

NEIL ABERCROMBIE
GOVERNOR



PATRICIA McMANAMAN
DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809

January 30, 2012

TO: The Honorable John M. Mizuno, Chair
House Committee on Human Services

FROM: Patricia McManaman, Director

SUBJECT: **H.B. 1716 - RELATING TO DOMESTIC ABUSE**

Hearing: Monday, January 30, 2012; 8:30 a.m.
Conference Room 329, State Capitol

PURPOSE: The purpose of this bill is to establish the basis for a permanent protective order if a protective order is issued to prevent sexual offenses or child abuse.

DEPARTMENT'S POSITION: The Department of Human Services supports the intent of this bill to ensure the safety of persons impacted by domestic violence. We cannot, however, support the bill as written since it makes all offenses covered by chapter 707, Parts V and VI, Hawaii Revised Statutes, the basis for issuance of a permanent protective order, including misdemeanors and petty misdemeanors.

The Department's Child Welfare Services interventions are based on the need to ensure the safety of children within their family. Engaging family members in this process helps to mobilizing the strengths within the family to provide for their children. Critical to this process is the belief that a person can change behavior and can develop the knowledge, skills and ability to provide a safe family home for children. A permanent protective order could prevent the engagement and growth of family members necessary for this process, and could prevent any future contact, destroying family connections for the children.

Thank you for the opportunity to testify on this bill.

AN EQUAL OPPORTUNITY AGENCY

TO: Representative Mizuno, Chair
Representative Jordan, Vice Chair
Human Services Committee Members

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

DATE: January 30, 2012

RE: **Strong Support** for HB1716, Relating to Domestic Abuse

Good Morning Representatives and thank you for this opportunity to provide testimony on this measure.

It is said that "*A victim's first cry is for help; a victim's second cry is for justice*" and this measure is about ensuring justice for victims of domestic violence and child sexual abuse.

It's always been concerning to me that both the criminal justice and family court systems decide or decree for the victim when they're "supposed to be finished" with the trauma of their abuse, when a victim-survivor's "allowed" to report the abuse in time to get justice for it (with an almost "you snooze, you lose" attitude) and how an abuser's civil rights take precedence and are given more support than a victim's right to justice for the crime/s that've been committed against him/her.

One of the more perplexing issues for me is when a court puts a time limit on orders for protection - how does the court know what the victim experiences or what his/her needs are? And given the history of abuse, how does the court know that the abuser will cease and desist in X amount of time? Until **the victim** states otherwise - NOT the abuser! - permanent protection orders should be issued to keep a survivor safe from all potential future incidences of abuse, intimidation and/or retaliation.

Permanent protection orders are especially needed for the **crime** of child sexual abuse, a term that is being used to cover both non-relative abuse and incest. Between non-relative abuse and incest, incest is particularly damaging due to the familial nature of the relationship between the abuser and victim (yet **courts place a preference on maintaining and repairing such family relationships - something that no criminal court would EVER do or support in cases of stranger rape and assault**). If the long-term damage of incest is so severe, why is it treated so lightly by the law?

From "*Child sexual abuse*" on Wikipedia:

- **Incest between a child or adolescent and a related adult has been identified as the most widespread form of child sexual abuse with a huge capacity for damage to a child.**^[10]
- One researcher stated that more than 70% of abusers are immediate family members or someone very close to the family.^[9]
- Another researcher stated that about 30% of all perpetrators of sexual abuse are related to their victim, 60% of the perpetrators are family acquaintances, like a neighbor, babysitter or friend and 10% of the perpetrators in child sexual abuse cases are strangers.^[12]

- A child sexual abuse offense where the perpetrator is related to the child, either by blood or marriage, is a form of incest described as *intrafamilial child sexual abuse*.^[80]
- The most-often reported form of incest is father-daughter and stepfather-daughter incest, with most of the remaining reports consisting of mother/stepmother-daughter/son incest.^[81]
- Father-son incest is reported less often, however it is not known if the prevalence is less, because it is under-reported by a greater margin.^{[82][83]}
- Similarly, some argue that sibling incest may be as common, or more common, than other types of incest: Goldman and Goldman^[84] reported that 57% of incest involved siblings; Finkelhor reported that over 90% of nuclear family incest involved siblings,^[85] while Cawson et al. show that sibling incest was reported twice as often as incest perpetrated by fathers/stepfathers.^[86]

It should not be up to the abuser or the court to decide how long a protection order should last for since the victim had absolutely no say over the duration, severity and trauma of the abuse. A permanent protection order should be granted if the victim requests one and should only be dismissed when the victim says enough is enough.

Respectfully,

Dara Carlin, M.A.
Domestic Violence Survivor Advocate