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THE HONORABLE GILBERT S.C. KEITH-AGARAN, CHAIR
SENATE COMMITTEE ON JUDICIARY AND LABOR
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawai'i

March 28, 2016

RE: H.B. 1517, H.D. 1; RELATING TO SENTENCING.

Chair Keith-Agaran, 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, supporting the intent of H.B. 1517, H.D. 1 and proposing the adoption of S.B. 2247, S.D. 1 as an alternative. While the current language of H.B. 1517, H.D. 1 attempts to address a problem that is certainly known to our Department, we believe a slightly different approach would be more effective.

The purpose of H.B. 1517, H.D. 1 is to create a new sentencing statute that would require a court to consider the aggravating factor of an offense occurring in the presence of a minor. This new sentencing statute would cover specifically three offenses; §707-710 (assault in the first degree), 707-711 (assault in the second degree), or 707-730 (sexual assault in the first degree), H.R.S. It would require the courts to take into consideration as an aggravating factor, the fact that a minor was present contemporaneously during one of the enumerated offenses.

Hawai'i's existing statute, §706-606.4 H.R.S., Sentencing in offenses involving abuse of family or household member committed in the presence of a minor, created similar requirements for a court to consider the aggravating factor of having a minor in the presence during an offense. This statute covers scenarios where one of the enumerated offenses is committed by a defendant who is a family or household member to either the minor present or the victim of the offense.

In lieu of creating a duplicate statute which may cause further confusion, the proposed changes in S.B. 2247, S.D. 1 sets out to reformat §706-606.4 H.R.S. to include the intent of H.B. 1517, H.D. 1 into the general framework of the existing statute. The definition section in §706-606.4 H.R.S currently includes the offenses covered under H.B. 1517, H.D. 1, as well as several other sections. "Offense" means a violation of section 707-710 (assault in the first degree), 707-

711 (assault in the second degree), 707-730 (sexual assault in the first degree), 707-731 (sexual assault in the second degree), 707-732 (sexual assault in the third degree), or 709-906 (abuse of family or household members). Our Department believes that the proposed changes outlined in S.B. 2247, S.D. 1, would uphold the intent of the existing statute, while also meeting the need indicated by H.B. 1517, H.D. 1.

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu supports the intent of H.B. 1517, H.D. 1, with the adoption of the proposed changes outlined in S.B. 2247, S.D. 1. Thank you for the opportunity to testify on this matter.

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 24, 2016 11:18 AM
To: JDLTestimony
Cc:
Subject: *Submitted testimony for HB1517 on Mar 28, 2016 09:05AM*

HB1517

Submitted on: 3/24/2016

Testimony for JDL on Mar 28, 2016 09:05AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Dara Carlin, M.A.	Individual	Support	No

Comments:

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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HB1517

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Testimony for JDL on Mar 28, 2016 09:05AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

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