



LATE TESTIMONY

**Office of the Public Defender
State of Hawaii**

Timothy Ho, Chief Deputy Public Defender



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

January 30, 2013 9:30 a.m.

S.B. No. 978: RELATING TO THE PENAL CODE

Chair Hee and Members of the Committee:

The Office of the Public Defender opposes S.B. 978.

This measure would impose a mandatory one-year term of imprisonment for anyone convicted of Animal Cruelty in the Second Degree involving five or more pet animals. This measure was submitted as a reaction to the sentence that was imposed in the Waimanalo puppy mill case. We understand that many people were disappointed with the sentence imposed in the puppy mill case. However, disappointment and anger as a result of a single case should never be the impetus to propose wholesale changes to our criminal justice system. Our system must remain flexible in order to be applied on a case-by-case basis. The court should have the discretion to take all factors into account when rendering a sentence on a defendant. Animal cruelty offenses should not be treated differently.

Under this measure, a person convicted of Animal Cruelty in the Second Degree involving five or more pet animals could potentially be sentenced to more jail time than a person convicted of Animal Cruelty in the First Degree, which does not carry a mandatory jail sentence. A person convicted of Animal Cruelty in the Second Degree for four pet animals would not face any mandatory time, even if the acts perpetrated upon the four pets were more heinous than someone else who abused five or more pets. A person would face more jail time for abusing their pets than abusing a family or household member.

Furthermore, the language which appears on page 4, line 9, "The court may impose consecutive terms," is unnecessary. The court is already authorized to sentence any defendant to consecutive terms of imprisonment under §706-668.5, Hawaii Revised Statutes. The court, in determining whether or not to sentence a defendant to consecutive or concurrent terms of imprisonment, is must consider the factors set forth in §706-606, H.R.S.

In the puppy mill case, the court could have sentenced the defendant to consecutive one-year jail terms, but didn't. Judge Kim gave a detailed explanation of his sentence. The defendant was given a six month jail sentence. With credit for time served, he was released soon after his court hearing. The defendant in this case was convicted of a

crime. He was incarcerated for six months, and extradited from Nevada to Hawaii. The extradition, in and of itself, was an unusual procedure for a misdemeanor offense. Due to the cost of transportation, the extradition process is usually reserved for notorious felony offenses. Again, while many people were unhappy with the result, someone was held responsible for the way the dogs were treated. The amount of publicity generated by this case has led to a much greater awareness of the perils of dog breeding in Hawaii.

Thank you for the opportunity to provide input on this measure.

hee2 - Kathleen

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, January 29, 2013 5:17 PM
To: JDLTestimony
Cc: igibson@hsus.org
Subject: Submitted testimony for SB978 on Jan 30, 2013 09:30AM

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SB978

Submitted on: 1/29/2013

Testimony for JDL on Jan 30, 2013 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Inga Gibson	The Humane Society of the United States-Hawaii	Support	No

Comments: Dear Chair Hee and Committee members, We support SB978 to require that a person convicted of cruelty involving 5 or more animals on one occasion be sentenced to 1 year in prison. This should also be required for felony level offenses, not just misdemeanor convictions. We also urge your support of SB9 that would prohibit a person from owing or residing with an animal if convicted of cruelty. This would serve to protect other animals if the Judge rules as "time served" or for whatever reason the defendant is released from incarceration prior to 1 year. Thank you, Inga Gibson Hawaii State Director The Humane Society of the United States

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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