

**Testimony of the Office of the Public Defender,  
State of Hawaii to the House Committee on Judiciary**

February 3, 2009

Hrg: February 3, 2009, 2:00 p.m.  
1 copy required

H.B. No. 615: RELATING TO HARASSMENT

Chair Karamatsu and Members of the Committee:

H.B. No. 615 seeks to extend the offense of Harassment to all forms of digital communication. We have a concern that this amendment may have the effect of making the offense overly broad thus punishing legitimate, non-criminal conduct. The term "any digital communication" covers a very large amount of electronic conduct. Some digital communication such as internet advertising could be construed as having no legitimate communication purpose and be prosecuted under the proposed amendment to this offense.

There is also a question regarding enforcement of this measure. Does law enforcement have the ability to prosecute all seemingly purpose-less digital communications? We believe these questions must be addressed before this measure is considered for enactment.

Thank you for the opportunity to comment.

**karamatsu3-Leanne**

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**From:** Adrienne King [adrienne@kingandking.com]  
**Sent:** Monday, February 02, 2009 9:08 PM  
**To:** JUDtestimony  
**Subject:** HB 615 AND HB 622 IN SUPPORT

**Categories:** Blue Category

I support the passage of these 2 bills. Harrassment via electronic media is increasing and is just as scary as phone calls or faxes. Predators will find all kinds of ways to intimidate their targets, so we must keep up and ahead of them. The potential for breach of one's computer security is definitely a concern that passage of this bill will help to alleviate.

Respectfully submitted, Adrienne King, Esq. Immediate Past Chair Family Law Section HSBA

**brower2-Jenna**

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**From:** Dara Carlin, M.A. [breaking-the-silence@hotmail.com]  
**Sent:** Monday, February 02, 2009 7:24 PM  
**To:** HUS testimony  
**Subject:** House Judiciary Committee: Testimony for HB615 to be heard on Tuesday, February 3rd at 2:00pm

**Importance:** High

TO: Representative Jon Riki Karamatsu, Chair  
Representative Ken Ito, Vice Chair  
Members of the House Judiciary Committee

FROM: Dara Carlin, M.A.  
881 Akiu Place  
Kailua, HI 96734  
(808) 218-3457

DATE: February 3, 2009

RE: STRONG SUPPORT for HB615 with suggested amendments

In his 12/16/08 article entitled "Some Take Their Hate Online" Honolulu Advertiser reporter, Rob Perez, began by saying

"Not content with just inflicting physical or verbal abuse, domestic violence offenders are turning to the digital and electronic worlds to hound their victims. Those who deal with restraining orders in domestic abuse cases say they are seeing a growing number of examples in which the abuser uses text messaging, public Web sites or other forms of high-tech communication to reach their targets."

To see a proposal that addresses this very issue in such quick response is extremely heartening and shows the people that its leaders ARE listening and doing something about it. This form of harassment has increased in tandem with the technology that supports it and is not limited to adult relationships as the Megan Meier My Space suicide case tragically exemplified. (In that case, a group of teens AND ADULTS created a fictitious 16 year-old named Josh who expressed interest in a 13 year-old teen named Megan over an internet page. The purpose of this deception was to get personal information about Megan and then use that to humiliate her. When the group became tired of the charade, "Josh" sent incredibly mean and hurtful "hate mail" to Megan, who as a direct consequence, hung herself in her closet hours later.)

While I applaud the expansion of 711-1106 to encompass "any form of digital communication", may I make a few suggestions to strengthen this measure to its fullest potential?

On Page 1 Line 4, it would be exceedingly helpful to add three additional criteria so it would read:

A person commits the offense of harassment if, with intent to harass, annoy, alarm, **torment, cause fear or extreme emotional distress** to any other person

At the same time, it would be helpful to add the following language starting on Page 1 Line 8 so it would read:

Insults, taunts, **intimidates, humiliates, terrifies** or challenges another person in a manner likely to provoke an immediate violent response, **a response that evokes long-term fear or anxiety** or that would cause the other person to reasonably believe that the act or intends to cause bodily injury to the recipient or another or damage to the property of the recipient or another

Because of the ability of the internet and the frequency of misuse by domestic violence offenders, it would be particularly helpful if the following standards could be adopted into the 711-1106 statute:

(h) publicizes private facts without the other person's explicit consent

(i) creates publications that places a person in a false and misleading light

(j) promotes a person's name or likeness maliciously that may place that person at physical risk or emotional harm by others

I realize that these changes and alterations are "a tall order" but let me assure you that they WILL provide protection for those who would otherwise be subject to another person's unconscionable behavior.

Thank you so very much for your time and consideration.

Most respectfully,

Dara Carlin, M.A.

Independent Domestic Violence Survivor Advocate

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Windows Live™ Hotmail@:...more than just e-mail. Check it out.

**brower2-Jenna**

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**From:** guy yatsushiro [gyats1@yahoo.com]  
**Sent:** Monday, February 02, 2009 10:26 PM  
**To:** HUS testimony  
**Subject:** House Bill HB615 to be heard on 02/03/09 at 2:00pm in Room 325

TO: Representative Jon Riki Karamatsu, Chair  
Representative Ken Ito, Vice Chair  
House Judiciary Committee Members

>

FROM: Guy Yatsushiro, M.D.  
1914 South King Street, Suite 201  
Honolulu, HI 96826  
(808) 946-7159

>

DATE: 02/03/09

>

RE: Support for HB615

>

Thank you for proposing this change to this statute. My wife was previously married to a perpetrator of domestic violence and though she left him almost 9 years ago, he's barely given her a moment's peace since.

>

Most recently this guy started sending bulk rate postcards out to people in her professional network encouraging them to visit his website: [mywiferanoffwithourkids.com](http://mywiferanoffwithourkids.com).

>

This Christmas, he showed up at a meeting she was at and began passing out his postcards to her colleagues right in front of her. The stuff on his website is seriously disturbing and reflects a seriously disturbed individual, so she applied for a Protective Order but was denied because the judge said her petition did not meet the criteria of the present statute under stalking and harassment.

>

This is not the judge's fault; he clearly saw what this guy is all about and though the judge denied my wife's request for protection, the evidence presented illustrated harassment so blatantly that the judge suggested that my wife "try filing under Defamation on the 4th floor" once the hearing was adjourned.

>

Expanding this statute is good but it'd be even better if you increased the penalty for harassment if there's a history of domestic violence; may-be that'd make these guys think twice before they do what they do.

>

Sincerely,

>

Guy Yatsushiro, M.D.