



DEPARTMENT OF THE ATTORNEY GENERAL

News Release

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Attorney General's statement regarding Taomae v. Lingle

(HONOLULU) Attorney General Mark Bennett made the following statement regarding the Hawaii Supreme Court's September 1 decision in Taomae v. Lingle, which invalidated a constitutional amendment adopted by Hawaii voters in the 2004 general election:

"The decision by the Hawaii Supreme Court invalidating a constitutional amendment passed in the Hawaii State Legislature without a dissenting vote, and overwhelmingly approved by the voters, is extraordinarily unfortunate.

First, this is yet another example of a Supreme Court decision undermining the Legislature's attempts to protect young children from being repeatedly sexually assaulted by those with whom they live. As a result of this decision, an important tool in law enforcement's ability to protect young children from sexual assault continues to be missing, and it is the young children of Hawaii who will suffer as a result.

Second, the decision is undemocratic and disregards the will of the Legislature, the vote of the people, and past practice.

We will ask the Legislature to readopt this amendment, perhaps in an amended form, and we may ask the Legislature to consider other remedial measures."

In 1997, the Legislature passed a law allowing jurors to find a defendant guilty of continuous sexual assault of a minor if they agreed that he assaulted the child at least three times over a period of time. The Supreme Court struck down the law in 2003 (State v. Rabago). In 2004, in order to reinstate the law, the Legislature proposed, and Hawaii voters overwhelmingly approved, a constitutional amendment to allow the Legislature to define what behavior constitutes a continuing course of conduct in sexual assault crimes. The Supreme Court's decision in Taomae invalidated that amendment.

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