

*The Judiciary, State of Hawai‘i*

**Testimony to the  
Senate Committee on Judiciary and Labor**

Tuesday, March 28, 2017, 9:20 a.m.  
State Capitol, Conference Room 211

By

Rodney A. Maile  
Administrative Director of the Courts

**WRITTEN TESTIMONY ONLY**

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**Concurrent Resolution No. and Title:** Senate Concurrent Resolution No. 163, Proposed S.D. 1, Requesting the Judiciary, in Cooperation with the Police Department of Each County and Prosecutor of Each County, to Annually Compile and Report on Statistics Regarding Arrests, Charges, and Convictions or Other Dispositions Based on the Offense of Abuse of a Family or Household Member.

**Judiciary's Position:**

The Judiciary takes no position on Senate Concurrent Resolution No. 163, Proposed S.D.1 but offers the following comments regarding the requirement that the Judiciary, in cooperation with the police department of each county and prosecutor of each county, annually compile and report on statistics regarding arrests, charges, and convictions or other dispositions made based on Section 709-906, Hawaii Revised Statutes.

Significant portions of the requested data are within the custody of the police departments and/or offices of the prosecuting attorneys, and accordingly the cooperation of those agencies will be required to collect and report on the data. The Judiciary is willing to work with the police departments and the prosecutors to establish the necessary data collection and data reporting protocols that will be required for the successful implementation of this legislative proposal. Given the complexity of that task, the Judiciary requests that the date of the first report to the Legislature be changed to 2019 to allow sufficient time for collaboration, planning, and



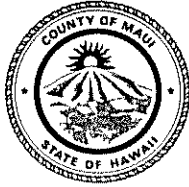
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development of common protocols and procedures to assist in the collection of the statistics mandated by this resolution.

The Judiciary further notes that the requirement that it make recommendations to the Legislature, including proposed legislation, be clarified to specify that the recommendations concern the data collection and reporting process.

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

ALAN M. ARAKAWA  
Mayor



JOHN D. KIM  
Prosecuting Attorney  
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DEPARTMENT OF THE PROSECUTING ATTORNEY  
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TESTIMONY  
ON

SCR 163, PROPOSED SD 1 - REQUESTING THE JUDICIARY, IN COOPERATION WITH  
THE POLICE DEPARTMENT OF EACH COUNTY AND PROSECUTOR OF EACH  
COUNTY TO ANNUALLY COMPILE AND REPORT ON STATISTICS REGARDING  
ARRESTS, CHARGES, AND CONVICTIONS OR OTHER DISPOSITIONS BASED ON THE  
OFFENSE OF ABUSE OF A FAMILY OR HOUSEHOLD MEMBER

March 28, 2017

The Honorable Gilbert S.C. Keith-Agaran  
Chair  
The Honorable Karl Rhoads  
Vice Chair  
and Members  
Senate Committee on Judiciary and Labor

Chair Keith-Agaran, Vice Chair Rhoads and Members of the Committee:

The Department of the Prosecuting Attorney, County of Maui strongly opposes SCR 163, Proposed SD 1. This measure requests, among other things, that the Judiciary compile statistical data regarding Abuse of Family or Household Member cases from information provided by the prosecutor of each county.

Our domestic violence unit has a limited number of deputy prosecutors and support staff. They are busy processing, screening, and prosecuting domestic violence cases. We are unable to collect and process the requested information without adversely impacting the services we clearly have to provide to the residents and visitors of Maui County. We would, however, be able to collect and provide such information is adequate funding is provided to us.

Accordingly, the Department of the Prosecuting Attorney, County of Maui, requests that this measure be HELD.

Thank you very much for the opportunity to testify.



TO: Chair Keith-Agaran  
Vice Chair Rhoads  
Committee on Judiciary and Labor

FR: Nanci Kreidman, M.A.

RE: SCR 163 SD1

Aloha. Please pass this Resolution.

The criminal justice system in place, ostensibly, to respond effectively to the crime of domestic violence is in need of radical repair. The lack of coordination this session to improve the system makes this imperative. If data can help advance the system reform, let us take that important step.

Collection and compilation of the data from respective agencies may provide guidance, insight, and inspiration to make changes that will be in the best interests of survivors, their families and the community as a whole. Accountability of offenders is a key goal, as well. That objective will be apparent, too, with the data available.

It is my earnest hope that we do not have to wait until after 2020, to put into place the necessary changes, bold leadership will be necessary. It has been many years that we have seen these failings, and waiting another 3 years is too long.

Thank you.

**DOMESTIC VIOLENCE ACTION CENTER**

ADDRESS: P.O. BOX 3198, HONOLULU, HI 96801-3198

LEGAL HELPLINE: (808) 531-3771

TOLL-FREE NEIGHBOR ISLAND HELPLINE: (800) 690-6200

WEBSITE: [WWW.DOMESTICVIOLENCEACTIONCENTER.ORG](http://WWW.DOMESTICVIOLENCEACTIONCENTER.ORG)

EMAIL: [DVAC@STOPTHEVIOLENCE.ORG](mailto:DVAC@STOPTHEVIOLENCE.ORG)

DATE: March 27, 2017

To: Senator Gilbert Keith-Agaran, Chair  
Senator Karl Rhoads, Vice Chair  
Senate Committee on Judiciary and Labor

From: Stacey Moniz, Executive Director, HSCADV

Hearing Date: Tuesday, March 28, 2017; 9:20a.m., Conference Room 016

Re: Testimony in Support, SCR 163 S D1 REQUESTING THE JUDICIARY, IN COOPERATION WITH THE POLICE DEPARTMENT OF EACH COUNTY AND PROSECUTOR OF EACH COUNTY, TO ANNUALLY COMPILE AND REPORT ON STATISTICS REGARDING ARRESTS, CHARGES, AND CONVICTIONS OR OTHER DISPOSITIONS BASED ON THE OFFENSE OF ABUSE OF A FAMILY OR HOUSEHOLD MEMBER. (Proposed SD1)

Aloha:

Thank you for this opportunity to testify in strong support of SCR 163 SD1 which would require all counties across the State to compile and report on important outcomes of arrests for the crime of Abuse of a Family or Household Member, Hawaii's domestic violence statute.

The Hawaii State Coalition Against Domestic Violence (HSCADV) is a statewide partnership of 25 domestic violence programs and shelter providers across our Hawaiian Islands. We would like to thank you all for your ongoing efforts to work towards ensuring victims of domestic violence in Hawaii are safe.

Domestic violence is a serious and pervasive issue in our community. There are concerns statewide that the outcomes of arrests are not consistent with national best practices and the best way to fully know these outcomes is to have uniform and accurate data. Hawaii has a history of being a leader in creating laws that protect victims and hold abusers accountable, however, due to heavy caseloads, continued high numbers of calls and arrests, etc., it appears that offenders are being allowed to plea down their cases or given opportunities to have their convictions taken off their permanent records. The crime of domestic violence is one where repeat offenses are frequent and part of the pattern, which requires safeguards in the system and its responses to ensure that victims are protected and that the state takes on the responsibility of holding abusers accountable for their behavior.

It can be difficult for advocates to track these cases through the system and even when they report trends of reduced accountability by the criminal justice system, their reports often are disputed or minimized. This mandate would help give a comprehensive overview of the scale and scope of the numbers of cases each year. I urge your support for this measure.

Domestic violence is a dangerous and often lethal crime. I know that our counties all wish to prevent domestic violence and my hope is that there will be widespread support for this bill.

Thank you again for your consideration of my testimony.

I can be reached at 808.832.9316 x 104 or via email at [smoniz@hscadv.org](mailto:smoniz@hscadv.org) should you have any questions or need further clarification.

*Together we can do amazing things*

TO: Senator Keith-Agaran, JDL Chair  
Senator Rhoads, JDL Vice Chair  
JDL Committee Members

FROM: Dara Carlin, M.A.  
Domestic Violence Survivor Advocate

DATE: March 28, 2017

RE: STRONG SUPPORT for SCR163

Good Morning Chair Keith-Agaran, Vice Chair Rhoads and JDL Committee Members and thank you for this opportunity to provide testimony in **URGENT & STRONG SUPPORT of SCR163**.

As a Domestic Violence (DV) Survivor Advocate, I am forced to bear witness to the long-term after-effects of DV on survivors AND their children. What I see is heart-wrenching, unconscionable and agonizing - *NOT for the cruelty inflicted post-separation by the abusers* - but by the refusal/failure of the system, most particularly the Family Court system, to hold the abusers accountable for their acts of domestic terrorism. I am not just referring to Oahu's First Circuit; I have also been involved in cases located on Kauai, Maui and the Big Island and the process is all the same:

- A victim flees an abusive relationship with her child/ren.
- She receives help from DV agencies and programs – and then those services end.
- By now she's in child custody proceedings with her abuser and despite the evidence, witness testimony, photographs – and in one instance, handwritten confessions of what the abuser did to his daughter and the mother of his child – the history of DV is ignored or rendered irrelevant for "the best interests of the child" and orders are drafted "looking from this day forward" which not only forgives and excuses the abuser from the crimes he's committed, but will effectively give him a pass on anything else he might do to in the future to his children, to include sodomy and sexual abuse.
- I should also inform you that **HRS 571-46(9)** to protect DV survivors and their children from future acts of violence and abuse is not being used in cases of child custody involving DV; instead, "broad judicial discretion" with an emphasis on settling and stipulating to curtail adversarial post-divorce parenting is how cases are handled (so if a judge doesn't "see DV" then any aspect of DV is not recognized – and more relevantly – WON'T be recognized throughout the life of the case because to acknowledge DV after-the-fact would be admitting professional/judicial error and I have yet to see any judge or professional admit error and "correct course"). I DO, however, consistently experience court-related professionals ignoring perjury and concrete evidence of post-separation

abuse, ie: CJC video-taped little girls disclosing sexual abuse by their father – and in that case, there are at least 5 Sex Assault I cases stalled at the Prosecutors Office and the family court judge has seen it fit to leave two of the little girls in the father’s sole custody all while CWS watches. (If you want to know the “logic” behind that, CWS implies that if the father did indeed sexually assault the girls as they said in multiple CJC video-taped interviews, then HPD would’ve arrested him by now and the cases would’ve been prosecuted; in the meantime, HPD says if the father sexually assaulted the girls as they said to MULTIPLE professionals and service providers, then CWS would’ve “done something about it” by now. Since neither CWS nor HPD have pursued the sexual assault of these girls – all 3 under 10 years of age – the case focus has been about getting mom to comply with mental health services for talking about the sexual abuse of her daughters by their father. If you don’t believe me, come join us for the next court date on this case on Thursday, April 13<sup>th</sup> at 8:30am at the Kapolei Family Court Complex. Oh, and this case isn’t even being handled by CWS’s sexual abuse unit although a worker from that unit testified at the last court date on February 16<sup>th</sup> that the oldest daughter disclosed the sexual abuse directly to her. Oh, and our taxpayer dollars have been supporting this case for almost two years now.)

- DV survivors are instructed by service providers throughout their services and at discharge to report ANY AND ALL instances of future abuse and violence waged against them and their children (sometimes under warning that failure to report will make them complicit with their abuser and call into question the veracity of their previous reports of abuse) but when the survivors do as they’re told and follow the professional directives given to them, they’re then accused (usually by family court-related officers) of “making up false allegations of abuse” to exact revenge against the father of their children, causing “unnecessary” disruption and drama in what would have otherwise been “a closed case”. Rather than investigating what should be taken seriously as a crime, the survivors are ordered for mental health evaluation or worse: CPS/DHS/Child Welfare Services is assigned to “investigate” and those social workers have no professional *expertise* whatsoever in DV! (See above.) Meanwhile the abusers not only get to sit back and relish undisturbed the bonus ripple effects, but are then deemed as the “more fit parent” and are awarded custody of the children as well.
- Abusers re-abusing post-separation is the secondary problem for DV survivors and their children; the real problem is the failure of the system to respond preventively and accordingly. How can I prove that? Beyond my cases (which’ll all be shrugged off as “red herrings”) I can’t because **there are no reports or statistics to show you** BUT you can change that by supporting and enacting SCR163, and I beg you to do so.

Thank you once again for this opportunity to provide testimony in STRONG SUPPORT of SCR163.

Respectfully,

*Dara Carlin, M.A.*