

**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SIXTH LEGISLATURE, 2011**

ON THE FOLLOWING MEASURE:

H.B. NO. 1003, H.D. 1, RELATING TO THE PENAL CODE.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY

DATE: Thursday, March 3, 2011 **TIME:** 2:30 p.m.

LOCATION: State Capitol, Room 329

TESTIFIER(S): David M. Louie, Attorney General, or
Lance M. Goto, Deputy Attorney General

Chair Keith-Agaran and Members of the Committee:

The Attorney General strongly supports this bill.

Family is the bedrock of our community, but it is also where some of the worst violence is occurring. The purpose of this bill is to provide greater protection to victims of domestic violence whom the courts and police are attempting to keep safe through family court domestic abuse protective orders, and through police orders requiring family or household members to leave premises.

This is one of only two bills in the 2011 legislative package of the Hawaii Law Enforcement Coalition. The Coalition is composed of the Chiefs of Police of all four counties, the Prosecuting Attorneys of all four counties, the Attorney General, and the United States Attorney for the District of Hawaii. Every bill in the Coalition's legislative package has the unanimous support of every Coalition member.

This bill will help deter violence against a particularly vulnerable class of victims in high risk situations. Victims of domestic violence often endure extended periods of physical violence, mental abuse, intimidation, harassment, and terrorization before they reach out for help. It requires a great amount of courage for victims to seek the assistance of police, the court

system, and others. But often, the abuse and violence continue even after the police or courts have intervened and issued protective orders.

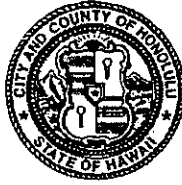
Current laws do not provide adequate deterrence. The prospect of only a misdemeanor charge for criminal contempt, assault, or terroristic threatening is not enough to discourage many perpetrators of abuse from continuing to harm their victims. Upgrading certain criminal offenses, as provided in this bill, provides a meaningful deterrent that can help free victims from the cycle of violence. The potential for increased sentences can also allow the courts to impose appropriate punishments and provide for the safety and security of victims and others in the community when offenders are undeterred and continue with their violent course of conduct.

This bill amends section 707-701.5, Hawaii Revised Statutes to upgrade manslaughter to murder in the second degree, if it is committed against a protected victim. It amends section 707-701, Hawaii Revised Statutes, to upgrade murder in the second degree to murder in the first degree, if it is committed against a protected victim. And it amends sections 707-711 and 707-716, Hawaii Revised Statutes, to upgrade the misdemeanor offenses of terroristic threatening in the second degree and assault in the third degree to the class C felony offenses of terroristic threatening in the first degree and assault in the second degree, if the offenses are committed against victims covered by protective orders.

We respectfully request passage of this measure.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulu.org



PETER B. CARLISLE
MAYOR

LOUIS M. KEALOHA
CHIEF

DELBERT T. TATSUYAMA
RANDAL K. MACADANGDANG
DEPUTY CHIEFS

OUR REFERENCE BN -NTK

March 3, 2011

The Honorable Gilbert S. C. Keith-Agaran, Chair
and Members
Committee on Judiciary
House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chair Keith-Agaran and Members:

Subject: House Bill No. 1003, H.D. 1, Relating to the Penal Code


I am Britt Nishijo, Captain of the Criminal Investigation Division of the Honolulu Police Department, City and County of Honolulu.

The Honolulu Police Department supports House Bill No. 1003, H.D. 1, Relating to the Penal Code. This bill, the "Protect Victims of Domestic Violence Act," amends the offenses of Murder in the First and Second Degree, Assault in the Second Degree, and Terroristic Threatening in the First Degree, to include the conduct committed against victims who the courts and police are attempting to keep safe with protective orders. The intent is to provide greater protection for domestic violence victims and deter such violence.

The Honolulu Police Department urges you to support House Bill No. 1003, H.D. 1, Relating to the Penal Code.

Thank you for the opportunity to testify.

Sincerely,

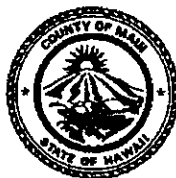

BRITT NISHIJO, Captain
Criminal Investigation Division

APPROVED:


LOUIS M. KEALOHA
Chief of Police

Serving and Protecting With Aloha

ALAN M. ARAKAWA
Mayor



JOHN D. KIM
Prosecuting Attorney
ROBERT D. RIVERA
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

CONTACT: RICHARD. K. MINATOYA
Deputy Prosecuting Attorney
Supervisor, Appellate, Asset Forfeiture and Administrative Services Division

TESTIMONY OF THE
DEPARTMENT OF THE PROSECUTING ATTORNEY
COUNTY OF MAUI
ON
HB 1003, HD 1 - RELATING TO THE PENAL CODE
MARCH 3, 2011
2:30 P.M.

The Honorable Gilbert S.C.Keith-Agaran
Chair
The Honorable Karl Rhoads
Vice Chair
and Members
House Committee on Judiciary

Chair Keith-Agaran, Vice Chair Rhoads and Members of the Committee:

The Department of the Prosecuting Attorney, County of Maui supports HB 1003, HD 1. This measure proposes to increase the severity of the offenses of Murder in the First Degree, Murder in the Second Degree, Assault in the Second Degree and Terroristic Threatening in the First Degree when committed by persons against whom a protective order was issued when committed on the persons protected by the protective order. The HD 1 draft also seeks to make the murder of a person who is a witness in a family court case, when the killing is related to the person's status as a witness, Murder in the First Degree.

Recently, there were several high profile crimes of violence committed on people protected by protective orders by those enjoined by those protective orders. This bill will "put more teeth" in the law to protect these victims by serving as an addition deterrent. Clearly, our community needs the additional protection this bill intends to provide. We believe the only amendment to the HD 1 version would be to make the effective date "upon approval."

The Department of the Prosecuting Attorney requests that this measure be PASSED AS AMENDED. Thank you very much for the opportunity to provide this testimony.

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, Hawai`i 96720-3998
(808) 935-3311 • Fax (808) 961-2389

February 28, 2011

The Honorable Gilbert S. C. Keith-Agaran
Chair and Members
Committee on Judiciary
State Capitol
415 South Beretania Street, Conference Room 329
Honolulu, Hawai`i 96813

Re: HOUSE BILL 1003, HD1, RELATING TO THE PENAL CODE

Dear Chairman Keith-Agaran and Members:

The Hawai`i Police Department strongly supports the passage of House Bill No. 1003, HD1. This passage of this bill will provide an enhanced grade of offense for specific crimes committed against victims of domestic violence who are protected by a court order or by a 24-hour warning citation.

The intent of this bill is to protect victims of domestic violence whom the courts and police are trying to keep safe through family court protective orders, and through police orders requiring family or household members to leave premises.

The passage of this bill will help deter violence against a particularly vulnerable class of victims in high risk situations. Victims of domestic violence often endure extended periods of physical violence, mental abuse, intimidation, harassment, and terrorization before they reach out for help. It requires a great amount of courage or desperation to seek the assistance of police, the court system, and others.

In domestic violence cases, oftentimes abuse and violence continue even after protective orders have been issued and police or courts have intervened. This bill would strengthen current laws and will act as a significant deterrent to the cycle of violence.

For these reasons, we urge this committee to support this legislation. Thank you for allowing the Hawai`i Police Department to testify on H.B. No. 1003, HD1.

Sincerely,


HARRY S. KUBOJIRI
POLICE CHIEF

"Hawai`i County is an Equal Opportunity Provider and Employer"



To: Chair Gil Keith-Agaran
Vice Chair Karl Rhoads
Members of the Committee

FR; Nanci Kreidman, M.A.

RE: H.B. 1003
Support

Aloha and good morning. Please accept this testimony in support of H.B. 1003. It remains important for the community to emphasize the seriousness of domestic violence through criminal justice system policy and practice.

Thank you.