



**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 Senate Committee on Judiciary and Labor**

February 22, 2011, 10:15 a.m.

LATE TESTIMONY

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

Chair Hee 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.

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. 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 subsection (c) of the statute, and constitutes the offense of cruelty to animals in the second degree. The proposed language in this measure is unnecessary.

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

LATE TESTIMONY**HAWAIIAN
HUMANE
SOCIETY**

2700 Waiālae Avenue
Honolulu, Hawaii 96826
Telephone: 946-2187
Fax: 955-6034
www.hawaiianhumane.org

Board of Directors*Chair*

Norman M. Nogiuchi

Vice Chair

Francis Boland

Treasurer

Robert R. Beān

Secretary

Joyce Tomihari

President/CEO

Pamela Burns

Eric Ako, DVM

Sharon Shiroma Brown

Gerri Cadiz

Bruce A. Coppa

Nicholas C. Dreher

Ernest H. Fukeda, Jr.

Lynn Y. Lally

Naomi Loewe

Jean C. Marchant

Stephen B. Metter

Pauline M. Osborne

Mark Polivka

Lawrence D. Rodriguez

Shelley B. Thompson

Ginny Tiu

Virginia S. Weinman

Mary H. Weyand

Rick Zwern

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

February 18, 2011

Senator Clayton Hee, Chair
Senator Maile S.L. Shimabukuro, Vice Chair
Committee on Judiciary and Labor

SUBJECT: Senate Bill 1068 - relating to animal cruelty

Dear Chair Hee, Vice Chair Shimabukuro and Members of the Committee on Judiciary and Labor:

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

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 two amendments to the Bill:

- That the exemption of cropping or docking Sec.1 (2)(c) be deleted, as it may be interpreted as allowing an unlicensed person to perform a veterinarian surgical procedure.
- We ask that the term "humane killing" Sec.1 (2)(d) be replaced with "humane euthanasia according to AVMA accepted standards." American Veterinarian Medical Association is a national recognized authority on humane euthanasia.

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

Sincerely Yours,

Pamela Burns
President and CEO



HAWAIIAN HUMANE SOCIETY

2700 Waiānāi Avenue
Honolulu, Hawaii 96826
Telephone: 946-2187
Fax: 955-6034
www.hawaiianhumane.org

Board of Directors

Chair

Norman M. Noguchi

Vice Chair

Francie Boland

Treasurer

Robert R. Bean

Secretary

Joyce Tomonati

President/CEO

Pamela Burns

Eric Ako, DVM

Sharon Shiroma Brown

Gerri Cadiz

Bruce A. Coppa

Nicholas C. Dreher

Ernest H. Fukeda, Jr.

Lynn Y. Lally

Naomi Loewy

Jean C. Marchant

Stephen B. Metter

Pauline M. Osborne

Mark Polivka

Lawrence D. Rodriguez

Shelley B. Thompson

Ginny Tiu

Virginia S. Weinman

Mary H. Weyand

Rick Zwern

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

To The Senate Sergcant-At-Arms Office

Senate Bill 1068

To be heard on Tuesday, February 22, 2011 at 10:15 a.m.

This is written testimony, which will be accompanied by oral testimony.



Hawaii Cattlemen's Council, Inc.

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

SENATE COMMITTEE ON JUDICIARY AND LABOR

Tuesday February 22, 2011 10:15 a.m. Room 016

SB 1068 RELATING TO ANIMAL CRUELTY.

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

Chairman Hee, Vice Chair Shimabukuro 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 with one suggested exemption** for a farmer or rancher protecting their livestock or chicken from an attacking dog, pig or other uncontrollable pests detailed below.

(2) Subsection (1) shall not apply to:

- (a) Accepted veterinary practices;
- (b) Activities carried on for scientific research governed by standards of accepted educational or medicinal practices; ~~or~~
- (c) Cropping or docking as customarily practiced ~~or~~;
- (d) Humane killing of any animal by an animal control officer, duly incorporated humane society, duly incorporated society for the prevention of cruelty to animals, or duly authorized governmental agency; or
- (e) emergency killing of any animal that is on another's property and attacking a person or pet animal or livestock on that property."**

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

LATE TESTIMONY

From: Dara Carlin, M.A. [breaking-the-silence@hotmail.com]
Sent: Monday, February 21, 2011 7:00 PM
To: JDLEstimony
Subject: LATE TESTIMONY: SB1068 to be heard Tuesday, 02/22/11, at 10:15am in Room 016
Importance: High

TO: Senator Clayton Hee, Chair
Senator Maile Shimabukuro, Vice Chair
Judiciary & Labor Committee Members

FROM: Dara Carlin, M.A.
Domestic violence Survivor Advocate
881 Akiu Place
Kailua, HI 96734

DATE: 02/22/11

RE: **Strong Support for SB1068**

Good Morning Senators and my sincerest apologies for submitting late testimony.

Domestic Violence ties HEAVILY into this proposal so I'm urging your support for its passage. There is an extraordinarily high connection between animal 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 seriously dealt with.

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 this opportunity to provide testimony.

Respectfully,

Dara Carlin, M.A.
Domestic Violence Survivor Advocate

LATE TESTIMONY

2/21/11

Testimony IN SUPPORT of SB1068 with Amendments

Aloha Senators,

I am in SUPPORT of this measure with Amendments that will clarify cruelty to animals and make the penalty more strict. Like animals, children presently do not have the right to not to be abused or tortured. Family courts across this State and nation are giving children to abusers over 50% of the time and animals fare as badly. In the cases where there is domestic and family violence there is also often animal violence and cruelty. The two go hand in hand because perpetrators of domestic and family violence have control, anger, substance abuse and emotional issues and destroying and abusing family pets and children is another tool to control the protective parent. Children do not have the constitutional right NOT to be harmed and to be safe nor do our pets. When a Judge finds harm there are laws to address that but the children do not have a civil or constitutional right to not be harmed Judges are not following statute and are deferring to the abusive parent, treating children and pets like chattel and "less than" the abusive parent. . Pets are often not even included in TRO's for protection of family members! Downgrading the value of the lives of children and pets is unacceptable! I lost my son to his father who has an extended history of substance abuse and violence against women, children and pets. MY son was dragged away screaming Mommy please help me and he was forcibly relocated against his will. His present cats and dog, adopted at the Maui Humane Society, were abandoned or killed devastating my son further and showing him hard proof of what happens when you don't do as Daddy says. Even in the marriage, my ex caught and killed family pets (others and mine), shot at my dogs, cats, chickens and ducks, and taught my son to shoot at my goats for sport. Goats later brought onto the property were shot as "an example" of what happens when you disobey the abuser. It was a Daddy-Son secret game! They did not care for the animals they shot, I just found injuries! While I worked to support my family my ex starved dogs, cats and baby goats, shot adults when they were not cooperative and tortured the house pets to where they ran away, defecated on sight of him, or hid from him even foregoing food and drink in their fear. My dogs became aggressive with him because they had been hit so often going so far as to protect my Son who ran to them in fear. These dogs were later removed by the court from their home because the ex did not want them there (protecting against him). My Son repeatedly asked to be protected from neglect and abuse that my ex testified to in court. He was not protected! His cats and dog are dead! Both children and pets have no right to be safe, not be abused or have good food or a decent place to sleep. Please give animals and children these protections and allow the next abuses against them to incur stiff penalties, to include public sanction and registration of abusers. The true indication of a successful society is to see how they treat their weakest members. Hawaii is failing, please make the penalties stronger!

Known Amendments are in RED. Children need these same rights!

SECTION 1. Section 711-1108.5, Hawaii Revised Statutes, is amended by amending subsections (1) and (2) to read as follows:

1. A person commits the offense of cruelty to animals in the first degree if the person intentionally or knowingly:
 - a. Tortures, mutilates, or poisons or causes the torture, mutilation, or poisoning of any pet animal or equine animal resulting in serious bodily injury or death of the pet animal or equine animal; or
 - b. Kills or attempts to kill any pet animal belonging to another person, without first obtaining legal authority or the consent of that person; or
 - c. has a history (two or more) of offenses pertaining to the intentional or knowing Torture, mutilation, or poisoning of or causes the torture, mutilation, or poisoning of any pet animal or equine animal or Kills or attempts to kill any pet animal belonging to another person as defined in point 1(a).

2. Subsection (1) shall not apply to:
 - a. Accepted veterinary practices;
 - b. Activities carried on for scientific research governed by standards of accepted ethical and humane, educational or medicinal practices;
 - c. Cropping or docking as customarily practiced and performed by a licensed veterinary professional in a ethical and humane manner[.]; or
 - d. Humane killing of any animal by an animal control officer, duly incorporated humane society, duly incorporated society for the prevention of cruelty to animals, or duly authorized governmental agency."

Thank You,

Paige Calahan
PO Box 1380
Puunene, HI 96784