

**Testimony of the Office of the Public Defender, State of Hawaii,
to the Senate Committee on Judiciary and Labor**

February 27, 2012

S.B. No. 223: RELATING TO CONDITIONAL RELEASE

Chair Hee and Members of the Committee:

We have concerns about S.B. No. 223 which would require a police officer reporting to a domestic violence call to issue a mandatory order to leave the premises for a twenty-four hour period when the officer believes there is probable danger of further physical abuse or harm. Currently, under H.R.S. § 709-906(4)(b), such an order by the police officer is discretionary.

In practice, the 24-hour stay-away order is issued by police in the vast majority of the cases. So, for all practical purposes, the current statute is operating in the manner sought in this bill. However, there are times when the authorities need the flexibility of a discretionary 24-hour order. Most of these situations have to deal with the care of minor children in the household. Sometimes, a mother is either unable to care for children on her own or has employment or medical obligations which require her to enlist the help of her spouse or household partner to care for the children within the 24-hour period.

Thank for the opportunity to comment on this measure.

LATE TESTIMONY

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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THE HONORABLE CLAYTON HEE, CHAIR
SENATE COMMITTEE ON JUDICIARY AND LABOR
Twenty-sixth State Legislature
Regular Session of 2011
State of Hawai'i

February 27, 2012

RE: S.B. 223; RELATING TO DOMESTIC ABUSE ORDERS.

Chair Hee, Vice-Chair Shimabukuro and members of the Senate Committee on Judiciary and Labor, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in support of Senate Bill 223, Proposed Senate Draft 1.

The Proposed S.D. 1 would amend HRS §709-906 to require that police officers impose a 24-hour "no-contact period," where there are "reasonable grounds to believe" that harm was inflicted and that there is probable danger of further harm. The Department agrees that it is important for police officers to make this determination--and to impose the no-contact period as appropriate--because this period provides a valuable buffer to protect victims from ongoing abuse, particularly on weekends when victims are not be able to seek a TRO immediately.

The legislative history of HRS 709-906(4) indicates that the 24-hour "no-contact period" has been beneficial to domestic violence victims, when imposed. In 1995, legislators found it -- "was very successful in preventing further domestic violence...[and] created a 'safe' period during which abuse victims might seek refuge in a shelter or use other safety options." See House Standing Committee Report No. 1566 (1995). In 1997, it was similarly stated that the no-contact periods "have had a significant impact in denying domestic violence perpetrators access to their victims." See House Standing Committee Report No. 1481 (1997). In 1998, legislators further amended the statute to facilitate police officers' quick determination of whether to issue the no-contact order, with hopes that those amendments "would result in more twenty-four hour warnings, thereby protecting more victims of domestic abuse." See Conference Committee Report No. 80, House Standing Committee Report No. 578-98.

For these reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu supports S.B. 223, Proposed S.D. 1. Thank you for this opportunity to testify.

HAWAII
STATE
COMMISSION
ON THE
STATUS
OF
WOMEN



Chair
LESLIE WILKINS

COMMISSIONERS:

ELENA CABATU
ADRIENNE KING
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February 26, 2012

LATE TESTIMONY

Testimony in Support of SB 223

To: Senator Clayton Hee, Chair
Senator Maile S.L. Shimabukuro, Vice Chair
Members of the Senate Committee on Judiciary and Labor

From: Catherine Betts, Esq., Executive Director, Hawaii State Commission on the Status of Women

Re: Testimony in Support of SB 223, Relating to Domestic Abuse Orders

On behalf of the Hawaii State Commission on the Status of Women, I would like to express my support of this bill, which would ensure and require consistent, uniformed and simple implementation of “no contact” orders.

SB 223 provides greater protection to victims by requiring that these orders be issued in a routine manner, thereby removing any option of discretionary implementation. This type of protection is especially necessary and valuable on evenings, weekends and holidays when there is limited access to seek temporary restraining orders or other relief from the court system.

Domestic violence is a public health epidemic in Hawaii. SB 223 offers a very simple solution that requires uniform implementation and issuance of “no contact orders” thereby increasing the safety of victims. For years, our violence prevention community has urged victims to seek assistance in order to gain protection from harm. It is imperative that if victims do seek assistance from law enforcement, that there be methods in place to offer protection. Please pass SB 223.

Thank you for this opportunity,

Catherine Betts, Esq.

TO: Senator Clayton Hee, Chair
Senate Committee on Judiciary and Labor
Maile S. L. Shimabukuro, Vice Chair
and Members of the Committee

FR: Kathy Freire, Co-Director, YWCA of Kaua'i Family Violence Shelter
RE: SB 223 SD1 Strong Support

Aloha Chairman Hee,

I am offering testimony on behalf of myself and the YWCA of Kaua'i in support of SB 223 SD1.

Current law (Hawaii Revised Statutes 709-906) provides protection to victims of domestic violence, even after hours when courts and judges may not be available.

SB 223 SD1 provides clarity to this statute and directs law enforcement officers to respond to domestic violence in a consistent manner that increases the margin of safety for victims. This bill will require that stay away orders are issued more routinely and regularly.

Simply calling the police places a victim in a vulnerable position. Too often the perpetrator is smooth and manipulative and may talk law enforcement out of issuing no contact orders, which leaves the domestic violence victim at high risk for further abuse.

Requiring that a perpetrator leave the premises stops the abuser from intimidating or threatening the victim, and from committing additional acts of violence. Issuing the perpetrator a stay away order after an assault means the victim and children may remain in their home instead of being displaced for their safety. It gives a victim time to think and plan for future safety. The victim may then choose to extend the order by seeking a temporary restraining order once the courts re-open.

Thank you for your consideration of this bill and receiving our testimony in support of this measure.

hscadv HAWAII STATE COALITION AGAINST DOMESTIC VIOLENCE

To: The Honorable Clayton Hee, Chair
The Honorable Maile Shimabukuro, Vice-Chair
SENATE COMMITTEE ON JUDICIARY AND LABOR

From: Veronika Geronimo, Executive Director
Hawaii State Coalition Against Domestic Violence

RE: SB223 SD1 - SUPPORT

Hearing Date and Time: Monday, February 27, 2012 @ 9:35 a.m.

Good morning Chair Hee, Vice-Chair Shimabukuro, and members of Senate Committee on Judiciary and Labor. The Hawai'i State Coalition Against Domestic Violence is a statewide coalition of domestic violence programs and shelters. Our primary focus is on the empowerment, safety, and protection of domestic violence survivors and their children, and the accountability of batterers. On behalf of our member agencies, we thank you for the opportunity to testify in support of SB223 SD1.

Hawaii Revised Statutes 709-906 is a valuable tool which law enforcement can use to help protect victims from abuse. Specifically, "where the police officer has reasonable grounds to believe that there is probable danger of further physical abuse or harm being inflicted by one person upon a family or household member, the police officer lawfully may order the person to leave the premises for a period of separation of twenty-four hours, during which time the person shall not initiate any contact, either by telephone or in person, with the family or household member." Unfortunately, this protection is not regularly and routinely provided, which leaves those who are being abused vulnerable and at risk for further violence.

SB223 SD1 is needed to address the gaps in the current system and help ensure the safety of domestic violence survivors. Calling the police can be very dangerous for domestic violence survivors; we've heard many stories of the police being manipulated or being talked out of issuing no contact orders by the person doing the harm. Once the police leave, the survivor is often left alone with the abuser, who may retaliate and escalate the violence. However, in circumstances when the no contact order have been issued by police, it has been successful in preventing further domestic violence. It denies the person doing the harm access to the victim, and gives the victim essential time to seek refuge and get to safety.

The orders are an especially valuable tool when survivors cannot access the courts to file for temporary restraining orders (TROs). For example, on evenings,

weekends and holidays, or on neighbor islands and rural communities, there is limited access to courts where TROs can be filed. "General orders" can provide victims immediate protection by law enforcement, who can order the person doing the harm to leave the premises for twenty-four hours, and prohibiting them from initiating any contact. If the person so ordered refuses to comply with the order to leave the premises or returns to the premises before the expiration of the period of separation, or if the person so ordered initiates any contact with the abused person, the person shall be placed under arrest for the purpose of preventing further physical abuse or harm to the family or household member.

A strong criminal justice response and mechanisms must be in place to keep batterers from seeking retaliation or continuing to threaten, assault and intimidate victims. SB223 SD1 strengthens the current law intended to protect victims by ensuring it's consistent, uniformed, and simple implementation.

Thank you for your leadership in keeping survivors safe and for your consideration of this measure.

hee2 - Nahelani

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 27, 2012 6:33 AM
To: JDLEvidence
Cc: breaking-the-silence@hotmail.com
Subject: Testimony for SB223 on 2/27/2012 9:35:00 AM

LATE TESTIMONY

Testimony for JDL 2/27/2012 9:35:00 AM SB223

Conference room: 016

Testifier position: Support

Testifier will be present: No

Submitted by: Dara Carlin, M.A.

Organization: Individual

E-mail: breaking-the-silence@hotmail.com Submitted on: 2/27/2012

Comments: