

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

LATE

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THE HONORABLE KARL RHOADS, CHAIR
SENATE COMMITTEE ON JUDICIARY
Thirtieth State Legislature
Regular Session of 2020
State of Hawai'i

January 30, 2020

RE: S.B. 2182; RELATING TO ABUSE OF A FAMILY OR HOUSEHOLD MEMBER.

Chair Rhoads, Vice Chair Keohokalole, 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 strong support of S.B. 2182. This bill is part of the Department's 2020 legislative package.

The purpose of S.B. 2182 is to strengthen and update the sentencing statutes applicable to the offense of Abuse of a Family or Household Member. Section 706-606.5, Hawaii Revised Statutes (“H.R.S.”), Sentencing for Repeat Offender, first enacted in 1976, provides specialized sentencing provisions for repeat felony offenses, and has been amended a number of times to include various Class C felonies. Although this list covers a range of very serious crimes, one violent Class C felony which is not on this list, is felony-level Abuse of a Family or Household Member (“AFHM”), under H.R.S. §709-906 (7), (8) and (9).

Currently, the offense of AFHM has 3 subsections categorized as Class C felonies:

- **H.R.S. §709-906 (7)** For a third or any subsequent conviction, that occurs within two years of a second or subsequent conviction, the offense shall be a class C felony.
(Enacted by Act 19, Session Laws 1999; amended by Act 5, Session Laws 2002)
- **H.R.S. §709-906 (8)** Where the physical abuse consists of intentionally or knowingly causing bodily injury by impeding the normal breathing or circulation of the blood by:
 - o Applying pressure on the throat or neck with any part of the body or a ligature,
 - o Blocking the nose and mouth; or
 - o Applying pressure to the chest,

Abuse of a family or household member is a class C felony; provided that infliction of visible bodily injury shall not be required to establish an offense under this subsection. **(Enacted by Act 230, Session Laws 2006)**

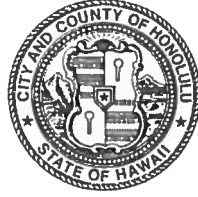
- **H.R.S. §709-906 (9)** Where physical abuse occurs in the presence of a minor, as defined in section 706-606.4, and the minor is a family or household member less than fourteen years of age, abuse of a family or household member is a class C felony **(Enacted by Act 117, Session Laws 2014)**

Given that C felony offenses have been added to H.R.S. §709-906 “piecemeal” over the years, the Department believes it was not intentional to leave felony-level AFHM off of the list, but rather an oversight, as the three Class C felony subsections were created long after the the Sentencing for Repeat Offenders statute was enacted (in 1976), and also long after the AFHM statute was enacted (in 1973); until 1999, AFHM was only classified as a misdemeanor offense. The Department believes that these heightened penalties for felony-level AFHM will more accurately reflect the seriousness of these types of offenses in today’s society, by placing them on the same level as all other violent Class C felonies.

For these reasons, the Department of the Prosecuting Attorney strongly supports the passage of S.B. 2182. Thank you for this opportunity to testify.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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KIRK CALDWELL
MAYOR

SUSAN BALLARD
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JOHN D. McCARTHY
CLYDE K. HO
DEPUTY CHIEFS

OUR REFERENCE **RP-KK**

January 30, 2020

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. 2182, Relating to Abuse of a Family or Household Member

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

The HPD supports Senate Bill No. 2182, Relating to Abuse of a Family or Household Member.

Acts that constitute felony abuse cause significant harm to victims, and we feel that the felony abuse portions of the Hawaii Revised Statutes (HRS), Sections 709-906 (7), (8), and (9), relating to abuse of family or household member, should be included in the sentencing of repeat offenders (HRS Section 706-606.5). Offenders should be sentenced to mandatory minimum periods of imprisonment without the possibility of parole.

The HPD urges you to support Senate Bill No. 2182, Relating to Abuse of a Family or Household Member.

Thank you for the opportunity to testify.

APPROVED:

A handwritten signature in black ink that reads "Susan Ballard". The signature is written in a cursive style and is positioned above a horizontal line.

Susan Ballard
Chief of Police

Sincerely,

A handwritten signature in black ink that reads "Randall Platt". The signature is written in a cursive style and is positioned above the printed name.

Randall Platt, Captain
Criminal Investigation Division

SB-2182

Submitted on: 1/27/2020 11:11:03 PM

Testimony for JDC on 1/30/2020 10:00:00 AM

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

Comments:

SB-2182

Submitted on: 1/27/2020 11:00:58 AM

Testimony for JDC on 1/30/2020 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Carmen Golay	Individual	Support	No

Comments:

SB-2182

Submitted on: 1/27/2020 6:51:42 PM

Testimony for JDC on 1/30/2020 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Deborah Ramirez	Individual	Support	No

Comments:

LATE

SB-2182

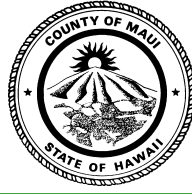
Submitted on: 1/30/2020 8:23:07 AM

Testimony for JDC on 1/30/2020 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Rainbow	Testifying for Rainbow Family 808	Support	No

Comments:

Rainbow Family 808 strongly supports SB2182 in order to STOP the War on Families.



DEPARTMENT OF THE PROSECUTING ATTORNEY
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TESTIMONY
ON
S.B. 2182 - RELATING TO
ABUSE OF A FAMILY OR HOUSEHOLD MEMBER

January 29, 2020

The Honorable Karl Rhoads
Chair
The Honorable Jarrett Keohokalole
Vice Chair
and Members of the Committee on Judiciary

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

The Department of the Prosecuting Attorney, County of Maui respectfully submits the following comments concerning S.B. 2182, Relating to Abuse of a Family or Household Member. Specifically, we would like to express our strong support for S.B. 2182, which would add abuse of a family or household member to the list of felonies that qualify for repeat offender sentencing.

Currently, offenders who are convicted of strangling a family or household member, abusing a family or household member more than twice in a two-year period, or abusing a family or household member in the presence of a minor less than fourteen years of age are convicted of a class C felony and are eligible for a maximum five-year term of imprisonment.

However, in the case of abusers with multiple prior convictions for this offense there is no mandatory minimum term of imprisonment, and thus they are technically eligible to receive a sentence that is substantially lower than five years and could even be a probation term with no term of imprisonment whatsoever. Moreover, under the current laws an offender with multiple non-violent felony theft convictions is required by statute to serve a minimum term of imprisonment, whereas an abuser with multiple violent abuse convictions is not. In other words, a shoplifter who repeatedly steals iPads from stores is required by statute to receive a mandatory minimum term of imprisonment, but an abuser who repeatedly strangles their partner in front of their children is not.

This bill would help to protect the community by ensuring that offenders with a prior

record of serious felony offenses receive an appropriate sentence of imprisonment that takes into account their current and prior actions.

For these reasons, the Department of the Prosecuting Attorney, County of Maui strongly supports the passage of S.B. 2182. Please feel free to contact our office at (808) 270-7777 if you have any questions or inquiries.

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