



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

ON THE FOLLOWING MEASURE:
S.B. NO. 2135, S.D. 1, RELATING TO PRIVACY.

BEFORE THE:
SENATE COMMITTEE ON JUDICIARY

DATE: Friday, February 27, 2026 **TIME:** 10:30 a.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**
(For more information, contact Mark S. Tom,
Deputy Attorney General, at (808) 586-1160)

Chair Rhoads and Members of the Committee:

The Department of the Attorney General (Department) provides the following comments.

The purpose of the bill is to establish the offense of nonconsensual distribution of an intimate image. The Department appreciates the intent of this bill and the thoughtful amendments made by the Senate Committee on Labor and Technology. However, we recommend several additional amendments to improve clarity, consistency, and enforceability.

Terminology

Although the bill has been refined, certain terms remain unclear or undefined. For example, phrases such as "reveals the identity" (page 1, lines 9-10; page 2, lines 8-9); "identifiable individual" (page 2, line 19); and "intimate content creators" (page 3, lines 1-2) should either be clearly defined or revised for consistency with existing statutory wording. Undefined or ambiguous terminology may create uncertainty in interpretation and hinder effective prosecution.

Additionally, upon further review, the Department recommends several revisions to improve internal consistency:

1. Delete "Digitally" on page 5, line 4, and revise the defined term to read "forged intimate image" on page 2, line 6.

2. Replace "visual material" on page 2, line 8, with "forged intimate image."
3. Insert "forged intimate" before the term "image" on page 2, line 12.

These revisions would make the offense more inclusive of forged intimate images that are indistinguishable from authentic depictions but may not have been created exclusively through digital means.

Further, the Department recommends removing the phrase "using machine-learning techniques or any other computer-generated or machine-generated means" from the definition of "digitally forged intimate image." Requiring proof of a specific technology used to create the image adds an unnecessary element to the offense and may create avoidable evidentiary challenges.

Lastly, the Department recommends replacing the term "sexually explicit conduct" on page 6, line 3, with "sexual conduct as defined in 707-750." Because this term is already defined in the Hawaii Revised Statutes, cross-referencing it would promote consistency and reduce ambiguity.

Streamline wording

For clarity and effective enforcement, portions of the offense provision could be simplified. For example, subsection (1)(a)(ii) (page 2, lines 1-4) and (1)(b)(ii) (page 2, lines 19-21) could be revised to read:

Intentionally disseminates an intimate image of another person without the other person's affirmative consent.

Technical Amendments

The Department recommends correcting the following technical drafting issues:

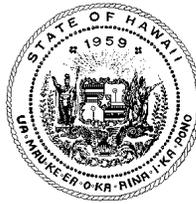
1. Amend subsection (1)(b) (page 2, line 6) to replace "Knowingly disclosing" with "Knowingly discloses."
2. Amend subsection (4) (page 3, lines 5-16) to conform the list of exemptions so "and" at the end of paragraph (a) is removed and paragraph (b) ends with "; or" to properly introduce paragraph (c).

The Department further notes that the bill adds definitions for terms such as "remote computing service" (page 6, lines 4-5) and "electronic communication service" (page 6, lines 9-10). It is unclear whether these terms are necessary, as they do not appear to be used in the substantive provisions of the offense. The Committee may

wish to review whether these definitions are required for implementation of the bill or whether they may be removed to avoid confusion and maintain drafting consistency.

Finally, because chapter 711, Hawaii Revised Statutes, is organized into designated parts, the new section should be placed within a specific part of the chapter. The Department recommends inserting this section into part I of chapter 711 to ensure proper codification.

Thank you for considering these comments. If the Committee decides to pass this bill, the Department would be happy to work with the Committee and stakeholders to further refine the wording.



STATE OF HAWAII – Ka MOKU'ĀINA 'O HAWAII
CRIME VICTIM COMPENSATION COMMISSION
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MARI McCAIG BELLINGER
Chair

CLIFTON Y.S. CHOY
Commissioner

JO KAMAE BYRNE
Commissioner

PAMELA FERGUSON-BREY
Executive Director

**TESTIMONY ON SENATE BILL 2135, SD1
RELATING TO PRIVACY**

by

**Pamela Ferguson-Brey, Executive Director
Crime Victim Compensation Commission**

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

Friday, February 27, 2026; 10:30 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 in support of Senate Bill 2135, SD1. This bill adds a new section to chapter 711, creating the offense, nonconsensual distribution of an intimate image. The new section requires affirmative consent prior to the distribution of any identifiable intimate-images and prohibits the nonconsensual distribution of identifiable intimate-images, including digitally forged images.

The Commission provides compensation for violent crime victims 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. The Commission collaborates with victim advocates and victim service providers in supporting victim-centered policy and legislation.

Nonconsensual distribution of intimate images is a recognized form of technology-facilitated sexual violence and has a profound impact on victims. Victims often experience depression, suicidal thoughts, shame and self-blame. The Commission supports clear prohibition and penalties for this offense.

The Commission urges the legislature to pass Senate Bill 2135, SD1. Thank you for providing the Commission with the opportunity to testify today.

SB-2135-SD-1

Submitted on: 2/26/2026 9:15:39 AM

Testimony for JDC on 2/27/2026 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Llasmin Chaine	Testifying for Hawaii State Commission on the Status of Women	Support	Written Testimony Only

Comments:

The Hawaii State Commission on the Status of Women is dedicated to advancing gender equity and protecting the rights and dignity of women and girls. SB2135 SD1, which establishes the offense of nonconsensual disclosure of an intimate image, directly addresses a form of abuse that disproportionately affects women and can have severe personal, professional, and psychological consequences. The Commission supports this bill, as it seeks to provide legal recourse and deterrence for a harmful practice that undermines the safety and autonomy of individuals.

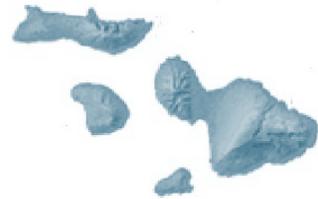
Nonconsensual sharing of intimate images is a recognized form of gender-based violence. Survivors often experience ongoing trauma, harassment, and reputational damage. The absence of clear legal remedies, which address technological advances, has left many local victims without adequate protection or justice. By establishing this offense, the bill aligns with the Commission’s commitment to ensuring that survivors have access to meaningful legal remedies and that perpetrators are held accountable.

Thank you for this opportunity to submit testimony.

RICHARD T. BISSEN, JR.
Mayor

ANDREW H. MARTIN
Prosecuting Attorney

SHELLY C. MIYASHIRO
First Deputy Prosecuting Attorney



DEPARTMENT OF THE PROSECUTING ATTORNEY
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TESTIMONY ON
S.B. 2135 SD1
RELATING TO PRIVACY

February 25, 2026

The Honorable Karl Rhoads
Chair
The Honorable Mike Gabbard
Vice Chair
and Members of the Committee on Judiciary

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

The Department of the Prosecuting Attorney, County of Maui respectfully submits the following comments **in support of S.B. 2135 SD1, Relating to Privacy**. This bill protects citizens' right to privacy by criminalizing the nonconsensual distribution of intimate images.

We support this bill because it criminalizes two types of scenarios not clearly covered by the existing Violation of Privacy offenses in Chapter 711: 1) nonconsensual disclosure of actual intimate images of a recognizable person without the intent to harm that person in any manner, and 2) nonconsensual disclosure of digitally forged intimate images of a recognizable person without the intent to harm that person in any manner. It allows us to prosecute offenders who would otherwise avoid prosecution under Chapter 711 because they lack the specific intent to harm the person depicted in the images, but whose violation of the right to privacy nevertheless exposes citizens to shame, ridicule, harassment and other significant harms.

For these reasons, the Department of the Prosecuting Attorney, County of Maui **supports S.B. 2135 SD1**. Please feel free to contact our office at (808) 270-7777 if you have any questions or inquiries. Thank you very much for the opportunity to provide testimony on this bill.

LATE

February 26, 2026

Senator Karl Rhoads
Chair, Committee on Judiciary
Hawaii State Capitol
415 South Beretania Street, Room 16
Honolulu, HI 96813

Senator Mike Gabbard
Vice Chair, Committee on Judiciary
Hawaii State Capitol
415 South Beretania Street, Room 16
Honolulu, HI 96813

RE: SB 2135 SD1 (Elefante) - Relating to Privacy - Concerns

Dear Chair Rhoads, Vice Chair Gabbard, and members of the committee

On behalf of TechNet, I'm writing to share our concerns with SB 2135 SD1 (Elefante) related to the privacy of nonconsensual image distribution.

TechNet is the national, bipartisan network of technology CEOs and senior executives that promotes the growth of American innovation by advocating a targeted policy agenda at the federal and 50-state level. TechNet's diverse membership includes 100 dynamic American businesses ranging from startups to the most iconic companies on the planet and represents five million employees and countless customers in the fields of information technology, artificial intelligence, e-commerce, the sharing and gig economies, advanced energy, transportation, cybersecurity, venture capital, and finance.

Our members are supportive of efforts to update the criminal statutes so that individuals misusing AI to create, disseminate, and otherwise act upon harmful material can be prosecuted. Our member companies take multi-faceted approaches to combat commercial sexual exploitation on their services by creating and sharing software detection tools as well as partnering with local, state, and federal law enforcement agencies and the National Center for Missing and Exploited Children (NCMEC). Our members have made considerable investments, pioneered new technologies, and are proud partners in the global fight against commercial sexual exploitation.

We thank the legislature for championing this issue. We also want to thank you for including the exemption language we suggested in our previous letter. However, we want to flag a minor issue that we hope can be resolved in the next draft of the bill.

There's a typo that could undo the exemption that it's meant to be. Instead of "information service **or** telecommunications service," it says "for."

(b) An interactive computer service, as defined in title 47 United States Code section 230(f)(2), an information service **for** telecommunications service, as defined in title 47 United States Code section 153, for content provided by another person.

Also, the knowledge standard was changed from "intentionally" to "knowingly", making it less effective. We kindly ask that the language be changed to "knowingly and intentionally" or restored to "intentionally".

We appreciate your time and attention to this matter.

If you have any questions regarding our position, please contact Robert Boykin at rboykin@technet.org or 408.898.7145.

Sincerely,



Robert Boykin
Executive Director for California and the Southwest
TechNet

SB-2135-SD-1

Submitted on: 2/23/2026 10:00:45 PM

Testimony for JDC on 2/27/2026 10:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Lorna Holmes	Individual	Support	Written Testimony Only

Comments:

Please pass this bill to protect us from the horror of having intimate images, including faked ones, publicized without our consent. Since we cannot expect regulations on the federal level, we need to do the most we can as a State.

Mahalo for your consideration,

Dr. Lorna Holmes, Mo'ili'ili 96826

SB-2135-SD-1

Submitted on: 2/24/2026 6:32:56 AM

Testimony for JDC on 2/27/2026 10:30:00 AM

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

Comments:

I strongly support this legislation.

David Ball

Waiialae-Kahala

LATE

Dennis M. Dunn
Kailua, HI 96734

dennismdunn47@gmail.com

TO: **Senator Karl Rhoads, Chair**

Senator Mike Gabbard, Vice Chair

Senate Committee on Judiciary

RE: **S.B. 2135, SD 1, Relating to Privacy**

HEARING: **Friday, February 26, 2026, 2:00 p.m.**

Conference Room 016

Good morning, Chair Rhoads and Vice Chair Gabbard, and Members of the Senate Committee on Judiciary. I am providing testimony in **Support of S.B. 2135, SD 1**. This Bill proposes to create the offense of Nonconsensual Distribution of an Intimate Image, presumably designed to stem the growing problem of individuals who distribute intimate images of other persons without the consent of the individual depicted in the images.

My comments regarding S.B. 2135, S.D. 1 are drawn from my nearly 50 years of experience as an advocate for crime victims, forty-four of which were as an employee of the Honolulu Prosecuting Attorney's Office, serving as Director of the Victim Witness Kokua Services from 1985 to 2022. During my tenure with the Prosecutor's Office, I was privileged to work with many survivors of a variety of sexual offenses. In addition to my advocacy role with these survivors, I have been honored to serve as the handler for Pono and Clover, courthouse facility dogs, who provide comfort and support to crime victims during interviews and court proceedings. In my capacity as a handler, I have listened to hundreds of hours of victims' stories of the betrayal of trust of a friend or acquaintance who distributes intimate images of them without their permission. Like other sexually based offenses, the intense trauma caused by a victim's experience is heightened by the betrayal of the relationship and the knowledge that electronic images of this nature may last forever throughout the vast reaches of the internet. Shame, embarrassment, and fear are common emotions experienced by these victims due to these acts, which frequently last for many years, if not a lifetime. An offense commensurate with the seriousness of the impacts described above seems appropriate and is what S.B. 2135, S.D. 1 endeavors to do.

I strongly urge the members of this Committee to support S.B. 2135, S.D. 1, as both a significant deterrent to the nonconsensual distribution of intimate images and the establishment of appropriate consequences for this type of behavior in our state. Thank you for your time and consideration.