

HAWAII STATE COALITION AGAINST DOMESTIC VIOLENCE

LATE
Testimony

Hearing date and time: February 9, 2009, 8:15am.
RE: H.B. 1524 Relating to Criminal Contempt of Court

TO: Chair Representative Mizuno, Vice Chair Representative Brower and members of the Committee on Human Services

FR: Carol Lee (clee@hscadv.org), Hawaii State Coalition Against Domestic Violence

Aloha, my name is Carol Lee. HSCADV is a private non-profit agency which serves as a touchstone agency for the majority of domestic violence programs throughout the state. For many years HSCADV has worked with the Hawaii Legislature by serving as an educational resource and representing the many voices of domestic violence programs and survivors of domestic violence.

HSCADV supports HB1524.

Only within the last 30 years has our society begun to address the issue to intimate partner violence. No longer do we expect our police officers and courts to treat this scourge as a "private family matter". Many strides have been made by women's advocates, legislators, and the justice system to treat domestic violence as a crime. By making abuse of a family or household member a crime we are protecting the victim at the time of the arrest as well as sending a clear message to our society that we will not tolerate violence in our homes.

Frequently the complex nature of the relationships, safety issues and a variety of other reasons many victims do not want to testify in abuse cases. We believe that forcing a victim to testify through a contempt of court charge re-victimizes the victim – making them less safe as they are even less likely to reach out for help again. Best practices for prosecution do not recommend holding victims in contempt for recanting or declining to testify. *"some prosecutor's actions can re-victimize the battered woman. One example is a blanket policy to hold battered women in contempt of court for failing to obey subpoenas to testify against their abusers. A battered woman's non-compliance with a subpoena is likely the product of her judgment that it is better not to aggravate the batterer by testifying. When she is punished for protecting herself, criminal prosecution of the batterer is not a future option for her."* (<http://www.mincava.umn.edu/documents/bwjp/prosecutev/prosecutev.html>)

Victims of domestic violence should not be seen as the crux of an abuse case. Creating a coordinated response between the police and prosecutors is more likely to provide consistent information and evidence without putting the victim in the possibly dangerous situation of having to testify.

Thank you for the opportunity to testify.

From: Dara Carlin, M.A. [breaking-the-silence@hotmail.com]
Sent: Sunday, February 08, 2009 6:05 PM
To: HUS testimony
Subject: HB1524 to be heard Monday, February 9th at 8:15am by the House Committee on Human Services

TO: Representative John Mizuno, Chair
Representative Tom Brower, Vice Chair
Members of the Committee on Human Services



FROM: Dara Carlin, M.A.
Oahu VOICES
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DATE: February 9, 2009

RE: Strong support for HB1524

In August 2007, KHON reporter, Tannya Joaquin asked me to explain how a woman who lost her arm in a car crash that was the result of an argument with her husband could not only ask for leniency towards him in court only a month later, but remain married to him. Domestic violence is a crime that does not make sense no matter how you look at it.

Asking the victim of domestic violence and/or a sexual assault to recount what happened in front of a "friendly audience" (counselor, advocate, medical professional, etc.) is difficult and uncomfortable enough (having to describe the details of an emotionally and physically painful attack) but having to do so in front of a "mixed" and literally judgmental audience in court is beyond uncomfortable; there's no way to gauge how people will look at you or whether they'll believe you or not. Now imagine the comfort level of having to recount such an incident in front of a mixed audience AND the person whose responsible for your attack.

There are many reasons why a victim will recant her story and/or refuse to testify in the case being held for her "benefit", but at the end of the day when everyone goes home, she's got to go home too and sometimes she's got to go home to a place her abuser will eventually return to or where he abuser knows she's at. Even if incarcerated for the crime, the fear of retaliation will often remain a concern for the victim: will he have "found religion", embraced rehabilitation or is he bent on revenge? Considering the consequences of testifying against your abuser is not a pretty picture.

Whether we understand her reason/s or not, punishing a victim by imprisonment for contempt is telling her that SHE is wrong and it's wrong to punish someone whose already suffered enough. While seeing justice being served makes the rest of us feel good, it may not feel good to the victim for reason/s we may never come to understand. Placing yourself in contempt may be the lesser of two evils for the victim-survivor and if we're truly trying to help her recover from the crime committed against her, placing additional fear on someone whose already scared out of their wits is certainly no help.

Thank you for your time and consideration.

Respectfully,

Dara Carlin, M.A.
Oahu VOICES Representative