

**Testimony of the Office of the Public Defender,  
State of Hawaii to the House Committee on Human Services**

February 10, 2011

**H.B. NO. 238: RELATING TO TEMPORARY RESTRAINING ORDERS**

Chair Mizuno and Members of the Committee:

We oppose H.B. No. 238 which seeks to impose mandatory minimum terms of imprisonment on those who violate a temporary restraining order ("TRO") and who have prior convictions for certain offenses. A violation of a TRO is classified as a misdemeanor. As such, the court already has the ability to sentence an offender to up to one year in prison.

The sentencing judge must already take into account an offender's record in imposing an appropriate sentence. Thus if an offender is viewed as a particular danger based upon his/her record, the power already exists for a judge to impose a sentence far greater than the fifteen days of imprisonment provided for in this bill.

The greatest effect of this bill is to remove judges' discretion in certain specified instances. Given the success of programs such as HOPE (Hawaii's Opportunity for Probation with Enforcement), and the movement to bring our prisoners back from mainland correctional facilities, the courts must be given more discretion in sentencing matters rather than being handcuffed by additional mandatory sentencing provisions. That will assure that valuable prison space is reserved for those who present the most danger to our community.

Thank you for the opportunity to comment on this bill.