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**County of Kaua'i, State of Hawai'i**

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TESTIMONY IN SUPPORT OF HOUSE BILL 476

A BILL FOR AN ACT RELATING TO ABUSE OF FAMILY OR  
HOUSEHOLD MEMBERS

COMMITTEE ON JUDICIARY

Rep. Scott Y. Nishimoto, Chair

Rep. Joy A. San Buenaventura, Vice Chair

Tuesday, February 7, 2017, 2:00 P.M.  
State Capitol, Conference Room 325

Honorable Chair Nishimoto, Vice-Chair San Buenaventura, and Members of the Committee on Judiciary, the Office of the Prosecuting Attorney, County of Kaua'i submits the following testimony in **STRONG SUPPORT** of House Bill No. 476.

This measure provides that the abuse of a family or household member under the age of 14 is a class C felony.

Several years ago the Legislature made it a class C felony to abuse a family or household member in the presence of a minor, a move our Office strongly supported. Since then, community stakeholders on Kaua'i (and presumably elsewhere) have observed that the law does not extend to situations where the victim is a minor. This measure would close this puka in the current statute. We also note that this measure would not affect the availability of the parental discipline defense as it applies to abuse of a family or household member.

The Office of the Prosecuting Attorney, County of Kaua'i **STRONGLY SUPPORTS** the passage of House Bill No. 476. Thank you for the opportunity to testify on this matter.



**LATE**

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



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

February 7, 2:00 p.m.

H.B. No. 476: RELATING TO ABUSE OF FAMILY OR HOUSEHOLD MEMBERS

Chair Nishimoto and Members of the Committee:

This measure proposes to make the offense of abuse of a family or household member upon a person under the age of fourteen a class C felony.

The Office of the Public Defender strongly opposes H.B. 476.

The legislature has recognized the fact that criminal offenses that occur within the family unit deserve special attention. A person convicted of misdemeanor abuse of family or household member faces a mandatory jail term and a referral to a domestic violence intervention program. If the offense occurs in the presence of a minor under the age of fourteen, or is a third offense within two years, it is charged as a class C felony.

If the offense is committed upon, or in the presence of children, the court already has the discretion to impose a lengthier jail term. Family Court judges are aware of the impact that domestic violence has on children, and take that fact into account in their disposition of the cases before them. A vast majority of these cases occur at home, where discussions about family matters normally take place. A large percentage of these cases involve children, are about children and take place in front of children. On many occasions, the defendant is a parent or guardian who was disciplining their children. What could happen if this measure passes, is that a parent may face a felony conviction for disciplining his or her child, if the child is under the age of fourteen, without regard to the severity of the punishment inflicted.

The increased penalty will mean higher bail and increased pretrial incarceration. As a result of the pretrial incarceration, more people will lose jobs, which will result in a substantial financial hardship to most families. This will result in a chilling effect on the reporting of abuse, as some victims

may have second thoughts about reporting their family member to the police knowing that the charge is a class C felony.

Many couples choose remain together as a family unit, even after an instance of domestic violence. We believe the courts should be allowed to exercise its discretion to treat each case individually, in the best interest of the family unit. We also believe that measure does not take into account that some cases involve siblings fighting with each other, where one or both parties are under the age of fourteen. Should a minor be prosecuted for a class C felony for fighting with a sibling under the age of fourteen?

The Office of the Public Defender strongly opposes this measure. Thank you for the opportunity to be heard on this matter.

**MITCHELL D. ROTH**  
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## **OFFICE OF THE PROSECUTING ATTORNEY**

TESTIMONY IN SUPPORT OF HOUSE BILL 476

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Tuesday, February 7, 2017, 2:00 P.M.  
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Honorable Chair Nishimoto, Vice-Chair San Buenaventura, and Members of the Committee on Judiciary, the Office of the Prosecuting Attorney, County of Hawai'i submits the following testimony in support of House Bill No. 476.

This measure provides that the abuse of a family or household member under the age of 14 is a Class C Felony.

Several years ago, the Legislature made it a Class C Felony to abuse a family or household member in the presence of a minor. Since then, we have observed that the law does not extend to situations where the victim is a minor - this measure would rectify that shortcoming. We also note that this measure would not affect the availability of the parental discipline defense as it applies to abuse of a family or household member.

The Office of the Prosecuting Attorney, County of Hawai'i supports the passage of House Bill No. 476. Thank you for the opportunity to testify on this matter.



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-NINTH LEGISLATURE, 2017**

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**LATE**

**ON THE FOLLOWING MEASURE:**

H.B. NO. 415, RELATING TO LIMITATION OF ACTIONS FOR SEXUAL ASSAULT.

**BEFORE THE:**

HOUSE COMMITTEE ON JUDICIARY

**DATE:** Tuesday, February 7, 2017 **TIME:** 2:00 p.m.

**LOCATION:** State Capitol, Room 325

**TESTIFIER(S):** Douglas S. Chin, Attorney General, or  
Russell A. Suzuki, First Deputy Attorney General

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Chair Nishimoto and Members of the Committee:

The Department of the Attorney General provides comments.

The purpose of this bill is to amend section 657-1.8(b), Hawaii Revised Statutes, to extend the time in which a victim of child sexual abuse can bring a civil claim if the victim is barred from filing a claim due to the expiration of the existing statute of limitations. This bill would allow an additional four-year "window" up to April 24, 2020, for otherwise time barred civil claims to be brought. Claims can be brought against the abuser as well as any legal entity that employed the abuser or owed a duty of care to the victim, or if the legal entity had responsibility or control over the activity the victim and abuser were engaged in.

We recommend the Committee bear in mind that within these four years, claims may be brought against the State of Hawaii, its departments, agencies, boards, and commissions regardless of when the alleged sexual abuse occurred. This might increase the State's potential for liability, and because of the passage of time, might curtail the State's ability to defend itself, even against claims which are unsubstantiated.

Thank you for the opportunity to provide comments.

Dear Legislators,

I am in support of HB476 due to it being an imperative addition to the Hawai'i family statute laws, which help break the cycle of domestic violence in our communities. It starts by protecting our keiki! Please help us by eliminating this loophole in our state law.

Kind Regards,

Bethany Compton

P: 808-346-9382

Email: [Bethanycomptoncontact@gmail.com](mailto:Bethanycomptoncontact@gmail.com)

*Coordinator for the Kauai Domestic Violence Prevention Task Force*

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, February 5, 2017 12:08 PM  
**To:** JUDtestimony  
**Cc:** liz@lauhala.com  
**Subject:** Submitted testimony for HB476 on Feb 7, 2017 14:00PM

**Categories:** Blue Category

**HB476**

Submitted on: 2/5/2017

Testimony for JUD on Feb 7, 2017 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Elizabeth Hahn	Individual	Support	No

Comments: Please pass this bill. It is in the best interest of all people.

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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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, February 5, 2017 11:22 AM  
**To:** JUDtestimony  
**Cc:** d\_acain@yahoo.com  
**Subject:** Submitted testimony for HB476 on Feb 7, 2017 14:00PM

**HB476**

Submitted on: 2/5/2017

Testimony for JUD on Feb 7, 2017 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dominic Acain	Individual	Support	No

Comments: I support this Bill which strengthens our state's anti-Domestic Violence statute.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 3, 2017 3:22 PM  
**To:** JUDtestimony  
**Cc:** mendezj@hawaii.edu  
**Subject:** \*Submitted testimony for HB476 on Feb 7, 2017 14:00PM\*

**Categories:** Blue Category

**HB476**

Submitted on: 2/3/2017

Testimony for JUD on Feb 7, 2017 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Javier Mendez-Alvarez	Individual	Support	No

Comments:

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**LATE**

JUDtestimony

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From: mailinglist@capitol.hawaii.gov  
Sent: Monday, February 6, 2017 4:02 PM  
To: JUDtestimony  
Cc: mlopes@hscadv.org  
Subject: Submitted testimony for HB476 on Feb 7, 2017 14:00PM

Categories: Blue Category

**HB476**

Submitted on: 2/6/2017

Testimony for JUD on Feb 7, 2017 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Marci Lopes	Hawaii State Coalition Against Domestic Violence	Support	No

Comments: Thank you for your ongoing efforts to improve the criminal justice system for domestic violence victims.

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