

TESTIMONY BY WESLEY K. MACHIDA  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE SENATE COMMITTEES ON JUDICIARY AND LABOR  
AND WAYS AND MEANS  
ON  
HOUSE BILL NO. 448, H.D. 1, PROPOSED S.D. 1

April 8, 2015

RELATING TO DOMESTIC VIOLENCE

House Bill No. 448, H.D. 1, Proposed S.D. 1, in addition to requiring reviews of domestic violence injuries, creates an Address Confidentiality Program within the Crime Victim Compensation Commission to assist victims of domestic violence, sexual offenses, or stalking to relocate and keep their addresses confidential. The new program helps prevent the victim's assailants or potential assailants from finding the victim through public records. The bill also establishes the Address Confidentiality Program Surcharge Fund to defray costs of the program.

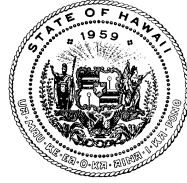
The proposed Address Confidentiality Program Surcharge Fund would generate revenues through a new surcharge, grants, gifts, donations, and interest. The bill establishes a \$28 surcharge for persons convicted of stalking, domestic violence, or sexual offenses, with 5% of this amount to be deposited into the Crime Victim Compensation Special Fund and 95% of the amount to be credited to the Address Confidentiality Program Surcharge Fund. The bill does not contain an expenditure ceiling.

While the Department of Budget and Finance does not take any position on the policy of establishing an Address Confidentiality Program, as a matter of general policy, the department does not support the creation of special or revolving funds which do not

meet the requirements of Section 37-52.3, HRS. Special or revolving funds should:

1) serve a need as demonstrated by the purpose, scope of work and an explanation why the program cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining.

In regards to House Bill No. 448, H.D. 1, Proposed S.D. 1, it is difficult to determine whether the proposed fund will be self-sustaining since it is dependent on grants, donations, and the convicted person's ability to pay the surcharge. Additionally, it is unclear whether the Address Confidentiality Program Surcharge Fund is proposed as a special or revolving fund.



**STATE OF HAWAII**  
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WRITTEN ONLY

**Testimony COMMENTING on H.B. 448, H.D. 1, S.D. 1 Proposed  
RELATING TO DOMESTIC VIOLENCE**

SENATOR GILBERT S.C. KEITH-AGARAN, CHAIR  
SENATE COMMITTEE ON HEALTH

AND

SENATOR JILL N. TOKUDA, CHAIR  
SENATE COMMITTEE ON WAYS AND MEANS

Hearing Date: April 8, 2015

Room Number: 211

1 **Fiscal Implications:** None.

2 **Department Testimony:** The Department of Health supports Part I of H.B. 448, H.D. 1, S.D. 1  
3 Proposed, which adds near-deaths and suicides to the types of multidisciplinary reviews  
4 conducted through the Domestic Violence Fatality Review (DVFR) process. H.B. 448, H.D. 1,  
5 S.D. 1 Proposed, also mandates the Department to conduct DVFRs by deleting “may” conduct to  
6 “shall” conduct these reviews. The purpose of the DVFR is to prevent the incidence of domestic  
7 violence fatalities in Hawaii. Adding near-deaths and suicides will provide the Department a  
8 larger number of domestic violence incidences to review. It will also increase stakeholders’  
9 ability to learn more about events leading up to a domestic violence fatality and thereby  
10 providing additional supports and recommendations for systems change and improvements.

11 The Department defers Part II to the Department Accounting and General Services,  
12 Department of Budget and Finance, and Crime Victim Compensation Commission/victims  
13 services community.

14 Thank you for the opportunity to testify on this measure.

HAWAII  
STATE  
COMMISSION  
ON THE  
STATUS  
OF  
WOMEN



Chair  
LESLIE WILKINS

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April 7, 2015

To: Senator Gilbert S.C. Keith-Agaran, Chair  
Senator Maile S.L. Shimabukuro, Vice Chair  
Members of the Senate Committee on Judiciary and Labor

Senator Jill N. Tokuda, Chair  
Senator Ronald D. Kouchi, Vice Chair  
Members of the Senate Committee on Ways and Means

From: Cathy Betts, Executive Director  
Hawaii State Commission on the Status of Women

Re: Testimony in Support, HB 448, HD1, Proposed SD1, Relating to Domestic Violence

On behalf of the Hawaii State Commission on the Status of Women, I would like to express my support for HB 448, HD1, proposed SD1, which would amend our domestic violence fatality review panel statute to include suicides and near deaths. This information, if captured, would help create a clearer picture of how extensive domestic violence related near deaths and suicides are in our state.

This bill would additionally strengthen our existing statute and would provide more accountability by adding a reporting component. Finally, HB 448 would allow for more streamlined information gathering by allowing for cross-agency collaboration with domestic violence service providers, and relevant state and county agencies.

Additionally, the proposed SD1 would create an address confidentiality program. This would assist victims by allowing them to use a substitute legal address in place of their physical address and would provide for a mail forwarding system for program participants, so that perpetrators of violence against women would not be able to seek out and find victims' physical addresses. Offenders often use public data to find their victims. In cases of domestic violence, sexual assault, and stalking, this entails the intensive use of people search engines which have proliferated over the last decade. For a small fee, it is very simple for people to find out personal information about their victims, including social media profiles, email addresses, and physical addresses.

Thirty-six other states in the nation have enacted and successfully implemented address confidentiality programs. Other states that have successfully implemented address confidentiality programs see the programs as vital to protecting victims of violence. However, the programs are most successful when government agencies communicate and collaborate with victim service agencies to make victims' safety and privacy a priority.

This program should be placed in an agency with specific knowledge and training on domestic violence and sexual assault, as well as a primary focus on maintaining the safety of victims.

As the Crime Victims Compensation Commission interfaces with offenders on a daily basis, it is best that this program is housed within a different agency. Some considerations that should be taken into account when determining the agency to house this program are: safety, privacy, ability to keep records safe and confidential, and a lack of public interface with offenders or potential perpetrators.

In the alternative, the Commission would support a formal or informal working group or task force to continue to look at how best to implement and set up an address confidentiality program.

Thank you for the opportunity to testify.



STATE OF HAWAII  
**CRIME VICTIM COMPENSATION  
COMMISSION**

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Executive Director

TESTIMONY ON HOUSE BILL 448, H.D. 1, PROPOSED S.D. 1  
RELATING TO DOMESTIC VIOLENCE

Pamela Ferguson-Brey, Executive Director  
Crime Victim Compensation Commission

Senate Committee on Judiciary and Labor  
Senator Gilbert S.C. Keith-Agaran, Chair  
Senator Maile S.L. Shimabukuro, Vice Chair

Senate Committee on Ways and Means  
Senator Jill N. Tokuda, Chair  
Senator Ronald D. Kouchi, Vice Chair

Wednesday, April 8, 2015; 9:50 AM  
State Capitol, Conference Room 211

Chairs Keith-Agaran and Tokuda, Vice Chairs Shimabukuro and Kouchi, and Members of the Joint Senate Committee on Judiciary and Labor, and Ways and Means:

Thank you for providing the Crime Victim Compensation Commission ("Commission") with the opportunity to submit testimony in opposition to House Bill 448, H.D. 1, Proposed S.D. 1 as it relates to creating an address confidentiality program. House Bill 448, H.D. 1, Proposed S.D. 1 inserts language from House Bill 446 and Senate Bill 384 into House Bill 448, H.D.1 to create an address confidentiality program. After House Bill 446 and Senate Bill 384 died in the House, the victim service community, the Hawai'i State Coalition on the Status of Women and the Commission committed to work during the interim to draft a bill that would address the issues and concerns raised about the proposed program.

The Commission was established in 1967 to mitigate the suffering and financial impact experienced by crime victims of violent crime by providing compensation to pay un-reimbursed crime-related expenses. Many victims of violent crimes could not afford to pay their medical bills, receive needed mental health or rehabilitative services, or bury a loved one if compensation were not available. In 2003, the Commission initiated the Restitution Recovery Program to serve as the clearinghouse for restitution payments collected from inmates and parolees.

The Commission opposes House Bill 448, H.D.1, Proposed S.D. 1 for the following reasons:

## 1. The Bill Does Not Provide Positions Or Adequate Funding To Administer The Program

In order to run the program, at a minimum, the program would require funding for:

- 1) The creation and establishment of a Program Director position and staff.
- 2) Startup and operating expenses.
- 3) Dedicated, secure computer server and network.
- 4) A database program to store the confidential information.
- 5) A secured undisclosed office space.

This bill does not provide for any general funds to establish and run the program. The proposed “surcharge” will be imposed on very limited categories of cases and will be inadequate to fund the program.

The Colorado address confidentiality program was originally intended to be funded solely by a \$28 surcharge. The Colorado program found that the surcharge did not provide sufficient funds to create and run their program. The Colorado program now receives general funds.

The Commission’s experience in running a program that is reliant upon fees imposed on defendants in criminal cases illustrates how difficult it is for a program to be self-sufficient. The Commission’s compensation program was created in 1967 and funded by general funds. In 1998, the Crime Victim Compensation Fee was created, however, the Commission continued to require general funds until 2003. The compensation program’s ability to be self-sufficient since 2003 is in large part to the matching funds received from the federal government. Without the matching funds, the Commission would not be able to be self-sufficient.

The address confidentiality program does not have the benefit of matching funds from the federal government. Based on its experience, the Commission believes that the address confidentiality program cannot be funded solely by a \$28 surcharge and general funding is necessary.

## 2. The Bill Does Not Provide The Secure And Confidential Location Required By The Program

As part of the Restitution Recovery Program, the Commission collects restitution payments from parolees. Every day, parolees are in the Commission’s office to make payments. Because the applicants for compensation rarely appear at the Commission in person, there has not been an issue of victims being forced to be in the same room with perpetrators. However, the Commission’s office is in a privately owned building that is open to the public.

If the address confidentiality program is located within the Commission, the Commission would require a separate office in a different building with sufficient distance between the buildings to provide adequate security and confidentiality for participants of the address confidentiality program. The building must be a secured building.

Additionally, because the Commission is administratively attached to the Department of Public Safety (PSD), the Commission’s network is administered by PSD and the Commission’s data is housed on PSD’s server. Therefore, the Commission’s current network would not be sufficient

to provide secured access and to prevent accidental access by PSD users. In order to ensure confidentiality, the Commission would require a separate, secured network that is not accessible by any other agency or department including PSD.

The Commission is unable to provide adequate security and the level of privacy necessary to run the program.

### 3. The Bill Does Not Provide The Time Needed To Develop The Program

§351-C allows the potential participants to apply beginning July 1, 2015. Even if it is fully funded, the program would need at least a year before it can accept applications. At least a year is needed to: 1) Create and fill the program director and staff positions; 2) Create the necessary administrative rules to run the program; 3) Create the computer database; 4) Locate the secured office space.

### 4. The Bill Needs Substantive Changes

The Commission identified some of the issues raised by the proposed statutes:

1. § 351-H(i) states “ If the final determination is that the agency’s request for disclosure was improper, the program shall grant the agency’s request for disclosure in accordance with this section” In the context of the paragraph, the sentence should have read “If the final determination [of the program director or the program director’s designee is that denial of ] the agency’s request for disclosure was improper[ly denied], the program grant the agency’s request for disclosure in accordance with this section.”
2. The address confidentiality program does not allow for the exclusion of any type of mail from the program. A provision should be added to restrict the program to First Class letter mail and exclude bulk mail and packages. The forwarding of the bulk mail and packages would be cost prohibitive.
3. §351-G(b) places the burden on the address confidentiality program to identify and notify all courts that have on going “dissolution of marriage proceedings, child support, or the allocation of parental responsibilities or parenting time” that a person had been certified in the program and provide the substitute address. Child support and child custody cases are often handled in closed and confidential cases, such as Child Protective Services and Paternity, that would not provide information to the program. This section should be removed which would place the responsibility on the participant to inform the court(s).
4. The Commission recommends that the statute also include an indemnity clause that states essentially that “Nothing in this chapter shall be construed to create a cause of action against the State, the Crime Victim Compensation Commission, or any of their agencies, officials, or employees.” The statute creates potential liability to the state and employees of the program for damages claimed as a result of misplaced, lost or untimely mail or the inadvertent disclosure of the actual address.
5. § 351-H establishes a procedure for a governmental agency to request the actual address of the participant. The section provides for notice to the participant who can

provide input. However, while the section explicitly allows the governmental agency to request a reconsideration of the program's decision by filing written exceptions, the section does not provide the participant with the same opportunity.

6. § 351-H also provides the governmental agency requesting the actual address of the participant, to appeal the program's denial of its written exceptions to the courts pursuant the Hawai'i Revised Statutes (HRS) chapter 91. There is no provision allowing the participant to appeal the program's decision pursuant to HRS chapter 91.
7. § 351-G(d) which imposes potential criminal liability of a misdemeanor for the disclosure of a participant's actual address or telephone number should be amended to include that a disclosure made pursuant to § 351H would also be a defense. Without the addition, a prosecutor could argue that the agency made the wrong decision and that the person who made the disclosure was criminally liable. Given the criminal implications to employees of the program, this addition would prevent such a situation.

These are some of the issues that the Commission identified as concerns with the proposed bill. The bill needs to be researched and developed with the input of the victim services community and to find an agency capable of providing a secured setting for the program.

Thank you for providing the Commission with the opportunity to testify in opposition to the House Bill 448, H.D. 1, Proposed S.D. 1 as it relates to creating an address confidentiality program within the Commission.



April 8, 2015

To: Senator Gilbert Keith-Agaran, Chair  
Senator Maile Shimabukuro, Vice Chair and  
Members of the Committee on Judiciary and Labor

To: Senator Jill Tokuda, Chair  
Senator Ronald Kouchi, Vice Chair and  
Members of the Committee on Ways and Means

From: Jeanne Y. Ohta, Co-Chair

RE: HB 448 HD1 Relating to Domestic Violence  
Hearing: Wednesday, April 8, 2015, 9:50 a.m., Room 211

Position: SUPPORT

The Hawai'i State Democratic Women's Caucus writes in support on HB 448 HD1 Relating to Domestic Violence which requires the Department of Health to conduct reviews of domestic violence fatalities, near-deaths, and suicides.

Domestic violence is a serious concern in our community. Its results may be catastrophic for victims, survivors, and their families. By adding near-deaths, and suicides to the information gathered; we will have a better understanding of the real consequences of violence in our families. The information will help our community improve systems, policies, and procedures, which will then prevent domestic violence.

The Hawai'i State Democratic Women's Caucus is a catalyst for progressive, social, economic, and political change through action on critical issues facing Hawaii's women and girls. It is because of this mission that we respectfully request that the committee pass this bill.

Thank you for the opportunity to provide testimony in support of this measure.



PROTECTING HAWAII'S OHANA, CHILDREN, UNDER SERVED, ELDERLY AND DISABLED

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TO: Senator Gilbert S.C. Keith-Agaran, Chair  
Senator Maile S.L. Shimabukuro, Vice Chair  
Members, Committee on Judiciary and Labor

Senator Jill N. Tokuda, Chair  
Senator Ronald D. Kouchi, Vice Chair  
Members, Committee on Ways and Means

FROM: Scott Morishige, MSW  
Executive Director, PHOCUSED

HEARING: **Wednesday, April 8, 2015 at 9:50 a.m. in Conf. Rm. 211**

**Testimony in Support for HB448 HD1 Proposed SD1,  
Relating to Domestic Violence.**

Thank you for the opportunity to provide testimony in **support** for HB448 HD1 Proposed SD1, which (1) Requires the Department of Health to conduct reviews of domestic violence fatalities, near-deaths and suicides, and requires reviews to commence within one year; and (2) Establishes an address confidentiality program to help victims of domestic violence and sexual assault relocate. PHOCUSED is a nonprofit membership and advocacy organization that works together with community stakeholders to impact program and policy change for the most vulnerable in our community, including survivors of domestic violence.

Our membership includes organizations, such as Child & Family Service, Parents & Children Together, the Hawaii State Coalition Against Domestic Violence and Domestic Violence Action Center, which serve survivors of domestic violence and their families. Based on their work in the community, our members strongly support both components of the Proposed SD1.

In Hawaii, it is estimated that about 132,000 adults (15%) experience intimate partner violence in their lifetime. However, only a few of those adults reported such experience to authorities, and even fewer resulted in fatalities. The fatality review process has helped our community to better understand the circumstances regarding domestic violence. By expanding fatality reviews to include near-deaths, as well as suicides, this bill will further increase our understanding of domestic violence, and will



PROTECTING HAWAII'S OHANA, CHILDREN, UNDER SERVED, ELDERLY AND DISABLED

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provide more robust feedback to impact both system and institutional changes.

Furthermore, this bill addresses the critical issue of address confidentiality for domestic violence survivors. Address confidentiality programs are especially needed in this age of modern technology, where information is now easily available through the Internet and public records. By providing survivors the ability to shield their actual locations through substitute addresses, and by penalizing the unauthorized disclosure of actual address information, HB448 ensures both the privacy and safety of domestic violence survivors and their families. Since 1991, 36 other states have enacted similar legislation and implemented similar confidentiality programs.

Once again, PHOCUSED strongly supports HB448, and urges you to pass this bill out of committee. If you have any questions, please do not hesitate to contact PHOCUSED at 521-7462 or by e-mail at [admin@phocused-hawaii.org](mailto:admin@phocused-hawaii.org).

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [JDLTestimony](#)  
**Cc:**  
**Subject:** \*Submitted testimony for HB448 on Apr 8, 2015 09:50AM\*  
**Date:** Monday, April 06, 2015 1:48:05 PM

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**HB448**

Submitted on: 4/6/2015

Testimony for JDL/WAM on Apr 8, 2015 09:50AM in Conference Room 211

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dara Carlin, M.A.	Individual	Support	No

Comments:

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