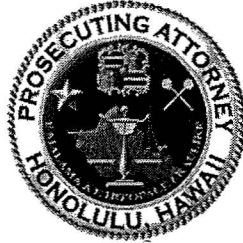


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THE HONORABLE KEN ITO, VICE CHAIR
HOUSE COMMITTEE ON JUDICIARY**

**TWENTY-FIFTH STATE LEGISLATURE
REGULAR SESSION OF 2009**

February 3, 2009

RE: HOUSE BILL 622; RELATING TO HARASSMENT

Good afternoon Chair Karamatsu and members of the Judiciary Committee, the Department of the Prosecuting Attorney provides the following testimony **in support of H.B. 622, with amendments**, which proposes to amend H.R.S. Section 711-1106.5 to include any form of "digital communication" under the offense of Harassment by Stalking .

Our Department is very familiar with the issue that H.B. 622 is attempting to address, that the methods of communication used by criminals to harass our citizenry is constantly expanding in this age of quickly evolving technology. Our statutes, including Harassment by Stalking, instantly becomes outdated as innovative stalkers utilize every type of technology imaginable to torment their victims. While we applaud the effort in this bill to expand the scope of our Harassment by Stalking statute, we believe that a broader solution to the current situation may have already been created by the Legislature in 2004. When the H.R.S. Section 711-1111, Violation of Privacy in the Second Degree was amend a definition of Electronic Communication was adopted that may more broadly address the concerns that prompted the introduction of H.B. 615.

"Electronic communication" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or part by a wire, radio, electromagnetic, photoelectronic, or photo-optical system.

Act 83 of Session Laws 2004 made statutory amendments to the existing privacy law in order to prohibit the inappropriate use of new digital technologies, such as cellular phones, that are capable of taking digital photographs and transmitting those images [House Standing Committee

Report No. 826-04, Conference Committee Report No. 43-04]. We believe that using this existing statutory definition will more effectively close the gap in our law and allow us to adequately respond to those criminals whose use of technology seems to have leapfrogged ahead of us in recent years. Hopefully this proposed amendment can begin to restore the confidence of the public in the ability of our Penal Code to address today's technologically adept criminals.

In conclusion, we urge you to support H.B. 622, with the amendments that we have suggested above. Thank you for your time and consideration.