

TESTIMONY OF THE STATE ATTORNEY GENERAL TWENTY-FOURTH LEGISLATURE, 2008

ON THE FOLLOWING MEASURE:

S.B. NO. 1343, S.D. 1, RELATING TO THE PENAL CODE.

BEFORE THE:

HOUSE COMMITTEE ON HUMAN SERVICES AND HOUSING

DATE: Tuesday, March 11, 2008 **TIME:** 8:30 AM

LOCATION: State Capitol Room 329
Deliver to: Committee Clerk, Room 326, 3 copies

TESTIFIER(S): Mark J. Bennett, Attorney General
or Lance M. Goto, Deputy Attorney General

Chair Shimabukuro and Members of the Committee:

The Department of the Attorney General strongly supports this measure with recommended amendments to update the bill and conform it to the changes made by Act 79, Session Laws of Hawaii 2007.

The purpose of this bill, the "Protect Victims of Domestic Violence Act," is to provide greater protections to victims of domestic violence who the court and police are attempting to keep safe through family court domestic abuse protective orders and police orders upon family or household members to leave premises.

This bill amends the offenses of terroristic threatening in the first degree and assault in the second degree to include conduct committed against victims who the courts and police are attempting to keep safe through the use of protective orders.

This bill makes clear that crimes against these protected victims are very serious. It is intended to provide a greater deterrent to violence against a particularly vulnerable class of victims in high risk situations. Often, going after a defendant via a criminal contempt or misdemeanor assault or terroristic threatening proceeding does not give the police and prosecutors the tools they need to intervene in a meaningful way. By upgrading the criminal offenses as provided in this bill, the police and

prosecutors may have the legal leverage to a break the vicious cycle of violence in some cases.

Victims of domestic violence often endure extended periods of mental abuse, intimidation, harassment, terrorization, and physical violence before they reach out for help. It can take a great deal of courage, strength, and desperation to seek the help of the police, the court system, and others. And often, even with intervention by police and judges, the abuse and violence do not end. When these victims cry for help, they should be able to get the protection that they are seeking and be safe from their abusers. Current laws do not provide adequate deterrent. This bill is intended to do that.

The Department recommends the following amendments to section 2 of the bill, regarding section 707-711(1), Hawaii Revised Statutes, to update the bill and conform it to the changes made by Act 79, Session Laws of Hawaii 2007:

- (1) Line 10, on page 1, should read, "bodily injury to another;"
- (2) Lines 16 and 17, on page 1, should read, "injury to another with a dangerous instrument;"
- (3) Lines 7 and 8, on page 2, should read, "department of education or an employee of a charter school; a person who is a volunteer, as defined in section 90-1, in a . . . "
- (4) Line 13, on page 2, should read, "carrying out an educational function; [~~e~~]"
- (5) After line 13, on page 2, the existing subsection (f) should be inserted to read, "(f) The person intentionally or knowingly causes bodily injury to any emergency medical services personnel who is engaged in the performance of duty. For the purposes of this paragraph, "emergency medical services personnel" shall have the same meaning as in section 321-222 [~~-~~]; or"
- (6) The proposed new subsection designated as subsection "(f)" on page 2, line 14, should be redesignated as subsection (g).

The Department also recommends the following amendments to section 3 of the bill, regarding section 707-716(1), Hawaii Revised Statutes, to update the bill and conform it to the changes made by Act 79, Session Laws of Hawaii 2007:

- (1) Line 17, on page 3, should read, "in section 707-711;"
- (2) After line 17, on page 3, the existing subsection (d) should be inserted to read, "(d) Against any emergency medical services personnel who is engaged in the performance of duty. For purposes of this paragraph, "emergency medical services personnel" shall have the same meaning as in section 321-222; [~~e~~]"
- (3) Line 18, on page 3, should read, "(e) With the use of a dangerous instrument [~~or~~]; or"
- (4) The proposed subsection (e) on page 3, line 19, should be redesignated as subsection (f).

The Department respectfully requests the passage of this measure with the recommended amendments.

Harry Kim
Mayor



Lawrence K. Mahuna
Police Chief

Harry S. Kubojiri
Deputy Police Chief

County of Hawaii

POLICE DEPARTMENT

349 Kapiolani Street • Hilo, Hawaii 96720-3998
(808) 935-3311 • Fax (808) 961-2389

March 10, 2008

Representative Maile Shimabukuro
Chairperson and Members
House Committee on Human Services and Housing
415 South Beretania Street, Room 329
Honolulu, Hawaii 96813

Dear Representative Shimabukuro and Members:

Re: Senate Bill 1343, Relating to the Penal Code

The Hawai'i Police Department supports the passage of Senate Bill 1343, S.D. 1, Relating to the Penal Code, which amends the offenses of Assault in the Second Degree, and Terroristic Threatening in the First Degree to include conduct committed against victims, who the courts and police are attempting to keep safe with protective orders.

As cited by the Department of the Attorney General, the purpose of this bill is to provide greater protections to victims of domestic violence who the police and the court are attempting to keep safe through domestic abuse protective orders as well as police orders upon family or household members to leave the premises.

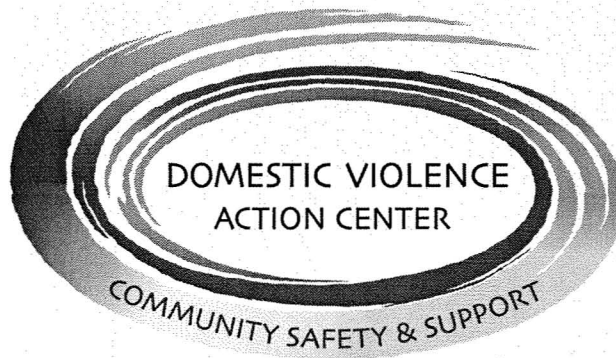
This bill is also intended to provide a greater deterrent to violence against victims in high risk situations and makes it clear that crimes against victims of domestic violence will not be tolerated by not only law enforcement, prosecutors, and judicial advocates, but by citizens of the State of Hawaii. The vehicle of this message is greater and more severe criminal consequences for these acts of domestic violence. Oftentimes, victims of domestic violence live through long periods of physical and mental abuse before reaching out for help. This bill is intended to provide police and the prosecutors the leverage needed to possibly break the cycle of violence in some cases. Therefore, I urge this committee to support this legislation.

Thank you for allowing the Hawai'i Police Department to testify on Senate Bill 1343, S.D. 1.

Sincerely,

A handwritten signature in black ink, appearing to read "Lawrence K. Mahuna", is written over a large, loopy flourish.

LAWRENCE K. MAHUNA
POLICE CHIEF



TO: Maile Shimabukuro, Chair
Karl Rhoads, Vice Chair
Members of the Human Services & Housing Committee

FR: Nanci Kreidman, M.A.

RE: S.B. 1343, S.D. 1

Aloha, and thank you for scheduling S.B. 1343, S.D. 1 for hearing. We are in support of this measure as it places focus and accountability on the perpetrator of intimate partner crimes. It is imperative that our community response include programs, safety planning, law enforcement intervention, healthcare and financial assistance to victims. It is also imperative for the community to effect a strategy for imposing sanctions, fines, incarceration, and accountability for abusers.

When a perpetrator has already made an appearance in court, or has been instructed by police to follow a course of action, the blatant disregard of such intervention must be considered a serious transgression. Those abusers who will behave with such disregard raise red flags that cannot be minimized or ignored. They are high risk for more potentially lethal crimes.

Thank you for inviting community testimony on this important issue.

HAWAII STATE COALITION AGAINST DOMESTIC VIOLENCE

Hearing date and time: March 11, 2008, 8:30am. Room 329

RE: S.B. 1343 SD1 Relating to the Penal Code

TO: Chair Shimabukuro, Vice Chair Rhoads and members of the Committee on Human Services & Housing

FR: 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 supports SB 1343 SD1.

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. We believe that holding batterers accountable for their behavior is one of the major tools we have in stemming IPV.

Thank you for the opportunity to testify.