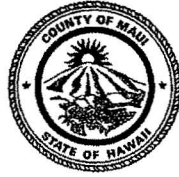


CHARMAINE TAVARES
Mayor



BENJAMIN M. ACOB
Prosecuting Attorney

PETER A. HANANO
First Deputy Prosecuting Attorney

DEPARTMENT OF THE PROSECUTING ATTORNEY
COUNTY OF MAUI
150 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
PHONE (808) 270-7777 • FAX (808) 270-7625

February 6, 2009

HONORABLE JOHN M. MIZUNO, CHAIR
HONORABLE TOM BROWER, VICE CHAIR
COMMITTEE ON HUMAN SERVICES

HOUSE OF REPRESENTATIVES
THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2009
STATE OF HAWAII

TESTIMONY OF BENJAMIN M. ACOB,
PROSECUTING ATTORNEY FOR THE COUNTY OF MAUI,
IN OPPOSITION OF H.B. NO. 1524
RELATING TO CRIMINAL CONTEMPT OF COURT

The Honorable Chairpersons and Committee Members:

The Department of the Prosecuting Attorney for the County of Maui strongly opposes H.B. 1524 Relating to Criminal Contempt of Court.

This proposed bill seeks to limit a court's contempt power by prohibiting a court from imprisoning a victim of a sexual assault or domestic violence crime for refusing to testify concerning that sexual assault or domestic violence crime.

For the following reasons, we believe that such a limitation on the trial court's inherent contempt power will undermine both the criminal justice system's search for the truth and the administration of justice.

Generally speaking, domestic violence victims who refuse to testify or cooperate with the prosecution do so out of fear. Indeed, without outside intervention, most domestic violence perpetrators continue the cycle of violence by exercising their "power and control" over their victims. This is accomplished by utilizing various physical and mental control techniques. Some of these techniques typically involve violent threats and/or further physical abuse. Other control techniques include financial dependence or various psychological tactics.

When the State intervenes and prosecutes a domestic violence perpetrator, the State is essentially taking the power away from the perpetrator. Here, the perpetrator no longer has the power to control his/her victim because the State and ultimately the courts have the control over the direction of the case. However, taking away the trial court's power to impose serious consequences on a domestic violence victim who refuses to testify, only further empowers the abuser.

While we are sympathetic to the victim's predicament, we believe that placing the control within the uncooperative victim's hands will no doubt prevent the State from holding the perpetrator responsible for his/her abusive conduct, and ultimately securing justice.

Accordingly, for the reasons discussed above, our Department strongly opposes H.B. 1524. Thank you for the opportunity to testify.

(H.B. 1524, Relating to Criminal Contempt of Court.