

Honolulu, Hawaii

FEB 18 2009

RE: S.B. No. 838

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Madam:

Your Committee on Human Services, to which was referred S.B. No. 838 entitled:

"A BILL FOR AN ACT RELATING TO THE PENAL CODE,"

begs leave to report as follows:

The purpose of this measure is to provide greater protection to victims of domestic violence who the courts and police are attempting to keep safe through protective orders and police orders.

Specifically, the measure:

- (1) Amends the offense of murder in the first degree to include the killing of a protected person;
- (2) Amends the offense of murder in the second degree to include recklessly causing the death of a protected person;
- (3) Amends the offense of assault in the second degree to include the intentional, knowing, or reckless causing of bodily injury to a protected person; and
- (4) Amends the offense of terroristic threatening in the first degree to include the threatening of a protective person.

Testimony in support of this measure was submitted by the Attorney General; the Department of the Prosecuting Attorney,



County of Maui; the Police Department, County of Maui; the Police Department, City and County of Honolulu; the Department of the Prosecuting Attorney, City and County of Honolulu; and the Hawaii State Coalition Against Domestic Violence. The State Office of the Public Defender submitted testimony in opposition to the measure. Copies of written testimony are available for review on the Legislature's website.

Your Committee finds that domestic violence is widespread in Hawaii. The State has attempted to address the problem by offering protective orders to domestic violence victims. However, despite the issuance of such protective orders, some victims continue to be harassed, intimidated, and in some cases, killed, by their abusers. This measure seeks to provide greater protection and support to victims of domestic violence who have sought assistance from the courts and the police by, among other things, upgrading the respective grades of offenses applicable to these circumstances, as follows:

- (1) Upgrading manslaughter to murder in the second degree;
- (2) Upgrading terroristic threatening in the second degree, a misdemeanor, to the class C felony of terroristic threatening in the first degree; and
- (3) Upgrading assault in the third degree, a misdemeanor, to the class C felony of assault in the second degree,

when these crimes are committed against protected victims.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 838 and recommends that it pass Second Reading and be referred to the Committee on Judiciary and Government Operations.

Respectfully submitted on
behalf of the members of the
Committee on Human Services,


SUZANNE CHUN OAKLAND, Chair



The Senate
 Twenty-Fifth Legislature
 State of Hawaii

Record of Votes
Committee on Human Services
HMS

Bill / Resolution No.:*	Committee Referral:	Date:
SB 838	HMS, JGO	2/12/09

The committee is reconsidering its previous decision on this measure.
 If so, then the previous decision was to: _____

The Recommendation is:

Pass, unamended 2312 Pass, with amendments 2311 Hold 2310 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
CHUN OAKLAND, Suzanne (C)	✓			
IHARA, Jr., Les (VC)	✓			
GREEN, M.D., Josh	✓			
HEMMINGS, Fred				✓
TOTAL	3			1

Recommendation: Adopted Not Adopted

Chair's or Designee's Signature: 

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*Only one measure per Record of Votes