

Testimony on behalf of the
Office of the Public Defender, State of Hawai'i
to the House Committee on Human Services

February 9, 2009

RE: H.B. No. 831: Relating to Service of Court Orders

Chair Mizuno and Members of the Committee:

H.B. No. 831 seeks to amend the domestic abuse protective order statute to allow for substituted means of service of a protective order if the court finds that the person named is avoiding service. We have a concern that this measure substantially waters down the requirement of service of a protective order by either personal or certified mail service. "Substituted means of service" is not defined. Therefore, it is unclear what the bill would permit as service. The concern is that the "substituted means of service" will become the norm rather than the exception. It would be very difficult to prove that someone is avoiding service. Thus, the representation would be made to the court that attempts at service were repeatedly unsuccessful. The concern is that the court would then allow for substituted means of service.

Substituted means of service could result in the subject of the order not knowing about the order or not seeing it. A violation of the order could mean a mandatory prison sentence, therefore, actual knowledge of the order and its contents is essential to placing the order in effect. To the extent that this measure waters down the service requirement, we oppose its adoption.

Thank you for the opportunity to comment on this bill.