

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

ON THE FOLLOWING MEASURE:

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

BEFORE THE:

HOUSE COMMITTEE ON HUMAN SERVICES

DATE: Monday, February 14, 2011 **TIME:** 10:00 a.m.

LOCATION: State Capitol, Room 329

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

Chair Mizuno 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 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.

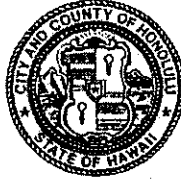
Upgrading certain criminal offenses, as provided in this bill, provides a meaningful deterrent that can help free victims from the cycle of violence. The potential for increased sentences can also allow the courts to impose appropriate punishments and provide for the safety and security of victims and 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

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CHIEF

DELBERT T. TATSUYAMA
RANDAL K. MACADANGDANG
DEPUTY CHIEFS

OUR REFERENCE BN -NTK

February 14, 2011

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: House Bill No. 1003, Relating to the Penal Code

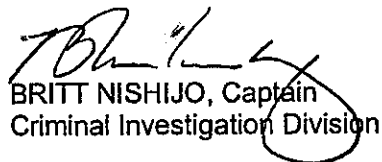
I am Britt Nishijo, Captain of the Criminal Investigation Division of the Honolulu Police Department, City and County of Honolulu.

The Honolulu Police Department supports House Bill No. 1003, 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, 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

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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ARMINA A. CHING
FIRST DEPUTY PROSECUTING ATTORNEY

THE HONORABLE JOHN M. MIZUNO, CHAIR
HOUSE COMMITTEE HUMAN SERVICES
Twenty-sixth State Legislature
Regular Session of 2011
State of Hawai'i

February 14, 2011

RE: H.B. 1003; RELATING TO THE PENAL CODE

Good morning, Chair Mizuno, Vice Chair Jordan, and members of the House Committee on Human Services, the Department of the Prosecuting Attorney submits the following testimony in **support of H.B. 1003**, the "Protect Victims of Domestic Violence Act".

The purpose of this bill is to provide an enhanced grade of offense for specified crimes committed against victims of domestic violence who are protected by an order issued pursuant to Hawaii Revised Statutes Chapter 586 or by a 24 hour period of separation and who are killed, assaulted, or threatened by the person who is the subject of a restraining order or period of separation.

Domestic violence is a widespread and serious problem across the United States as well as Hawaii. It has been estimated that up to 3 million American women are physically abused by their husbands or boyfriends each year. And in an effort to protect these victims from further abuse, laws were passed such as the 24 hour period of separation and creation of restraining orders specifically designed to protect domestic violence victims. Domestic violence victims who have sought the shelter of these laws should be able to benefit from the added legal protection that these statutes were designed to provide. Victims who demonstrate the courage to come out from under the vicious cycle of domestic abuse must be assured that the criminal justice process affords an adequate deterrent for those whose persistent violent behavior ignores the dignity and integrity of a lawful order of a judge or law enforcement officer. Currently, a small, but significant minority of domestic violence perpetrators insist on continuing their threats, abuse, and intimidation despite receiving specific verbal and written warnings from lawful authority to cease and desist their violent conduct. A sample case involving such an offender creates an excellent example of why a greater deterrent is needed for habitual domestic violence offenders. This defendant, despite fifteen (15) arrests and nine (9) convictions for violating orders issued under Chapter 586 has never served more than thirty days in jail. Recalcitrant abusers like this individual need a stronger message that this type of behavior will not be tolerated. The victims of domestic violence in this state need to be reassured that our domestic violence laws are more

than simply words on a piece of paper. A meaningful commitment to their protection is now required. Unfortunately for the victim of the perpetrator described above she subsequently nearly lost her life and the life of her child before her abuser was ever charged with a felony. He was subsequently convicted of a reduced charge due to the victim's desire to move to the mainland to escape the defendant's violence. We can and should provide better protection for victims of domestic violence in Hawai'i. For this reason, we support an enhancement in the grade of offense when a defendant threatens, assaults, or murders a domestic violence victim under the protection of the period of separation provided under H.R.S. Section 709-906 or an order issued pursuant to H.R.S. Chapter 586, as contained in this bill.

We respectfully request your favorable consideration of H.B. 1003. Thank you for your time and consideration.

ALAN M. ARAKAWA
Mayor



JOHN D. KIM
Acting Prosecuting Attorney
ROBERT D. RIVERA
First Deputy Prosecuting Attorney

DEPARTMENT OF THE PROSECUTING ATTORNEY
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TESTIMONY OF THE DEPARTMENT OF THE PROSECUTING ATTORNEY
COUNTY OF MAUI
ON HB 1003 - RELATING TO THE PENAL CODE
FEBRUARY 10, 2011
9:00 A.M.

The Honorable John M. Mizuno
Chair
The Honorable Jo Jordan
Vice Chair
and Members
House Committee on Human Services

The Department of the Prosecuting Attorney, County of Maui supports this measure. 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.

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.

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

Sent: Wednesday, February 09, 2011 10:55 AM
To: HUSTestimony
Cc: isericarvalho@gmail.com
Subject: Testimony for HB1003 on 2/10/2011 9:00:00 AM

Testimony for HUS 2/10/2011 9:00:00 AM HB1003

Conference room: 329
Testifier position: support
Testifier will be present: No
Submitted by: Shaylene Iseri-Carvalho
Organization: Individual
Address:
Phone:
E-mail: isericarvalho@gmail.com
Submitted on: 2/9/2011

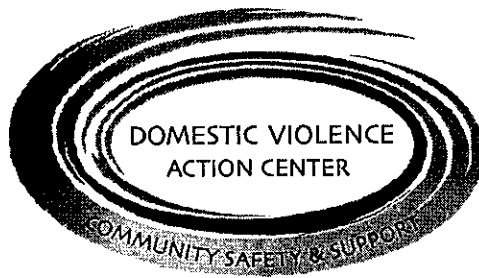
Comments:

Sent: Wednesday, February 09, 2011 12:22 PM
To: HUS testimony
Cc: kauailady@hotmail.com
Subject: Testimony for HB1003 on 2/10/2011 9:00:00 AM

Testimony for HUS 2/10/2011 9:00:00 AM HB1003

Conference room: 329
Testifier position: support
Testifier will be present: No
Submitted by: Cynthia Johnson
Organization: Individual
Address:
Phone:
E-mail: kauailady@hotmail.com
Submitted on: 2/9/2011

Comments:



To: Chair John Mizuno
Vice Chair Jo Jordan
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.