

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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THE HONORABLE DAVID Y. IGE, CHAIR
SENATE COMMITTEE ON WAYS AND MEANS
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawai`i

March 19, 2014

RE: H.B. 1993, S.D. 1; RELATING TO DOMESTIC VIOLENCE.

Chair Ige, Vice-Chair Kidani and members of the Senate Committee on Ways and Means, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in support of page 6, lines 1-3, of House Bill 1993, S.D. 1, and expressing concerns about changes to HRS §709-906(4).

With regards to changes made at page 6, lines 1-3, there is a well-established understanding that children who witness domestic violence at home are greatly affected by this experience. Just as the act of manufacturing drugs with a child present can have serious negative effects—or perhaps even *moreso*—committing domestic violence with a child present can leave that child with long-lasting emotional, cognitive and/or developmental difficulties, and has even been linked to inter-generational criminality.

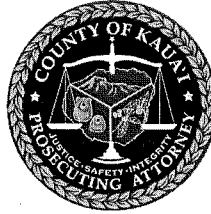
Currently, at least 14 U.S. states require higher penalties for committing domestic violence in the presence of a child, or consider it a separate offense that can be charged in addition or in the alternative. See https://www.childwelfare.gov/systemwide/laws_policies/statutes/witnessdv.pdf. Given society's growing understanding of the negative affects that domestic violence has on children who witness it, the Department feels that heightened penalties would more appropriately address and discourage this type of conduct.

With regards to HRS §709-906(4), the Department believes that existing language under this subsection is sufficient for police to impose a 48-hour no-contact order, "where the officer has reasonable grounds to believe that there was physical abuse or harm inflicted by one person upon a family or household member." These criteria provide reasonable grounds for police to keep someone out of their home for 48 hours; without these criteria, the unsubstantiated use of this police power could result in liability issues and/or cases being overturned by the higher courts. Police should also should have discretion in administering this law, to adjust to each situation as needed.

Thank you for this opportunity to testify on this matter.

Justin F. Kollar
Prosecuting Attorney

Kevin K. Takata
First Deputy



Rebecca A. Vogt
Second Deputy

Diana Gausepohl-White, LCSW
Victim/Witness Program Director

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**TESTIMONY IN STRONG SUPPORT OF
H.B. NO. 1993 SD1 – RELATING TO DOMESTIC VIOLENCE**

Justin F. Kollar, Prosecuting Attorney
County of Kaua'i

Senate Committee on Ways and Means
March 28, 2014
9:25 a.m., Room 211

Chair Ige, Vice Chair Kidani, and Members of the Committee:

The County of Kauai, Office of the Prosecuting Attorney, **STRONGLY SUPPORTS HB 1993 SD1 – RELATING TO DOMESTIC VIOLENCE**. This bill enhances the available sanctions for individuals who commit domestic abuse in the presence of a juvenile under the age of 14. Notably, the probation period for a convicted abuser would be extended from two years to five years. This extended period of supervision will help ensure that offenders follow through on their obligations with regard to counseling and treatment, and consequently ensure that children are not subjected to further exposure to incidents of domestic abuse.

Research has shown that children who witness domestic violence can suffer severe emotional and developmental difficulties that are similar to those of children who are victims of direct abuse. Approximately 23 states, and Puerto Rico, currently have statutes addressing the issue of children who witness domestic violence in the home. Approximately 18 of those states have statutes that impose additional penalties on offenders who commit domestic abuse in the presence of a child. Hawaii law currently allows a sentencing judge to consider as an aggravating factor that the offense was committed in the presence of a child, but this factor does not change the fact that the probation period is still only two years, and it does not change the fact that misdemeanor probation is not as intensively or actively supervised as felony probation. The existence of this aggravating factor has also not resulted in any

change or decrease in the severity or frequency of domestic abuse cases involving children who are present.

Based on the foregoing, the County of Kauai, Office of the Prosecuting Attorney, STRONGLY SUPPORTS the passage of this bill. We ask that the Committee PASS HB 1993 SD1.

Thank you very much for the opportunity to provide testimony on this bill.

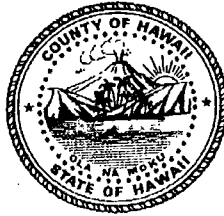
Respectfully,

A handwritten signature in black ink, appearing to read "Justin F. Kollar", with a stylized flourish at the end.

Justin F. Kollar
Prosecuting Attorney

MITCHELL D. ROTH
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OFFICE OF THE PROSECUTING ATTORNEY

TESTIMONY IN SUPPORT OF HOUSE BILL 1993 SD1

A BILL FOR AN ACT RELATING TO DOMESTIC VIOLENCE

COMMITTEE ON WAYS AND MEANS

Rep. Sylvia Luke, Chair

Rep. Scott Y. Nishimoto, Vice Chair

Rep. Aaron Ling Johanson, Vice Chair

Friday, March 28, 2014, 9:25 AM
State Capitol, Conference Room 211

Honorable Chair Luke, Vice Chairs Nishimoto & Johanson, and Members of the Committee on Finance, the Office of the Prosecuting Attorney, County of Hawai'i submits the following testimony in support of House Bill No. 1993 SD1.

This measure requires a police officer to make reasonable inquiry of a victimized or potentially victimized family member and witnesses, if applicable, and order a person to leave the premises for a no-contact period of forty-eight hours, regardless of whether the police officer has reasonable grounds to believe there was physical abuse or harm inflicted or that there is probable danger of further abuse or harm. Makes the commission of an act of physical abuse in the presence of a family or household member who is a minor under the age of fourteen a Class C Felony

Research indicates that children exposed to domestic violence are more likely to experience difficulties in school and score lower on assessments of verbal, motor, and cognitive skills. Males exposed to domestic violence as children are more likely to engage in domestic violence as adults; similarly, females are more likely to be victims. Exposure to domestic violence is also one of the several adverse childhood experiences that have been shown to contribute to premature death, as well as contributing to the risk factors for many of the most common causes of death in the United States.

The Office of the Prosecuting Attorney of the County of Hawai'i supports the passage of House Bill No. 1993 SD1. Thank you for the opportunity to testify on this matter.

Respectfully,

A handwritten signature in black ink, appearing to read 'M. Roth', written in a cursive style.

Mitchell D. Roth
Prosecuting Attorney
County of Hawai'i