

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
PHONE: (808) 547-7400 • FAX: (808) 547-7515

PETER B. CARLISLE
PROSECUTING ATTORNEY

DOUGLAS S. CHIN
FIRST DEPUTY PROSECUTING ATTORNEY



LATE
Testimony

**THE HONORABLE JOHN M. MIZUNO, CHAIR
THE HONORABLE TOM BROWER, VICE CHAIR
HOUSE COMMITTEE ON HUMAN SERVICES**

**TWENTY-FIFTH STATE LEGISLATURE
REGULAR SESSION OF 2009**

February 5, 2009

RE: HOUSE BILL 1788; RELATING TO FAMILY COURT

Good Morning Chair Mizuno and members of the Human Services Committee, the Department of the Prosecuting Attorney provides the following testimony **in support of H.B. 1788, with amendments**, which proposes to mandate that Family Court provide relevant information on law violators, as defined in H.R.S. Section 571-11(1), to any statewide victim information and notification system operated by the Department of Public Safety.

As provided for in H.R.S CHAPTER 801D our Department currently participates through a series of cooperative agreements with the Department of Public Safety in the process of notifying victims of changes in the custody status of inmates whose victims have submitted a written request for notification. The process, at times inefficient and complex, does function to fulfill the basic purposes of H.R.S. 801D. However, in an effort to improve this process we have spent nearly ten years researching and, at one point, ran a pilot project automated victim notification system. In cooperation with the Department of the Attorney General we have attended national conferences on this issue, and have remained committed to the development of a system with parameters similar to what is contemplated by H.B. 335, which is currently under consideration by other Committees within this legislative body.

Fortunately the Department of the Attorney General has, in fact, committed federal VOCA funds totaling \$390,000 to help underwrite the start up costs for a notification system. As a result, in a fashion all too uncommon in government today, the Department of Public Safety bravely volunteered their resources and commitment to making this system a reality. They have sought and successfully received a U.S. Department of Justice grant of \$706,664. With this start up

funding they anticipate that the Hawaii SAVIN (State Automated Victim Information and Notification) system will go online on February 28, 2009.

The provisions of H.B. 1788 provide a wonderful compliment to the provisions of H.B. 335 and the implementation of the Hawaii SAVIN system by the Department of Public Safety. For far too long victims of juvenile offenders (or technically law violators, as noted above) have been second class citizens when it comes to being provided with complete and timely information about the juvenile offenders who have victimized them. Although H.R.S. Chapter 801D clearly contemplates the inclusion of these victims among those who have rights to notification of major events in the criminal justice process, as indicated in the excerpted sections below, conflicts with the application of other statutes providing for confidentiality of juvenile court records have long hampered the actual implementation of these right. To give any genuine meaning to the provisions of H.B. 1788, these conflicts need to be effectively resolved by amending H.R.S. Section 571-84.6, which provides for those circumstances under which the proceedings and records of minor law violators are not confidential, to include all information relevant to the notification of crime victims as provided for Chapter 801D.

[§801D-1] Legislative intent. In recognition of the civic and moral duty of victims and witnesses of crimes to cooperate fully and voluntarily with law enforcement and prosecutorial agencies, and in further recognition of the continuing importance of such citizen cooperation to state and local law enforcement efforts and the general effectiveness and well-being of the criminal justice system of this State, the legislature declares its intent, in this chapter, to ensure that all victims and witnesses of crimes are treated with dignity, respect, courtesy, and sensitivity and that the rights extended in this chapter to victims and witnesses of crime are honored and protected by law enforcement agencies, prosecutors, and judges in a manner no less vigorous than the protections afforded criminal defendants. [L 1988, c 261, pt of §1]

§801D-2 Definitions. In this chapter:

"Crime" means an act or omission committed by an adult or juvenile that would constitute an offense against the person under the Penal Code of this State.

"Homicide victim" means a person whose death was caused by another person under part II of chapter 707.

"Major developments" means arrest or release of the suspect by the police, case deferral by the police, referral to the prosecutor by the police, rejection of the case by the prosecutor, preliminary hearing date, grand jury date, trial and sentencing dates, and the disposition of the case.

"Surviving immediate family members" means surviving grandparents, parents, siblings, spouse, reciprocal beneficiary, children, and any legal guardian of the homicide victim.

"Victim" means a person against whom a crime has been committed by either an adult or a juvenile.

"Witness" means a person whose testimony or knowledge is desired in any proceeding or investigation by a grand jury or in a criminal investigation, action, prosecution, or proceeding. [L 1988, c 261, pt of §1; am L 1997, c 383, §71]

§801D-4 Basic bill of rights for victims and witnesses. (a) *Upon written request, victims and surviving immediate family members of crime shall have the following rights:*

(1) To be informed by the police and the prosecuting attorney of the final disposition of the case. If the crime charged is a felony, the victim or a surviving immediate family member shall be notified of major developments in the case and whenever the defendant or perpetrator is released from custody. The victim or a surviving immediate family member shall also be consulted and advised about plea bargaining by the prosecuting attorney;

(2) To be notified by the prosecuting attorney if a court proceeding to which they have been subpoenaed will not proceed as scheduled;

(3) To receive protection from threats or harm;

(4) To be informed by the police, victim/witness counselor, or other criminal justice personnel, of financial assistance and other social services available as a result of being a witness to or a victim of crime, including information on how to apply for the assistance and services;

(5) To be provided by the court, whenever possible, with a secure waiting area during court proceedings that does not require them to be in close proximity to defendants and families and friends of defendants;

In conclusion, we ask for your support for H.B. 1788, with the amendments that we have suggested. Thank you for your time and consideration.

HAWAII STATE COALITION AGAINST DOMESTIC VIOLENCE

Date: February 3, 2009

To: Representative John M. Mizuno, Chair and Representative Tom Brower, Vice Chair
Committee on Human Services

From: Carol Lee, Executive Director

Re: HB 1788, Victim Notification Information

Hearing Date and Time: Thursday, February 5th 8:15 a.m.

**LATE
Testimony**

Good morning Chair Representative Mizuno, Vice Chair Representative Brower, and Committee members. The Hawaii State Coalition Against Domestic Violence appreciates the opportunity to submit testimony in support of an automated Victim Notification System.

Hawaii State Coalition Against Domestic Violence has participated in planning for the proposed victim notification system and supports it. Victim safety is paramount and will be enhanced by this system.

Last year was a particularly devastating year for domestic violence victims. There were more domestic violence homicides and suicides than in any recent year. Keeping registered victims notified of the whereabouts of the perpetrators of violence will enhance victim safety and will hopefully diminish the loss of precious lives.

We appreciate your consideration of our testimony.

Together we can do amazing things

Cynthia Nyross

From: Dara Carlin, M.A. [breaking-the-silence@hotmail.com]
Sent: Wednesday, February 04, 2009 10:22 PM
To: HUS testimony
Subject: FW: HB1788 to be heard on 02/05/09 at 8:15am by the House Committee on Human Services
Importance: High

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

FROM: Dara Carlin, M.A.
881 Akiu Place
Kailua, HI 96734
(808) 218-3457

DATE: February 5, 2009

RE: Support for HB1788

**LATE
Testimony**

Good morning. This is an extremely important proposal for victim-survivors of domestic violence. Domestic violence offenders are always most lethal to those that they have victimized so ensuring a victim information and notification program linking Family Court and the Department of Public Safety is just another precautionary measure that will help domestic violence victims turn into survivors and stay that way.

Thank you for your consideration and attention.

Respectfully,

Dara Carlin, M.A.

Windows Live™: Keep your life in sync. [See how it works.](#)

Cynthia Nyross

From: Daniel Paul de Gracia, II, MA [daniel.degracia@gmail.com]
Sent: Thursday, February 05, 2009 4:50 AM
To: HUS testimony
Cc: Rep. John Mizuno; Rep. Tom Brower
Subject: Testimony for HB 1788, HUS 02-05-09 8:15 am agenda

Aloha,

Please see my below testimony for House Bill No. 1788, Relating To Family Court.

Mahalo,

Daniel de Gracia, II

**LATE
Testimony**

Testimony of Rev. Daniel Paul de Gracia, II

TO THE MEMBERS OF THE HOUSE COMMITTEE ON HUMAN SERVICES
in support of
House Bill No. 1788, Relating To Family Court

February 5, 2009
Conference Room 329

Chair Mizuno, Vice Chair Brower, Honorable members et al:

Thank you for the opportunity to testify in support of House Bill No. 1788, Relating to Family Court.

The purpose of this measure is to mandate Hawaii's family court system to provide relevant information to the Department of Public Safety for the purposes of maintaining a statewide victim information and notification program.

Today our State faces a crisis of violent crime, and this crisis has stripped our island families of many friends and loved ones. America's Founding Fathers established our system of government with the understanding that one of the core functions of a social contract government is to provide for the common defense, as established by the Preamble of the U.S. Constitution. All elected officials in our country swear an oath to protect and defend the Constitution - foreign and domestic. With a reverent understanding of these principles, I humbly ask the members of the House Committee on Human Services to pass HB 1788 and to recognize as a late president said that we live at a turning point, one of those critical eras in history when time and circumstances unite with the sound instincts of good and decent people to make a crucial difference in the lives of future generations.