

NEIL ABERCROMBIE
GOVERNOR



STATE OF HAWAII
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TESTIMONY ON HOUSE BILL 1918
RELATING TO DOMESTIC ABUSE
by
Jodie F. Maesaka-Hirata, Director
Department of Public Safety

House Committee on Human Services
Representative John M. Mizuno, Chair
Representative Jo Jordan, Vice Chair

Monday, January 30, 2012; 08:30 AM
State Capitol, Room 329

Chair Mizuno, Vice Chair Jordan, and Members of the Committee:

The Department of Public Safety (PSD) appreciates the intent of House Bill 1918 and offers the comments indicated. This measure amends Section 353C-4 Hawaii Revised Statutes, by specifying a disqualification or disciplinary action for public safety officers with powers of police officers, convicted of domestic abuse. This measure also amends Section 52D-6 Hawaii Revised Statutes, for all county police force. As Section 52D-6 is not applicable to PSD, our testimony will be limited to the references to Section 353C-4.

Enacting this measure as submitted will conflict with federal law, under Title 18 U.S.C §922(g)(8); and (9), which is more commonly referred to as the "Lautenberg Amendment" which took effect on September 30, 1996. It is unlawful for any person to possess a firearm, Title 18 U.S.C §922(g)(8) who is subject to a court order that (A) was issued after a hearing of which such person received actual notice and at which such person had an opportunity to

participate; (B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and (C) (i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; and (ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or Title 18 U.S.C §922(g)(9) who has been convicted in any court of a misdemeanor crime of domestic violence. The exception to the federal law requires that the individual with a domestic violence conviction be pardoned or the conviction was expunged or the conviction was set aside.

PSD recommends that this measure be amended to comply with the federal law by deleting Section 2 on Page 3. It is recommended that Section 3 on Page 3, be amended to comply with PSD's Memorandum of Agreement (MOA) with the Hawaii Government Employees Association (HGEA), dated April 1, 1998. The MOA language states that any domestic violence conviction occurring after April 1, 1998, shall result in the termination of the employee for failing to meet the "Minimum Qualifying Requirements" (MQRs) for the Lautenberg position and the employee will not be entitled to any job placement rights. PSD recommends that your Committee considers the fact that the federal law encompasses a limitation on possessing, shipping, transporting or receiving any firearm or ammunition; this clearly is not limited to an individual with police powers. The federal law also affects individuals in PSD's Adult Corrections Officer series.

PSD appreciates the intent of this measure with the recommended amendments to ensure compliance with Title 18 U.S.C. §922 (g)(8) and (9), and PSD's MOA with HGEA.

Thank you for this opportunity to testify.

From: Dara Carlin, M.A. [mailto:breaking-the-silence@hotmail.com]
Sent: Saturday, January 28, 2012 1:43 PM
To: HUSTestimony
Subject: HB1918 to be heard Monday, 01/30/12, at 8:30am in Room 329

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: Support for HB1918, Relating to Domestic Abuse

Good Morning Representatives ~

Although I feel that **any** public service professional whose been convicted of a domestic violence crime should be completely prohibited from such a profession and prevented from working with any population that would place them in an authoritative role over a vulnerable population altogether, this is a good start.

When domestic violence occurs in a police or public safety officer's life, the situation is problematic for all involved so it would only be prudent to keep an identified abuser away from any kind of vulnerable, at-risk or dependent population. Below are some highlighted points from an article entitled "**When The Abuser Is A Police Officer**" that touches on just a few serious concerns, not only for the direct victims but for the community at-large:

- Many of the same qualities valued in on-duty police officers can make those same officers dangerous perpetrators of domestic violence.
- All abusers employ similar methods to control and abuse their intimate partners. Officers however, have an arsenal of skills and tactics not commonly possessed by civilians.
- Professional training in the use of force and weapons, intimidation, interrogation and surveillance techniques along with the cultural climate coalesce into a dangerous and potentially lethal combination in a domestic situation.
- Victims face the bias of law enforcement agencies and the legal system, psychological intimidation, and high risk of lethality.
- There is serious impact on the community when police officers gain a reputation for getting away with domestic violence.
- The media have exposed many cases in which little or nothing has been done by police departments or the criminal justice system to hold the abuser accountable or to protect the victim. This breeds skepticism and distrust of the police in the general public, and affirms the worst nightmares of the victims. Abusive police officers are validated in their belief that they are above the law.

- **When people doubt the integrity of the police officers in their community it undermines the effectiveness of the police and puts all citizens at risk.**
- We have grave concerns regarding how police officers who commit the crime of domestic battery respond to domestic violence calls in the community. Obviously, their attitude may be less than appropriate in dealing with either party. Moreover, a police officer who is sympathetic to an abuser may not adequately protect a victim, projecting his own beliefs that women exaggerate the danger.
- An officer who feels he is unjustly restrained by court order from contact with his wife or children may feel that other men are also unjustly sanctioned. That officer may be reluctant to enforce a protective order.
- Another potential problem is that police officers frequently testify in criminal cases against civilian abusers. We fear that testimony may be tainted due to personal bias when the witness is himself an offender.

Thank you for this opportunity to provide testimony on this measure.

Respectfully,

Dara Carlin, M.A.
Domestic Violence Survivor Advocate