

**Testimony of the Office of the Public Defender,
State of Hawaii to the Senate Committee on Judiciary and Labor**

Hrg: Tuesday, Feb. 12, 2008, 9:00 a.m.
1 copy required

S.B. NO. 3182: RELATING TO EXTENDED SENTENCING

Chair Taniguchi and Members of the Committee:

We oppose S.B. No. 3182 which seeks to expand the extended term sentencing law to include an offender against a good Samaritan. The current penalties for the infliction of serious or substantial bodily injury, which the suggested amendment to the extended term statute covers, are sufficient to allow for the imposition of serious prison terms for one who causes such injury to a "good Samaritan" as defined by this bill. This penalty currently can be imposed in addition to the sentence imposed for injury to the intended victim. For example, under the current law, if an offender kills someone and, in the process, causes serious bodily injury to another who is trying to assist the victim, the sentence would be life imprisonment (Murder 2°) + 10 years (Assault 1°). We assert that this type of sentence is sufficient to deter those who would be inclined to harm good Samaritans.

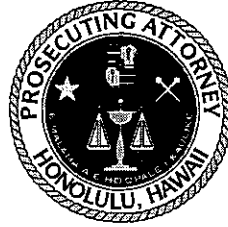
Passage of this measure would have the unintended consequence of punishing the offender more seriously for harm against the good Samaritan than for harm against the intended victim himself or herself. For instance, if a person assaults his spouse and then turns his assaultive behavior against a neighbor who attempts to intervene, under this measure, the assault against the neighbor will receive a heavier sentence than the assault against the spouse.

Oftentimes, assaultive incidents occur in domestic situations or illicit activities such as drug transactions. In these circumstances, you will have persons claiming the classification of a good Samaritan even though their presence at the scene of the incident and eventual involvement in the incident will have been prompted by either improper motives, or, in the case of domestic situations, emotional involvement.

Current sentencing laws are sufficient to cover the conduct contemplated by this bill and the extended term law need not be amended. Thank you for the opportunity to comment on this bill.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET, HONOLULU, HAWAII 96813
AREA CODE 808 • 527-6494



PETER B. CARLISLE
PROSECUTING ATTORNEY

DOUGLAS S. CHIN
FIRST DEPUTY
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THE HONORABLE BRIAN TANIGUCHI, CHAIR
SENATE COMMITTEE ON JUDICIARY AND LABOR
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

February 12, 2008

RE: S.B. 3182; RELATING TO EXTENDED SENTENCING.

Chair Taniguchi and members of the Senate Committee on Judiciary and Labor, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in support of S.B. 3182.

The purpose of this bill is to amend Hawaii's extended term sentencing law to allow an extended term of imprisonment for defendants who commit or attempt to commit murder, manslaughter, a felony sexual assault, robbery, a felony assault, burglary or kidnapping and in the course of committing the crime, inflicts serious or substantial bodily injury to a "good samaritan." The bill defines a "good samaritan" as a person who whether through justifiable use of force, contacting proper authorities, or other lawful means, renders or attempts to render emergency assistance or care without compensation to a crime victim.

We support this bill, which provides for additional possible sanctions against defendants who injure "good Samaritans" who come to the aid of crime victims. We note that Hawaii Revised Statutes (HRS) section 663-1.6 already contains a statutory duty to assist crime victims; it requires any person at the scene of a crime who knows that a victim is suffering from serious physical harm, shall obtain or attempt to obtain aid from law enforcement or medical personnel if the person can do so without danger or peril to any person. In addition HRS 663-1.6 also provides for immunity from civil damages for the "good samaritan." Clearly, the public policy behind such a statute is to reinforce the inclination of others to assist crime victims as much as possible.

However, in certain cases, the perpetrator has turned on the "good samaritan" who has stepped forward to either protect the victim or to provide care and assistance. We believe that if

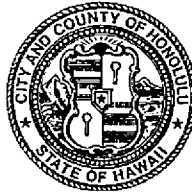
the public policy is to encourage people to step forward to aid crime victims, greater protections should be afforded to “good Samaritans” though enhanced sentencing of persons who inflict injury on them.

For this reason, we respectfully request that you pass S.B. 3182 and thank you for this opportunity to testify.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulu.org

MUFI HANNEMANN
MAYOR



BOISSE P. CORREA
CHIEF

PAUL D. PUTZULU
MICHAEL D. TUCKER
DEPUTY CHIEFS

OUR REFERENCE RR-NTK

February 12, 2008

The Honorable Brian T. Taniguchi, Chair
and Members
Committee on Judiciary and Labor
The Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chair Taniguchi and Members:

Subject: Senate Bill No. 3182, Relating to Extended Sentencing

I am Richard C. Robinson, Captain of the Criminal Investigation Division of the Honolulu Police Department, City and County of Honolulu.

The Honolulu Police Department supports Senate Bill No. 3182, Relating to Extended Sentencing.

The proposed amendment to Section 706-662, Hawaii Revised Statutes, Criteria for extended terms of imprisonment, will provide additional protection for good samaritans who come to the aid of victims of criminal acts. Patrol officers often times witness cases where good samaritans came forward at their own peril to assist victims of crimes. Their actions change a negative situation into a positive one through their caring and unselfish acts. Providing these good samaritans with added protection is not only consistent with our laws but also with our unique culture of caring for one another in Hawaii. These good samaritans are not only courageous but represent the best of Hawaii and the aloha spirit.

The Honolulu Police Department urges you to support Senate Bill No. 3182, Relating to Extended Sentencing.

Thank you for the opportunity to testify.

Sincerely,


RICHARD C. ROBINSON, Captain
Criminal Investigation Division

APPROVED:


BOISSE P. CORREA
Chief of Police

Serving and Protecting With Aloha

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,

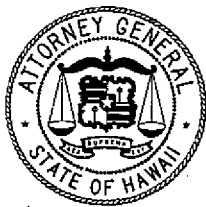
Mahalo for providing a hearing on these vital bills.

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)



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

ON THE FOLLOWING MEASURE:

S.B. NO. 3182, RELATING TO EXTENDED SENTENCING.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY AND LABOR

DATE: Tuesday, February 12, 2008 **TIME:** 9:00 AM

LOCATION: State Capitol Room 016
Deliver to: Committee Clerk, Room 219, 1 copy

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

Chair Taniguchi and Members of the Committee:

The Department of the Attorney General supports the intent of this bill.

The purpose of this bill is to provide for extended term sentencing of criminal offenders who commit certain felonies against good samaritans.

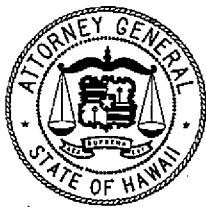
People who aid victims of crime may expose themselves to danger and further criminal conduct directed against them. Such "good samaritan" conduct should be encouraged and protected. That is the intent of this measure.

The Department recommends amendments such that section 706-662(5)(b), Hawaii Revised Statutes, at lines 9 through 18 on page 3 of the bill, reads as follows:

- "(b) The defendant, in the course of committing or attempting to commit the crime, inflicts serious or substantial bodily injury upon a person who has the status of being:
- (i) Sixty years of age or older;
 - (ii) Blind, a paraplegic, or a quadriplegic; [~~or~~]
 - (iii) Eight years of age or younger; [~~and~~] or
 - (iv) A good samaritan; and
the person's status is known or reasonably should be known to the defendant; or"

This recommendation is made so that the proposed wording is consistent with the existing section 706-662(5)(b), as amended by

Act 1 of the Second Special Session of 2007, which is not printed in the 2007 supplement to the Hawaii Revised Statutes.



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