



Domestic Violence Action Center

Formerly the *Domestic Violence Clearinghouse and Legal Hotline*

PO Box 3198 • Honolulu, Hawaii 96801 • Ph:808/534-0040 • Fax:808/531-7228

TO: Chair John Mizuno
Vice Chair Tom Brower
Members of the Committee

FR: Nanci Kreidman, M.A.
Chief Executive Officer

**LATE
Testimony**

RE: H.B. 831

Aloha. The intent of this bill is well understood. We must state concerns for the record.

The restraining order process is designed to be simple enough for a victim to obtain by her/himself. Although our agency provides legal representation for victims, we are not able to represent every petitioner. This raises questions about the means for victims to request the Court to permit substitute service. How would the victim establish by clear and convincing evidence that the respondent is avoiding service?

Without a thorough understanding of the system, it is difficult to expect a victim—who has already taken a very brave step by coming forward, and entering into unfamiliar territory (ie court system) to successfully complete a hearing to enable the judge to find clear and convincing evidence.

It is important to pass laws that will be beneficial to the community and increase access to safety and justice.

Thank you for consideration of new strategies to do just that.

Cynthia Nyross

From: Dara Carlin, M.A. [breaking-the-silence@hotmail.com]
Sent: Sunday, February 08, 2009 4:30 PM
To: HUS testimony
Subject: HB831 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
716 Umi Street, Suite 210
Honolulu, HI 96819
(808) 832-9316 X106

LATE
Testimony

DATE: February 9, 2009

RE: Support for HB831

They say "waiting is the hardest part" and for victim-survivors who are waiting for confirmation that a TRO or protective order has been served, time slows down considerably. When a victim-survivor is approved for a TRO/PO, she is informed that it will not be in legal effect until the respondent is served. When a respondent is aware that service is imminent and "hides" to deliberately avoid personal service, the message conveyed to the victim is that her abuser is "above" or smarter than the law; as he outsmarts service and becomes more confident because of his cunning, her faith and hope for safety dwindles as her fear increases - all this does is show both that the perpetrator remains in control of the situation which is the WRONG message to be sending. Allowing substituted service will reassure the victim-survivor that hope has NOT run out, and hope is the vehicle in which her success completely rides.

Thank you for your time and consideration.

Respectfully,

Dara Carlin, M.A.
Oahu VOICES Representative

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~~Cynthia Nyross~~

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 08, 2009 10:13 PM
To: HUS testimony
Cc: [REDACTED]@hawaii.rr.com
Subject: Testimony for HB831 on 2/9/2009 8:15:00 AM
Attachments: HB831 SB672.docx

Testimony for HUS 2/9/2009 8:15:00 AM HB831

Conference room: 329
Testifier position: support
Testifier will be present: Yes
Submitted by: Penny Hackney
Organization: Individual
Address: [REDACTED] Honolulu, HI
Phone: [REDACTED]
E-mail: [REDACTED]@hawaii.rr.com
Submitted on: 2/8/2009

LATE
Testimony

Comments:

For 4 ½ years we have lived in Wilhelmina Rise and been harassed by a neighbor. Last year I talked with Stan at Charles Dijo office about this matter and he said I should talk to then acting Maj. Green. Both told me we should get a TRO to try and stop the harassment but I explain to both that another neighbor had tried that after she was attacked and officers could never serve the respondent. I tried to ignore this neighbor but in sept 08 this woman attacked me. I called officers out and they said maybe it was time to get that TRO. The first one I filed was dismissed without prejudice after the 90 days were up and I refilled and included the husband due to his phone call. Officers tried to serve the TRO but respondents would just hide in the house and refuse to answer the door. With the help of Maj. Green the husband was finally served but lies to officers that his wife isn't home. I asked the judge to please tell me how I can go about getting her served but he told me that Hawaii law only allows service by officers. In other states law allows for other ways of service and that is something only legislators can change. I had another judge off the record chastise my husband and I for not having her served yet while her husband stood right next to us. I know we are not the only people to have had this problem, and the law should allow other was of service when it is apparent that the respondent is avoiding service by officers.