



Office of the Public Defender State of Hawaii

Timothy Ho, Chief Deputy Public Defender
Testimony of the Office of the Public Defender,
State of Hawaii to the House Committee on Judiciary



February 14, 2008, 2:40 p.m.

RE: H.B. 2766, HD1: Relating To Electronic Monitoring

Chair Waters and Members of the Committee:

This measure would allow a court to require a person convicted of violating an order of protection (TRO) to be fitted with a global positioning system (GPS) transmitter as a condition of his or her probation.

The Office of the Public Defender opposes H.B. 2766.

We are concerned about the cost of this program. The type of GPS tracking system proposed in this measure will be costly. Previous testimony has stated that the cost will be approximately four to five dollars per day. The total cost for the mandatory two years of probation would be between two thousand and eight hundred dollars to three thousand, six hundred dollars for each defendant. Multiply that amount by the amount of total amount of defendants who would be affected by this measure, most of whom are indigent, and the total cost to the state will be very high. We believe that this is a conservative figure, and that the actual cost will be even higher. What happens when family court probation exhausts the appropriation for the installation of the GPS system? Will this be a case of probation granted only to those who can afford to pay for the GPS transmitter, and lengthier jail terms for the indigent?

Before you throw money at this program, you should have the following questions answered:

1. Who is the vendor? What brand of equipment are we purchasing?
2. If there will be no vendor, who will train the probation officers in its use, and how much additional staff will be required to effectively monitor these probationers?
3. Given the parameters specified in this bill, what will the actual cost per person, per day, to track a probationer?
4. How many individuals are estimated to be outfitted with the GPS devices, and how many of them will be indigent?

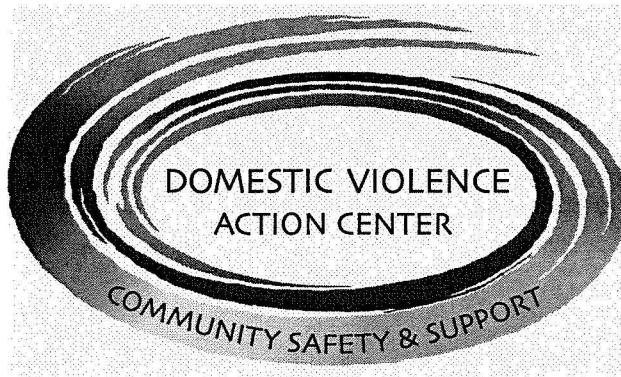
How will the information about the movements of a person fitted with these transmitters be used? We are concerned that this information will be abused, and that the police will detain all individuals fitted with the GPS transmitters who

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were in an area where a crime was committed, leading to repeated seizures and arrests, which could lead to false accusations and convictions.

A GPS system presents a false sense of security. While GPS tracking will tell the government where a defendant is at all times, it cannot discern whether or not the defendant is simply moving about or actually committing a crime. This bill may have the unintended effect of increasing incidences of domestic violence. Historically, abusers tend to cast blame upon the people they abuse, and most of the arguments center around money, or the lack thereof. They may end up blaming the victim for having to pay for the cost of the GPS system. Rather than deter violations of orders of protection, the GPS requirement may inflame abusers to not only enter the geographic restriction zone, but to act on their threats, believing that they have nothing to lose.

We oppose H.B. 2766, HD1. Thank you for the opportunity to comment on this bill.



TO: Chair Tommy Waters
Vice Chair Blake Oshiro
Members of the Committee on Judiciary

FR: Nanci Kreidman, M.A.

RE: HB 2766 HD 1

Aloha! We submit this testimony in support of HB 2766 HD 1. Over the last twenty five years in this community we have enhanced our initiatives, amended our statutes and invested additional monies in response to domestic violence. The Bill before the Committee today is a strategy to strengthen accountability and provide greater safety.

The only issue we would call attention to in the crafting of this measure is the disclosure of the victims' residence address to be included as a listed prohibited location. If a victim is hiding, for safety reasons, it would be foolish to inform the abuser in order to protect her through utilization of an electronic monitoring device. Perhaps some research or additional discussion with corrections experts and other communities with similar programs could provide the guidance we need to resolve this issue.

Thank you for your wise consideration of this new tool to increase safety and protect the lives of victims whose abusers have become stalkers, are insistent in their pursuit, or potentially lethal.

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HAWAII STATE COALITION AGAINST DOMESTIC VIOLENCE

Hearing date and time: February 14, 2008, 9:00am, Committees on Judiciary

RE: H.B. 2766 HD1, RELATING TO ELECTRONIC MONITORING

TO: Chair Representative Tommy Waters, Vice Chair Representative Blake Oshiro and committee members

FROM: Ana Maring, Hawaii State Coalition Against Domestic Violence

Aloha, my name is Ana Maring and I represent the Hawaii State Coalition Against Domestic Violence (HSCADV). HSCADV is a private non-profit agency which serves as a touchstone agency for the majority of domestic violence programs throughout the state. For many years HSCADV has worked with the Hawaii Legislature by serving as an educational resource and representing the many voices of domestic violence programs and survivors of domestic violence.

HSCADV strongly supports HB2766 HD1.

Research shows that victims intimate partner violence (IPV) often continue to be in danger from their batterer and are in fact likely to be at increased risk once they separate. Statistics show that approximately 75% of the women murdered by a partner or former partner had separated from their batterer or told their batterer they planned to leave. Many victims of IPV seek Temporary Restraining Orders (TRO)/Protective Orders (PO) as a tool to increase their safety.

Electronic monitoring for TRO/PO violators serves as an additional tool that would assist in protecting victims and their children's safety by alerting the victim if the batterer has crossed into an exclusionary zone. As stated in Electronic Monitoring of Domestic Violence Cases-A Study of Two Bilateral Programs, *"The intimate nature of these relationships means that the offender will be well versed in the victim's routines, and personal and social affiliations, such as family, friends, and membership in organizations. He knows when and where she works, the school where she waits to pick up the children, her telephone numbers, as well as her travel routes to reach home, work, or fulfill other responsibilities, needs or preferences. Such knowledge of her routines furnishes the abuser with numerous opportunities to harass, stalk, intimidate, assault or abuse the victim in violation of protective orders."*

Similar technology has been used in Hawaii. The estimated cost of this service is approximately \$4 - \$5 dollars a day and would be paid by the offender.

While there is not a single answer to domestic violence GPS electronic monitoring provides another tool to hold batterers accountable and deter future abuse. Whether a victim is seeking a temporary restraining order, contacts law enforcement or seeks domestic violence services, they are best equipped to predict how their batterer will respond to different punitive measures. Courts must work with victims considering the use of this technology and explain the limitations of the system.

For more information about how GPS Electronic Monitoring equipment works please go to <http://www.denvergov.org/ElectronicMonitoring/EquipmentandPrograms/tabid/385950/Default.aspx> .
and
[http://www.officer.com/print/Law-Enforcement-Technology/GPS-Offender-Tracking-and-the-Police-Officer/1\\$25189](http://www.officer.com/print/Law-Enforcement-Technology/GPS-Offender-Tracking-and-the-Police-Officer/1$25189)

Thank you for the opportunity to testify.

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JUDtestimony

From: Dara Carlin, M.A. [breaking-the-silence@hotmail.com]
Sent: Wednesday, February 13, 2008 10:22 PM
To: JUDtestimony
Subject: HB2766, HD1 to be heard 02/14/08 at 2:40pm by the House Judiciary Committee

To: Representative Tommy Waters, Chair
Representative Blake Oshiro, Vice Chair
Members of the Judiciary Committee

From: Dara Carlin, M.A.
Oahu VOICES Representative
716 Umi Street, Unit 210
Honolulu, HI 96819
(808) 832-9316 X106

Date: February 14, 2008

Re: Strong Support for HB2766 HD1

VOICES stands in strong support of HB2766 HD1, Relating to Electronic Monitoring, and would like to ask for your support in doing the same.

Although domestic violence victims and survivors have TROs (Temporary Restraining Orders) as an available remedy to keep themselves safe from their abusers, I think we've all seen enough domestic violence (DV) homicides where TROs were in effect to realize that a few papers with a raised seal doesn't provide "bullet-proof" protection for the petitioners.

The benefit of Electronic Monitoring can clearly be seen if we apply it to the DV murder of Janel Tupuola, the most recent woman who lost her life on a residential street in Kailua while attempting to pick up her children from the sitter's after work. Technically by definition, **Janel was not a DV victim but a DV survivor** - she had already left her abuser and was trying to go on with the normal responsibilities of her life: work and caring for her children. Had her abuser been wearing an Electronic Monitoring device, Janel would still be here with her 5 children today because Janel's sitter's house would have been considered an exclusionary zone so the police and Janel would've been afforded the opportunity of a forewarning to take evasive action.

I think Janel's brutal murder could have been precluded if she had been afforded an Electronic Monitoring service and while it's too late for Janel and her children, it's not too late for the other DV victims, survivors and their children out there who cannot stop their abuser. You can make the difference between life and death for DV victims and survivors by supporting this measure and sway the chances to the victim's/survivor's favor if you choose and I urge you to please do so.

Thank you for this opportunity to provide testimony.

Respectfully, Dara Carlin, M.A.

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2/14/2008