or investigation
11 of:

12 (A) Unlawful conduct; or

13 (B) Unsolicited and unwelcome conduct;

14 (3) Related to a matter of public concern or public
15 interest; or

16 (4) Reasonably intended to assist the depicted individual.

17 (b) Subject to subsection (c), a defendant who is a
18 parent, legal guardian, or individual with legal custody of a
19 child shall not be liable under this chapter for a disclosure or
20 threatened disclosure of an intimate image of the child.



1 (c) If a defendant asserts an exception to liability under
2 subsection (b), the exception shall not apply if the plaintiff
3 proves the disclosure was:

4 (1) Prohibited by law other than as provided this chapter;
5 or

6 (2) Made for the purpose of sexual arousal, sexual
7 gratification, humiliation, degradation, or monetary
8 or commercial gain.

9 (d) Disclosure of, or a threat to disclose, an intimate
10 image shall not be a matter of public concern or public interest
11 solely because the depicted individual is a public figure.

12 (e) As used in this section:

13 "Child" means an unemancipated individual who is under
14 eighteen years of age.

15 "Parent" means a biological, foster, or adoptive parent, a
16 parent-in-law, a stepparent, a grandparent, or a grandparent-in-
17 law.

18 § -5 **Plaintiff's privacy.** In an action under this
19 chapter:

20 (1) The court may exclude or redact from all pleadings and
21 documents filed other identifying characteristics of



1 the plaintiff under applicable state law or procedural
2 rule;

3 (2) A plaintiff to whom paragraph (1) applies shall file
4 with the court and serve on the defendant a
5 confidential information form that includes the
6 excluded or redacted plaintiff's name and other
7 identifying characteristics; and

8 (3) The court may make further orders as necessary to
9 protect the identity and privacy of a plaintiff.

10 § -6 Disclosure of intimate images; civil remedies. (a)

11 In an action under this chapter, a prevailing plaintiff may
12 recover:

13 (1) The greater of:

14 (A) Economic and noneconomic damages proximately
15 caused by the defendant's disclosure or
16 threatened disclosure, including damages for
17 emotional distress whether or not accompanied by
18 other damages; or

19 (B) Statutory damages not to exceed \$10,000 against
20 each defendant found liable under this chapter
21 for all disclosures and threatened disclosures by



1 the defendant of which the plaintiff knew or
2 reasonably should have known when filing the
3 action or which became known during the pendency
4 of the action; provided that in determining the
5 amount of statutory damages under this
6 subparagraph, consideration shall be given to the
7 age of the parties at the time of the disclosure
8 or threatened disclosure, the number of
9 disclosures or threatened disclosures made by the
10 defendant, the breadth of distribution of the
11 intimate image by the defendant, and other
12 exacerbating or mitigating factors;

13 (2) An amount equal to any monetary gain made by the
14 defendant from disclosure of the intimate image;

15 (3) An amount equal to any actual costs incurred by the
16 plaintiff in retrieving and requesting removal of
17 distributed intimate images; and

18 (4) Punitive damages as allowed under any state law other
19 than as provided in this chapter.

20 (b) In an action under this chapter, the court shall order
21 a non-prevailing defendant to:



1 (1) Cease and desist from further disclosing the intimate
2 image;

3 (2) Destruct, delete, or return the original and all
4 copies of the intimate image in the defendant's
5 possession, custody, or control to the prevailing
6 plaintiff; and

7 (3) Identify all persons to whom the defendant disclosed
8 the intimate image.

9 (c) In an action under this chapter, the court may award a
10 prevailing plaintiff:

11 (1) Reasonable attorneys' fees and costs; and

12 (2) Additional relief, including injunctive relief.

13 (d) This chapter shall not affect a right or remedy
14 available under any state law other than as provided in this
15 chapter.

16 § -7 Statute of limitations. (a) An action brought by
17 a depicted individual under section -3(a) for unauthorized
18 disclosure, where the depicted individual was an adult on the
19 date of disclosure, shall not be brought later than eight years
20 from the date the disclosure was discovered or should have been
21 discovered with the exercise of reasonable diligence.



1 (b) An action brought by a depicted individual under
2 section -3(a) for a threat to disclose, where the depicted
3 individual was an adult on the date of the threat to disclose,
4 shall not be brought later than eight years from the date of the
5 threat to disclose.

6 (c) Subject to section 657-1.8(a)(2), an action brought by
7 a depicted individual under section -3(a), where the depicted
8 individual was a minor on the date of the disclosure or threat
9 to disclose, shall not be brought later than:

10 (1) Thirty-two years after the eighteenth birthday of the
11 depicted individual; or

12 (2) Five years after the date the depicted individual
13 discovers or reasonably should have discovered that
14 psychological injury or illness occurring after the
15 depicted individual's eighteenth birthday was caused
16 by the unauthorized disclosure,

17 whichever occurs later.

18 § -8 **Deceased depicted individuals; rights.** (a) For a
19 depicted individual who is deceased, or upon the death of a
20 depicted individual, all rights of the depicted individual under



1 this chapter shall vest in the estate of the deceased depicted
2 individual.

3 (b) The rights vested in the estate pursuant to subsection
4 (a) may be exercised by the personal representative of the
5 estate in accordance with chapter 560.

6 (c) If no personal representative has been appointed, any
7 person authorized under chapter 560 to petition for appointment
8 of a personal representative may petition the court for
9 appointment for the limited purpose of exercising the rights
10 under this chapter.

11 § -9 **Construction.** (a) This chapter shall be construed
12 to be consistent with the Communications Decency Act of 1996,
13 title 47 United States Code section 230.

14 (b) This chapter shall not be construed to alter the law
15 on sovereign immunity.

16 § -10 **Uniformity of application and construction.** In
17 applying and construing this uniform act, consideration shall be
18 given to the need to promote uniformity of the law with respect
19 to its subject matter among states that enact it.

20 § -11 **Severability.** If any provision of this chapter or
21 the application thereof to any person or circumstance is held



1 invalid, the invalidity does not affect other provisions or
2 applications of the chapter that can be given effect without the
3 invalid provision or application, and to this end the provisions
4 of this chapter are severable."

5 SECTION 2. This Act does not affect rights and duties that
6 matured, penalties that were incurred, and proceedings that were
7 begun before its effective date.

8 SECTION 3. This Act shall take effect on January 1, 2077.



Report Title:

Unauthorized Disclosure of Intimate Images; Civil Remedies

Description:

Enacts the Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act (Modified). Effective 1/1/2077. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.





CYBER CIVIL RIGHTS INITIATIVE

Coral Gables, FL
cybercivilrights.org
(305)-284-2547

**Written Testimony of Professor Mary Anne Franks, President of the Cyber Civil Rights Initiative, in Support with Amendments: HB 1682, HD 1, SD 1
Before the Senate Judiciary Committee April 7, 2026, at 10:15 a.m.**

Dear Chair Rhoads, Vice Chair Gabbard, and Committee Members:

I am the President and Legislative & Tech Policy Director of the Cyber Civil Rights Initiative (CCRI), the oldest, survivor-founded, and survivor-centered nonprofit organization dedicated to combating image-based sexual abuse (IBSA) in the United States. I am also a First Amendment scholar and the Eugene L. and Barbara A. Bernard Professor in Intellectual Property, Technology, and Civil Rights Law at George Washington University School of Law. I authored the first model criminal statute on the nonconsensual disclosure of intimate images in 2013, which became the template for multiple state and federal laws, and I served as the Reporter for the 2018 Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act on which HB 1682 HD 1, SD 1 is based. The perspective I offer on the importance and merits of adopting HB 1682 HD 1, SD 1, with amendments is informed by the combination of my advocacy experience, my scholarly expertise, and my extensive and direct involvement in drafting criminal and civil legislation on issues relating to image-based sexual abuse.

I provided written and oral testimony in support of HB 1682 when it was introduced as a uniform version of the Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act (the “uniform act”). However, the definition of “intimate image” in version HB 1682 HD 1, SD 1 (“SD 1”) has been amended to include “digital replicas” and depictions of “self-injury,” two changes that dramatically expand the bill’s scope in ways that seriously compromise the bill’s constitutionality and are likely to have unintended negative consequences for victims of abuse.

The original version of HB 1682 hewed very closely to the 2018 Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act. As the Reporter for this Act, I can attest to the ULC Committee’s extensive deliberations and consultations with survivors, First Amendment experts, victims’ rights advocates, tort scholars, legal practitioners, and civil liberties groups over its multi-year study and drafting process. Our task was to carefully thread the needle of providing stable, effective, and clear civil remedies for victims of image-based sexual abuse while respecting the First Amendment’s broad protections for speech and expression on matters of public concern.

The uniform act carefully and narrowly focused on providing remedies for the nonconsensual disclosure of private, sexually explicit, authentic images. While the Committee considered including digitally manipulated imagery in the definition of “intimate image” to address the growing problem of “deepfake porn,” a form of image-based abuse with similar destructive impact to “revenge porn,” it ultimately concluded that the different, and difficult, constitutional considerations raised by digitally manipulated imagery made it inadvisable to include such imagery within the scope of the act. While the protection of authentic sexually explicit images can be analogized to the protection of other truthful, private information, manipulated imagery by definition is neither truthful nor private and thus cannot be justified or insulated from First Amendment challenge on that basis. The Committee also recognized that images depicting nudity or sexual conduct are not the only kinds of images that could cause grave harm, but chose to restrict the scope of the act to sexually explicit images in light of the First Amendment’s lessened protections for such expression.

The Uniform Act has been enacted in 11 jurisdictions to date and served as a model for Section 1309 of the Violence Against Women Reauthorization Act of 2022, the first federal law providing a civil remedy for nonconsensual pornography. To my knowledge, it has never been challenged on First Amendment grounds. Criminal laws with definitions similar to the Uniform Act have been enacted in every state and at the federal level as of 2025. Every constitutional challenge to these laws to date has failed, with courts finding that they survive even the strictest form of judicial scrutiny because they are narrowly tailored to serve the compelling government interest in protecting sensitive, private information.

The amendments to HB 1682 in SD1, though no doubt well-intentioned, take the bill very far afield from the core elements of image-based sexual abuse legislation that has been tried and tested in multiple jurisdictions. In doing so, SD1 risks being immediately and aggressively challenged on First Amendment and Fourteenth Amendment grounds as well as creating unintended consequences for abuse victims.

First, SD1 adds the term “digital replica” to the definition of intimate image, defined as a “computer-generated, highly realistic electronic representation that is readily identifiable as the voice or visual likeness of an individual that is embodied in a sound recording, image, audiovisual work, or transmission in which the actual individual either did not actually perform or appear, or the actual individual did perform or appear, but the fundamental character of the performance or appearance has been materially altered.” This definition raises First Amendment overbreadth and vagueness issues as well as Fourteenth Amendment due process concerns. The civil remedy applies only to disclosers who knew or should have known that the depicted individual had a “reasonable expectation that the image would remain private,” a requirement that makes little sense with regard to digitally manipulated images. The definition of “digital replica” also includes digitally manipulated *audio*, which is out of step with the rest of the bill’s focus on images and raises additional overbreadth concerns. While there are

ways to regulate the unauthorized disclosure of digitally manipulated imagery without violating the First Amendment, attempting to shoehorn the issue into a privacy bill is not an advisable course.

SD1 also adds depictions of “self-harm, self-mutilation, or other self-injury that results in bodily injury” to the definition of intimate image. This is an addition that I have never seen in over a decade of working on image-based sexual abuse legislation across the country. It is unclear why depictions of self-harm should be included in the definition of “intimate images,” a term that has been widely understood to mean nude or sexually explicit images. Not only does this addition raise likely insurmountable First Amendment issues of vagueness and overbreadth—especially with a definition so broadly worded that it would seem to include anything from stubbing one’s toe to drinking alcohol to suicide—it also could easily be weaponized by domestic abusers. Many abusers hurt themselves in front of their partners or children, whether intentionally as a technique of intimidation or punishment, or unintentionally if they lose control or are attempting to injure their partners. The addition of “self-injury” to this bill would make it possible for abusers to threaten their partners with suit if they attempt to document such incidents, and to carry out the threat if victims disclose such documentation to friends or family.

I strongly recommend that the committee amend the bill to remove the changes made to HB 1682 by SD1 and to match the version that is pending in the Senate, SB 2448, SD 2. Thank you for your consideration.

Respectfully submitted,



Dr. Mary Anne Franks
President and Legislative & Tech Policy Director, Cyber Civil Rights Initiative
Eugene L. and Barbara A. Bernard Professor in Intellectual Property, Technology, and
Civil Rights Law, George Washington University School of Law



Date: April 6, 2026

To: Sen Karl Rhoads, Chair
Sen Mike 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 1682, HD 1 , SD1
Relating to Disclosure of Intimate Images

Hearing: April 7, 2026, Conference Room 016, 10:15 am

Good morning, Chair Rhoads, Vice Chair Gabbard, and Members of the Senate Committee on Judiciary. Thank you for the opportunity for the Sex Abuse Treatment Center to provide testimony in support of HB 1628, HD1, SD1 relating to the disclosure of intimate images.

The Sex Abuse Treatment Center supports HB 1682 HD1, SD 1. The bill adequately covers computer generated images, live and recorded imagery and aligns with Violation of Privacy, HRS 711-1110.9 (1)(c). The expanded definition of intimate images also includes images of self harm and bodily injury providing further protection to victims should these images be shared without permission.

Similarly, the current language in HB1682, HD1, SD1, aligns with its criminal counterpart, Violation of Privacy under HRS 711-1110.9 by focusing on the reasonable expectation of privacy in the intimate image. The current draft allows for a plaintiff to move forward based on his/her reasonable expectation that the image remains private and the lack of permission to disclose the image. The language is straightforward, victim sensitive and keeps the litigants focused on the wrongful conduct of the offender.

As we learn more about offender tactics used to perpetrate and harm victims, providing a cause of action that covers all forms of intimate imagery and focuses on offender conduct is critical in supporting survivors of image based abuse.

Thank you for the opportunity to provide support on HB 1682, HD1, SD1.

HB-1682-SD-1

Submitted on: 4/1/2026 3:29:25 PM

Testimony for JDC on 4/7/2026 10:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Jessica Hatcher	Individual	Support	Written Testimony Only

Comments:

I support HB1682, HD1, SD1.

HB-1682-SD-1

Submitted on: 4/3/2026 10:46:32 AM

Testimony for JDC on 4/7/2026 10:15:00 AM

Submitted By	Organization	Testifier Position	Testify
David Ball	Individual	Support	Written Testimony Only

Comments:

I support this legislation.

David Ball

Waiialae-Kahala

HB-1682-SD-1

Submitted on: 4/3/2026 8:22:39 PM

Testimony for JDC on 4/7/2026 10:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Lorraine	Individual	Support	Written Testimony Only

Comments:

I am in support of this measure as it protects victims of the unauthorized release of their intimate images through the establishment of a civil remedy. Please support this important measure.

HB-1682-SD-1

Submitted on: 4/3/2026 9:54:10 PM

Testimony for JDC on 4/7/2026 10:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Ellen Godbey Carson	Individual	Support	Written Testimony Only

Comments:

I support this bill, but request it be amended to use the language from SB 2448, SD 2, which reorganizes the definitions for additional clarity and provides posthumous remedies to the families of a deceased victim, but which keeps the scope of the bill focused on the distribution of authentic intimate images.

I am a retired attorney and former president of the Hawaii State Bar Association and Hawaii Wmen Lawyers, testifying here as an individual who cares greatly about the subject matter. I have great respect for the work of the Uniform Law Commission on this subject matter. They do extensive vetting of their work in order to produce a proposal that has solid legal foundation and effectiveness.

The recent expansion of this HB 1682 bill invites unnecessary legal challenges which could defeat the original purpose of the bill. I support the concerns of the Uniform Commissioners that this bill should be narrowly drawn to preserve its legality, as the Commission has great expertise in crafting legislation to maximize its legality and effectiveness.

If the Legislature wishes to consider regulating deepfakes, and/or the distribution of images or video depicting self-harm, those are worthy issues that can be better addressed with a separate piece of legislation that be narrowly drawn to enhance its enforceability.

Thank you for your consideration of my testimony.

HB-1682-SD-1

Submitted on: 4/5/2026 9:51:33 PM

Testimony for JDC on 4/7/2026 10:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Cheryl Bellamy	Individual	Support	Written Testimony Only

Comments:

I support this bill and want it to provide needed benefits for those who are victims of unauthorized disclosure of their private intimate images.

A bill is needed that creates a civil cause of action for the unauthorized disclosure of an intimate image when (1) there is an intentional disclosure or threat to disclose a private intimate image of an identifiable individual without the consent of the depicted individual, (2) the person who is disclosing the image has the requisite awareness that the person did not consent to the disclosure, and (3) the disclosure harms the depicted individual.

Thank you for the opportunity to submit support for this bill.

LATE

Dennis M. Dunn

Kailua, Hawai'i 96734

TO Senator Karl Rhoads, Chair

Senator Mike Gabbard, Vice Chair

Senate Committee on Judiciary

RE: House Bill 1682, H.D. 1, S.D. 1 – Relating to the Disclosure of Intimate Images

HEARING: Tuesday, April 7, 2026, 10:15 a.m.

Conference Room 016

TESTIMONY IN SUPPORT OF H.B. 1682, H.D. 1, S.D. 1, IF AMENDED

Good morning, Chair Rhoads, Vice Chair Gabbard, and Members of the Judiciary Committee. My name is Dennis Dunn. I am the former Director of Victim Witness Kokua Services in the Honolulu Prosecuting Attorney's Office, where I served for 44 years before retiring at the end of 2022. I submit this testimony in **support of H.B. 1682, H.D. 1, S.D. 1, provided it is amended.**

This measure proposes to enact the Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images, creating a civil cause of action for victims whose intimate images are distributed without their consent. I strongly support the creation of additional civil remedies for these victims. My comments are based on nearly 50 years of experience advocating for crime victims, including decades working directly with survivors of sexual offenses.

Throughout my career, I have listened to countless survivors describe the profound harm caused when an intimate image, often shared in trust with a partner or acquaintance, is distributed without their permission. In my role as a handler for courthouse facility dogs, Pono and Clover, I have spent many hours hearing victims recount the deep sense of betrayal, humiliation, and fear that accompanies these violations. Unlike many other offenses, the harm does not end. Once intimate images are released online, victims live with the knowledge that those images may exist indefinitely, accessible to strangers and beyond their control.

While I support the intent of this bill, I have a significant concern with its current language, specifically, the use of the term "private."

The requirement that an image be “private” creates a dangerous and unintended consequence. It suggests that an image becomes less private, or no longer private at all, if it was previously shared, even consensually. This opens the door for defendants to force victims to disclose with whom they shared images, how often, and under what circumstances. As a result, victims may be subjected to invasive scrutiny of their personal choices rather than a clear focus on wrongful conduct: the unauthorized disclosure of the image without consent.

This approach runs directly counter to the purpose of the bill. The central harm addressed here is not whether an image was once shared voluntarily, but whether it was later disclosed without consent. Requiring victims to defend their past decisions strips them of the very privacy and autonomy this legislation seeks to protect. It also risks retraumatizing victims and discouraging them from pursuing civil remedies altogether.

The consensual sharing of an intimate image does not make that image any less private. Every person has the right to decide if, when, and with whom they share images of themselves—without judgment and without fear that those choices will later be used against them in court.

Notably, Hawai‘i’s existing criminal statute, HRS §711-1110.9, does not use the term “private.” It requires only that the image be disclosed without consent and with intent to cause harm. It makes little sense for civil recovery to impose a higher or more burdensome standard than that required for criminal liability.

For these reasons, I respectfully **urge the Committee to amend H.B. 1682, H.D. 1, S.D. 1 by removing the term “private.”** Doing so would better align the bill with its stated purpose, strengthen protections for victims, and ensure that perpetrators are held accountable for their conduct—without shifting blame onto those they harmed.

In closing, **I support H.B. 1682, S.D. 1, only if amended to remove the requirement that an image be “private.”** Thank you for your time, consideration, and continued commitment to protecting victims.

Thank you for your time and consideration.