

**Testimony of the Office of the Public Defender  
State of Hawaii  
to the House Committee on Judiciary**

February 4, 2010

H.B. No. 2725: RELATING TO ANIMALS.

Chair Karamatsu and Members of the Committee:

H.B. 2725 proposes to change the definitions in HRS § 711-1100 by adding a new definition for “primary pet enclosure” and amending the definition of “necessary sustenance”.

These proposed changes are intended to impact the offense of Cruelty to animals in the second degree, HRS § 711-1109 (1) (a) which states in relevant part:

A person commits the offense of cruelty to animals in the second degree if the person intentionally, knowingly or recklessly:  
... deprives a pet animal of necessary sustenance or causes such deprivation.

Currently, the law requires that a person provide “necessary sustenance” which includes, but is not limited to, providing:

- (1) sufficient quality and quantity of food,
- (2) adequate access to water,
- (3) access to protection from wind, rain or sun, and
- (4) an area of confinement that has adequate space necessary for the health of the animal and is kept reasonably clean and free from excess waste or other contaminants that could affect the animal’s health.

The change proposed in this bill would delete (4) above and replace it with a requirement that a person provide an area of confinement in a “primary pet enclosure” (defined as a kennel, cage, or structure which restricts an animal’s space) that, among other requirements:

- ...  
(B) is constructed of safe materials to protect an animal from injury
- ...  
(D) provides an animal with a solid surface or resting platform that is large enough for the animal to lie down in a normal manner, and
- (E) provides enough space for an animal to “easily stand, sit, lie, turn around, make all other normal body movements in a comfortable normal position for the animal without making physical contact with any other animal enclosure” and “to interact safely with other animals within the enclosure”.

We believe these proposed changes are ill-advised and will lead to a great deal of confusion in applying our Second Degree Cruelty to Animals statute.

First of all, it is unclear what is meant by “safe materials”. Pet product stores sell soft-sided carrying bags for cats, for example, which would not necessarily “protect an animal from injury”. A pet owner who handled the carrier responsibly to assure that no harm

came to their pet would still risk technical violation of this law. Such a carrier does not necessarily provide a “solid surface” or resting “platform”, also undefined terms. Finally, there are carries used for transporting pets which do not necessarily provide room for an animal to “easily” “turn around” or “make other normal bodily movements in a comfortable position”, another term that is not defined.

The changes proposed in this bill are unnecessary. They will create litigation challenging the vagueness of the terms and they will add no further protection than is already found in our current law.

For these reasons, we oppose this proposed legislation. Thank you for the opportunity to comment on this bill.



THE HUMANE SOCIETY  
OF THE UNITED STATES

Testimony in SUPPORT  
HB 2724; Relating to Offenses Against Public Order  
HB 2725; Relating to Animals  
House Judiciary Committee  
February 4, 2010, 220pm

Submitted by: Inga Gibson  
Hawaii State Director  
The Humane Society of the United States

**Dear Honorable Chair Karamatsu Vice-Chair Ito and Committee Members:**

On behalf of our 49,315 members and supporters of the Humane Society of the United States in Hawaii, I would like to thank you for this opportunity to speak in **strong support of HB 2724**; permitting dog tethering if only meeting certain specifications, and **in strong support of HB 2725**; amending the definition of necessary sustenance. We also thank Chair Karamatsu for introducing these important and most modest measures to improve the quality of life for thousands of animals across Hawaii.

**HB 2724; Tethering**

The introduction of this measure could not be more timely. More than 100 ordinances across 30 states have recently been enacted to prohibit certain types of chaining. In addition, local media has recently reported a number of dog bites and a proposal to prohibit certain breeds of dog. The most effective, efficient and affordable way to reduce dog bites is to prohibit the inhumane practice of chaining, coupled with strong dangerous dog and anti-dogfighting laws.

**Tethering Causes Aggression - a Threat to Public Safety**

The practice of chaining or tethering leads to aggression in dogs—even in dogs who start out friendly and docile. Continuously tethered dogs become lonely, bored, territorial, and aggressive. Like many animals, dogs react to perceived threats with a “fight or flight” response. Because tethered dogs do not have a “flight” option, they are more likely to respond aggressively to perceived threats—whether it’s another animal or an unlucky child who happens to enter their territory.

Chaining is a known risk factor for dog bites. Health and Public Safety professionals have long recognized a connection between chained dogs and dog bites. For example, in a 1994 edition of the journal *Pediatrics*, researchers found that chained dogs are nearly three (2.8) times more likely to bite than unchained dogs and over five (5.4) times more likely to bite children than unchained dogs.<sup>1</sup>

Numerous attacks on people by tethered dogs have been documented. For example, a study published in 1985 in *Public Health Reports* showed that half of the dogs involved in severe attacks on humans were chained during the attack or broke free from their chains to attack.<sup>2</sup> Tragically, the victims of such attacks are often children.

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<sup>1</sup> K.A. Gershman, Jeffrey J. Sacks, and J.C. Wright, “Which dogs bite? A case-control study of risk factors,” *Pediatrics* 93 (1994), 913-917.

<sup>2</sup> John C. Wright, PhD, “Severe Attacks by Dogs: Characteristics of the Dogs, the Victims, and the Attack Settings,” *Public Health Reports* Vol. 100, No. 1 (January-February 1985), <http://www.pubmedcentral.nih.gov/articlerender.fcgi?artid=1424716>.

The United States Department of Agriculture and American Veterinary Medical Association also note the negative effects of chained dogs:

USDA – United States Department of Agriculture

From the Federal Register Vol. 1, No. 68 (July 2, 1996): “Our experience in enforcing the Animal Welfare Act has led us to conclude that continuous confinement of dogs by a tether is inhumane. A tether significantly restricts the dog’s movement. A tether can also become tangled around or hooked on the dog’s shelter structure or other objects, further restricting the dog’s movement and potentially causing injury.”

AVMA – American Veterinary Medical Association

From press releases dated May 17, 2002 and May 5, 2003 for National Dog Bite Prevention Week: “Never tether or chain your dog because this can contribute to aggressive behavior.”

Scientific study

From the study *Which Dogs Bite? A Case Control Study of Risk Factors*: “Our finding that being chained in the yard may be a risk factor for biting is in agreement with prior studies which have demonstrated that chained dogs account for a substantial portion of serious and fatal bites.”

Constant Tethering is Inhumane

Dogs are pack animals and are naturally social. Chained dogs live an isolated existence that is contrary to their own instincts. This lack of socialization is part of what makes chained dogs more dangerous.

Chained dogs are at risk of getting hurt. Aside from the psychological harm endured by chained dogs, they are at risk from a number of other dangers. Weather conditions such as extreme heat or flooding can adversely affect a chained dog’s health. Plus, chained dogs cannot escape attacks from people or other animals. Also, it is not uncommon for chained dogs to strangle themselves if their tether gets tangled or caught on another object. In many cases, the necks of chained dogs become rubbed raw and covered with sores, the result of poorly fitted collars and the dogs’ constant yanking and straining in desperate attempts to escape confinement. Dogs have been found with collars embedded in their necks, the result of years of neglect at the end of a chain.

**HB 2725; Necessary Sustenance**

This bill would help to improve the health, well-being and overall welfare of thousands of pet animals across Hawaii that spend considerable time in kennels or cages by providing the most basic housing, sustenance, care and keeping standards. This is also a first step in preventing “puppy mills” or mass breeding operations where dogs are often kept in cramped, dirty cages, unable to engage in the most basic body movements.

This bill also provides a necessary requirement that owners provide veterinary care to pet animals to prevent suffering. Hawaii is but one of only a few states without this provision, making this an extremely important measure to reduce unnecessary animal suffering and improve pet owner responsibility for the care of their pets.

For these reasons, we respectfully request your passage of both HB 2724 and HB 2725.

Please contact me at (808)922-9910 or [igibson@humanesociety.org](mailto:igibson@humanesociety.org) if I may provide additional information.



## HAWAIIAN HUMANE SOCIETY

2700 Waiālae Avenue  
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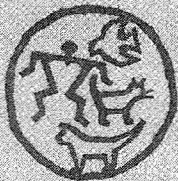
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*The Hawaiian Humane  
Society is dedicated to  
promoting the human-  
animal bond and  
the humane treatment of  
all animals.*



House Bill 2725 to be heard on Thursday,  
February 4, 2010 at 2:20p.m. This is written  
testimony, which will be accompanied by oral  
testimony.



## HAWAIIAN HUMANE SOCIETY

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*The Hawaiian Humane  
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February 3, 2010

John Riki Karamatsu, Chair  
Ken Ito, Vice Chair  
Committee on Judiciary

Re: Testimony on HB 2725

Chair Karamatsu, Vice Chair Ito and Members of the Committee on Judiciary:

On behalf of our more than 26,000 supporters in Hawaii, the Hawaiian Humane Society greatly appreciates the opportunity to comment on HB 2725 Relating to Animals.

We strongly support the passage of HB 2725, which expands the definition of a primary pet enclosure and also amends the definition of necessary sustenance to include a broader range of care needed to sufficiently preserve the health and well-being of a pet animal. The language also includes important changes that provide the animal with a solid surface or resting platform large enough to lie down on in a normal manner; provide sufficient space to allow the animal to both easily stand, sit, lie, turn around and perform other normal body movements in a comfortable way without making physical contact with another animal in the enclosure; enable the animal to safely interact with other animals in the enclosure; and require the provision of veterinary care when needed to prevent suffering.

In response to various bills submitted to last year's legislature on pet confinement and tethering, the Hawaiian Humane Society, Maui Humane Society, Kauai Humane Society and the Hawaii Island Humane Society requested more time to discuss this complex issue and build consensus in our community. A task force was convened with key stakeholders in the animal welfare, veterinary and advocacy community and over the course of six meetings the language of HB 2725 was developed to address our core concerns. This bill represents that collaborative effort, which aims to effectively address this important issue of pet confinement.

For over 100 years, the Hawaiian Humane Society has played an ever-evolving role in the relationship between Hawaii's people and animals, and we welcome every effort to provide greater protection for our animals and our community.

The Hawaiian Humane Society strongly supports HB 2725 and we urge you to pass this important legislation.

Thank you for the opportunity to voice our strong support for this bill.

Pamela Burns  
President & CEO  
Hawaiian Humane Society



**Maui Humane Society**

P.O. Box 1047  
Piʻihonene, Hawaii 96784  
P# 808.877.3680 • F# 808.877.5033  
[www.mauihumanesociety.org](http://www.mauihumanesociety.org)

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*Jocelyn Bouchard, CAWA*

February 3, 2010

Re: HB2725

Attn: Committee on Judiciary Chair Karamatsu and Vice-Chair Ito

Aloha;

Our agency strongly supports the passage of HB 2725 and its Senate companion bill SB 2800.

In response to various bills submitted to last year's legislature on pet confinement and tethering, the Hawaiian Humane Society, Maui Humane Society, Kauai Humane Society and the Hawaii Island Humane Society requested more time to discuss this complex issue and build consensus in our community. A task force was convened with key stakeholders in the animal welfare, veterinary and advocacy community and over the course of six meetings, the language in HB 2725 and SB 2800 was developed to address our core concerns. These bills are a representation of a collaborative effort that aims to effectively address this important issue.

The bill expands the definition of a primary pet enclosure and also amends the definition of necessary sustenance to include a broader range of care needed to sufficiently preserve the health and well-being of a pet animal. The language includes changes that provide the animal with a solid surface or resting platform large enough to lie down on in a normal manner; provide sufficient space to allow the animal to both easily stand, sit, lie, turn around and perform other normal body movements in a comfortable way without making physical contact with another animal in the enclosure; enable the animal to safely interact with other animals in the enclosure; and require the provision of veterinary care when needed to prevent suffering.

Mahalo for your time in hearing these bills. I can be reached for further comment and/or information at (808)877-3680 ext 36 or [jbouchard@mauihumanesociety.org](mailto:jbouchard@mauihumanesociety.org)

Sincerely;

Jocelyn Bouchard, CAWA  
Chief Executive Officer  
Maui Humane Society

*Providing Love. Preventing Cruelty.*



**karamatsu1-Kenji**

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**From:** Madelyn Barrea [madb1@hawaiiantel.net]  
**Sent:** Wednesday, February 03, 2010 7:54 PM  
**To:** JUDtestimony  
**Subject:** SUPPORT FOR HB 2724: Related to Tethering and HB 2725 Related to Animals

**To: Honorable Chair Karamatsu, Vice-Chair Ito and House Judiciary Committee Members**

**West Hawaii Humane Society would like to go on record as being totally in favor of  
HB 2724; RELATED TO TETHERING AND HB 2725 RELATED TO ANIMALS.**

**Thank you,**

**Ginger Towle, President**

**Madelyn R. Barrea, Executive Director**

**West Hawaii Humane Society**



**karamatsu1-Kenji**

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**From:** Anjie Pham [potteringpuck@yahoo.com]  
**Sent:** Wednesday, February 03, 2010 1:13 PM  
**To:** JUDtestimony  
**Subject:** HB 2725 (Pet Animal Enclosure): Support

**Dear Representatives:**

**I support HB 2725 to amend and improve on the current definitions of "pet sustenance and shelter". I also welcome the addition of a preliminary guideline for what may constitute as a "primary pet enclosure".**

**Please pass HB 2725.**

**Mahalo nui,**

**Anjie Pham  
Honolulu, Hawai'i**

## **karamatsu1-Kenji**

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**From:** Spikecat1@aol.com  
**Sent:** Wednesday, February 03, 2010 3:45 PM  
**To:** JUDtestimony  
**Subject:** Support of HB 2724 & HB 2725

To Committee on Judiciary  
Chairperson Karamatsu and Vice-Chairperson Ito

Sirs:  
We strongly support HB 2724 and HB 2725 and the companion Senate Bills. Please consider this as our testimony when considering these bills. Please vote for their passage. We also favor adding the language from SB 2877 (1d) to HB 2724.  
Sincerely,  
Drs. Judith and Ronald Aikawa  
37 Apali Way  
Kula, Hawaii 96790

## **karamatsu1-Kenji**

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**From:** DR. Miyo Kim [mkim@mauihumanesociety.org]  
**Sent:** Wednesday, February 03, 2010 4:24 PM  
**To:** JUDtestimony  
**Subject:** testimony

I would like to support passage of your HB 2725 on confinement and HB 2724 on Tethering. These are two very important bills to help protect the safety of our animals. We see the results of inappropriate confinement and tethering and it is heartbreaking. Please help us help the animals!!! Aloha, Dr. Miyo Miyasaki-Kim

**From:** Judy Mick [ppchawaii@yahoo.com]  
**Sent:** Wednesday, February 03, 2010 7:22 PM  
**To:** JUDtestimony  
**Subject:** HB #2724 and #2725

Aloha-

Please support both HB 2724 and HB 2725. In such a beautiful and special place as these islands, we must extend our compassion and aloha to those that can not speak for themselves-the animals. To paraphrase Mark Twain, if we are intellectually superior and know what is the right thing to do, not doing it makes us morally inferior. Please support these wonderful creatures. Mahalo, Judith Mick

## **karamatsu1-Kenji**

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**From:** annmarie@hawaii.rr.com  
**Sent:** Wednesday, February 03, 2010 10:35 PM  
**To:** JUDtestimony  
**Subject:** HB 2724 & 2725 - Testimony in Strong Support - Feb. 4, 2010 at 2:20pm

### **HB 2724; Related to Teethering AND HB 2725; Related to Animals HOUSE JUDICIARY COMMITTEE, Feb. 4th, 2010**

Aloha Chair Karamatsu, Vice-Chair Ito and House Judiciary Committee members,

I am writing to ask you to support House Bills 2724 & 2725.

As a pet owner my whole life, and one who has been blessed with the special bond one develops with their dog, I believe dogs are more than simple pets, they are a part of the family. And like our family members, our dogs deserve the best life we can give to them. That life includes extended to them our aloha, our interaction and exercise with them, and to make sure their life is a happy, safe and healthy one.

A dog tethered for extended periods of time develops aggressive tendencies because it has not been given the opportunity to gain proper social skills with other dogs and humans. When the tethered dog is finally allowed to have time off of its restraints it is more apt to bite someone out of fear which reveals itself in an aggressive act toward another dog or a human. Extended tethering breeds aggressiveness, this creates issues of public safety. A dog which is allowed to walk, run, socialize with others, is a happy and well adjusted dog and will not create safety issues.

The same can be written of dogs who are held in kennels for extended periods of time. This practice of keeping dogs in kennels without adequate space, care or cleanliness is often seen in puppy mills where the business is to mass breed the dogs without proper veterinary care and where the dog experiences a horrible quality of the life. Quite simply, this is wrong and inhumane.

Hawai'i is one of but a few states that do not have a provision for owners to provide veterinary care to their pets to prevent suffering. This must change. We must take better care of our pets, our furry family members, and make sure they are taken care of and given the aloha, care and quality of life that they deserve.

I humbly ask you to support HB 2724 & 2725.

Mahalo,  
Ann Marie Kirk

PO Box 25342  
Honolulu, Hawai'i 96825

[annmarie@hawaii.rr.com](mailto:annmarie@hawaii.rr.com)

**karamatsu1-Kenji**

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**From:** K. Williams [kdw@hawaiiantel.net]  
**Sent:** Thursday, February 04, 2010 12:14 AM  
**To:** JUDtestimony  
**Subject:** Support for HB 2724 AND HB 2725 Relating to Animals

**Importance:** High

**Dear Sir/Ma'am,**

**Please know that I support HB 2724 and HB 2725.**

**Hawaii consistently ranks low among the 50 states for not acting strongly against animal abuse.**

**Please do your part to remove this stigma and show the world we DO CARE about animals!!**

**Sincerely,**

**Kim Williams  
99-1106 Halawa Heights Road  
Aiea HI 96701**