



‘O kēia ‘ōlelo hō’ike no ke
Komikina Kūlana Olakino o Nā Wāhine

Testimony on behalf of the
Hawai‘i State Commission on the Status of Women
Khara Jabola-Carolus, Executive Director

Prepared for the S. Cmtee on Public Safety, Intergovernmental, and Military Affairs

In Opposition to SB2739
Friday, January 31, 1:15 p.m. in Room 414

Dear Chair Nishihara, Vice Chairs Wakai, and Honorable Members,

The Hawai‘i State Commission on the Status of Women opposes SB2739, which creates a domestic violence offender registry that is maintained by the Attorney General and accessible by the public. The bill, if passed, would also require covered offenders to register and annually renew their registration for 15 years, or for life if convicted of a class A felony domestic violence offense. The bill also establishes a class C felony offense for failing to register or for providing false information during the registration process. The bill requires county police chiefs to maintain a local registry of covered offenders and forward this information to the Attorney General.

There is an urgent need to critically exam the legislative and judicial responses to domestic violence and their effects on women’s rights. However, the Commission is cognizant that poorly trained law enforcement can and do lead to the arrest of domestic violence victims. This bill, if passed, could inadvertently harm the very population it purports to help.

Accordingly, the Commission opposes SB2739.

Sincerely,

Khara Jabola-Carolus



Office of the Public Defender State of Hawai‘i



Testimony of the Office of the Public Defender, State of Hawai‘i to the Senate Committee on Public Safety, Intergovernmental, and Military Affairs

January 30, 2020

S.B. No. 2739: RELATING TO DOMESTIC VIOLENCE OFFENDER REGISTRY.

Chair Nishihara, Vice Chair Wakai, and Members of the Committee:

The Office of the Public Defender opposes S.B. No. 2739.

Essentially, the measure seeks to impose upon defendant’s convicted of a “domestic violence offense” the harsh restrictions that sex offenders are required to comply with under the threat of being charged with a felony offense. Through the registry, various agencies and the general public will be able to find out how many domestic violence offenders live in a particular neighborhood, and the names and addresses of those offenders. Employers will be able to run background checks to see if they have been convicted of domestic violence offenses.

We have strong concerns that the definition of a “domestic violence offense” casts such a broad net as to create a proverbial scarlet letter on persons who may have committed even a low-level petty misdemeanor offense and treat them on par with felons or sex offenders. Broad registration requirements designed to require the same requirements as sex offenders unfairly labels even a first offender as some kind of abuse predator. These requirements contradict recent studies that show that education and domestic violence intervention can rehabilitate individuals who may have committed a domestic violence offense. We are concerned that lumping together individuals with a low-level conviction together with multiple offenders or felony convictions creates “penalties” that go far beyond what is reasonable. The implementation of this measure will have the immediate result of causing a backlog for the processing of any case that may come under the broad definition of “domestic

violence offense” and will result in more trials and more court congestion for the processing of these cases.

We are also concerned with the impact that this law will have on persons trying to find housing and being denied housing because they are on a “registry” thus impacting our homeless population struggling to find adequate and appropriate housing. We believe that the bill will unfairly treat homeless offenders who may not be able to comply with all of the reporting requirements and will lead to violations of the law which are completely unintended.

Another concern is that the families of a domestic violence offender may be subject to threats, insults and unfair treatment by schools, employers, and neighbors. Children of domestic violence offenders will be subject to bullying, teasing, and mistreatment by their peers. An innocent person, who moves into the residence formerly occupied by someone on the registry, and his/her family could be mistakenly subjected to threats, ridicule, and scorn.

This bill will also have a negative impact on visitors to our State and consequently to our tourism industry. The measure will require the registration of a covered offender who remains in the state for more than 10 days or for an aggregate period exceeding 30 days in a calendar year. Any tourist with a prior conviction that falls under this definition will be required to “register” as an offender. We fear that this change would lead to many unintentional violations of the law or cause visitors to choose another location for their vacation or business trips, and thus impacting our visitor industry. If offenders have paid their dues to society, they are entitled to travel like any other citizen, and they are entitled to go on vacation and travel with their families.

Thank you for the opportunity to comment on this measure.

SB-2739

Submitted on: 1/29/2020 1:04:24 PM

Testimony for PSM on 1/31/2020 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
	Testifying for Domestic Violence Action Center	Oppose	No

Comments:

thank you for the opportunity to weigh in with our opposition to the development and implementation of a DV Offender Registry.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTIETH LEGISLATURE, 2020**

LATE

ON THE FOLLOWING MEASURE:

S.B. NO. 2739, RELATING TO A DOMESTIC VIOLENCE OFFENDER REGISTRY.

BEFORE THE:

SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL AND
MILITARY AFFAIRS

DATE: Friday, January 31, 2020

TIME: 1:15 p.m.

LOCATION: State Capitol, Room 414

TESTIFIER(S): Clare E. Connors, Attorney General, or
Landon M.M. Murata, Deputy Attorney General

Chair Nishihara and Members of the Committee:

The Department of the Attorney General (Department) appreciates the intent of this bill but has concerns.

The purposes of this bill are to: (1) create a domestic violence offender registry that is maintained by the attorney general and accessible by the public; (2) require covered offenders to register and annually renew their registration for fifteen years, or for life if convicted of a class A felony domestic violence offense; (3) establish a class C felony offense for failing to register or for providing false information during the registration process; and (4) require county police chiefs to maintain a local registry of covered offenders and forward this information to the Attorney General.

Legal Concerns

The continued lifetime registration requirement on page 6, line 20, through page 7, line 6, implicates a protected liberty interest under the Hawai'i State Constitution, Article I, Section V and requires that minimum requirements of due process (notice and the opportunity to be heard) be afforded to convicted domestic violence offenders. Some mechanism should be added to the bill to allow convicted domestic violence offenders to challenge registration, similar to the mechanism set forth in section 846E-

10, Hawaii Revised Statutes (HRS), regarding termination of sex offender registration requirements.

The definition of “domestic violence offense” on page 4, lines 5-9, is confusing and not readily capable of application to existing offenses in the Penal Code, especially offenses in chapter 709, HRS, offenses against the family and against incompetents. The Department recommends listing, by statute section number, the particular offenses the legislature seeks to include in the definition of “domestic violence offense,” similar to what is set forth in section 846E-1, HRS, regarding the definition of “sex offender.”

The requirements that the court make the determination whether a given defendant is a covered offender at sentencing (page 8, lines 17-21), and that the registration requirement be included in the court’s judgement of conviction (page 9, lines 1-5), run contrary to the intent stated on page 2, lines 8-9, that the registry is not intended to be punitive or an extension of punishment. The Department recommends that page 8, lines 17-21, and page 9, lines 1-5, be deleted. The definition of “covered offender” should likewise be amended to reflect this change, deleting “as determined by the court at the time of sentencing pursuant to section 706- .”

Additionally, the Department recommends that the mental state for the class C felony of failure to comply with covered offender registration requirements should be changed to “intentionally, knowingly, or recklessly,” and that the precise conduct that domestic violence offenders fail to do that would constitute the class C felony be spelled out in the same manner as the conduct listed for sex offenders for the offense of failure to comply with covered offender registration requirements under section 846E-9, HRS.

Finally, the term for the Department’s registry should be consistent and referred to as “central domestic violence registry” so as to differentiate it from the police’s “local registry.”

Logistical Concerns

For the Department to have a “central domestic violence registry,” the Department would need to develop a central registry database, that would be

accessible by police and the public. The bill does not provide funding to develop, implement and maintain a central registry database that could interface with the police “local registry.” The Department would also need authority to set requirements that local registries developed by police must meet to ensure that the police local registry properly interfaces with the Department’s central registry in an automated fashion.

Page 8, starting at line 5, requires the central repository to be made public through internet access, telephone review, written access, and onsite access. Internet access should be done through a third party vendor and such access would require funding. The Department does not have the ability to develop internet applications that would be publicly accessible. Also, it is unclear what is meant by “telephone review.” If it means the public can call in then, depending on the volume of registrants, additional staff would be needed to provide this service. But no positions have been provided in this bill. Regarding written access, depending on volume of registrants, additional staff and funding would be needed to provide this service and additional funding. Again, no positions have been provided in this bill.

Finally, the bill fails to make clear that the police are solely responsible to update the central repository and ensure the statutory requirements are fulfilled, since the bill only makes police responsible for initial registration, renewals, and updates. The Department is simply placing data collected by the police into a central registry.

Thank you for the opportunity to provide comments.

LATE

SB-2739

Submitted on: 1/31/2020 12:42:13 AM

Testimony for PSM on 1/31/2020 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jill Araki	Individual	Oppose	Yes

Comments:

To: Chair Nishihara

Vice Chair Wakai

Members of the Committee on Public Safety, Intergovernmental, and Military Affairs

From: Jill Araki, LSW, ACSW, MSW

RE: SB 2739 RELATING TO A DOMESTIC VIOLENCE OFFENDER REGISTRY

DATE: Friday, January 31, 2020

TIME: 1:15 p.m.

LOCATION: State Capitol, Conference Room 414

Chair Nishihara, Vice Chair Wakai, and Members of the Committee:

I offer testimony in opposition of SB2739 which creates a registry for domestic violence offenders. I am testifying as a private citizen and not on behalf of any agency.

I have been doing work in the field of domestic violence and trauma for the past 30 years. I have worked with and advocated for the survivors for over two decades and am now currently working with the batterers for the past five years. I have probably worked with thousands of survivors and hundreds of batterers over the past thirty years.

While I understand the intent of the bill, this bill will end up endangering domestic violence survivors. All of us who work in this field know that survivors get arrested for abuse of a family/household member or domestic violence related felonies. The criminal justice system is set up to look at each incident that occurred, not assess for the patterns in a relationship.

Many survivors use retaliatory or reactionary violence against a partner who is using power and control tactics on them. Even though it is not a decision that will work in their favor, survivors end up using violence on their batterers for a variety of reasons. While I do not condone a survivor's choice to use violence for the sake of the children, I certainly understand why they may make that choice. Survivors may feel that nothing else works to stop the violence or they may feel rage over the abuse.

Will we make survivors of domestic violence sign up in this registry upon conviction for abuse or any domestic violence related felony? If so, the survivor's safety and the children's safety will be compromised as the survivor shares their home and work address online for fifteen years or face being charged with a felony. Also, the survivor may have difficulties finding housing or jobs with their names publicly exposed. Domestic violence advocates worked at making sure survivors do not get fired from their jobs or have priority in housing if they are fleeing. This law may reverse some of those protections so that they may not be offered jobs or housing. We may also further shame the survivor with the registry.

In terms of true domestic violence offenders, they may be stigmatized which can affect the survivor and children if they remain together as a family. The stigma may also affect the stabilization of the family in terms of housing or jobs and that in turn affects the children.

A better solution to this problem is more public education so that people can recognize abusive relationships and offer support and resources to the family and work with the batterer to stop the abuse and promote a healthy family. Prevention and education efforts and resources also need to be expanded.

Thank you for the opportunity to comment on this proposed legislation.