



Testimony to the Twenty-Fourth Legislature
Senate Committee on Judiciary and Labor
The Honorable Brian T. Taniguchi, Chair
The Honorable Clayton Hee, Vice Chair

Tuesday, February 12, 2008, 9:00 a.m.
State Capitol, Conference Room 016

by
Janice Yamada
Adult Client Services Branch Administrator
Hawaii State Judiciary

WRITTEN TESTIMONY ONLY

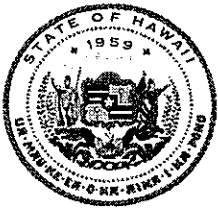
Bill No. and Title: Senate Bill No. 2218, Relating to Electronic Monitoring.

Purpose: Requires electronic monitoring of persons convicted of violating a domestic abuse temporary restraining order or protective order.

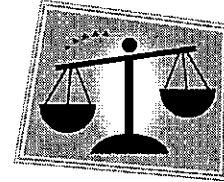
Judiciary's Position:

The Judiciary takes no position on this measure; however, we note the following concern. Although the appropriations section of this measure indicates offenders may be assessed the costs associated with equipping themselves with electronic monitoring devices as a special condition of their probation, many of these offenders will be unable to pay because they are indigent or have very limited funds.

Thank you for the opportunity to provide testimony on this matter.



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 Senate Committee on Judiciary and Labor**

February 12, 2008, 9:00 a.m.

RE: S.B. 2218: Relating To Electronic Monitoring

Chair Taniguchi 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 S.B. 2218.

We are concerned about the cost of this program. Who will pay for the cost of the GPS transmitter, and the cost of administering this program? The type of GPS tracking system proposed in this measure will be costly. 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?

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 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. 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 S.B. 2218. Thank you for the opportunity to comment on this bill.

HAWAII STATE COALITION AGAINST DOMESTIC VIOLENCE

Hearing date and time: February 12, 2008, 9:00am, Committees on Judiciary and Labor

RE: S.B. 2218, RELATING TO ELECTRONIC MONITORING

TO: Chair Senator Brian T. Taniguchi, Vice Chair Senator Clayton Hee 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 SB2218 with amendments.

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.*"

In order that victims' safety not be further jeopardized we request that in circumstances where the batterer is not familiar with the victims new routine or housing the following language be added to the statute: *page 3, line 2 and page 7, line 22 "exclusion zones **known to the defendant including, but not limited to,**"*. Our concern is that Electronic Monitoring only be used in appropriate cases and will not provide the defendant any information regarding the victims location or information the defendant could use to deduce where the victim will be based on the exclusionary zone. This will require the courts to work with the victims who can best predict how batterers will respond to different punitive measures and explain victims the limitations of the system so they can appropriately plan for their safety.

We request that the Committee Report reflect the concerns raised in our testimony. Thank you for the opportunity to testify.

testimony

From: Jeannine Johnson [jeannine@hawaii.rr.com]
Sent: Sunday, February 10, 2008 6:51 PM
To: testimony
Cc: Rep. Barbara Marumoto; Rep. Lyla B. Berg; Rep. Gene Ward; Sen. Fred Hemmings; Sen. Sam Slom; Dana.Viola@hawaii.gov
Subject: Testimony in Strong Support of SB2218 (TRO monitoring), SB2301 (crimes against pregnant women), SB2962 (sex offenders) and SB3182 (good Samaritans)

COMMITTEE ON JUDICIARY AND LABOR

Senator Brian T. Taniguchi, Chair
Senator Clayton Hee, Vice Chair

SB 2218 RELATING TO ELECTRONIC MONITORING
SB 2301 RELATING TO CRITERIA FOR EXTENDED TERMS OF IMPRISONMENT
SB 2962 RELATING TO PUBLIC SAFETY
SB 3182 RELATING TO EXTENDED SENTENCING

DATE: Tuesday, February 12, 2008
TIME: 9:00 a.m.
PLACE: Conference Room 016

Aloha Chair Taniguchi and Vice Chair Hee,

Mahalo for providing a hearing on these vital bills.

I wholly support each of the above-stated bills which strengthen our criminal laws and protect the public.

Mahalo for your support of each of these excellent bills.

Jeannine

Jeannine Johnson
5648 Pia Street
Honolulu, Hawai'i 96821
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"PUPUKAHI I HOLOMUA"
(Unite in Order to Progress)

Senator Brian T. Taniguchi, Chair
Senator Clayton Hee, Vice-chair
Committee on Judiciary and Labor

Myra G. Tirao
MSW Student, University of Hawaii at Manoa
808-778-0822

Tuesday, February 12, 2008

Support of SB 2218, Relating to Electronic Monitoring

My name is Myra Tirao and I am a MSW student at the University of Hawaii at Manoa. My concentration in my program is Child and Family, with emphasize on Domestic Violence. I strongly support S.B. No. 2218, Relating to Electronic Monitoring, which gives the court the power to place a global positioning satellite tracking device on offenders who are convicted for violating their temporary restraining order or order of protection.

Domestic violence is a serious violation to our wellbeing and a major reality our society. Nationally, 1 in 4 women will experience domestic violence in her lifetime according to the National Institute of Justice and the Center of Disease Control and Prevention. Also 20% of people, nationally who experience domestic violence obtain a civil protection order annually (National Institute of Justice and the Center of Disease Control and Prevention, 2000). On the issue of stalking, 69% of victims who are female and 81% of male victims had their protective order violated (Tjaden & Thoennes, 1998).

Viewing the issue of domestic violence locally, the 2007 National Census of Domestic Violence Services indicated that 169 victims of domestic violence were assisted in Hawaii within a 24 hour timeframe. Within that same period, 86% of legal assistance in Hawaii provided services to victims of domestic violence.

S.B. No. 2218 is a very important bill to the residence of Hawaii. There are too many people who are victims of violence, who go to the authorities for protection and all they get is a piece of paper threatening the defendant to stay away or they will be in violation of their probation. If pass, this bill will give victims/complainants an extra security measure of protection. The global positioning satellite tracking device will give victims more time to find a safe location when the defendant comes into the court defined exclusion zones. During the same time that the victims are receiving information on the location of the defendant, the authorities are receiving the same information.

Another important aspect of this bill is that it demands accountability to defendants by having them pay the full or a portion of the monthly cost of operating the satellite tracking system. I believe that by having defendants financially accountable of their actions they may contemplate on violating their straining order or protective order.

It is unrealistic to believe that authorities can guarantee safety to all its citizens. However, by passing this law it will give victims an added security measure to find a safe location when they know the defendants are in their court defined exclusion zones. Just by giving victims notice on the location of the defendant in their exclusion zone, may save lives. I urge the committee to pass S.B. No. 2218. Thank you for giving me this opportunity to testify.

LATE

Domestic Violence Action Center

P.O. Box 3198 • Honolulu • Hawaii • 96801-3198

TO: Chair Brian Taniguchi
Vice Chair Clayton Hee
Members of the Committee on Judiciary and Labor

FR: Nanci Kreidman, M.A.

RE: S.B. 2218

Aloha. We submit this testimony in support of S.B. 2218.

As a community we continue to refine and strengthen our strategies for keeping victims safe from escalating abuse, harassment and stalking. In addition, it has always been a part of our community response to place some emphasis on the importance of accountability by perpetrators.

Electronic monitoring employed to increase accountability and provide a new avenue for victims to remain safe is a good idea. For those victims who have sought court protection through a restraining order process, we must assist them in staying safe. Their abusers have already been instructed by the court to stay away; if they violate the conditions set forth in a court order this is a flagrant disregard of the court's authority and a strong message must be sent.

Thank you for inviting comment on S.B. 2218.

LATE

To: Senator Brian T. Taniguchi, Chair
Senator Clayton Hee, Vice-Chair
Committee on Judiciary and Labor

From: Veronica N. Almeida, Graduate Student, UH MSW Program

Date: 12 Feb 08

Subject: Support of SB 221, Relating to Electronic Monitoring

I, Veronica N. Almeida, strongly support Senate Bill 2218, Relating to Electronic Monitoring, which would amend Hawaii Revised Statute 586 Section 4 (HRS 586-4), Violation of a Temporary Order of Protection (TRO). An electronic monitor, or global positioning satellite device, may be the silver bullet to protect a victim from the respondent's willful need to continue to have power and control. Additional penalties are necessary to deter a respondent's behavior when they, knowingly and willingly, continue to violate the TRO, through harassment, stalking, intimidating acts, and violence.

An TRO will not stop the batterer unless he believes that he will be punished for violating it (Hench, 1997). If the courts lack the capacity to enforce them, protective orders are little more than a symbolic defense against household violence, and obtaining one may be the last act the victim ever takes on her own behalf. Tragically, a victim may die with her protection order in hand (Hench, 1997).

A TRO, for a victim, is a public demonstration that abuse has occurred and is the first step towards self-determination. Nationwide reports indicate some 86% of women who received a protection orders stated that the abuse either stopped or was greatly reduced (Ptacek, 2001); however, when the provisions are violated and continue to be violated by the respondent women are most at risk, in danger, and live their lives in fear. Typically, this is the time where the batter, in fear of losing his intimate partner, will make every attempt to get the victim to return to the relationship without fear of consequences or concern of the outcome. In domestic-violence situations, the victim runs a 75 percent chance of being stalked (National Center for Victims of Crime, Stalking Resource Center Website).

In a study conducted by Henderson, McFarlene, Malech, Freedland, Schultz, and Wilson, compared the type and severity of violence reported by 90 women (2001). Henderson et al. found that 21 women of the 90 women expected retaliation and found an increase in the violent behaviors after obtaining the protective order (2001). The study revealed that filing a protection order does protect the woman, but additional safety measures are needed to be in place to deter further abuse (Henderson et al., 2001). The expectations of women who obtain a protective order is to make their life safer and for the abuser to stay away. If the respondent is merely given a slap in the hand for violating a TRO, the woman is less likely to come forward the next time.

An electronic monitor device may be the silver bullet to protect a victim from the respondent's willful need to maintain power and control and may prove more effective than previous methods at keeping abusers at bay.

Cited References

Hench, V. (1997). When less is more-can reducing penalties reduce household violence? *University of Hawaii Law Review*, 19: 1-32.

Henderson Gist, J., McFarlane, J., Malecha, A., Schultz, P., Willson, P. (2001). Women in danger: Intimate partner violence experienced by women who qualify and do not qualify for a protective order. *Behavioral Sciences and the Law*, 19: 637-647.

Ptacek, J. (1999). *Battered Women in the Courtroom: The Power of Judicial Response*. Boston: Northeastern University.