



**Office of the Public Defender
State of Hawaii**

**Timothy Ho, Chief Deputy Public Defender
Testimony of the Office of the Public Defender,
State of Hawaii to the House Committee on Judiciary**



March 17, 2011, 2:00 p.m.

RE: S.B. 1068, SD2: Relating To Animal Cruelty

Chair Keith-Agaran and Members of the Committee:

This measure would amend Section 711-1108.5 to include as cruelty to animals in the second degree, the act of killing, or attempting to kill any pet animal belonging to another person, without first obtaining legal authority or the consent of that person.

The Office of the Public Defender opposes S.B. 1068, SD2.

The proposed language in S.B. 1068 places people who in the process of defending themselves, other people and/or pets from an attack of a dog belonging to another person at risk of criminal liability if they use physical force sufficient to cause serious injury or death to the pet animal. In such instances, this person cannot wait to determine if the dog is someone's pet, and then ask for permission to use force to subdue the animal. The Senate Judiciary and Labor Committee inserted language which would exempt a landowner from criminal liability if the he used reasonable force to defend or protect himself or others. We believe this exemption should extend beyond just landowners, to anyone who uses reasonable force to defend or protect himself or others. There is no provision in this measure to provide immunity to a person acting to defend or protect another person or pet from another pet animal. We cannot depend on police and prosecutors to make the "right" decision. Although one could claim self-defense or defense of others and property at trial, anyone who goes to trial risks being convicted, and will have to bear the cost of paying for bail and legal fees. A person without means to pay for his bail could be incarcerated pending trial.

The killing of any animal is already prohibited under §711-1109 (c), and constitutes the offense of cruelty to animals in the second degree. The current distinction between first and second degree cruelty to animals is the manner of death. Torturing, mutilating and poisoning a pet animal resulting in death or serious bodily injury constitutes first degree cruelty to animals, and the killing of any animal constitutes second degree cruelty to animals.

For the reasons stated above, we oppose S.B. 1068, SD2. Thank you for the opportunity to comment on this bill.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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KEITH M. KANESHIRO
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THE HONORABLE GILBERT S.C. KEITH-AGARAN, CHAIR
HOUSE COMMITTEE ON JUDICIARY
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawai'i

March 17, 2011

RE: S.B. 1068, S.D. 1; RELATING TO ANIMAL CRUELTY.

Chair Keith-Agaran, Vice-Chair Rhoads, and members of the House Committee on Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in support of Senate Bill 1068, S.D. 1.

The purpose of Senate Bill 1068, S.D. 1 is to amend Hawaii Revised Statutes, Section 711-1108.5, to add "killing any pet animal belonging to another person" among the list of acts that constitute cruelty to animals in the first degree. This would also add an exception for the humane euthanasia of any pet animal by various agencies, in accordance with AVMA standards, and an exception for reasonable use of force by a landowner protecting any person or animal on his/her property.

In 2007, the Legislature enacted Section 711-1108.5, based--in part--on research indicating that violence against pet animals has a profound impact on pet owners and their families, and can even be used as a form of coercion and/or emotional harm against pet owners. Although the current language of Section 711-1108.5 clearly prohibits the torture, mutilation and/or poisoning of a pet animal, it does not expressly address any other methods of killing. For instance, if a pet animal is shot from close-range, stabbed in the heart, or otherwise killed instantly, it is unclear whether the perpetrator's actions would currently qualify under the definition of animal cruelty. This "loophole" must be closed immediately, and this type of behavior strongly discouraged.

For this reason, the Department of the Prosecuting Attorney of the City and County of Honolulu strongly supports Senate Bill 1068, S.D. 1. Thank you for the opportunity to testify on this matter.



Hawaii Farm Bureau
F E D E R A T I O N

2343 Rose Street, Honolulu, HI 96819
PH: (808)848-2074; Fax: (808) 848-1921

HOUSE COMMITTEE ON JUDICIARY

Rep. Gilbert S.C. Keith-Agaran, Chair
Rep. Karl Rhoads, Vice Chair

Thursday, March 17, 2011
2:00 pm
Room 325

RELATING TO ANIMAL CRUELTY
SB 1068 SD1

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

The Hawaii Farm Bureau Federation, as the largest non-profit general agriculture organization representing approximately 1,600 farm and ranch family members statewide, offers the following comments on this bill.

HFBF had concerns about earlier drafts of this bill which would have inadvertently made protecting oneself and one's pets and livestock from attack by another person's pet animal, a felony.

With the exemption for this type of circumstance included in SD1, we have no objection to the bill.

Thank you for the opportunity to offer our comments and for your support of agriculture in Hawaii.



Hawaii Cattlemen's Council, Inc.

P O Box 437199 Kamuela HI 96743
Phone (808) 885-5599 • Fax (808) 887-1607
e-mail: HICattlemens@hawaii.rr.com

HOUSE COMMITTEE ON JUDICIARY
Thursday March 17, 2011 2:00 p.m. Room 325

SB 1068 SD1 RELATING TO ANIMAL CRUELTY.

Provides that killing, or attempting to kill, the animal of another person without that persons consent constitutes animal cruelty in the first degree. Adds exemptions for animal cruelty in the first degree.

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

My name is Alan Gottlieb, and I am a rancher and the Government Affairs Chair for the Hawaii Cattlemen's Council. The Hawaii Cattlemen's Council, Inc. (HCC) is the Statewide umbrella organization comprised of the five county level Cattlemen's Associations. Our 130+ member ranchers represent over 60,000 head of beef cows; more than 75% of all the beef cows in the State. Ranchers are the stewards of approximately 25% of the State's total land mass.

The Hawaii Cattlemen's Council supports the intent of SB 1068 SD1.

When this bill was first heard by the Senate our concern was that it did not address the emergency killing on any animal that is on another's property and attacking a person, or pet animal or livestock. As long as the provisions of section (e) of SD1 are preserved in the bill, we can support it.

Thank you for giving me the opportunity to testify on this very important issue.

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 13, 2011 11:01 AM
To: JUDtestimony
Cc: lynnehi@aol.com
Subject: Testimony for SB1068 on 3/17/2011 2:00:00 PM

Testimony for JUD 3/17/2011 2:00:00 PM SB1068

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: lynne matusow
Organization: Downtown Neighborhood Board #13
Address:
Phone:
E-mail: lynnehi@aol.com
Submitted on: 3/13/2011

Comments:

At its February 2011 meeting, the Downtown Neighborhood Board voted to support the Honolulu Prosecuting Attorney's legislative package. Included in the package was a bill dealing with the killing of someone else's pet animal, now embodied in SB1068. We urge passage of this bill.

Alvin Au, Chair
Lynne Matusow, Secy.

JUDtestimony

From: Joel Fischer [jfischer@hawaii.edu]
Sent: Saturday, March 12, 2011 2:19 PM
To: JUDtestimony
Subject: SB1068; JUD; Thurs., 3/15, Rm 325, 2PM

Importance: High

SB1068, SD1, Relating to Animal Cruelty
JUD; Chair, Rep. Keith-Agaran

STRONG SUPPORT!

I am very grateful to the sponsors of this bill, and to Rep Keith-Agaran for holding this hearing. This bill is long overdue; it will hold responsible people who brutally and sometimes even randomly decide to attack or injure another person's animal, no matter how the attack takes place.

This bill recognizes just how important the human-animal bond is, and is another step toward seeking justice for the animals that cannot speak out for themselves.

Thank you for passing this bill.

Aloha, joel

Dr. Joel Fischer, ACSW
Professor (Ret.)
University of Hawai'i, School of Social Work
Henke Hall
Honolulu, HI 96822

"It is reasonable that everyone who asks justice should DO justice."
Thomas Jefferson

"There comes a time when one must take a position that is neither safe, nor politic, nor popular, but one must take it because one's conscience tells one that it is right."
Dr. Martin Luther King, Jr.

"Never, never, never quit."
Winston Churchill

It is better to be "over the hill" than under it.
Anonymous

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 11, 2011 1:00 PM
To: JUDtestimony
Cc: mmmmahalo2000@aol.com
Subject: Testimony for SB1068 on 3/17/2011 2:00:00 PM

Testimony for JUD 3/17/2011 2:00:00 PM SB1068

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Mike Moran
Organization: Individual
Address:
Phone:
E-mail: mmmmahalo2000@aol.com
Submitted on: 3/11/2011

Comments:

Chair Keith-Agaron & Committee. Please pass and set a reasonable effective date in 2011. Needlessly killing an animal is cruel, but more so when it is cared for by another person without that person's consent constitutes animal cruelty in the first degree. Mahalo, Mike Moran Kihei, HI



HAWAIIAN HUMANE SOCIETY

2700 Waiālae Avenue
Honolulu, Hawaii 96826
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Fax: 955-6034
www.hawaiianhumane.org

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The Hawaiian Humane Society is dedicated to promoting the human-animal bond and the humane treatment of all animals.

March 16, 2011

Rep. Gilbert S.C. Keith-Agaran, Chair
Rep. Karl Rhoads, Vice Chair
Committee on Judiciary

RE: Senate Bill 1068, SD1

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

We believe that Hawaii's law that prohibits animal cruelty against pets would be strengthened by your support of SB 1068, SD1.

While the existing law defines circumstances of torture, mutilation and poisoning as illegal, it does not address "killing" of a stolen pet.

We ask consideration for one amendments to the Bill:

- That the exemption of cropping or docking Sec.1 (2)(c) be deleted, as allows for an unlicensed person to perform a veterinarian surgical procedure. Tail docking and ear cropping is just as painful as any other piece of bone, cartilage or skin you want to surgically remove. The ears and tail have a nerve supply all the way to the tip. Even with anesthesia and analgesics, the pain with ear crops and tail docks lasts for days and sometimes weeks after they wake up from the anesthesia and their bones, cartilage, skin wounds heal. Some dog's behavior are changed dramatically after ear crops and require months of retraining/sensitizing/touching their ears, head and tail so they will accept being touched and not biting.

Your support of SB 1068, SD1 will help strengthen Hawaii's animal protection laws. Thank you for the opportunity to provide testimony in strong support of SB 1068, SD1.

Sincerely Yours,

Pamela Burns
President and CEO

SB1068 SD1 to be heard Thursday, March 17th at 2:00pm in Room 325

Dara Carlin, M.A. [breaking-the-silence@hotmail.com]

Sent: Wednesday, March 16, 2011 1:35 PM

To: JUDtestimony

Importance: High

TO: Representative Keith-Agaran, Chair

Representative Rhoads, Vice Chair

Judiciary Committee Members

FROM: Dara Carlin, M.A.

Domestic Violence Survivor Advocate

881 Akiu Place

Kailua, HI 96734

DATE: 03/17/11

RE: Strong Support for SB1068 SD1

Good Afternoon Representatives and thank you for this opportunity to provide testimony on this matter.

Domestic Violence ties HEAVILY into this proposal so I'm urging your support for its passage. There is an extraordinarily high connection between animal cruelty/abuse, domestic violence and child abuse which is why killing or attempting to kill the pet or animal of another person without their consent must be taken seriously and seriously dealt with because it is a symptom of a much larger problem.

These are a few reasons why a Domestic Violence perpetrator would abuse or kill an animal or family pet that does not belong to them:

- It shows the victim (and/or her children) how much power and control they actually have
- To get rid of the "competition for affection"
- To keep the victim and/or children in-line/under control
- To punish the victim for leaving, attempting to leave or for the children's defiance

In my interactions with domestic violence survivors and their children, I have heard too many stories about how their beloved pets suffered horrific fates without option for recourse. On behalf of those who are too afraid to speak - and for those who can't because they're not a part of the human race and have died at (or in) the hands of an abuser - I urge you to support SB1068 and continue efforts to protect our most vulnerable.

Thank you for your time and consideration.

Respectfully,

Dara Carlin, M.A.

Domestic Violence Survivor Advocate