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**THE HONORABLE KARL RHOADS, CHAIR
SENATE COMMITTEE ON JUDICIARY
The Thirtieth Legislature
Regular Session of 2019
State of Hawai'i**

February 14, 2019

RE: S.B. 1037: RELATING TO DOMESTIC VIOLENCE.

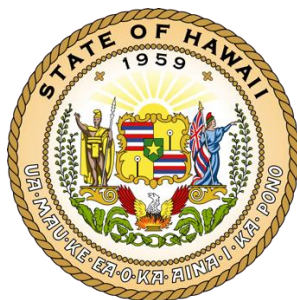
Chair Rhoads, Vice-Chair Wakai and members of the Senate Committee on Judiciary, the Office of the Prosecuting Attorney of the County of Kaua'i is in strong support of S.B. 1037 – Relating to Domestic Violence. The purpose of this Bill is to amend the offense of abuse of family or household members to provide for misdemeanor and petty misdemeanor penalties, to allow a deferred acceptance of guilty or no contest plea in cases involving misdemeanor and petty misdemeanor abuse penalties, and to require the Judiciary to submit annual reports to the Legislature on the number and outcome of abuse of family or household members cases.

The provisions in this measure were arrived at after extensive outreach and consultation by the Women's Legislative Caucus and included the participation of many stakeholders in the criminal justice and law enforcement community. This inclusive process resulted in a bill that is truly fair and makes a multitude of much-needed improvements to HRS Section 709-906. The amendments will result in streamlined prosecutions, decreased court congestion, increased access to protections for victims, and greater access to services for offenders who need treatment, rehabilitation, and yes, consequences.

Our Office is grateful for the work of the WLC in crafting this legislation and we are in enthusiastic support of the bill.

In conclusion, we respectfully ask that your Committee PASS this Bill.

Thank you for this opportunity to testify on this bill.



Testimony on behalf of the
Hawai'i State Commission on the Status of Women
Khara Jabola-Carolus, Executive Director

Prepared for the Senate Committee on Judiciary

In Support of SB1037

Thursday, February 14, 2019, at 9:00 a.m. in Room 016

Dear Chair Rhoads, Vice Chairs Wakai, and Honorable Members,

The Hawai'i State Commission on the Status of Women supports SB1037, relating to domestic violence. This measure, if passed, would amend the offense of strangulation of a family or household member to include blocking the nose or mouth of the person or applying excessive pressure to the chest. HB489 would also clarify that infliction of visible injury is not required to establish the offense.

Strangulation is one of the most deadly forms of violence used by men against their partners. Ninety percent of strangulation murders in the United States are domestic violence related.¹ Non-fatal strangulation is also an indicator of future attempted homicide—it is often precursor for death. National data suggests that strangulation is on the rise. In 2018, the Hawai'i County Prosecutor reported a record fifty (50) cases of domestic strangulation. This measure is necessary to address the severity of non-fatal strangulation.

Only fifty percent of strangulation victims have visible injuries and of those, only one-third can be photographed. The law should evolve to allow criminal justice personnel to better enforce the current strangulation statute and to decrease strangulation. Accordingly, the Commission requests that the Committee pass SB1037.

Sincerely,

Khara Jabola-Carolus

¹ Verdi, N. *Releasing the Stranglehold on Domestic Violence Victims*, 18 RWULR 255, 263, Summer 2013.



Office of the Public Defender State of Hawaii



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

February 11, 2019

S.B. No. 1037: RELATING TO DOMESTIC VIOLENCE

Chair Rhoads, Vice Chair Wakai, and Members of the Committee:

The Office of the Public Defender opposes S.B. 1037.

We understand the intent of this bill; however, we are concerned about the application of the bill. In particular, we are concerned with proposed subsection (8)(b) which states:

“Blocking the nose and mouth of the family or household member”

We submit that this language is too broad and would have the unintended consequences of including parents who may cover the nose and mouth of a screaming child to quiet that child with no intent to restrict normal breathing. Parents often make split second decisions to quiet a child in many contexts where a child may be misbehaving or having a temper tantrum. That parent may briefly place a hand on the nose and mouth of the child in an effort to quiet the child or calm the child. We are very concerned that the inclusion of this broad language and the fact that this subsection would qualify a person to be charged with a Class C felony would result in innocent actions being treated as criminal actions.

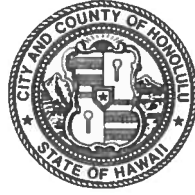
We are also concerned that any family members or household members [including roommates, siblings or adult parents and adult children], who are involved in a loud verbal argument, and who may simply place a hand on the nose and mouth, no matter how briefly, to quiet or shush the other person in the heat of the verbal argument, may be charged with a felony offense, especially taken together with the language that “infliction of visible injury”

would not be required.” Verbal arguments that do not involve physical violence, where one party in the argument is trying to calm down or get the other party to reduce the volume, and who may place a hand on the nose and mouth of the other person, no matter how briefly, could face a felony charge. The intent to quiet another person is quite different from the intent to impede normal breathing. We are concerned that the broad language of this bill could and would be misconstrued and innocent actions would be treated as a form of “strangulation”.

Thank you for the opportunity to comment on S.B. 1037.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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JONATHAN GREMS
DEPUTY CHIEFS

OUR REFERENCE MK-KK

February 14, 2019

The Honorable Karl Rhoads, Chair
and Members
Committee on Judiciary
State Senate
Hawaii State Capitol
415 South Beretania Street, Room 016
Honolulu, Hawaii 96813

Dear Chair Rhoads and Members:

SUBJECT: Senate Bill No. 1037, Relating to Domestic Violence

I am Mikel Kunishima, Captain of the Criminal Investigation Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports with concerns Senate Bill No. 1037, Relating to Domestic Violence.

The HPD recognizes that law enforcement's response to domestic violence is a continually changing and evolving process. In working with the survivors, domestic violence advocates, prosecutors, the judiciary, and the legislature, we have a better understanding of the dynamics of domestic violence and the cycle of violence.

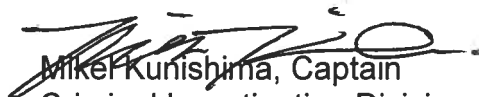
This bill amends the offense of strangulation of a family or household member to include blocking of the nose or mouth of the person or applying excessive pressure to the chest.

The HPD has concerns regarding the language on page 1, line 12 and 13, "provided that infliction of visible injury shall not be required to establish offense under this subsection." This statement should be removed because visible injuries are not an element under the abuse of family or household section.

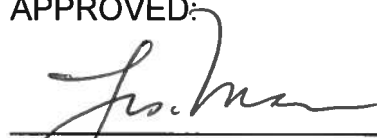
The Honorable Karl Rhoads, Chair
and Members
February 14, 2019
Page 2

We appreciate the committee's consideration of these comments and concerns,
and thank you for the opportunity to testify.

Sincerely,


Mike Kunishima, Captain
Criminal Investigation Division

APPROVED:


for: Susan Ballard
Chief of Police

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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ACTING FIRST DEPUTY
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THE HONORABLE KARL RHOADS, CHAIR
HOUSE COMMITTEE ON JUDICIARY
Thirtieth State Legislature
Regular Session of 2019
State of Hawai`i

February 14, 2019

RE: S.B. 1037; RELATING TO DOMESTIC VIOLENCE.

Chair Rhoads, Vice-Chair Wakai and members of the Senate Committee on Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony in support of S.B. 1037 with suggested amendments.

The purpose of S.B. 1037 is to strengthen the current statutes as it applies to Abuse of Family or Household Members under §709-906(8), Hawaii Revised Statutes ("H.R.S."). With this in mind, the Department respectfully suggests the following amendments:

Pg. 1, ln. 10:

Under sub-section (c), this bill proposes the addition of "Applying **excessive** pressure to the chest.". Currently, §709-906, H.R.S. does not define what type of actions would amount to "excessive pressure", thus leaving the courts with no clear understanding of when subsection (c) has been violated. The Department would suggest that "excessive pressure" either be defined under the definition section in §709-906(1), H.R.S. or that the committee include in the committee notes clarifying what the Legislature intends as it relates to situations involving "excessive pressure".

Pg. 1, ln 11-13:

The Department appreciates the intent behind the addition of ln. 11-13, "provided that infliction of visible injury shall not be required to establish offense under this subsection." However, the addition of this phrase may lead to unintended consequences as it relates to other section of §709-906, H.R.S. By adding this phrase to only subsection (8) of §709-906, H.R.S., this creates the unintended inference that in other violations of §709-906, H.R.S. there needs to be visible injury before our office should charge or a jury or judge could convict. The Department suggest that this phrase in ln. 11-13 is added to each section of §709-906, H.R.S. or

to remove the phrase altogether to ensure there is no negative inference drawn from its absence in any other sections.

Pg. 1, ln. 6-7:

The Department would suggest removing “with any part of the body or ligature;” from subsection (a). Currently, our office routinely charges §709-906(8), H.R.S. under the original language that applies to an individual who applies pressure on the throat or the neck. This offense has been charged without the addition of “with any part of the body or ligature.” Thus, to avoid further confusion, the Department would suggest removing this phrase.

Based on the foregoing, the Department of the Prosecuting Attorney of the City and County of Honolulu supports S.B. 1037 with the suggested amendments. Thank you for the opportunity to testify on this matter.

SB-1037

Submitted on: 2/11/2019 10:57:07 AM

Testimony for JDC on 2/14/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Younghi Overly	Testifying for AAUW of Hawaii	Support	No

Comments:

Dear Chair Rhoads, Vice Chair Wakai, and members of Committee on Judiciary,

Thank you for this opportunity to submit a testimony in support of SB1037, which would strengthen the language of strangulation to include suffocation and to eliminate the lack of physical evidence as a defense in domestic violence cases.

Non-fatal strangulation is a real risk factor for homicide of women (1) and there often are no visible injuries with strangulation, 62% in a study by City of San Diego (2). Hawaii County Prosecutor's Office and Police Department support HB489 because strangulation is on the rise in domestic violence cases in Big Island (3).

Please pass this bill and help prosecutors and police prevent homicide by intimate partners.

(1) <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2573025/>

(2) http://www.ncdsv.org/images/strangulation_article.pdf

(3) <https://www.hawaiitribune-herald.com/2019/01/06/hawaii-news/strangulation-a-serious-concern-on-big-island/>



TO: Chair Karl Rhoads
Vice Chair Glenn Wakai
Members of the Committee

FR: Nanci Kreidman, M.A.
Chief Executive Officer

RE: S.B. 1037 Support with comment

Please accept this testimony in support of SB 1037.

Strangulation is a very serious and obviously life threatening act of abuse. The last crime a victim of domestic violence homicide experiences in the vast majority of instances is strangulation. Our criminal justice system must elevate its thinking, approach and response to this common act of violence by perpetrators of partner abuse. This Bill is a good step forward.

May we respectfully suggest the deletion of the word "excessive" as that may present difficulty in a criminal case. Who decides what is excessive? How is excessive proven? What evidence is needed to demonstrate excessive?

Thank you for working with your colleagues to make the necessary improvements with favorable action on S.B. 1037.



TO: Chair Rhoads, Vice Chair Wakai, and Members of the Senate Committee on Judiciary

FROM: Ryan Kusumoto, President & CEO of Parents And Children Together (PACT)

DATE/LOCATION: February 14, 2019; 9:30 a.m., Conference Room 16

RE: TESTIMONY IN SUPPORT OF SB 1037– RELATING TO DOMESTIC VIOLENCE

We ask you to support SB 1037 which amends the offense of strangulation of a family or household member to include blocking the nose or mouth of the person or applying excessive pressure to the chest. Clarifies that infliction of visible injury is not required to establish the offense. We support this bill which will add clarifying language and offer additional support for cases of domestic abuse.

Sadly, domestic abuse comes in many forms. Statistics for domestic violence-related strangulation cases are alarming. As a provider of domestic violence prevention and support services, we thank the legislature for offering clarifying language that further supports victims of domestic abuse.

Founded in 1968, Parents And Children Together (PACT) is one of Hawaii’s not-for-profit organizations providing a wide array of innovative and educational social services to families in need. Assisting more than 15,000 people across the state annually, PACT helps families identify, address and successfully resolve challenges through its 18 programs. Among its services are: early education programs, domestic violence prevention and intervention programs, child abuse prevention and intervention programs, childhood sexual abuse supportive group services, child and adolescent behavioral health programs, sex trafficking intervention, and community building programs.

Thank you for the opportunity to testify in **support of SB 1037**, please contact me at (808) 847-3285 or rkusumoto@pacthawaii.org if you have any questions.

SB-1037

Submitted on: 2/13/2019 8:21:50 AM

Testimony for JDC on 2/14/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Testifying for O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i	Support	No

Comments:

LATE



To: Senator Karl Rhoads
Senate Judiciary Committee Chair

From: Zonta Club of Hilo
Legislative Advocacy Committee

February 13, 2019

RE: Zonta Club of Hilo Strong SUPPORT of SB1037 Relating to Domestic Violence

Aloha Senator Rhoads,

Zonta International is a leading global organization of professionals empowering women worldwide through service and advocacy. Zonta International envisions a world in which women's rights are recognized as human rights and every woman is able to achieve her full potential. In such a world, women have access to all resources and are represented in decision making positions on an equal basis with men. In such a world, no woman lives in fear of violence.

The most pervasive and least recognized human rights violation worldwide, gender-based violence affects women and girls of every race, class, culture, ethnicity, age and country. Zonta International strives to promote and protect the human rights of all women and girls and reduce the incidences of violence against them. It is for this reason that we support SB1037 relating to domestic violence.

Act 230 of 2006 amended HRS §709-906 to include strangulation. However, the intentional act of impeding the normal breathing or circulation of the blood of a person in an Intimate Partner Violence (IPV) incident is limited to the act of applying pressure on the throat or the neck. IPV can include strangulation and suffocation with the use of an object such as a rope or cord, pressure applied with another part of the body such as an arm or leg, or by restricting breathing by covering the mouth and nose or by extreme pressure to the chest.

From the Strangulation Training Institute, a program of Alliance for HOPE International, "Victims may lose consciousness by any one or all of the following methods: blocking of the carotid arteries in the neck (depriving the brain of oxygen), blocking of the jugular veins (preventing deoxygenated blood from exiting the brain), and closing off the airway, making breathing impossible.

“Very little pressure on both the carotid arteries and/or veins for ten seconds is necessary to cause unconsciousness. However, if the pressure is immediately released, consciousness will be regained within ten seconds. To completely close off the trachea (windpipe), three times as much pressure (33 lbs.) is required. Brain death will occur in 4 to 5 minutes, if strangulation persists.”

Also see: PathologyOutlines.com, Inc. Forensics. Asphyxia. 2012. Available at:<http://www.pathologyoutlines.com/topic/forensicasphyxia.html>.

Strangulation and suffocation represent an escalation in the type of violence a perpetrator of IPV is willing to commit. IPV incidents where non-fatal impeding the normal breathing or circulation of the blood of a person occurs represents an escalation in IPV violence. IPV victims who experience this type of violence are 6.7 times more likely to become a victim of attempted homicide and 7.5 times more likely to be the victim of a homicide (Journal of Emergency Medicine, 2008).

Two studies, one in Idaho and one in California found an apparent link between officer involved shootings and a history of attempted IPV strangulation by the perpetrators.

Strangulation and Suffocation present serious health risk. Yet, strangulation often leaves no external physical evidence. In a study of 300 strangulation cases, 50% of the victims did not have visible injuries and in 35% of the cases with physical injury it was not possible to photograph the injuries (Journal of Emergency Medicine, 2001).

The Zonta Club of Hilo would like to thank you for considering **SB1037** and encourage you to pass this legislation in your committee.

Mahalo,
Heater Kimball
Zonta Club of Hilo Legislative Advocacy Committee

SB-1037

Submitted on: 2/11/2019 4:34:06 PM

Testimony for JDC on 2/14/2019 9:30:00 AM

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

Comments:

SB-1037

Submitted on: 2/13/2019 8:25:58 AM

Testimony for JDC on 2/14/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Sally	Individual	Support	No

Comments: