

**Testimony of the Office of the Public Defender, State of Hawaii,
to the House Committee on Judiciary**

January 31, 2013

H.B. No. 249: RELATING TO DOMESTIC ABUSE

Chair Rhoads and Members of the Committee:

We oppose the passage of H.B. No. 249. This bill would allow the court to order those persons convicted of violating temporary restraining orders to be outfitted with a global positioning satellite (“GPS”) tracking device to enforce a court-defined geographic exclusion zone around the protected party. Currently, a court can issue a no-contact order preventing an offender from contacting a protected party. This is sufficient for the protection of the party. With regard to this bill, limitations must be placed on the court’s definition of a geographic exclusion zone. Such an exclusion zone might prevent an offender from working or returning to his/her residence. An exclusion zone would greatly expand the areas to where an offender could not travel. What would happen if the offender resides in the same part of town as the protected party? What about if the offender’s workplace is within the exclusion zone or the offender works as a delivery person who must periodically travel into the zone? The geographic exclusion zone is problematic and far more burdensome than a no-contact order.

The other concern we have is about the cost factor involved with this bill. We don’t believe that currently, the resources exist for the establishment of a GPS tracking system. On page 6 of the bill, provisions are made for the court to assess an offender the costs for monitoring the GPS system. Given the high price of technology, we would anticipate the costs for the system will be very high. It is very unrealistic to believe that these costs can be borne by offenders. The clients that that Public Defender represents are indigent. They are marginally or not able to provide for daily necessities such as food, clothing and shelter for themselves and their families. A court-ordered assessment for a GPS device would likely go unpaid. If a person had to remain in jail due to an inability to afford the assessment, the provision would be subject to a constitutional equal protection challenge as a wealthy offender would be better able to obtain his/her release from custody.

Thank for the opportunity to comment on this measure.



To: Chair Rhoads
Vice Chair Har
Members of the Committee on Judiciary

Fr: Nanci Kreidman, M.A.

RE: HB 249

Good afternoon. Thank you for the opportunity to raise issues of significance impacting safety of victims and effectiveness of system response.

It has long been the experience of Domestic Violence Action Center that restraining orders and no contact orders are effective tools for survivors. A no contact order as a condition of probation is a good idea and delivers a strong message to an abuser about the seriousness of abuse, and the conditions that must be followed as a function of the Court's commitment to safety. This can be life changing for survivors, their families and the abuser.

Electronic monitoring devices have mixed results, as reported by jurisdictions across the country. Application of geographic exclusion zones may or may not be effective depending on police response. The cost factor must also be considered. Will the courts have sufficient funding to pay for the cost of the devices, and the contracts for responding violations of the exclusion zones? If courts will be expecting abusers to assume responsibility for costs of the global positioning satellite system, and waivers are available, it is highly probable that abusers are unable to cover the costs (or say they are unable to).

Sufficient court resources must also be available for probation revocation hearings-with probation officers, courtrooms and judges available for these hearings.

A coordinated effort with resources appropriated to pay for these innovations would be welcome and must involve active collaboration by courts, law enforcement and the community.

Thank you for your consideration of initiatives to help keep families safe.



hscadv



HAWAII STATE COALITION AGAINST DOMESTIC VIOLENCE

To: HOUSE OF REPRESENTATIVES COMMITTEE ON JUDICIARY

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

Hearing Date and Time: January 31, 2013, 2:05 pm

Place: Conference Room 325

RE: HB249 – Comments only

The Hawaii State Coalition Against Domestic Violence writes to provide comments to H.B. 249, which authorizes, as a condition of probation, electronic monitoring of persons convicted of violating a domestic abuse temporary restraining order or protective order.

We support the intent of this bill in keeping convicted persons accountable and attempting to prevent them from making contact and inflicting further violence on domestic violence victims. Holding perpetrators accountable for these crimes helps to ensure the safety of crime victims and protects them from being re-victimized.

We are concerned however, that with many competing priorities for state funding, that this may not be the most cost-effective use of state resources to ensure accountability of those who do harm.

Thank you for your consideration.

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har2-Vincent

From: mailinglist@capitol.hawaii.gov
Sent: Monday, January 28, 2013 12:18 PM
To: JUDtestimony
Cc: ypeia01@yahoo.com
Subject: Submitted testimony for HB249 on Jan 31, 2013 14:05PM

HB249

Submitted on: 1/28/2013

Testimony for JUD on Jan 31, 2013 14:05PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
christine johnson	Individual	Support	No

Comments: Recognizing that true predators most often disobey restraining orders, this bill at least shows them they will be held accountable if they disobey and should never be trusted again to obey.. it is sad to me though how many domestic violenc victims have been killed while a restraining order was in place.. thank you for taking this step in recognition of this serious horrible prolem.. christine johnson, makaha 96792

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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