

LATE

HB 448 HD1,
Proposed SD1

Relating to Domestic
Violence



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-EIGHTH LEGISLATURE, 2015**

ON THE FOLLOWING MEASURE:

H.B. NO. 448, H.D. 1, PROPOSED S.D. 1, RELATING TO DOMESTIC VIOLENCE.

BEFORE THE:

SENATE COMMITTEES ON JUDICIARY AND LABOR AND ON WAYS AND MEANS

DATE: Wednesday, April 8, 2015 **TIME:** 9:50 a.m.

LOCATION: State Capitol, Room 211

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Deputy Attorney General Renee R. Sonobe Hong

Chair Keith-Agaran, Chair Tokuda, and Members of the Committees:

The Department of the Attorney General supports the intent of this bill, but has serious concerns about the constitutionality and potential unintended consequences if the bill is enacted.

This measure provides for an address confidentiality program to assist victims of domestic violence, sexual offenses, and stalking. This program would establish a substitute legal address system that could be used by victims to keep their addresses confidential.

The "single subject" requirement of section 14 of article III of the Hawaii State Constitution, provides in relevant part that: "No law shall be passed except by bill. Each law shall embrace but one subject, which shall be expressed in its title." The purposes of section 14 of article III are as follows:

[F]irst, to prevent hodge-podge or logrolling legislation, second to prevent surprise or fraud upon the Legislature by means of provisions in bills of which titles give no intention; and third, to apprise the people of proposed matters of legislation.

Schwab v. Ariyoshi, 58 Haw. 25, 30-31, 564 P.2d 135, 139 (1977).

Part II of the bill is intended to assist victims of not only domestic violence, but also sexual offenses and stalking. The title of this bill, however, is "RELATED TO DOMESTIC VIOLENCE." As such, the proposed draft of this bill is objectionable because it embraces more than one subject in violation of section 14 of article III of the Hawaii State Constitution.

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Twenty-Eighth Legislature, 2015
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While the intent of the bill is to protect victims of domestic violence and sexual offenses, this bill, as currently written, may have the unintended consequence of doing just the opposite.

We provide the following examples:

- Page 10, line 8, through page 11, line 7, provide that legal service of process upon a program participant (victim) may be perfected if “process, notice, or demand” is signed for, on behalf of the victim, by the director or designee of the address confidentiality program. The concern is that if the program cannot then subsequently notify a victim that service has been made, adverse legal action may be taken against the victim without the victim’s knowledge.
- The bill, on page 20, lines 1-2 and 13-15, provides that “the substitute address shall not be used for the purposes of listing, appraising, assessing, or collecting property taxes” or “on any document related to real property recorded with a county clerk and recorder.” These exceptions are inconsistent with, and will work against, protecting and keeping confidential a victim’s location because the victim will still be required to use his or her actual address for these official purposes.

Also, section 351-H, on page 23, line 19, through page 30, line 20, provides for the disclosure of a program participant’s actual address to state or local government agencies based upon specific criteria and procedures, and allows for judicial review of a decision adverse to the requesting agency by the Crime Victim Compensation Commission program. We suggest that instead of providing a separate structure for inter- and intra-governmental sharing of information, such issues be addressed under section 92F-19, HRS (Limitations on disclosure of government records to other agencies).

Finally, we suggest for your consideration a provision regarding immunity from liability for state and county employees:

351-N Good faith immunity. The crime victim compensation commission, its employees, agents, and volunteers, and state and county officials involved with this program shall be immune from liability for good faith conduct under this chapter.

For these reasons, we respectfully request that this measure be held. We believe that further input from stakeholders and affected agencies, both private and public is essential to ensure that a program such as the one proposed can be effectively implemented. The Department will be happy to assist the Legislature and the stakeholders in this process.



25 Years

TO: Chair Gil Keith-Agaran
Vice Chair Maile Shimabukuro
Members of the Committee

TO: Chair Jill Tokuda
Vice Chair Ronald Kouchi
Members of the Committee

FR: Nanci Kreidman, M.A.

RE: HB 448 HD1 SD 1 Support

Aloha. And thank you for your consideration of this testimony. It is our responsibility to urge you to examine the community needs related to addressing domestic violence, one of our complex and costly community problems with broad impact.

As a member of the Fatality Review team since its inception and great interest in efforts underway across the country, we are anxious that Hawaii's work reviewing weaknesses and challenges in our system that end in death or other serious injury be improved. The Fatality Review Team has not had the leadership it needed nor the investment necessary to bring the work to a meaningful place. Thus, an amendment to the statute to motivate timely reviews is a welcome initiative.

Further, the work that has been undertaken and completed thus far has not been circulated for system wide consideration or change to system practice. The section in this Bill which refers directly to compilation and use of information collected appears necessary.

The amendments made to the proposed Bill since Session began will improve the work of the Fatality Review Team, and creates an imperative that promises to advance system reform and collaboration among the relevant partners.

The development of an Address Confidentiality program is long overdue. Since 1991, thirty-six states enacted legislation and launched ACP's. The legislative intent of every program is to protect the location of a survivor's actual address and reduce the risk of future harm. Women in Hawaii who are fleeing domestic abuse must leave their home and relocate to a safe place. However, each woman is only safe so long as her abuser does not track her down. Advancing Internet technologies, the release

P. O. Box 3198 Honolulu, HI 96801-3198

O'ahu Helpline: 808 531-3771 | Toll-free: 800 690-6200 | Administration: 808 534-0040 | Fax 808 531-7228
dvac@stoptheviolence.org | www.domesticviolenceactioncenter.org | facebook.com/domesticviolenceactioncenterhawaii





25 Years

of personal information by state agencies, and Court-ordered disclosures in family court proceedings make it easier than ever for abusers to locate survivors. The risks may also prove deadly for the woman who underestimates the lengths to which her abuser will go to continue the abuse. Further, the fear of having identifying information disclosed has actually deterred survivors from filing restraining orders, and divorce complaints.

There is no reason for a survivor's location (address) to be public information, and accessible to their abusers. Many other states have seen the wisdom of this kind of initiative. We encourage the Committees today and the Body this year, to advance the development of a program in Hawaii.

Domestic Violence Action Center will work to provide our expertise in the development of a program; a new program requires refinement, and communication to help it realize its objectives for serving the constituency that needs it. We bring a great deal of experience and collaboration with many public agencies. DVAC can bring that history and commitment to this effort, as well.

Location of the program has been somewhat controversial, unfortunately. Let us not lose this opportunity to provide this greater protection and option for those survivors who truly need to remain safe, and not found by cunning, persistent perpetrators.

This legislation is strong attempt to strengthen the community's work, and yield outcomes that can be beneficial to our island families, the system and to practitioners as they reflect on the best ways to approach their work. Thank you for favorable action on this Bill.

P. O. Box 3198 Honolulu, HI 96801-3198

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From: mailinglist@capitol.hawaii.gov
To: [JDL Testimony](#)
Cc:
Subject: Submitted testimony for HB448 on Apr 8, 2015 09:50AM
Date: Tuesday, April 07, 2015 9:28:26 PM

HB448

Submitted on: 4/7/2015

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

Submitted By	Organization	Testifier Position	Present at Hearing
Ann S Freed	Hawaii Women's Coalition	Support	No

Comments: Aloha Chair and members, We strongly support the basic bill that would allow for data collection in order to measure the scope on nature of the disease of domestic violence which is a cancer on our social fabric. In addition, as in previous committee hearings we have testified in strong support of an address confidentiality program for victims of domestic violence. We understand there is some concern over who would run the program. We feel that the specifics can be worked out in conference with the advise of the DV agencies and advocates. Please include address confidentiality in this bill and pass out of committee. Mahalo, Ann S. Freed Co-Chair, Hawaii Women's Coalition.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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THE SEX ABUSE TREATMENT CENTER

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

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DATE: April 8, 2015

TO: The Honorable Gilbert Keith-Agaran, Chair
The Honorable Maile Shimabukuro, Vice Chair
Senate Committee on Judiciary and Labor

The Honorable Jill Tokuda, Chair
The Honorable Ronald Kouchi, Vice Chair
Senate Committee on Ways and Means

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

RE: Testimony Supporting the Intent of H.B. 448, H.D. 1, S.D. 1
Relating to Domestic Violence

I would like to thank the Committees for this opportunity to provide testimony on behalf of The Sex Abuse Treatment Center (the SATC), a program of Kapi'olani Medical Center for Women & Children, supporting the intent of House Bill 448, House Draft 1, Proposed Senate Draft 1 (H.B. 448, H.D. 1, S.D. 1).

We respectfully note that the scope of our testimony is limited to Part II of this measure, which would establish an address confidentiality program to help survivors of sexual assault and domestic violence relocate and keep their addresses confidential.

Most sexual assaults are not committed by strangers, but by intimate partners, family members, and acquaintances. Moreover, sexual assault often does not occur in isolation, but can be part of a pattern of violence and intimidation between non-strangers that also includes physical abuse and stalking. In order to ensure their own safety and the safety of loved ones, survivors are sometimes forced to relocate in order to avoid further actual or threatened violence.

Unfortunately, modern search technologies and access to public records make it easy for perpetrators to find survivors' new addresses. This places survivors in harm's way and can complicate the difficult task of recovering from the trauma of sexual assault.

Therefore, we support the intent of H.B. 448, H.D. 1, S.D. 1, to provide survivors a means to shield their actual locations through the use of substitute addresses.

The SATC is, however, cognizant of concerns expressed by various state agencies and other community organizations regarding the financing and administration of the proposed program. As such, should the Committees decline to support Part II of this measure at this time, the SATC notes that we are strongly committed to working with those agencies and organizations in advance of the 2016 Session to resolve any

remaining issues and further refine this legislation for the establishment of an address confidentiality program.

We deeply appreciate the Committees' consideration of H.B. 448, H.D. 1, S.D. 1, and the SATC's testimony in support of this measure's intent.

hscadv



HAWAII STATE COALITION AGAINST DOMESTIC VIOLENCE

April 7th, 2015

To: Senator Gilbert S.C. Keith-Agaran, Chair
Senator Maile S.L. Shimabukuro, Vice-Chair
COMMITTEE ON JUDICIARY AND LABOR

From: Marci Lopes, Executive Director
Hawaii State Coalition Against Domestic Violence

RE: HB 448, HD1-STRONG SUPPORT

PLACE: Conference Room 211

DATE and TIME: Wednesday, April 8th, 2015 9:50 a.m.

The Hawaii State Coalition Against Domestic Violence is a statewide partnership of 21 domestic violence program and domestic violence shelter providers on 6 of our Hawaiian Islands. Our mission is to engage communities and organizations to end domestic violence through education, advocacy, and action for social justice.

The Hawaii State Coalition Against Domestic Violence is in strong support of HB 448, which would require the Department of Health to conduct reviews of domestic violence fatalities, near-deaths, and suicides. This bill also authorizes DOH to enter into MOU's with service providers to obtain information relating to near-deaths resulting from intimate partner violence.

The State of Hawaii does not do enough to accurately capture and report of fatalities related to domestic violence. Research is showing us that 85% of domestic violence victims are using substances to cope with their abuse. Victims frequently experience Post Traumatic Stress Disorder, Anxiety, Depression, and difficulties sleeping. Victims are being prescribed several medications to combat these symptoms, and some victims are self medicating with drugs and alcohol to be able to cope with the violence, and the aftermath of the violence. Women across our state are overdosing, are committing suicide as they feel their situation is hopeless.

All of these deaths are occurring under the radar and are not being captured in data that truly reflects the impact of domestic violence fatalities in our State. The HSCADV membership strongly urges the support of HB 448, and stronger efforts be made to capture data that accurately reflects the true problem of domestic violence in our State, and to support the Domestic fatality Review Team to review cases, to make recommendations to help make needed system changes to prevent future fatalities.

Marci Lopes, Executive Director