

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



THE HONORABLE ROBERT N. HERKES, CHAIR
HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

THE HONORABLE JON RIKI KARAMATSU, CHAIR
HOUSE COMMITTEE ON JUDICIARY

TWENTY-FIFTH STATE LEGISLATURE
REGULAR SESSION OF 2009

February 23, 2009

RE: HOUSE BILL 812, H.D. 1; RELATING TO DOMESTIC VIOLENCE

Good afternoon, Chairs Herkes and Karamatsu and members of Consumer Protection and Commerce and Judiciary Committees, the Department of the Prosecuting Attorney provides the following testimony **in support of H.B. 812, H.D. 1, with amendments**, which proposes to provide protections for victims of domestic violence by permitting a tenant to terminate a rental agreement prior to its contracted expiration based upon the person's status as a victim of domestic violence, stalking, or sexual assault

Housing and the ability obtain or maintain adequate housing is one of the most critical issues for domestic violence, stalking, and sexual assault victims in Hawaii. When the current housing arrangements that a victim may have shared with a perpetrator is no longer safe or when a stalker has targeted a victim's residence it may become essential for the victim to quickly vacate their home or apartment and locate a safer housing arrangement. In the most seriously dangerous situations a victim may even need to relocate to a Neighbor Island or the Mainland. The provisions in H.B. 812, H.D. 1 are designed to permit victims of these offenses to terminate their rental agreement without the normal financial penalties, which can be a critical need for financially strapped victims in desperate need of safe housing. One specific amendment that we recommend is replacing the references to attaching a copy of a police report with provisions for attaching an affidavit executed by a prosecuting attorney regarding the victims need for safety as is currently utilized in H.R.S. 547-5 for endangered individuals who are seeking a name change without the standard publication requirement. Current procedures observed by the Honolulu Police Department do not permit releasing police reports to members of the public without a

court subpoena, which may create additional time delays and expense for the victims utilizing the process outlined in this bill.

In conclusion, we ask for your support for H.B. 812, H.D. 1, with amendments as outlined in our testimony above. Thank you for your time and consideration.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

601 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulu.org

MUFI HANNEMANN
MAYOR



BOISSE P. CORREA
CHIEF

PAUL D. PUTZULU
KARL A. GODSEY
DEPUTY CHIEFS

OUR REFERENCE LM-NTK

February 23, 2009

The Honorable Robert N. Herkes, Chair
and Members
Committee on Consumer Protection
and Commerce
The Honorable Jon Riki Karamatsu, Chair
and Members
Committee on Judiciary
House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chairs Herkes and Karamatsu and Members:

Subject: House Bill No. 812, H.D. 1, Relating to Domestic Violence

I am Sean C. Naito, captain of the Criminal Investigation Division of the Honolulu Police Department, City and County of Honolulu.

The Honolulu Police Department supports House Bill No. 812, H.D. 1, Relating to Domestic Violence. Passage of this bill would provide added protection to victims of domestic violence, sexual abuse, or harassment by stalking. Victims who need to relocate immediately for their safety will not be burdened with rental agreement obligations.

Line 1, page 2, states that victims shall provide a "copy of a written report by a law enforcement officer . . ." The Honolulu Police Department is unable to provide police reports in cases that are still considered open, but verification letters may be provided for a nominal fee.

We believe that wording should be added to this bill stating that the tenant shall not be discharged of any financial responsibility to the landlord.

Serving and Protecting With Aloha

The Honorable Robert N. Herkes and Jon Riki Karamatsu, Chairs
and Members

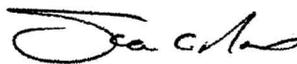
Page 2

February 23, 2009

The Honolulu Police Department urges you to support House Bill No. 812,
H.D. 1, Relating to Domestic Violence.

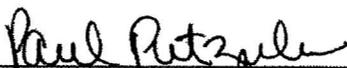
Thank you for the opportunity to testify.

Sincerely,



SEAN C. NAITO, Captain
Criminal Investigation Division

APPROVED:

for 
BOISSE P. CORREA
Chief of Police



The REALTOR® Building
1136 12th Avenue, Suite 220
Honolulu, Hawaii 96816

Phone: (808) 733-7060
Fax: (808) 737-4977
Neighbor Islands: (888) 737-9070
Email: har@hawaiiirealtors.com

February 21, 2009

The Honorable Robert N. Herkes, Chair
House Committee on Consumer Protection & Commerce
The Honorable Jon Riki Karamatsu, Chair
House Committee on Judiciary
State Capitol, Room 325
Honolulu, Hawaii 96813

RE: H.B. 812, H.D. 1 Relating to Domestic Violence

HEARING DATE: Monday, February 23, 2009 at 2:00 p.m.

Aloha Chair Herkes, Chair Karamatsu, and Members of the Joint Committees:

I am Myoung Oh, here to testify on behalf of the Hawai'i Association of REALTORS® (HAR) and its 9,600 members in Hawai'i. HAR wishes to **submit comments** regarding H.B. 812, H.D. 1, which allows a tenant who is a victim of domestic violence, sexual abuse, or harassment by stalking to terminate his or her rental agreement.

HAR is concerned about how this proposed legislation would work in practice.

H.B. 812 H.D.1 requires a victim of domestic violence to provide notice of termination to the landlord within 60 days of either a temporary restraining order, protective order, or law enforcement written report. Section 1, subsection (d) proposes to then release the tenant from any further rent payment obligations without penalty, but does not provide any terms regarding how and when the tenant would vacate the premises. This creates issues, because if a tenant gives the required notice, but then remains in the unit for a period of time, the tenant should still remain responsible for any rent and other charges incurred.

Another problem with H.B.812 H.D.1 is Section 1, subsection (e), which requires the remaining tenants to cover the full terms of the rental agreement, after the victim provides notice to the landlord. HAR believes that this partial termination of the rental agreement puts all parties in an ambiguous difficult situation. HAR suggests that instead, the rental agreement should be fully terminated within 15 days (or other designated reasonable time period) after the victim gives notice to the landlord. Designating a time period would still allow the victim to immediately vacate the premises, but would also allow the landlord and remaining tenants the option to make arrangements to either vacate the premises or renegotiate a new rental agreement.

HAR feels that these issues and others regarding the impact of H.B. 812, H.D. 1, should be carefully considered before this bill is passed. HAR looks forward to participating in further discussions on this measure.

Finally, HAR suggests that an effective date of November 1, 2009 be considered, so that HAR may review and revise its standard Rental Agreement and other forms as necessary.

Mahalo for the opportunity to testify.

HAWAII STATE COALITION AGAINST DOMESTIC VIOLENCE

Hearing date and time: February 23, 2009 at 2:00 p.m., Committees on Consumer Protection and Commerce and the Committee on Judiciary

RE: H.B. 812 HD1, RELATING TO DOMESTIC VIOLENCE

TO: Chair Herkes, Vice Chair Waikai and members of the Committee on Consumer Protection and Commerce; Chair Karamatsu, Vice Chair Ito and members of the Committee on Judiciary

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

Aloha, my name is Carol Lee. The Hawaii State Coalition Against Domestic Violence (HSCADV). 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 strongly supports HB812 HD1 with comments.

In a 1998 study, 22 percent of 777 individuals surveyed stated that they had fled their home because of domestic violence¹. It is imperative that victims of domestic violence be able to exercise many different options for their safety and the safety of their children. This may include changing the locks on their current home or breaking a lease to flee for safety.

Often victims of domestic violence flee with little or money. If she seeks emergency shelter and fails to pay her rent and/or breaks her lease - it can destroy her rental and credit history. Studies have shown that victims and survivors of domestic violence have trouble finding apartments because they may have poor credit, rental, and employment histories as a result of their abuse². By allowing women to end their leases early if needed they can locate another place to live away from their batterer.

HSCADV would like to suggest for clarity that the language regarding a written report by a law enforcement officer be changed or include a copy of a statement from the police Records Division. On Oahu the police do not release copies of the written report. The Records Division instead issues a form that includes the names of parties involved the date and the type of case.

Hawaii continues to work to bring about many solutions to the issues impacting victims of domestic violence. HB812 HD1 is an important part of the puzzle that will assist victims in their journey to safety.

¹ *Ten Cities 1997-1998: A Snapshot of Family Homelessness Across America*. Homes for the Homeless. Retrieved January

² Susan A. Reif and Lisa J. Krisher. 2000. "Subsidized Housing and the Unique Needs of Domestic Violence Victim." *Clearing House Review*. National Center on Poverty Law. Chicago, IL.

HAWAII STATE COALITION AGAINST DOMESTIC VIOLENCE

Thank you for the opportunity to testify.



THE SEX ABUSE TREATMENT CENTER

A Program of Kapi'olani Medical Center for Women & Children

Executive Director
Adriana Ramelli

Advisory Board

President
Mimi Beams

Vice President
Peter Van Zile

Marilyn Carlsmith

Senator
Suzanne Chun Oakland

Monica Cobb-Adams

Dennis Dunn

Senator
Carol Fukunaga

Tina Watson

Frank Haas

Philip Hyden, M.D.

Roland Lagareta

Willow Morton

R. Carolyn Wilcox

DATE: 02/23/2009

TO: The Honorable Robert N. Herkes, Chair
The Honorable Glenn Wakai, Vice Chair
Committee on Consumer Protection & Commerce

The Honorable Jon Riki Karamatsu, Chair
The Honorable Ken Ito, Vice Chair
Committee on Judiciary

FROM: Adriana Ramelli, Executive Director
The Sex Abuse Treatment Center

RE: Support for HB812 HD1
Regarding termination of rental agreements by victims of sexual or domestic
violence or harassment by stalking

Good afternoon Representatives Herkes and Karamatsu and members of the Committees on Consumer Protection & Commerce and on Judiciary. My name is Adriana Ramelli and I am the Executive Director of the Sex Abuse Treatment Center (SATC), a program of the Kapi'olani Medical Center for Women & Children (KMCWC), an affiliate of Hawaii Pacific Health.

The SATC supports HB812 HD1 which would allow victims of sexual or domestic violence the right to terminate a rental agreement. Over the last thirty years, the SATC has served thousands of victims of sexual assault and for many of them it is a life-altering experience. In addition to needing medical treatment and psychotherapy, victims often experience upheaval at home, at work or in social situations. Sadly, the majority of victims are assaulted by someone they know which can result in persistent feelings of fear and anxiety about future harm and for some a desire to relocate to another home for safety. Allowing victims the flexibility to terminate a rental agreement if needed acknowledges the realities of victimization and supports victims in reclaiming a sense of control and security.

We urge you to pass HB812 HD1. Thank you for the opportunity to testify.

TESTIMONY REGARDING HB 812 WITH ADMENDMENT 521

From: Leo J. Bogee Jr.
Title: Pastor/Evangelist
Org: World Christian Leadership & Training Ministries (www.wclandtm.com)
Directed to: CPC/JUD
Time: Monday 02/23/2009 @ 2:00 PM
Measure #: HB 812 HD1

I am submitting my testimony in regards to HB812 on behalf those who are suffering and will suffer in the future from domestic violence.

I am a retired Navy Command Master Chief (CMC) (E-9). I served 25 years on active duty. I have first hand experience in dealing with domestic violence situations and issues during my tenure in many Commands, but in particular two very different Department of the Navy Commands. My initial experience was aboard the USS Moctobi (ATF-105), from Oct 1980 to Oct 1983; and the second was with the 1st Marine Expeditionary Brigade at Kaneohe Bay, Hawaii from April 1987 to March 1990.

My experience on board the USS Moctobi (ATF-105) gave me first hand knowledge of the severity of these domestic violence situations. On occasion, one of our Sailors would be involved in a domestic violence dispute while at home. When an arrest was made, then we (the Command) would be in a position to bring charges of misconduct against the Sailor. I found out quickly that our involvement was crucial in curbing and even preventing future violent attacks in the home.

As a Chief Petty Officer (E-7) at the time and Head of the Medical Department on board the USS Moctobi (ATF-105), I would recommend immediate harsh punishment in order to "get their attention" to the seriousness of their crime. The Commanding Officer, Commander Jack Landot, would order 30 days restriction to the confines of the ship, a six month suspended reduction in rank to the next lower rank, and extra duty for the 30 days of restriction to the ship. (If you are stationed on board a Navy ship that is tied to the pier and you cannot go ashore, it is very tough punishment.) It was now up to the Sailor to change his behavior or have the full implementation of his punishment enforced.

My Commanding Officer made it clear that domestic violence is a crime that is punishable by law in America and by the Uniformed Code of Military Justice (UCMJ) in the Military. The immediate separation of the offending member from the victim, along with harsh punishment proved to be a powerful means in preventing future incidents; and an impetus for the Sailor to seek the needed counsel to heal his marriage. There was never, yes never, a reoccurrence of domestic violence from any member that received this form of punishment and correction, during my tenure on board the ship.

I believe that the direct and immediate implementation of separation and punishment for any domestic violence incidence resulted in fewer than six cases of domestic violence. Everyone knew about the consequences of domestic violence. I personally counseled

many of them and encouraged them to seek counsel with their spouses with the counseling services provided on Pearl Harbor Base.

My position as CMC with the 1st Marine Expeditionary Brigade at Kaneohe Bay, Hawaii gave me an opportunity to implement procedures to deal with domestic violence situations that occurred at my Base. Because domestic violence was a common occurrence at this Marine Corps Base with Marines as well as Navy personnel, I felt compelled to address this issue with my Commanding Officer, Major General, Anthony Studs. I gave my word to the General to eradicate domestic violence from all Navy families stationed at our Base. I received his permission to have our Sailors arrested by the Honolulu Police, and not the Base Military Police, for any and all incidents of domestic violence.

Far too often men returning from field training both here on Oahu and on the Big Island would find themselves in violent conflicts with their spouses. Some of the reasons were blamed on stress, long periods of physical training, alcohol consumption, spouse's conduct and whereabouts during his absence (usually spending time in the Enlisted Clubs or Waikiki), arguments over money (the lack there of), responsibilities in the home, rearing of their children, and perceived beliefs of ownership of their spouses and children. These reasons and others over time led to many physical confrontations between spouses. Unfortunately, most of these incidents would go unreported by the Military Police as long as peace was restored at the home. Additionally, the spouse was often blamed for not "understanding" the pressure that her husband was under while serving in the military.

My recommendation to my Commanding Officer was to put them in jail. Have them arrested by the Honolulu Police with no exceptions. An arrest by the Honolulu Police resulted in a 48 hour jail sentence. It was during my second year with the Marines that I became aware of the growing number of domestic violence incidents occurring with the Navy Hospital Corpsmen stationed with the Marines. I gave the order to all Navy personnel that there would be a zero tolerance policy on domestic violence. I also warned all of my Chief Petty Officers (E-7's middle managers) that any attempted cover up of a domestic violence incident would result in their facing UCMJ charges.

During the last two years of my tenure at the 1st Marine Expeditionary Brigade, we had two Sailors arrested by the Honolulu Police for domestic violence. The word spread throughout the Command that we were serious about dealing with this crime and as far as I know, there were no other incidents. I do know that the counselors assigned to the Marine Corps Base at Kaneohe Bay, at the Chaplaincy and at the YMCA facility, increased from one to at least six in order to handle couples seeking marriage counseling. I counseled many of our Sailors on being husbands and fathers, and occasionally counseled both spouses when asked by one of the Base counselors.

I truly believe that the only approach to dealing with domestic violence is a direct and immediate response with jail time to separate the offender from the victim, and a future sentence that can be imposed anytime over a one year period if there was a subsequent

occurrence. The victim is already living in fear for their safety and/or for their lives. It is not fair or prudent to allow the victim to be exposed to subsequent attacks just because domestic violence is considered a "family" problem. It is not a family problem, but a crime of violence, assault and battery, against another person.

Domestic violence is a CRIME! There must be a **ZERO** tolerance approach for this crime. It is now time to change the DNA of our thinking on domestic violence. I use the term DNA because when the DNA changes, the organism changes. I don't know how much jail time is right in society because the military has its own system of discipline and training that is a part of their DNA. However, domestic violence has been "toyed" with for so long in society across the Nation that a 48 hour "cooling off" period doesn't cool many men off, it only makes them more aggressive.

I believe that most men in Hawaii already know that they can get away with harassment, stalking, and threats without much being done to stop them. They aren't concerned with being reported because women are terrified of turning them in because they know they will be back in a couple of days. Therefore, when they are reported to the police, it is the 3rd, 4th, 5th, or 12th time that she has been assaulted. It is time to stop the violence the first time with a serious set of consequences awaiting the offender.

It is also time to allow these women and children to move away for their own safety without the harassment of landlords demanding payments and threats for not completing leases and rental agreements. These women and children have already suffered enough at the hands of a criminal; they don't need to continue to suffer any more at the hands of anyone else. If anyone has to pay for a broken lease or rental agreement, then it must be the offender not the victim.

I hope that my testimony and concerns for victims of domestic violence is heard and given serious consideration. I may be repeating language that you may have already heard, but I am repeating it because it is true. If women and children cannot be protected from domestic violence predators by law enforcement and legislators, then who can protect them?

I thank you for your time and consideration. I pray that you will make the right and just decision on this most serious and important matter.

Sincerely yours,

Leo J. Bogue, Jr.

Sharon Sagayadoro

From: Dara Carlin, M.A. [breaking-the-silence@hotmail.com]
Sent: Sunday, February 22, 2009 9:25 PM
To: CPCtestimony
Subject: HB812 HD1 to be heard Monday, February 23rd at 2:00pm in Room 325 by the Committee on the Judiciary & the Committee on Consumer Protection & Commerce

Importance: High

TO: Representative Herkes, Chair
Representative Wakai, Vice Chair
Members of the Committee on Consumer Protection & Commerce

Representative Karamatsu, Chair
Representative Ito, Vice Chair
Judiciary Committee Members

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

DATE: February 23, 2009

RE: Support for HB812 HD1

If you have not had the experience of being stalked, harassed, confronted or surprised by the unexpected presence of someone whose hurt or terrorized you before, I hope you'll be able to just trust me when I say that it is not an experience you easily get over or recover from, especially if the incident has occurred in or near your home - a place you believed to be a refuge, safe. If your attacker or stalker shows up even once in, on or near your place of residence, chances are that you will not feel reassured of your safety from that person no matter how much safety planning, preventive/precautionary measures you take or court orders you have. The instinct to flee the situation or environment is overwhelming and is by nature a survival instinct, but it's also natural for us to want to stay in and protect our homes.

Victims of domestic violence typically do not have the luxury of a planned escape; more frequently they've got to leave on a moment's notice and leave everything behind them (which in turn gets held hostage by the abuser and is used as bargaining chips to get her back or punish her for her defiance/abandonment). For victims of sexual assault, having to live "at the scene of the crime" does not assist in their recovery from it. In these extreme positions, being released as a tenant from the lease/rental agreement would help the survivor of these events tremendously.

Please understand that victim-survivors will not see this as "a golden opportunity" to willfully break a binding contract (so many victims do not leave their abusers because of marriage - another binding contract) but as an avenue to escape the grasp of someone they've known to cause them harm.

Thank you for your time and consideration.

Respectfully,

Dara Carlin, M.A.
Independent Domestic Violence Survivor Advocate