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**From:** Dara Carlin, M.A. [breaking-the-silence@hotmail.com]  
**Sent:** Wednesday, February 09, 2011 4:38 PM  
**To:** HUSTestimony  
**Subject:** HB725 to be heard Thursday, 02/10/11, at 9:00am in Room 329

**Importance:** High

## **LATE Testimony**

TO: Representative John Mizuno, Chair  
Representative Jo Jordan, Vice Chair  
Human Service Committee Members

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

DATE: 02/10/11

RE: Partial Support for HB725 with **Strong Oppositional Concerns**

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

Since the first time I ever participated in the legislative process as a Marriage & Family Therapist, I have said the following:

**Violent and NON-violent cases cannot be treated in a one-size-fits-all manner.** At it's most simplistic level, cases with a history of violence have potential for more/ongoing violence and potential lethality; NON-violent cases have potential for bad behavior/poor manners where danger and safety have never been and never will be an issue. Domestic violence is a completely "different animal" then amicable or even high-conflict divorces with the key difference being the very real issues of LETHALITY and ONGOING ABUSE, hence the effort to establish a separate Domestic Violence specialty court (HB772) heard earlier this morning.

This measure - as proposed - is fine in terms of changing the word "visitation" to "parenting time" **so long as it does NOT pertain to any of the DV statutes: 571-46(9-14).**

THE BIGGEST problem domestic violence survivors face after fleeing their abusers (next to heightened lethality) is the stripping of their DV status in custody and visitation proceedings after "successfully" leaving. The longer the family court case goes on, the more the primary issue of domestic violence is litigated away until it's entirely non-existent and irrelevant to the proceedings. The former domestic violence case is now mislabeled as a "high-conflict case" where the DV statutes and protections no longer apply; the abuser gets the benefit of "equal status" while being held to a lower standard (if any) of accountability while the survivor and her children are stripped of all protections (because "none are needed now - we've moved beyond all that").

Domestic violence perpetrators are not good fathers nor good role models and they are not good, honorable men; as DV experts can tell you their rehabilitation rate is POOR, their recidivism rate is HIGH and there's a HUGE overlap between domestic violence and child abuse.

While perpetrators are a MINORITY of the population they command a lot of attention because drawing attention to themselves is one of their key pursuits. In long-term DV-related family court cases, you'll see the perpetrator constantly asking for HIS RIGHTS or "equal rights" (which coincides nicely with judicial ethics that seeks a "level 'playing field'") or the rights of his children whom he barely knows to be the center issue while at the same time, you'll keep hearing the survivor raising SAFETY CONCERNS and asking for ASSURANCES OF SAFETY for her children and herself.

DV cases MUST be kept separate from the other non-lethal cases; equality and fairness may work beautifully in all other cases so keep "parenting time" verbiage limited and restricted to those cases and statutes but for cases that have a domestic violence history to them, leave "visitation" in-place as-is. **There is NO REASON WHATSOEVER to touch the DV statutes and those statutes are in-place to protect the victims and children who've been "lucky enough" to escape the abusive situation.**

Supporting such a change to the DV statutes would loosen the protections for survivors and their children that this legislature is trying to enhance while supporting perpetrators in their ongoing abusive post-separation dynamics. Please do not allow "visitation" to be switched for "parenting time" in DV statutes 571-46(9-14).

Respectfully,

Dara Carlin, M.A.  
Domestic Violence Survivor Advocate



# LATE Testimony

February 09, 2011

## Partial Support for HB725 with Strong Concerns

Dear Representatives,

Thank you for considering measures that work to ensure the contact between parents and children. This relationship is vital to the health of a child, and the well-rounded development of future generations.

In line with the physical and psychological health of a child is the assurance that a child will be allowed to grow up free of abuse and violence.

Children exposed to Domestic Violence are not safe. Children forced to spend time with an abusive parent, are not safe. Equal "parenting time" should not be encouraged or forced by law in these instances. Supervised visitation should be the only option. An abusive parent does not provide healthy or positive influence or example to a child - only instability, insecurity and fear.

Aside from the obvious concerns for the child in these violent situations, there is the issue of "protection" for the "protective parent" and/or the Survivor of abuse. Survivors flee abuse. They wish to close this chapter in their life, and build a new life. If they are forced to constantly interface with the abuser, they are not free of the abuse. Since abusers thrive on "control", this often results in the abuser using the children to control the Survivor. The replacement of "visitation" with "parenting" in the Domestic Violence statutes would weaken the statute and guarantee continuing abuse of Survivors and their children. It bears remembering that Domestic and Family violence is a crime, not simply a "family matter".

Additionally, there are currently a few renegade judges who ignore DV statutes altogether and in fact are repetitively giving custody of children to the abusive parent. They then eliminate all contact with protective parents. The inclusion of "parenting time" in this instance would introduce and allow an avenue for these disenfranchised parents to seek meaningful contact with their children, as is already their right under Constitutional law.

Therefore, please make sure that "visitation" remains in any statute dealing with Domestic or Family Violence. Leave the language strong so that it cannot be interpreted under "broad judicial discretion". Forcing "parenting time" with an abusive parent is in conflict with "best interest of the child" criteria. Please also include (in any statute where "parenting time" is substituted) that an exception is noted so no one is tempted to manipulate a loophole in favor of an abusive parent.

Respectfully,  
AngelGroup

P.O. Box 1474, Puunene, HI 96784

# LATE Testimony

(HB725)

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

FROM: Paige E. Calahan "DV Survivor"  
POB 1380  
Puunene, HI 96784

DATE: 02/9/11

Partial Support for HB772 with **STRONG CONCERNS**

Good Morning Representatives,

Thank you for taking the time to consider a bill that should further protect children by giving them access to both parents. I do have some important concerns though that I would like to share.

In order to decide whether we should replace "visitation time" with "parenting time", across the board, we need to look at the definition of these things and the potential ramifications of the change.

Parenting is: a person acting as a guardian; acting as a parent.  
Parenting is much more than being a biological contributor to the creation of a child. It is providing protection, love and care. It is making sure your child is educated, encouraged, introduced to the world from a secure and safe place so he/she can grow up to be a confident, loving human being.

If a child is exposed to Domestic Violence, they already are at a disadvantage. If they are forced to continue a relationship with their abuser, or the abuser of their "parent" (in an unsupervised setting), this creates fear, anger and insecurities that shadow the child into and through adulthood. This does not have to happen. We have existing laws that are supposed to prevent this.

If this bill is allowed to become law without any consideration of how it will cripple the DV statute, many children and protective parents will be harmed.

In the past year there have been many news headlines that were the result of children being forced to "parenting time" with an abusive parent. Children died. Protective parents died. Other family members died.

DV is a crime. Abusers are criminals. These criminals have a pattern of behavior that is dangerous for a child. This cannot be ignored. Abusive parents don't parent, they HARM. They require supervision. They need to "visit" children in a safe environment. They have forfeited their equal access rights by being a dangerous influence on a vulnerable and influential child, or the other parent of that child.

In cases where DV is not an issue, parenting time is good for the child. Anything affecting DV statute - 571-46(9-14) - should remain UNCHANGED. This Bill should only be considered in combination with HB772.

THE BIGGEST problem with domestic violence is that survivors and children **ARE NOT SAFE** and "parenting time" is a forced measure that has increased lethality and heightened risk for the survivor and the Child! Visitation with the abuser, when appropriate, should be supervised if it meets the best interests criteria **and if this is something the Child wants.**

I am a survivor of Domestic Violence. In my divorce custody case (under Judge Keith E. Tanaka), my son wanted to only see his father with supervision. He wanted to live with me and see his father "sometimes". He was being abused and neglected. He was allowed no friends or activities. He ran away from his abuser, and he became protective of me – physically shaking when my abuser got too close, begging me to stay away from the abuser, going to visitation so his father wouldn't be angry with me, etc. He peed himself when he was delivered to visitation. He would defecate in his pants and cry when he was forced to his abusive "parent". I told the court and the GAL but they didn't listen. My son came home with bruises, disturbing behaviors and statements. I reported these but I was then accused of "coaching" my son. My son was not allowed to testify (even though it's allowed under law), he was not allowed an attorney (though allowed under law), his GAL didn't talk to him (though mandated under law) and his "individual therapy" (court ordered) was attended only with the abuser in the room (a severe conflict of interest and violation of court order).

DV statutes were ignored in my case. Abuse and neglect were ignored in my case. "Best interest" criteria was ignored in my case. My son now lives with our abuser. I have NO CONTACT with him at all. I don't understand how laws can be in place and judges can just ignore them like they don't exist. These same judges would no doubt give "parenting time" to an abusive parent if the option existed. This is not healthy for a child of any age. **Please do NOT change the DV statutes to read "parenting time"**. It didn't save my son but perhaps it can save another child.

Allowing additional rights for abusers and making the playing field level is **not** a reasonable risk for survivors and children who bear heightened lethality risks and the stripping of their DV status in custody and visitation proceedings. "Parents" cannot be created in a courtroom. Parenting skills are not likely to develop just because they've been given "equal status". Giving this equality without accountability and/or merit, strips the survivor and her children of much needed protections. My abuser didn't stop when I left him. He just found different ways to hurt and control me. He has eliminated all contact between my son and I...that is abuse. I escaped. My son wasn't as fortunate.

We need to make sure the existing DV statutes are **enforced**. If we accomplish that, THEN let's talk about modifying them. My position won't change but I hope you understand the importance in my testimony. **We don't need to endanger children to make things equal for criminals**. There are many good parents out who deserve the right to protect and parent their children without fear. This isn't something that should be legislated away.

**I would LOVE to have "parenting time" with my son. I support enforcement of THIS.**

Domestic violence **perpetrators are bad parents and bad role models.** The difference between a visiting violent person who is supervised and a "parent" is night and day. DV experts can tell you that a perpetrator's rehabilitation rate is POOR, their recidivism rate is HIGH and there's a HUGE overlap between domestic violence and child abuse.

Narcissism and lack of empathy is a dominant trait in abusers! In cases involving DV you'll see the perpetrator constantly asking for THEIR RIGHTS or "equal rights" (which coincides nicely with judicial ethics that seeks a "level playing field"). You'll keep hearing the survivor raising SAFETY CONCERNS and asking for ASSURANCES OF SAFETY for her children and herself.

**DV cases MUST be kept separate from the other non-lethal cases;** equality and fairness may work beautifully in all other cases so keep "parenting time" verbiage restricted to those cases and statutes that have NO domestic violence history to them, leave "visitation" in-place as-is. There is NO REASON WHATSOEVER to touch the DV statutes and those statutes are in-place to protect the victims and children who've been "lucky enough" to escape the initial abusive situation.

Supporting such a change to the DV statutes would loosen the protections for survivors and their children. Supporting perpetrators of abuse in their ongoing self-centered, post-separation behaviors is nothing short of DANGEROUS. Please do not allow "visitation" to be switched for "parenting time" in DV statutes 571-46(9-14).

Respectfully,

Paige Calahan  
DV survivor and Mother of an abused Child

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**From:** guy yatsushiro [gyats1@yahoo.com]  
**Sent:** Wednesday, February 09, 2011 5:49 PM  
**To:** HUStestimonial  
**Subject:** Opposition to HB725, Parenting Time - 9:00am on 2/10/2011

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

**LATE  
Testimony**

From: Guy Yatsushiro, M.D.  
1914 South King Street, #201  
Honolulu, Hawaii 96826

Date: 2/10/2011

Re: Opposition to HB725 Parenting Time

Reading through this, isn't this counter to your efforts in strengthening protections for victims of domestic violence? The abusers don't need or deserve "parenting time", they need jail time. I'd look at this one closely. I wouldn't support it. Thank you for the opportunity to provide testimony.

Sincerely,

Guy Yatsushiro, M.D.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 10, 2011 6:54 AM  
**To:** HUS testimony  
**Cc:** adamtm@lava.net  
**Subject:** Testimony for HB725 on 2/10/2011 9:00:00 AM

## **LATE Testimony**

Testimony for HUS 2/10/2011 9:00:00 AM HB725

Conference room: 329  
Testifier position: support  
Testifier will be present: No  
Submitted by: Tom Marzec  
Organization: Individual  
Address:  
Phone:  
E-mail: [adamtm@lava.net](mailto:adamtm@lava.net)  
Submitted on: 2/10/2011

**Comments:**

This bill replaces the outdated term visitation with "parenting time", throughout our statutes, as applied to child custody.

Rather than promoting meaningful and involved parenting, the term "visitation" limits parents to fill temporary and limited roles. Hawaii's children are better served by referring to and promoting "parenting time" rather than "visitation". This sets a more positive and optimistic approach to parenting situations where the child does not live with both parents.

This change applies equally to both parents, is appropriately gender-neutral and should be applied to all such custody visitation situations, whether supervised or not.

Your consideration of these issues is very appreciated.