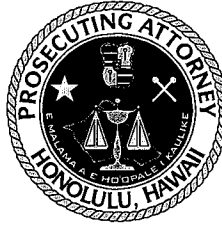


DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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THE HONORABLE BRIAN TANIGUCHI, CHAIR
SENATE JUDICIARY AND GOVERNMENT OPERATIONS COMMITTEE
Twenty-fifth State Legislature
Regular Session of 2009
State of Hawai'i

March 20, 2009

RE: H.B. 1512, H.D. 1; RELATING TO TEMPORARY RESTRAINING ORDERS.

Chair Taniguchi, and members of the Senate Committee on Judiciary and Government Operations, the Department of the Prosecuting Attorney submits the following testimony in support of HB 1512, H.D. 1.

The purpose of HB 1512, H.D. 1 is to amend Hawaii Revised Statutes (HRS) section 586-4 regarding temporary restraining orders to specifically permit family court judges to include conditions concerning the care, custody, visitation, treatment and disposition of pet animals.

We are in support of this bill as we have had numerous cases where an abuser uses the domestic violence victim's pets to control the victim. These abusers have in many instances threatened to harm or actually injured or killed the victim's pets in order to frighten the victim into remaining in the relationship. We believe this bill will greatly assist domestic violence victims when they decide to leave the abusive relationship; they will be able to obtain exclusive care of the pet with conditions for the abuser which will restrict access to the pet.

For this reason we support the passage of HB 1512, H.D. 1 and thank you for this opportunity to testify.

TO: Senator Brian T. Taniguchi, Chair
Senator Dwight Y. Takamine, Vice-Chair
Committee on Judiciary and Government Operations

FROM: Dyan M. Medeiros, Chair
Family Law Section, Hawai'i State Bar Association
E-Mail: d.medeiros@hifamlaw.com
Phone: 524-5183

HEARING DATE: March 20, 2009 at 9:30 a.m.

RE: Testimony in Opposition to HB1512, HD1

Good afternoon Senator Taniguchi, Senator Takamine, and members of the Committee. My name is Dyan Medeiros. I am an attorney who concentrates her practice in Family Law. I am also the current Chair of the Family Law Section of the Hawaii State Bar Association. I am here today in my capacity as the Chair of the Family Law Section¹ to testify against HB1512, HD1.

Although the Family Law Section recognizes that the intent of HB1512, HD1 is to further assist victims of domestic violence, this bill will likely create problems that will actually hurt victims of domestic violence.

First, this bill, if passed, could easily be misused by a person (including perpetrators of domestic violence, roommates of the pet's owner, or family members of the pet's owner) to obtain "exclusive care" of someone's else's pet by obtaining a Temporary Restraining Order ("TRO"). Once a person has "exclusive care" of a pet pursuant to a TRO, he or she would have approximately two (2) weeks² alone with that pet and could choose to do anything with or to that pet. There is nothing in the bill that would prevent the person awarded "exclusive care" of the pet from "physically abusing" or "destroying" the pet. This will cause a "race to the courthouse" to see which party can obtain "exclusive care" of the pet first and will consume already scarce Court resources.

Second, this bill, if passed, could also easily be misused by parties involved in contentious divorce cases. Pets are treated as property in Hawai'i's courts. Divorce courts do not award the "care" or custody of pets, nor do they

¹ This testimony reflects the position of the Family Law Section only and does not necessarily represent the view of the Hawai'i State Bar Association as a whole.

² Since a TRO is awarded on an ex parte basis, the pet's true owner doesn't get to respond to the allegations made against him or her until a hearing is held approximately two (2) weeks later.

have the time or resources to adjudicate custody and visitation disputes for family pets. It is difficult enough to find the time and resources to handle custody and visitation disputes regarding children. This may not be politically correct or expedient, but it is the current reality of our Family Court system. This bill will provide an incentive to people who are getting divorced to obtain a TRO asking for "exclusive care" of the family pet on an ex parte basis (i.e. without a hearing), something they would not be able to do in their divorce case.

Finally, this bill is unnecessary. A TRO already restrains the respondent from entering or visiting the protected person's residence. Presumably, a respondent would have to visit or enter the protected person's residence to remove a pet. That act would be a violation of the TRO. Moreover, any respondent who is willing to violate a TRO by entering a protected person's residence and take a pet will also violate a TRO that specifically awards the "exclusive care" of a pet to the protected party. This bill provides no additional protection for pets or victims of domestic abuse.

Thank you for the opportunity to testify in opposition to HB1512,
HD1.



**THE HUMANE SOCIETY
OF THE UNITED STATES**

**Senate Committee on Judiciary and Government Operations
Honorable Chair Brian Taniguchi, Vice-Chair Dwight Takamine
March 20, 2009
9:30am**

**Submitted by: Inga Gibson, Hawaii State Director
The Humane Society of the United States
In support of H.B. 1512 HD 1; relating to Pet Protective Orders**

Dear Honorable Chair Taniguchi:

On behalf of our 47,704 members and supporters of the Humane Society of the United States in Hawaii, I would like to thank you for this opportunity to speak in favor of H.B. 1512 HD 1; Pet Protective Orders. The HSUS is in strong support of this bill.

More than 64 million households in the United States have one or more companion animals and 70% of U. S. households with minor children include pets. More than 60 percent of Hawaii households also have pets that are considered part of the family. Most of the time this is for the good, but not all families function well all of the time. According to the Department of Justice, there were 3.5 million victims of family violence between the years 1998 to 2002. Ask any domestic violence counselor, or hot line operator, and she will tell you that domestic violence almost never occurs in isolation.

The Link between Pet Abuse and Domestic Violence

Domestic violence experts note that a batterer is motivated by the need for absolute power and control, and to achieve this power and control, the batterer will use any leverage they can get their hands on—including the children and the family pets. Children and animals in the family are threatened, or actually harmed, as a way to manipulate and coerce others in the family. Experts in domestic violence were writing about the link between pet abuse and domestic violence as early as 1984, over twenty years ago (Walker, 1984, 1989). Animal cruelty is included as a form of intimidation in the “power and control wheel” used by advocates to explain the dynamics of domestic violence (Shepard & Pence, 1999, p. 275).

Reinforcing these observations of domestic violence advocates, is a growing body of research, which over the last twenty years, has firmly established a significant link between domestic violence and animal abuse. Five different studies determined that from 48.8% to 71% of battered women reported that their pets had been threatened, harmed, or killed by their partners. (Ascione, 1998; Flynn, 2000; Faver and Strand, 2003; Loring and Bolden-Hines, 2004; Carlisle-Frank, Frank, and Nielsen, 2004). In a national survey of battered women’s shelters, 85% of the shelters surveyed affirmed that women seeking shelter at safe houses reported incidents of pet abuse (Ascione, Weber, and Wood, 1997).

Dr. Jacquelyn Campbell, Public Health Department, The Johns Hopkins University is a nationally recognized research expert on domestic violence. A study conducted by her and members of her team from 1994 to 2000 in eleven USA metropolitan cities, sought to find out what characteristics could predict intimate partner violence. Pet abuse was identified as one of the four significant predictors for determining who was at highest risk for becoming a batterer (Walton-Moss, B. J., Manganello, J.; Frye, V., Campbell, J. C. 2005)..

Why the link between domestic violence and pet abuse is important

Animal abuse may be the first sign of family violence—or the first indication to others that there is a family in trouble. Paying close attention to animal cruelty allows agencies to make earlier identifications and offer more effective interventions for the protection of families and the animals that live in them.

Because of the often close ties between women, children, and their pets, domestic violence victims delay leaving because they fear for their pets' safety. From 18 to 48% of battered women delayed leaving a dangerous situation out of concern for their pets safety (Ascione, 2000; Carlisle-Frank, et al., 2004); Faver & Strand, 2003; Flynn, 2000; Ascione, 2006). When the pets also had been abused, the percentage of women who delayed leaving rose to 65%.

At least ten states have enacted similar legislation (Maine, California Connecticut, Colorado, Illinois, Indiana, Nevada, New York, Tennessee and Vermont) and another 5 states are currently considering similar legislation.

We respectfully urge your passage of HB 1512 HD 1.

Please contact me at (808)922-9910 or igibson@humanesociety.org if I may provide additional information.

From: Kawehi Yim [kyim@hawaiianhumane.org]
Sent: Thursday, March 19, 2009 4:44 PM
To: JGO Testimony
Subject: HB1512 H.D.1 -- RELATING TO TEMPORARY RESTRAINING ORDERS

HB1512 H.D. 1 -- Relating to Temporary Restraining Orders
COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

Kawehi Yim
Community Relations Director
Hawaiian Humane Society
Position: SUPPORT HB1512 H.D.1

Dear Chair Taniguchi and Members of the Committee,

The Hawaiian Humane Society **STRONGLY SUPPORTS** HB1512 H.D.1 which amends the family court temporary restraining order statute to include the care and treatment of pets.

Decades of research have shown that individuals who commit acts of cruelty against animals will often escalate their violence towards humans. Victims involved in domestic violence situations often refuse to leave out of fear for their companion animals. History has shown that when the victim leaves, the perpetrator will often turn his or her aggression and violence on the family pet.

By providing TRO protection to family pets, judges are prompted to include pets in their domestic violence protective orders, thereby ensuring their safety. Without such court-ordered means, human victims often remain in violent households in an attempt to protect their pets from harm.

This type of legislation is the result of increasing public awareness about the link between animal cruelty and human violence. Animal cruelty is family violence and we as a society will no longer tolerate these heinous acts.

We ask that the Committee on Judiciary and Government Operations give their full support to HB1512 H.D.1.

Sincerely,

Kawehi Yim
Community Relations Director
Hawaiian Humane Society
2700 Waiialae Avenue
Honolulu, HI 96826

Phone: 808.356.2212
E-Mail: kyim@hawaiianhumane.org

When it comes to giving, go local. On Oahu, Hawaiian Humane Society is the only animal welfare organization that shelters, rescues, adopts and welcomes all animals – all day and every day. 100% of your gift stays in the islands for the benefit of Hawaii's animals and people.



Hearing date and time: March 20, 2009, 9:00 a.m.
RE: H.B. 1512 HD1 Relating to Pet Animals

TO: Senator Taniguchi, Chair, Senator Takamine, Vice Chair and members of the Committee on Judiciary and Government Affairs

FR: Ana Maring (amaring@hscadv.org), Hawaii State Coalition Against Domestic Violence

Aloha, my name is Ana Maring. 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 HB1512 HD1.

Domestic violence is when one person in a relationship seeks to gain and maintain power and control over their intimate or former intimate partner. Batterers will use a variety of tactics to maintain this control including verbal, psychological and physical abuse. One tactic is to abuse or kill the family pets to demonstrate and confirm power and control over the family, to teach submission, to perpetuate terror and or to prevent the victim from leaving or coerce her to return. Due to the threat of violence against their pets many victims will not leave the abusive situation.

HB1512 HD1 attempts to remedy this by including the custody of pets in HRS 586.

Mahalo for allowing us to testify on this matter.

From: Rosemary Karlsson [rosemarykarlsson@gmail.com]
Sent: Wednesday, March 18, 2009 7:09 PM
To: JGO Testimony
Subject: support HB 730 and HB 1512

Categories: Red Category

Please support both these bills. They are important in reducing animal, and human, abuse.

Rosemary Karlsson
PO Box 492266
Keaau, HI 96749

H.B. 730 HD 1; Related to Dogfighting;

In a recent national ranking of dogfighting laws, Hawaii ranked 50th in part because it is one of only two states with no penalties for paying admission or wagering on an organized dogfight or for breeding, selling or possessing dogs with the intent to fight. This bill would also prohibit the use of stray or stolen pets as "bait" to train dogs to fight. In addition, dogfighting is associated with other crimes such as illegal gambling, drug distribution and human violence. Please support HB 730 to reduce cruelty, crime and protect pets and public safety

H.B. 1512 HD 1; Pet Protective Orders: Pets are considered members of the family, but if the family is experiencing violence they can become targets as well. Pets are often an important source of comfort and stability to the victims of abuse, particularly children. But sadly, abusive family members may threaten, injure, or kill pets, often as a way of threatening or controlling others in the family. Please support H.B.1512 to reduce violence against families and pets.

From: Madelyn Barrea [madb1@hawaiiantel.net]
Sent: Wednesday, March 18, 2009 9:05 PM
To: JGO Testimony
Subject: H.B. 730 HD 1; Related to Dog Fighting; H.B. 1512 HD 1; Pet Protective Orders

Categories: Red Category

To: Honorable Chair Brian Taniguchi

Vice-Chair Dwight Takamine

Senate Committee on Judiciary and Government Operations

March 20, 2009, 9:30am, Room 016

I would like to go on record as being in support of H.B. 730 HD1; Related to Dog Fighting:

By nature dogs are social animals. In the wild, they live together, hunt together, sleep together and play together. They might fight over territory or to protect their young, but they do not fight for the 'fun' of it.

Unbelievable cruelty is involved in dog fighting. Dogs are tortured to make them aggressive. Kittens and puppies are used as "bait" to teach dogs to kill. Illegal drugs and weapons are common at dogfights and they promote illegal gambling.

Dogs used for fighting usually live in horrific conditions, at the end of chains or in small cages all of their lives. Often their wounds and injuries go untreated, only to become infected and cause the animal a very tortured and painful death.

Dogs are living creatures with feelings. They feel pain and loneliness and yet give unconditional love. They should be treated the way you would like to be treated, with respect and kindness.

Anyone who uses a dog in such a manner should never again be allowed to own one.

I would also like to go on record as being in support of H.B. 1512 HD 1; Pet Protective Orders:

When there is violence in a home, often pets are victims of the violence also. The abuser uses the pet to manipulate their victims by threatening to harm their beloved pets, often by harming or killing the pets right in front of the victim. Abusers have injured, maimed and killed pets to make children submit to sexual crimes.

We must put these laws in place to give our officers the tools to convict these perpetrators of these heinous crimes.

Please support HB 730 HD 1 and H.B. 1512 HD 1 to reduce cruelty and crime, to increase public safety and

to protect all pets.

Thank you,

Madelyn R. Barrea

Executive Director

West Hawaii Humane Society

LEGISLATIVE TESTIMONY

HB 1512 HD 1
RELATING TO TEMPORARY RESTRAINING ORDERS

SENATE COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

March 20, 2009, 9:30 a.m., Room 016

Aloha, Chairperson Taniguchi, Vice Chairperson Takamine and Committee Members.

I am Denise Okuhara. I strongly support House Bill 1512, House Draft 1.

Please support this bill.

Thank you for the opportunity to testify.

Denise Okuhara

LEGISLATIVE TESTIMONY

HB 1512 HD 1
RELATING TO TEMPORARY RESTRAINING ORDERS

SENATE COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

March 20, 2009, 9:30 a.m., Room 016

Aloha, Chairperson Taniguchi, Vice Chairperson Takamine and Committee Members.

I am Jennifer Chiwa. I strongly support House Bill 1512, House Draft 1 which extends the protection of temporary restraining orders to pets.

Pets are often as deeply loved as human family members and, thereby, should be afforded the same protection that is provided to humans. Please support House Bill 1512, House Draft 1.

Thank you for the opportunity to testify.

Jennifer Chiwa