

**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, RELATING TO PRIVACY.

BEFORE THE:
SENATE COMMITTEE ON LABOR AND TECHNOLOGY

DATE: Wednesday, January 28, 2026 **TIME:** 3:00 p.m.

LOCATION: State Capitol, Room 225

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Tricia M. Nakamatsu, Deputy Attorney General

Chair Elefante 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. While the Department appreciates the intent of this bill, we recommend a number of amendments that would increase the effectiveness of the proposed offense.

Terminology

The bill uses inconsistent terminology, which creates ambiguity. For example, on page 1, lines 4 through 9, the words "distribution"; "disseminate"; and "disclosure" seem to be used interchangeably, while referring to the same act. Instead, one term should be selected and used consistently throughout the bill.

The criminal states of mind listed are also referred to inconsistently throughout the bill. This lack of consistency makes the offense difficult to prove. The states of mind on page 1, lines 7 ("intentionally") and 9 ("reckless") appear to be referring to the same act under two different states of mind. If this is referring to a single act, the preferred state of mind should be stated on page 1, line 7 and deleted from line 9, as it is done in a similar provision found on page 2, line 11.

Certain phrases and terminology are used throughout the bill that are unclear and lacking in definitions. Phrases such as, "reveals the identity" (page 1, line 10; page

2, lines 11-12); "identifiable individual" (page 3, line 4); and "intimate content creators" (page 3, lines 10-11) should be revised or defined. Also, the definition of "electronic communication service" at page 6, lines 1-2, is a term that is defined elsewhere in chapter 711, (section 711-1111(2), HRS), so, to avoid repetition, the term should be added to the general definitions for chapter 711, in section 711-1100, HRS.

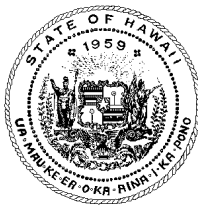
Streamline wording

For more effective application and enforcement, certain portions of the offense should be more succinctly worded. For example, subsections (1)(a)(ii), on page 2, lines 1-4, and (1)(b)(ii), on page 2, lines 19-21, would be easier to interpret if they were revised to read: "Intentionally disseminates an intimate image of another person without the other person's affirmative consent."

Third party liability

The portions of the proposed offense that refer to the actions of a "third party" should be deleted (see page 1, lines 15-17, and page 2, lines 16-18). It is unlikely that prosecutors would be able to prove a defendant had the requisite state of mind to anticipate a third party's actions in these types of circumstances.

Thank you for considering our comments. If the Committee decides to pass this bill, the Department would be happy to work with stakeholders to amend the wording.



STATE OF HAWAII – Ka MOKU'ĀINA 'O HAWAI'I
CRIME VICTIM COMPENSATION COMMISSION
Ke Komikina Uku Luaahi Kalaima
1164 Bishop Street, Suite 1530
Honolulu, Hawai'i 96813
Telephone: 808 587-1143
FAX 808 587-1146

MARI McCAIG BELLINGER
Chair

CLIFTON Y.S. CHOY
Commissioner

JO KAMAE BYRNE
Commissioner

PAMELA FERGUSON-BREY
Executive Director

TESTIMONY ON SENATE BILL 2135
RELATING TO PRIVACY

by

Pamela Ferguson-Brey, Executive Director
Crime Victim Compensation Commission

Senate Committee on Labor and Technology
Senator Brandon J.C. Elefante, Chair
Senator Rachele Lamosao, Vice Chair

Wednesday, January 28, 2026; 3:00 PM
State Capitol, Conference Room 225 & Videoconference

Good afternoon, Chair Elefante, Vice Chair Lamosao, and Members of the Senate Committee on Labor and Technology. Thank you for providing the Crime Victim Compensation Commission (the "Commission") with the opportunity to testify in support of Senate Bill 2135. 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. Thank you for providing the Commission with the opportunity to testify today.

DEPARTMENT OF THE PROSECUTING ATTORNEY
KA 'OIHANA O KA LOIO HO'OPI'I
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
PHONE: (808) 768-7400 • FAX: (808) 768-7515 • WEB: <https://honoluluprosecutor.org/>

STEVEN S. ALM
PROSECUTING ATTORNEY
LOIO HO'OPI'I



THOMAS J. BRADY
FIRST DEPUTY PROSECUTING ATTORNEY
HOPE MUA LOIO HO'OPI'I

THE HONORABLE BRANDON J.C. ELEFANTE, CHAIR
SENATE COMMITTEE ON LABOR AND TECHNOLOGY
Thirty-Third State Legislature
Regular Session of 2026
State of Hawai'i

January 27, 2026

RE: S.B. 2135; RELATING TO PRIVACY.

Chair Elefante, Vice Chair Lamosao, and members of the Senate Committee on Labor and Technology, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in support of S.B. 2135 with recommended amendments.

S.B. 2135 establishes the offense of nonconsensual distribution of an intimate image. This bill reinforces existing laws against violation of privacy and addresses the growing use of artificial intelligence to create or manipulate sexually explicit material.

Under current law, nonconsensual distribution of intimate images or similar digital forgeries is a felony when done with certain malicious objectives.¹ S.B. 2135 offers more protection to victims by prohibiting distribution of these images absent affirmative consent. Additionally, S.B. 2135 specifically addresses images generated using machine-learning technology. The violation of privacy law refers to “composite fictitious persons,”² but does not specifically designate artificial intelligence or machine-learning technology.

The Department suggests two amendments to S.B. 2135 in support of its objectives.

First, the Department recommends replacing the compound intentional and reckless state of mind with a uniform knowing state of mind. A person acts knowingly when the person acts with awareness, though not necessarily purpose or intention.³ This change would enable

¹ See, e.g., HRS § 711-1110.9(1)(b) (“The person knowingly discloses or threatens to disclose an image or video of another identifiable person either in the nude, as defined in section 712-1210, or engaging in sexual conduct, as defined in section 712-1210, without the consent of the depicted person, with intent to harm substantially the depicted person with respect to that person's health, safety, business, calling, career, education, financial condition, reputation, or personal relationships or as an act of revenge or retribution.”).

² HRS § 711-1110.9(1)(c).

³ HRS § 702-206(2).

prosecution where, for example, an offender posted the material to a public bulletin board rather than directed to any particular individual.

Second, the Department respectfully recommends deleting the proposed subsection (2) of the offense reading: “Any dissemination of multiple intimate images or digitally forged intimate images of the same individual as part of a common act shall constitute a single offense.”

Hawai‘i has a constitutional specific unanimity requirement unless charge is a continuing offense.⁴ In appropriate cases, prosecutors may charge multiple acts within a single count.⁵ But where the evidence supports doing so, the prosecution can also elect to charge acts individually.⁶ Much depends on the state of the evidence. As this is a rapidly developing field, preserving the option, but not a requirement, to charge multiple acts in one count will allow prosecutions to conform to the available evidence.

Both recommended changes are offered in the appendix to this testimony

Thank you for the opportunity to testify.

⁴ *State v. Arceo*, 84 Hawai‘i 1, 27, 928 P.2d 843, 869 (1996).

⁵ *State v. Kalaela*, 124 Hawai‘i 43, 49-50, 237 P.3d 1109, 1115-16 (2010) (“Multiple acts’ refer to ‘separate and distinct culpable acts that could support separate counts of an indictment or complaint[,]’ but that are submitted to the jury in a single count.”) (emphasis and brackets in the original).

⁶ *State v. Barrios*, 139 Hawai‘i 321, 389 P.3d 916 (2016)

Appendix

The Department recommends the following changes in Section 1 of S.B. 2135:

“§711- Nonconsensual distribution of an intimate image. (1) A person commits the offense of nonconsensual distribution of an intimate image if the person:

- (a) Knowingly disseminates an intimate image of another person and
 - (i) The ~~reckless~~ disclosure of the intimate image reveals the identity of the depicted person, including through
 - (A) Any accompanying or subsequent information or material related to the visual material; or
 - (B) Information or material provided by a third party in response to the disclosure of the visual material;
 - (ii) The person disseminating the intimate image fails to obtain affirmative consent from the person depicted in the intimate image; and
 - (iii) The image was obtained or created under circumstances in which the person disseminating the image knew or reasonably should have known the person depicted in the intimate image had a reasonable expectation of privacy; or

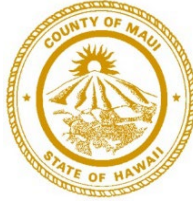
- (b) Knowingly disseminates any digitally forged intimate image of another person and:
 - (i) The disclosure of the visual material reveals the identity of the depicted person, including through:
 - (A) Any accompanying or subsequent information or material related to the image; or
 - (B) Information or material provided by a third party in response to the disclosure of the image; and
 - (ii) The person disseminating the image fails to obtain affirmative consent from the person depicted to disseminate the image.

~~(2) Any dissemination of multiple intimate images or digitally forged intimate images of the same individual as part of a common act shall constitute a single offense.~~

RICHARD T. BISSEN, JR.
Mayor

ANDREW H. MARTIN
Prosecuting Attorney

SHELLY C. MIYASHIRO
First Deputy Prosecuting Attorney



DEPARTMENT OF THE PROSECUTING ATTORNEY
COUNTY OF MAUI

200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
PHONE (808) 270-7777 • FAX (808) 270-7625

LATE

TESTIMONY ON
S.B. 2135
RELATING TO PRIVACY

January 27, 2026

The Honorable Brandon J.C. Elefante
Chair
The Honorable Rachelle Lamosao
Vice Chair
and Members of the Committee on Labor and Technology

Chair Elefante, Vice Chair Lamosao, 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, 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**. 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.



MOTION PICTURE ASSOCIATION

Senate Bill 2135

Statement and Requested Amendment

The Motion Picture Association (“MPA”) and its members respectfully request an amendment to Senate Bill 2135, concerning nonconsensual distribution of intimate images.

The MPA serves as the global voice and advocate of the motion picture, television, and streaming industries. It works in every corner of the globe to advance the creative industry, protect its members’ content across all screens, defend storytellers’ creative and artistic freedoms, and support innovative distribution models that expand viewing choices for audiences worldwide. The MPA’s member studios are Netflix Studios, LLC; Paramount Pictures Corporation; Sony Pictures Entertainment Inc.; Universal City Studios LLC; Walt Disney Studios Motion Pictures; Warner Bros. Entertainment Inc.; and Amazon Studios LLC. Many of the major news networks and channels are owned by MPA’s members.

MPA respectfully requests an amendment to §711 (5) to take into account that a nonconsensual distribution of an intimate image may be protected under the First Amendment, where such dissemination may be newsworthy or in the public interest.

Proposed amendment in red:

(5) This section shall not apply to:

- (a) A law enforcement officer if the intimate image was created by the law-enforcement officer pursuant to a lawful criminal investigation; and*
- (b) The provider of an electronic communication service or remote computing service for an image or video disclosed through the electronic communication service or remote computing service by another person.*
- (c) **The dissemination or publication of an intimate image which involves a matter of public interest or is newsworthy,***

Other states recognize that First Amendment interests must be balanced with the important interest in protecting individuals from the unconsented dissemination of intimate images. A similar Illinois law (720 ILCS 5/11-23.5(b)) provides the following exception:

“The intentional dissemination of an image of another...when the dissemination serves a lawful public purpose”

Minnesota's law (Minn Statutes ch. 617 §617.621) includes the following exemption:

“the image relates to a matter of public interest and dissemination serves a lawful public purpose.”

Washington state's law (RCW Section 9A.86.010) Includes the following exemption:

“Disclosures made in the public interest, including, but not limited to, the reporting of unlawful conduct, or the lawful and common practices of law enforcement, criminal reporting, legal proceedings or medical treatment.”

For these reasons, MPA requests the specified amendment to S.B. 2135 and is available to work with the sponsors of the bill.



JANUARY 28, 2026

SENATE BILL 2135

CURRENT REFERRAL: LBT

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 SB 2135, relating to privacy, which establishes the offense of nonconsensual distribution of an intimate image.

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.

IBSA is widespread. National surveys indicate that approximately 1 in 12 adults in the United States have been victims of nonconsensual image abuse, and 23%—nearly 1 in 4—of young women report being threatened with the distribution of private images according to an analysis performed by researchers from Google and the University of Melbourne. Victims experience elevated rates of depression, anxiety, suicidality, job loss, housing instability, and ongoing stalking and harassment.

Image-based sexual abuse likely impacts millions of people across the nation and thousands of people statewide. A 2017 study by the Cyber Civil Rights Initiative found that approximately 13% of respondents reported being survivors of image-based sexual abuse. Estimates of prevalence rates for image-based sexual abuse are widely believed to be low, however, because of the social stigma, personal shame, and emotional and financial repercussions of reporting such abuse.

As artificial intelligence tools expand, IBSA is rapidly evolving beyond real images to include synthetic or AI-generated images, dramatically lowering the barrier for perpetrators. Recent high-profile controversies—including the misuse of generative AI systems such as Grok and other platforms to create nonconsensual sexualized images of women, public figures, and minors—demonstrate the urgent need for a clear, comprehensive, and survivor-centered statutory framework. As digital transformations continue to

accelerate, Hawai‘i should seize every opportunity to be a national leader in addressing this form of digital violence.

That said, we respectfully request three targeted amendments to strengthen SB 2135 and ensure legal clarity and survivor-centered enforcement.

1. Repeal the existing IBSA provisions in HRS §711-1110.9(b) and (c) to avoid duplication.

Hawai‘i already criminalizes IBSA under HRS §711-1110.9, Violation of Privacy in the First Degree, specifically subsections (b) and (c). These provisions were originally enacted in 2014, and were updated in 2018 to account for threats of nonconsensual image abuse and again in 2021 to include so-called “deep fake” images.

SB 2135 largely replicates the application and intent of these provisions in a new standalone offense. Maintaining two parallel IBSA statutes risks:

- Confusion for law enforcement and prosecutors;
- Inconsistent charging practices and penalties; and
- Legal ambiguity that could undermine enforcement or invite litigation.

Moreover, having two statutes with substantially similar evidentiary requirements risks creating Modica violations (*State v. Modica*, 1977), which occurs when a defendant is charged with a higher grade of offense for conduct that could also be charged under a lower grade of offense (i.e., felony instead of a misdemeanor), and the elements of proof for both are indistinguishable. In cases involving identical evidentiary burdens, prosecutors are required to charge the lower graded offense.

Recommended amendment: Repeal subsections (b) and (c) of §711-1110.9 and consolidate IBSA into the new statutory framework created by SB 2135 or incorporate the preferred elements of SB 2135 into §711-1110.9.

2. Eliminate the distinction between IBSA cases that do and do not require proof of harm on pages 4 and 5, thereby creating a standard penalty that treats all cases of IBSA similarly.

SB 2135 creates a tiered system in which IBSA that results in harm to reputation, emotional distress, or other specified impacts is treated as a felony, while IBSA without such proof is treated as a misdemeanor.

This structure reintroduces a harmful burden of proof on survivors, who already face significant barriers to reporting. Requiring proof of reputational or emotional harm will discourage reporting and complicate prosecution, and likely lead to most cases being charged at the lower grade of offense because of the heightened evidentiary burden. Notably, §711-1110.9 is graded as a class C felony, which means that inclusion of the distinction between cases

that can and cannot prove harm could result in most IBSA cases receiving a lower penalty under the new statute than exists today.

A study published in the academic journal *Psychology of Violence* in 2019 found that 73% of survivors of image-based sexual abuse did not turn to anyone for help after discovering the abuse, in part because of legal challenges obtaining pathways to justice for the trauma they endured. Such challenges include proof of harassment clauses, which require evidence of a specific intent to harass, intimidate, or otherwise harm the victim. Proof of harm clauses undermine the purpose of image-based sexual abuse protections by limiting legal cases to those involving retaliatory motives.

According to the Cyber Civil Rights Initiative, only 12% of image-based sexual abuse perpetrators act out of malice, while 88% of incidents are committed for amusement, profit, or other non-retaliatory motives not covered by proof of harm clauses. Thus, as a study published in *American Criminal Law review* asserted, such clauses leave a wide array of perpetrators free to operate with impunity.

Recommended amendment: Remove the distinction based on proof of harm and treat all nonconsensual distribution of private images as a felony offense, consistent with current penalties under §711-1110.9.

3. Replace the term “intimate” with “private” or “sensitive” throughout the bill to avoid victim-blaming and sexualization.

The term “intimate” carries historical and cultural connotations that imply consensual sexual activity, which can inadvertently reinforce victim-blaming narratives. Many IBSA cases involve:

- Images taken without consent (e.g., hidden cameras, hacking);
- Images created or altered through AI; and
- Images shared in abusive or coercive contexts.

Framing these images as “intimate” can obscure the core issue: a violation of consent and privacy, not sexual behavior.

Recommended amendment: Replace “intimate image” with “private image” or “sensitive image” to emphasize the nonconsensual nature of the act and reduce stigma and shame experienced by survivors.

With aloha,

Kris Coffield

President, Imua Alliance

SB-2135

Submitted on: 1/27/2026 2:13:54 PM

Testimony for LBT on 1/28/2026 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Austin "Shiloh" Martin	Testifying for Libertarian Party of Hawaii	Oppose	Remotely Via Zoom

Comments:

Aloha Chair Lee, Vice Chair Fevella, and committee members. I am Austin Martin, Chair of the Libertarian Party of Hawaii, testifying in strong opposition to SB 2135 as introduced.

While the bill purports to target nonconsensual distribution of sexually explicit or nude images—including AI-forged deepfakes—its overly broad and vague drafting transforms a narrow privacy concern into a sweeping new speech crime under HRS Chapter 711. Requiring "affirmative consent" for any dissemination, even of images initially shared voluntarily, and criminalizing "reckless disclosure" that reveals identity through "accompanying information" or third-party responses, lowers the mens rea threshold dangerously close to strict liability, which seems to be a recurring theme in this legislature. The definition of "digitally forged intimate image" hinges on what "appears to a reasonable person to be indistinguishable from authentic," ignoring disclaimers and inviting subjective prosecutions based on viewer perception rather than objective falsity.

This reactive policymaking—rushed in response to fears over deepfake technology—expands criminal penalties (up to class B felony with intent for "reputational harm") and extends statutes of limitation to seven years post-"discovery," empowering delayed, potentially vindictive claims long after distribution. Existing laws on harassment, defamation, invasion of privacy, and obscenity already cover genuine harms from sexual revenge porn without creating this new blunt instrument that risks chilling protected expression, including satirical or newsworthy content misclassified as "intimate." The proposed exemptions for law enforcement and platforms are narrow, leaving ordinary individuals exposed to prosecutorial overreach.

Legislators should be ashamed of advancing measures that erode First Amendment protections under the guise of victim advocacy. Reject SB 2135 outright; if privacy in intimate matters demands address, narrow it to knowing violations with specific intent and no application to labeled or non-sexual forgeries. "Intimate" is an embarrassingly broad term; this language should be specific and narrow, especially considering the seriousness of the penalties suggested.

Mahalo for your attention to this important matter.

Austin Martin

Libertarian Party

LATE

January 28, 2026

Senator Brandon J.C. Elefante
Chair, Committee on Labor and Technology
Hawaii State Capitol
415 South Beretania Street, Room 217
Honolulu, HI 96813

Senator Rachele Lamosao
Vice Chair, Committee on Labor and Technology
Hawaii State Capitol
415 South Beretania Street, Room 204
Honolulu, HI 96813

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

Dear Chair Elefante, Vice Chair Lamosao and Members of the Committee

On behalf of TechNet, I'm writing to share our concerns with SB 2135 (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 believe this bill is well-intentioned; however, as drafted, we have concerns about the scope of platform liability and its interaction with existing federal protections, particularly Section 230. We respectfully request that the following language be added to clarify the responsibilities of electronic communication service providers.

(5) This section shall not apply to:

(b) an interactive computer service, as defined in 47 U.S.C. 230(f)(2), an information service or telecommunications service, as defined in 47 U.S.C. 153, for content provided by another person.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Robert Boykin".

Robert Boykin
Executive Director for California and the Southwest
TechNet

SB-2135

Submitted on: 1/23/2026 9:11:24 PM

Testimony for LBT on 1/28/2026 3:00:00 PM

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

Comments:

It is extremely important for our personal safety and ability to live a peaceful life, as well as the safety and well-being of our keiki, that this regulation and others like it be passed. Please vote to adopt SB2135.

TESTIMONY IN SUPPORT WITH AMENDMENTS

SENATE BILL 2135

January 28, 2026

Current Referral: LBT

Aloha Chair Elefante, Vice Chair Lamosao, and Members of the Committee,

My name is Amy Zhao, and I am submitting testimony in strong support of SB 2135, with amendments, as a student who has witnessed how common image-based sexual abuse is among my peers, and as someone who has personally experienced image-based sexual abuse.

Among young people, nonconsensual distribution of private sexual images is not rare or hypothetical. I have seen how a single image can cause someone to permanently remove themselves from friend groups, stop coming to school, and feel ashamed for simply existing online. Survivors often carry the consequences in silence while the person who shared the image moves on.

Because I have lived and witnessed this reality, I strongly believe Hawai‘i must strengthen the law so victims can actually access justice. Survivors already face barriers to reporting, including fear, stigma, and the emotional toll of losing control over our privacy. The law should not add another barrier by requiring victims to prove “harm” before the offense is taken seriously.

I support amendments to remove proof of harm so survivors do not have to clear an extra evidentiary hurdle to seek accountability. Imua Alliance explains that SB 2135 currently creates a tiered system—treating cases with proof of reputational or emotional harm as a felony, while treating cases without that proof as a misdemeanor—and warns that this structure reintroduces a harmful burden on survivors and will discourage reporting. Imua Alliance recommends eliminating this distinction and treating all IBSA cases similarly. I also support the recommended amendment to replace the term “intimate” with “private” or “sensitive” image to reduce stigma and keep the focus on consent and privacy rather than sexualization or victim-blaming.

For these reasons, I respectfully urge you to pass SB 2135 with amendments, including removing proof-of-harm requirements so survivors like me, and many more who are suffering quietly, can seek justice without being forced to “prove” the impact of a violation that is inherently harmful.

Mahalo for your time and your commitment to protecting our community.

Sincerely,
Amy Zhao