

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

April 7, 2015

S.B. No. 226 SD2: RELATING TO ABUSE OF FAMILY OR HOUSEHOLD
MEMBER

Chair Rhoads and Members of the Committee:

We oppose passage of S.B. No. 226 SD2. This measure would exclude non-business days from the calculation of the 48 hour order to leave premises imposed on suspected offenders of the Abuse of Family or Household Member law.

Currently, if a police officer reasonably believes that a person inflicted abuse on a household member, the officer must order the person to leave the premises for a period of 48 hours. Even under the current law, this order to leave can impose a serious hardship on the person who must leave. Oftentimes, the person has nowhere else to go and does not have the means to afford a hotel room for two days.

S.B. No. 226 SD2 would increase the time period of the order to leave. Only business days are included in the calculation. Moreover, the bill would also exclude the day that the order is issued. Therefore, as an example, if a police officer issued an order to leave to a resident on a Friday evening, the resident could not return to the home until the following Wednesday at the earliest. Friday, the day the order is issued would be excluded as would be Saturday and Sunday. The two-day time period would not begin running until Monday.

During the four day period away from the home, the resident would have to find a place to stay and the family could suffer dire consequences such as an adverse effect on finances and childcare problems. We believe that the current 48-hour cooling off period is sufficient and a compelling reason has not been shown to change the law.

Thank you for the opportunity to comment on this bill.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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KEITH M. KANESHIRO
PROSECUTING ATTORNEY



ARMINA A. CHING
FIRST DEPUTY PROSECUTING ATTORNEY

**THE HONORABLE KARL RHOADS, CHAIR
HOUSE COMMITTEE ON JUDICIARY
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawai`i**

April 7, 2015

RE: S.B. 226, S.D. 2; RELATING TO ABUSE OF FAMILY OR HOUSEHOLD MEMBER.

Chair Rhoads, Vice Chair San Buenaventura and members of the House Committee on Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in support of Senate Bill 226, S.D. 2.

This bill adds the definition of “business day” to the offense of abuse of a family or household member. Further, it provides that the period of separation ordered by the police officer between the offender and the victim shall expire at 6:00 p.m. on the second business day following the day the order was issued.

H.B. 226 will ensure that the victim has enough time to get to a safe location and be able to get services, especially those that are only available on business days.

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu supports the passage of S.B. 226, S.D. 2. Thank you for the opportunity to testify on this matter.

Justin F. Kollar
Prosecuting Attorney

Kevin K. Takata
First Deputy



Rebecca A. Vogt
Second Deputy

Diana Gausepohl-White
Victim/Witness Program Director

OFFICE OF THE PROSECUTING ATTORNEY

County of Kaua'i, State of Hawai'i

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TESTIMONY IN STRONG SUPPORT OF
SB226, SD2 – RELATING TO ABUSE OF FAMILY OR HOUSEHOLD MEMBER

Justin F. Kollar, Prosecuting Attorney
County of Kaua'i

House Committee on Judiciary
April 7, 2015, 2:05 p.m., Conference Room 325

Chair Rhoads, Vice Chair San Buenaventura, and Members of the Committee:

The County of Kaua'i, Office of the Prosecuting Attorney, submits this testimony in STRONG SUPPORT of SB226, SD2 – Relating to Abuse of Family or Household Member. This Bill adds the definition of "business day" to the offense of abuse of a family or household member. It also provides that the period of separation ordered by the police officer between the offender and the victim shall expire at 6:00 p.m. on the second business day following the day the order was issued.

This Bill is essentially a housekeeping measure designed to streamline some technical problems with the existing AFHM statute. The proposed changes are reasonable and in the best interest of the victims of these cases. The changes will ensure that the victim has the most possible time to undertake necessary activities during the period of separation, such as seeking of restraining orders, or making alternative living arrangements, seeking family assistance, etc.

Accordingly, we STRONGLY SUPPORT SB226, SD2. We request that your Committee PASS the Bill.

Thank you very much for the opportunity to provide testimony on this Bill.

COUNTY COUNCIL

Mel Rapozo, Chair
Ross Kagawa, Vice Chair
Mason K. Chock
Gary L. Hooser
Arryl Kaneshiro
KipuKai Kualii
JoAnn A. Yukimura



OFFICE OF THE COUNTY CLERK

Ricky Watanabe, County Clerk
Jade K. Fountain-Tanigawa, Deputy County Clerk

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Council Services Division
4396 Rice Street, Suite 209
Lihu'e, Kaua'i, Hawai'i 96766

April 2, 2015

TESTIMONY OF KIPUKAI KUALII
COUNCILMEMBER, KAUAI COUNTY COUNCIL
ON

SB 226, SD 2 RELATING TO ABUSE OF FAMILY OR HOUSEHOLD MEMBER

House Committee on Judiciary

Tuesday, April 7, 2015

2:05 p.m.

Conference Room 325

Dear Chair Rhoads and Members of the Committee:

Thank you for this opportunity to submit testimony in strong support of SB 226, SD 2, Relating to Abuse of Family or Household Member. My testimony is submitted in my capacity as the Economic Development & Intergovernmental Relations Committee Chair and as an individual Councilmember on the Kaua'i County Council.

SB 226, SD 2 adds the definition of "business day" to the offense of abuse of a family or household member. It also provides that the period of separation ordered by the police officer between the offender and the victim shall expire at 6:00 p.m. on the second business day following the day the order was issued.

This Bill will allow a family or household member an opportunity to apply for or obtain a court issued protective order, make alternative living arrangements, or seek any other assistance necessary to ensure their well-being. This measure ensures that the victim(s) has two full business days to apply for a restraining order or seek assistance from means that may not be readily available on weekends and holidays.

For the reasons stated above, I strongly encourage the House Committee on Judiciary to pass this measure. Should you have any questions, please feel free to contact me or Council Services Staff at (808) 241-4188.

Sincerely,

KIPUKAI KUALII
Councilmember, Kaua'i County Council

COUNTY COUNCIL

Mel Rapozo, Chair
Ross Kagawa, Vice Chair
Mason K. Chock
Gary L. Hooser
Arryl Kaneshiro
KipuKai Kualii
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Council Services Division
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April 2, 2015

**TESTIMONY OF MEL RAPOZO
COUNCIL CHAIR, KAUAI COUNTY COUNCIL
ON**

SB 226, SD 2 RELATING TO ABUSE OF FAMILY OR HOUSEHOLD MEMBER
House Committee on Judiciary
Tuesday, April 7, 2015
2:05 p.m.
Conference Room 325

Dear Chair Rhoads and Members of the Committee:

Thank you for this opportunity to submit testimony in strong support of SB 226, SD 2, Relating to Abuse of Family or Household Member. My testimony is submitted in my capacity as the Council Chair of the Kauai County Council.

SB 226, SD 2 is very similar to a proposal submitted and approved by the Hawaii State Association of Counties, which was subsequently approved by all four County Councils. SB 226, SD 2 adds the definition of "business day" to the offense of abuse of a family or household member. It also provides that the period of separation ordered by the police officer between the offender and the victim shall expire at 6:00 p.m. on the second business day following the day the order was issued.

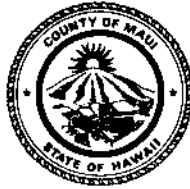
This Bill ensures that any victim has two full business days to apply for a restraining order or seek assistance from means that may not be readily available on weekends and holidays. This additional time will foster a seamless transition for court issued protective orders to be issued before the expiration of police issued protective orders.

For the reasons stated above, I strongly encourage the Senate Committee on Judiciary and Labor to pass this measure. Should you have any questions, please feel free to contact me or Council Services Staff at (808) 241-4188.

Sincerely,

MEL RAPOZO
Council Chair, Kauai County Council

ALAN M. ARAKAWA
Mayor



JOHN D. KIM
Prosecuting Attorney

ROBERT D. RIVERA
First Deputy Prosecuting Attorney

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COUNTY OF MAUI
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CONTACT: RICHARD K. MINATOYA
Deputy Prosecuting Attorney
Supervisor - Appellate, Asset Forfeiture and Administrative Services Division

TESTIMONY
ON
SB 226, SD 2 - RELATING TO
ABUSE OF FAMILY OR HOUSEHOLD MEMBER

April 7, 2014

The Honorable Karl Rhoads
Chair
The Honorable Joy A. San Buenaventura
Vice Chair
and Members of the House Committee on Judiciary

Chair Rhoads, Vice Chair San Buenaventura, and Members of the Committee:

The Department of the Prosecuting Attorney, County of Maui, **STRONGLY SUPPORTS** SB 226, SD 2 - Relating to Abuse of Family or Household Member. The bill establishes that, regardless when issued, a police issued order of separation in cases of domestic violence is effective for two business days.

Currently, when a police officer issues an order for separation on a Saturday, Sunday, or legal holiday, pursuant to Hawaii Revised Statutes, Section 709-906(4)(b), the family or household member has only one business day to prepare and submit a protective order petition/application; have a judge review the petition; and have the order served upon the respondent. This limited timetable is especially problematic where a petitioner resides in an outermost district such as Hana, or on another island such as Molokai or Lanai. It is also problematic when victims need time to seek safe shelter because supporting agencies are closed on weekends and holidays.

In weekend and holiday situations, this bill will provide that the police issued order for separation is effective for two business days, so that a family or household member can apply

for/obtain a court issued temporary protective order. Furthermore, this additional time will also greatly increase the chances of a seamless transition where the court issued temporary protective order will be served before the police issued order for separation expires.

The current draft of the bill is nearly identical to a bill passed by this Committee last year. The only difference is the clarification that the day of issuance of a order of separation by a police officer is not included in the two business day calculation.

Accordingly, the Department of the Prosecuting Attorney, County of Maui, **STRONGLY SUPPORTS** the passage of this bill. We ask that the committee PASS SB 226, SD 2 as an HD 1 to correct the effective date.

Thank you very much for the opportunity to provide testimony on this bill.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
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KIRK CALDWELL
MAYOR

LOUIS M. KEALOHA
CHIEF

DAVE M. KAJIHIRO
MARIE A. McCAULEY
DEPUTY CHIEFS

OUR REFERENCE KH-NTK

April 7, 2015

The Honorable Karl Rhoads, Chair
and Members
Committee on Judiciary
House of Representatives
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Rhoads and Members:

SUBJECT: Senate Bill No. 226, S.D. 2, Relating to Abuse of Family or Household Member

I am Keith Horikawa, Captain of the Criminal Investigation Division of the Honolulu Police Department, City and County of Honolulu.

The Honolulu Police Department strongly supports Senate Bill No. 226, S.D. 2, Relating to Abuse of Family or Household Member.

The Honolulu Police Department recognizes the seriousness of domestic violence and the emotional stress associated with abuse. The passage of this bill will afford the witness or victim two full business days to apply for a temporary restraining order and to seek other forms of assistance that are not readily available on weekends and holidays.

The Honolulu Police Department urges you to support Senate Bill No. 226, S.D. 2, Relating to Abuse of Family or Household Member.

Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read "Keith Horikawa", written over a horizontal line.

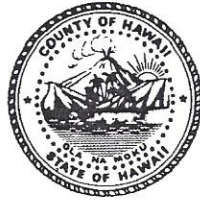
KEITH HORIKAWA, Captain
Criminal Investigation Division

APPROVED:

A handwritten signature in black ink, appearing to read "Louis M. Kealoaha", written over a horizontal line.

LOUIS M. KEALOHA
Chief of Police

DENNIS "FRESH" ONISHI
Council Member
District 3



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HAWAI'I COUNTY COUNCIL
25 Aupuni Street, Hilo, Hawai'i 96720

April 6, 2015

The Honorable Karl Rhoads, Chair
and Members of the House Committee on Judiciary

Dear Chair Rhoads, Vice Chair San Buenaventura and Members of the Committee,

Thank you very much for hearing this measure and also for the opportunity to submit testimony in support of Senate Bill No. 226, S.D.2, relating to the abuse of family or household member.

The purpose of S.B. 226, S.D. 1, is to repeal the forty-eight hour no contact provision. Instead, the bill proposes a new timeframe for the effective period of separation order, which is two business days following the day that the order is issued.

This ensures any victim two full business days to apply for a restraining order or some type of assistance that isn't available on weekends or holidays. This additional time will increase the chances of a seamless transition where the court issued protective order will be served before the police issued order for separation expires.

Thank you for your consideration and for the opportunity to provide testimony in support of this measure

Sincerely,

Dennis "Fresh" Onishi
Hawai'i County Council Member