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HB186 RELATING TO HARASSMENT BY STALKING

Chair Tarnas, Vice Chair Poepoe, and Members of the Committee,

The Office of the Public Defender (OPD) **OPPOSES THIS BILL**

Stalking is a Class C felony in state law, when a defendant was previously convicted of stalking, and is convicted again within 5 years. The complaining witness or victim does not need to be the same person.

§711-1106.4 Aggravated harassment by stalking. (1) A person commits the offense of aggravated harassment by stalking if that person commits the offense of harassment by stalking as provided in section 711-1106.5 and has been convicted previously of harassment by stalking under section 711-1106.5 within five years of the instant offense.

(2) **Aggravated harassment by stalking is a class C felony.** [L 1995, c 159, §1; am L 2003, c 68, §1]

To amend the law by deleting a misdemeanor offense, which is punishable by up to a year in prison and a significant fine, would be unnecessarily severe, burdensome upon the court system, burdensome upon individuals who would otherwise never again engage in criminal conduct, and would not deter crime.

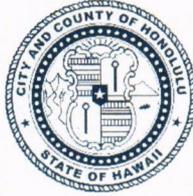
The law was amended in 1995 to deter escalation of this or other criminal acts. The legislature added a class C felony offense of aggravated harassment by stalking. The legislature found that a stalker's behavior frequently is characterized by a series of acts directed at the same victim that are progressively more serious in nature. Thus, the legislature believed it necessary to provide enhanced penalties in those cases to deter that type of behavior and to protect the public safety.

Stalking has also been amended to include digital harassment, which has not been thoroughly litigated in the courts. This measure would have circuit court jury trials discussing the factual merits of social media posts, comments, and messages with the possibility of a defendant being burdened for life with a felony for such acts.

We respectfully request that this measure be deferred.

HONOLULU POLICE DEPARTMENT
KA 'OIHANA MĀKA'I O HONOLULU
CITY AND COUNTY OF HONOLULU

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KAHU MĀKA'I

KEITH K. HORIKAWA
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DEPUTY CHIEFS
HOPE LUNA NUI MĀKA'I

OUR REFERENCE **TC-BT**

February 19, 2025

The Honorable David A. Tarnas, Chair
and Members
Committee on Judiciary and Hawaiian Affairs
House of Representatives
415 South Beretania Street, Room 325
Honolulu, Hawaii 96813

Dear Chair Tarnas and Members:

SUBJECT: House Bill No. 186, Relating to Harassment by Stalking

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

The HPD supports House Bill No. 186, Relating to Harassment by Stalking.

Deterring harassment by stalking is paramount in ensuring the safety of the victims. Stalking is often a precursor to more severe violent crimes, making its recognition and intervention essential for victim safety. Treating stalking as a serious offense is vital for protecting vulnerable victims and fostering a culture that prioritizes safety and well-being. This measure will strengthen the HPD's ability to combat harassment by stalking.

The HPD urges you to support House Bill No. 186, Relating to Harassment by Stalking.

Thank you for the opportunity to testify.

APPROVED:

Sincerely,


Arthur J. Logan
Chief of Police


Thomas Chang, Captain
Criminal Investigation Division

KELDEN B.A. WALTJEN
PROSECUTING ATTORNEY

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OFFICE OF THE PROSECUTING ATTORNEY

TESTIMONY IN SUPPORT OF HOUSE BILL NO. 186 WITH COMMENTS

A BILL FOR AN ACT RELATING TO HARASSMENT BY STALKING

COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS
Representative David A. Tarnas, Chair
Representative Mahina Poepoe, Vice Chair

Wednesday, February 19, 2025 at 2:00 p.m.
Via Videoconference and
State Capitol Conference Room 325
415 South Beretania Street

Honorable Chair Tarnas, Vice-Chair Poepoe, and Members of the Committee on Judiciary and Hawaiian Affairs: The County of Hawai‘i, Office of the Prosecuting Attorney submits the following testimony **in support** of House Bill No. 186, with comments.

House Bill No. 186 would increase the level of offense for the crime of Harassment by Stalking from a misdemeanor to a class C felony offense. The County of Hawai‘i, Office of the Prosecuting Attorney supports this measure to strengthen accountability for offenders whose actions repeatedly threaten victims’ privacy and sense of security.

The offense of Harassment by Stalking, under Section 711-1106.5, HRS, was created to strengthen the laws against harassment by targeting offenders who repeatedly pursue or surveil a victim. The statute has previously been expanded to cover repeated nonconsensual contact with a person, without consent or in disregard of a person’s express desire that the contact be avoided or discontinued, and to cover electronic communications as well. The offense is limited in scope and applies only once there have been multiple acts, on more than one occasion, done with intent to harass, annoy, or alarm the victim, or in reckless disregard of the risk thereof. The offense is further limited by excluding actions with a legitimate purpose. It covers situations where a victim has obtained a court order to protect themselves, but a court order is not required. It is a standalone offense, but often serves to protect those who have been victimized or are at risk of victimization from other criminal conduct such as domestic violence or sexual offenses.

Because this crime requires proving a course of conduct—more than one act on more than one occasion—it can require more investigative work to build a provable case than other

misdemeanor offenses. Increasing the level of offense to a class C felony will help ensure that investigations receive appropriate attention and resources, deter offenders, and reassure victims.

The Office of the Prosecuting Attorney, County of Hawai‘i, further adds the following comment as to possible ways to strengthen and clarify this bill:

- H.B. 186 should also address Section 711-1106.4, Aggravated Harassment by Stalking. Aggravated Harassment by Stalking applies to those offenders who commit Harassment by Stalking and also have a prior conviction for Harassment by Stalking within five years. It is currently a class C felony offense. If the level of offense is increased for Harassment by Stalking, then the level of offense should also be increased for the enhanced offense of Aggravated Harassment by Stalking.

The County of Hawai‘i, Office of the Prosecuting Attorney remains committed to pursuing justice with integrity and commitment. For the foregoing reasons, the County of Hawai‘i, Office of the Prosecuting Attorney supports the passage of House Bill 186. Thank you for the opportunity to testify on this matter.



February 19, 2025

Committee on Judiciary and Hawaiian Affairs

Representative Tarnas, Chair; Representative Mahina Poepoe, Vice Chair

RE: HB 186 RELATING TO HARASSMENT BY STALKING – Support

Honorable Representative Tarnas, and members of the committee,

I submit this letter of testimony in strong support of the proposed stalking law, HB 186, particularly as it pertains to domestic violence. As an advocate who has worked in domestic violence agencies that have helped hundreds of survivors, I know the stories of the devastating effects that stalking can have on an individual’s mental, emotional, and physical well-being. The pain of constantly feeling unsafe and under surveillance by an abuser is something that lingers long after the physical scars have healed.

Stalking is not simply an annoying or unwelcome behavior—it is a serious form of abuse that exacerbates the trauma of domestic violence. It is a calculated tactic used by perpetrators to assert control, instill fear, and violate the autonomy of their victims. For victims of domestic violence, stalking is often a continuation of the abuse, an ongoing violation of their sense of safety and peace.

The impact of stalking on a victim is profound. Many survivors find themselves trapped in an endless cycle of fear and vigilance. Whether it is constant surveillance through text messages, social media, phone calls, or even physical presence, the abuser’s behavior serves as a constant reminder that escape is not yet possible. This unrelenting anxiety is not just exhausting—it is debilitating. It makes survivors feel as though they can never truly be free.

What makes stalking particularly insidious in the context of domestic violence is that it’s often overlooked as part of a larger pattern of control. Stalking in a domestic violence situation isn’t just one isolated act—it is part of a calculated campaign to undermine a victim’s confidence, to isolate them from support systems, and to silence them. Many victims of domestic violence live in constant fear of retaliation, and stalking allows perpetrators to maintain that power and control, even when they are no longer physically in the same space.

Stalking laws specifically designed to address the patterns of behavior in these situations are necessary to protect vulnerable individuals and ensure they have the resources and legal backing to pursue safety. A robust stalking law can offer concrete protection, ensure accountability for abusers, and provide victims with the ability to seek justice. Additionally, these laws can send a powerful message that such behavior is unacceptable, and that victims’ rights to live free from fear are paramount.

It is critical that we recognize the intersection of stalking and domestic violence and support legal measures that hold perpetrators accountable. Survivors deserve to live without the constant threat of harassment and intimidation. Stalking laws are not just a legal tool—they are a lifeline for those seeking to escape the cycle of violence and reclaim their autonomy.



I urge you to support this important legislation. By strengthening the laws around stalking in domestic violence cases, we can make a significant difference in the lives of countless individuals who need our help and protection.

Mahalo,

Monique R. Ibarra, MSW
Chief Executive Officer

HB-186

Submitted on: 2/16/2025 7:57:42 PM

Testimony for JHA on 2/19/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ruth Love	Individual	Support	Written Testimony Only

Comments:

Appreciate the increase to a felony charge.

Thank you

Mrs Ruth Love

HB-186

Submitted on: 2/18/2025 11:52:07 AM

Testimony for JHA on 2/19/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kalae	Individual	Support	Written Testimony Only

Comments:

We need strict guidelines to protect victims, as the current consequences are not severe enough. Most victims continue to face harassment from repeat offenders. This bill would serve to increase the penalties for harassment by stalking from a misdemeanor to a class-c felony this is good for all the people who feel unsafe.

Mahalo for the oportunity to testify

HB-186

Submitted on: 2/18/2025 4:10:59 PM

Testimony for JHA on 2/19/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Dara Carlin, M.A.	Individual	Support	Written Testimony Only

Comments:

Stand in Support

HB-186

Submitted on: 2/19/2025 7:01:32 AM

Testimony for JHA on 2/19/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Lucita Ani-Niho	Individual	Support	Written Testimony Only

Comments:

Aloha

My name is Lucita and I am the mother of, Theresa Cachuela, who was shot and killed on December 22, 2023 by her husband who was stalking her. She filed a TRO that was approved earlier that month. She has called the cops numerous of times letting them know that her husband has been following her. From what I was told, the cops did nothing and told her to go home. She feared for her life. I strongly support HB186 because not only did he literally drove around and stalked her, he sent her messages and she eventually blocked him and got her and her kids new phones with new numbers. When he couldn't get through to her on her phone, he messaged me and called my dad. My dad and I would counsel Jason to seek mental health counseling and talk to other brothers in Christ. He also messaged Theresa through the Bible App and his messaged to her said, "I Love You Till my last breath. Would that be the sign that he would actually harm her? Let alone, kill her? My daughter didn't deserve to die and so does many others who fell victim to perpetrators stalking them. If this is not a plea to amend this law, then I don't know what it. Please ensure the safety of current and future victims. This rests upon our lawmakers like yourselves to improve on our justice system. Mahalo for your time and allowing me to submit my testimony.

Thank you very much,

Lucita Ani-Niho

HB-186

Submitted on: 2/19/2025 2:08:57 PM

Testimony for JHA on 2/19/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
April Bautista	Individual	Support	In Person

Comments:

As a kalihi-pālama, 4th generation Filipina, I write in strong support of this measure. Please consider passing HB186.

thank you,

april

