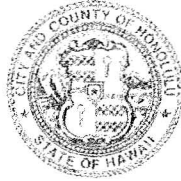


POLICE DEPARTMENT  
CITY AND COUNTY OF HONOLULU

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DEPUTY CHIEFS

OUR REFERENCE KK-VYH

March 8, 2010

The Honorable John M. Mizuno, Chair  
and Members  
Committee on Human Services  
House of Representatives  
State Capitol  
Honolulu, Hawaii 96813

Dear Chair Mizuno and Members:

Subject: Senate Bill No. 2183, S.D. 1, Relating to Domestic Abuse Orders

I am Kurt Kendro, Major of the Records and Identification Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD strongly supports the passage of Senate Bill No. 2183, S.D. 1. The passing of this bill would close a loophole that currently exists when dealing with temporary restraining orders (TRO) and protective orders (PO).

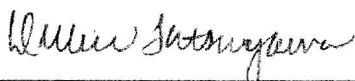
If someone petitions a court for a TRO and it has been properly served, the order is generally valid for up to 90 days. If that person then petitions a court for a PO, the TRO is immediately rendered invalid. This becomes problematic if the respondent has not been properly served with a copy of the PO. As a result, the petitioner does not have the protection of either the TRO or the PO until the respondent is properly served, regardless of the expiration date of the TRO.

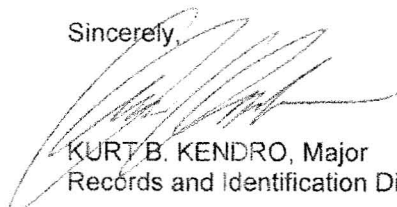
By passing this bill, the TRO will remain valid until the respondent is served with a PO or the expiration date of the TRO, whichever occurs first.

Thank you for the opportunity to testify.

APPROVED:

Sincerely,

  
LOUIS M. KEALOHA  
Chief of Police

  
KURT B. KENDRO, Major  
Records and Identification Division

*Serving and Protecting With Aloha*

**William P. Kenoi**  
Mayor



**Harry S. Kubojiri**  
Police Chief

**Paul K. Ferreira**  
Deputy Police Chief

## County of Hawai`i

### POLICE DEPARTMENT

349 Kapi`olani Street • Hilo, Hawaii 96720-3998  
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March 5, 2010

The Honorable John M. Mizuno  
Chair and Members  
Committee on Human Services  
State Capitol  
415 South Beretania Street, Conference Room 329  
Honolulu, Hawai'i 96813

### Re: SENATE BILL 2183, SD1, RELATING TO DOMESTIC ABUSE ORDERS

Dear Chairman Mizuno and members:

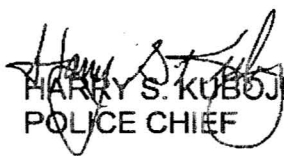
The Hawai'i Police Department strongly supports the passage of Senate Bill No. 2183, SD1. The passing of this bill provides further protection to victims of domestic abuse by eliminating a period of no protection which currently exists.

Presently, when a victim (petitioner) has petitioned the court for a Temporary Restraining Order (TRO), followed by the proper service of the TRO on the respondent, the order is generally valid for up to 90 days. However, should the victim petition the court for a Protective Order (PO) regarding the same matter, the TRO is immediately deemed invalid, regardless if the PO has been served. This creates a period of vulnerability where the victim is afforded no protection until such time that the PO has been properly served.

The passage of this bill will allow the TRO to remain valid until such time that the respondent is served with a PO or the expiration date of the original TRO, whichever occurs first.

For these reasons, we urge this committee to support this legislation. Thank you for allowing the Hawai'i Police Department to testify on S.B. No. 2183, SD1.

Sincerely,

  
HARRY S. KUBOJIRI  
POLICE CHIEF

DEPARTMENT OF THE PROSECUTING ATTORNEY  
**CITY AND COUNTY OF HONOLULU**

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FIRST DEPUTY PROSECUTING ATTORNEY



**THE HONORABLE JOHN M. MIZUNO, CHAIR  
HOUSE COMMITTEE ON HUMAN SERVICES**

**THE HONORABLE TOM BROWER, VICE CHAIR  
HOUSE COMMITTEE ON HUMAN SERVICES**

**TWENTY-FIFTH STATE LEGISLATURE  
REGULAR SESSION OF 2010**

March 8, 2010

**RE: SENATE BILL 2183, S.D. 1; RELATING TO DOMESTIC ABUSE ORDERS**

Good morning Chair Mizuno, Vice Chair Brower, and members of the Human Services Committee, the Department of the Prosecuting Attorney provides the following testimony **in strong support of S.B. 2183 S.D. 1**, which proposes to amend Hawaii Revised Statutes Sections 586-5 and 586-5.6 to insure that Temporary Restraining Orders issued pursuant to H.R.S Chapter 586 do not expire until a Protective Order issued under the statute is served on the respondent.

Under the current provisions of H.R.S. Chapter 586, Temporary Restraining Orders issued under this chapter remain in effect until a Protective Order issued, the maximum ninety days have expired, or the T.R.O. is dismissed by the Court. Under normal circumstances these provisions are not a problem. However, when a respondent fails to appear at an Order to Show Cause (O.S.C.) hearing (after having been served with the T.R.O.), the Court may grant a default judgment to the petitioner and issue a Protective Order. Under statute, and Hawaii case law, a Protective Order is not fully effective (meaning a criminal complaint may not be filed unless and until the Protective Order has been served on the respondent. What this unfortunately means is that petitioners who are granted a Protective Order, which cannot be served in a timely manner (some domestic abusers are very proficient at avoiding service), are left with virtually no effective order and without legal protection for an extended period of time. The purpose of the statutory amendment proposed in S.B. 2183, S.D. 1 is to insure that petitioners have a continuously effective, valid order for at least ninety days, or until the respondent is served, whichever comes first.

A small, but significant number of respondents have been taking advantage of this loophole in the law. Due this technicality some abusers feel that they can violate Protective Orders with impunity. Unfortunately among this group of individuals are some of our most persistent offenders, who may commit dozens of violations, but escape criminal prosecution due to this legal gap. Passing this measure will close this gap and insure that violators of T.R.O.'s and Protective Orders are held criminally responsible for their behavior.

For the reasons cited above, we urge your support for S.B. 2183, S.D. 1. Thank you for your time and consideration.

# **HSCADV** **HAWAII STATE COALITION AGAINST DOMESTIC VIOLENCE**

TO: Chair Taniguchi, Vice-Chair Takamine, and Committee Members

FR: Jane Seymour, Hawaii State Coalition Against Domestic Violence

Hearing date and time: Monday, March 8, 2010

RE: Support for SB 2183 SD1: Relating to Domestic Abuse Orders

Aloha, my name is Jane Seymour and I am representing the HSCADV, 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 strongly supports SB 2183 SD1.

Victims of domestic violence often seek Temporary Restraining Orders (TRO) and Protective Orders (PO) as tools to increase their safety. Current Hawaii law contains a loophole that could endanger victims and leave them with no legal protection against their batterer.

When a victim seeks a PO, and the respondent does not attend the Order to Show Cause (OSC) hearing, a judge may grant a default judgment to the petitioner and issue the Protective Order. However, this PO is not in effect until it can be served to the respondent, therefore a respondent cannot be charged with violating the PO if he has not been properly served. Unfortunately, some batterers have learned that they can use this legal loophole to continue to commit violations and harass the victim while escaping criminal prosecution.

We strongly encourage you to pass SB 2183 SD1, to close this loophole and provide greater protection to victims of domestic violence. Thank you for the opportunity to testify.