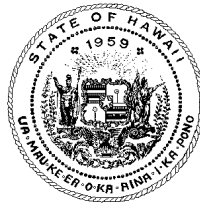


JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



STATE OF HAWAII – Ka MOKU'ĀINA 'O HAWAI'I
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Executive Director

**TESTIMONY ON HOUSE BILL 1959, HD2
RELATING TO DOMESTIC VIOLENCE**

by

Pamela Ferguson-Brey, Executive Director
Crime Victim Compensation Commission

Senate Committee on Health and Human Services
Senator Joy A. San Buenaventura, Chair
Senator Angus L.K. McKelvey, Vice Chair

Wednesday, March 18, 2026; 1:00 PM
State Capitol, Conference Room 225 & Videoconference

Good afternoon, Chair San Buenaventura, Vice Chair McKelvey, and Members of the Senate Committee on Health and Human Services. Thank you for providing the Crime Victim Compensation Commission (the "Commission") with the following comments on House Bill 1959, HD2. This bill extends the domestic violence project established by Act 19, SLH 2020, and Act 238, SLH 2021. There is insufficient data for policymakers to determine whether the pilot project has met its goals. Additionally, the deferred plea provisions undermine both victim and community safety and offender rehabilitation.

The Commission provides compensation for violent crime victims to pay un-reimbursed expenses for crime-related losses due to physical or mental injury or death. Many victims of violent crime 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 from the Commission. The Commission collaborates with victim advocates and victim service providers in supporting victim-centered policy and legislation.

The Commission supports the removal of the provisions allowing deferred pleas for petty misdemeanors. Erasing an offender's criminal history of domestic abuse hinders the ability to accurately evaluate an offender's prior history in the event of subsequent offenses. Additionally, the lack of a formal conviction creates barriers to comprehensive mental health and risk assessments as evaluators rely on documented histories to determine appropriate interventions, treatment needs, and risk to both victim and community safety.

Thank you for allowing the Commission to provide comments on House Bill 1959, HD2.



March 17, 2026

Position: **SUPPORT** of **HB1959 HD2**, Relating to Domestic Violence

To: Senator Joy A. San Buenaventura, Chair
Senator Angus L.K. McKelvey, Vice Chair
Members of the Senate Committee on Health and Human Services

From: Llasmin Chaine, LSW, Executive Director, Hawaii State Commission on the Status of Women

Re: Testimony in **SUPPORT** of **HB1959 HD2**, Relating to Domestic Violence

Hearing: Wednesday, March 18, 2026, 1:00 p.m.
Conference Room 225, State Capitol

The Hawaii State Commission on the Status of Women is committed to advancing the safety, well-being, and rights of women in Hawaii. The Commission **supports HB1959 HD2** because it **addresses the ongoing challenge of domestic violence by extending legal provisions that directly affect victim protection and recourse available to both survivors and offenders of abuse, with the goal of reducing recidivism and increasing stability for families affected by domestic violence.**

We recommend extending these provisions. **Continued implementation is necessary to collect sufficient data and ensure thoughtful policy evaluation before any permanent decisions are made.** The additional time will allow the state to assess whether the existing framework is achieving its intended goals, including improved survivor safety, more accurate risk assessment, and effective offender rehabilitation. Research and best practices in the field of domestic violence prevention emphasize the importance of clear legal definitions and graduated penalties to deter abuse and support survivor safety.

The Commission encourages continued attention to survivor-centered approaches in the implementation of these provisions. Additionally, we urge the Legislature to consider further improvements to strengthen protections for those affected by domestic violence, and pathways that enable offender accountability and rehabilitation.

We respectfully urge this Committee to **pass HB1959 HD2.**

Thank you for this opportunity to submit testimony.

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OFFICE OF THE PROSECUTING ATTORNEY

JOINT TESTIMONY REGARDING HB1959 HD2 **WITH MAUI COUNTY OFFICE OF THE PROSECUTING ATTORNEY** **& KAUA'I COUNTY OFFICE OF THE PROSECUTING ATTORNEY**

A BILL FOR AN ACT
RELATING TO DOMESTIC VIOLENCE

COMMITTEE ON HEALTH AND HUMAN SERVICES
Senator Joy Buenaventura, Chair
Senator Angus McKelvey, Vice Chair

Wednesday, March 18, 2026 at 1:00 p.m.
Via Videoconference
State Capitol Conference Room 213
415 South Beretania Street

Honorable Chair Buenaventura, Vice Chair McKelvey, and the members of the Senate Committee on Health and Human Services:

In coordination with the Maui County Office of the Prosecuting Attorney and the Kaua'i County Office of the Prosecuting Attorney, the Hawai'i County Office of the Prosecuting Attorney respectfully submits the following joint testimony with comments on HB1959 HD2, **recommending extending all provisions of HB1959 as originally drafted, to include extending the deferred acceptance of guilty plea for both misdemeanor and petty misdemeanor Abuse offenses.**

Our offices join **in support of maintaining the petty misdemeanor offenses.** In particular, the petty misdemeanor offense of coercive control has been useful as an additional charge in more serious felony cases. In Hawai'i County, for example, this offense has been charged more than six times in felony cases. The coercive control charge opens the door to evidence about the context of an abusive relationship and has been a helpful tool in holding more serious offenders accountable.

Our offices also **strongly support the extension of the deferred acceptance of guilty plea for both misdemeanor and petty misdemeanor Abuse offenses.**

In practical terms, the deferral has become a useful method of resolving domestic violence cases. As the Legislature recognized at the time of its passage, there is a broad spectrum of severity in domestic violence cases. Many first-time offenders both deserve and earn the deferral, based on the facts of the case, the history of the parties, and the input of the crime victim. The input of the victim is critical—it is not uncommon that victims of this crime are

hesitant to cooperate with prosecution at first, but upon learning that a deferral is an option, will become cooperative with prosecution. In other cases, if the victim does not support the deferral, our offices may object to the deferral at sentencing. In the face of such objection, judges have denied a defendant's request for a deferral and entered the conviction. As in all domestic violence cases, the input of the victim is critical to reaching a just outcome.

The deferral can also help resolve misdemeanor cases quickly: for example, in Hawai'i County last year, deferrals were granted an average of 111 days after the case was charged. There is also real value in keeping defendants under court supervision for an extended period of time. The deferral period provides these offenders time to attend domestic violence intervention or anger management classes, to continue to check in with the court, and often to work on their sobriety or obtain mental health services, if that is a factor.

Critically, if the defendant re-offends or fails to complete services while being supervised, the ability to set aside the deferral and impose the Abuse conviction is significant. Before the deferral was made available for misdemeanor and petty misdemeanor offenses under HRS 709-906, domestic violence offenders would still be granted a deferral if the charge was amended to Assault in the Third Degree during plea negotiations. This meant, however, that if such a deferral was set aside, the subsequent conviction imposed was only for Assault in the Third Degree. This did not reflect the reality of the offense or carry the collateral consequences of an Abuse conviction, such as mandatory minimum sentences or permanent firearms restrictions.

As to firearms restrictions in particular, while defendants are under supervision, they are not permitted to possess firearms. It is only after defendants successfully complete their supervision period and have their Abuse case dismissed that they may have their right to firearms restored (assuming the offender has no other legal restriction). No data is available at this time which shows that this presents a genuine safety risk. That is, there is no data is available at this time to show that offenders who have successfully completed deferral period go on to commit firearms-related offenses, or that such offenders commit firearms-related offenses at rates any higher than offenders with an Abuse conviction on their record.

Indeed, an absence of data, and the intent to gather additional data, is a significant reason to support extending this pilot project as it currently stands for five more years. Changing the pilot program going forward to allow deferrals to be granted only on petty misdemeanor Abuse offenses will radically diminish the data collection.

For example, amendments in HB1959 HD2 recommend collecting data on whether the length of case adjudication changed before and after the pilot program, whether recidivism rates changed, whether successful completion of domestic violence programs increased, and so on. Changing the pilot program at this stage to remove the deferral from misdemeanor Abuse offenses will likely significantly decrease the number of deferrals granted going forward, and thereby significantly decrease the data set going forward. This will negatively impact the value of any data gathered on the above questions. For example, in East Hawaii County in 2025, approximately 202 misdemeanor Abuse charges were filed after arrest. Only 13 petty misdemeanor Abuse charges were filed following arrest during the same time frame. Attempting

to evaluate the recidivism rate on 13 petty misdemeanor cases, or whether a deferral shortens the length of case adjudication on a charge that is not entitled to a jury trial, is not an efficient use of resources.

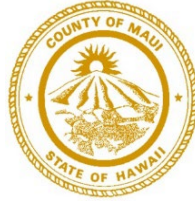
In reality, many offenders successfully complete their deferral period and have their cases dismissed. As Abuse is a must-arrest charge in Hawaii, regardless of the severity of injury or pain suffered, many low-level cases are brought into the criminal justice system. Allowing the system the flexibility to treat different cases differently, while keeping the Abuse charge through final resolution, is in line with our offices' commitment to prosecuting domestic violence in a trauma-informed way, with the input and advice of the victims, while still holding offenders accountable.

For the foregoing reasons, the Hawai'i, Maui, and Kaua'i Offices of the Prosecuting Attorney support House Bill 1959 as originally proposed, extending the sunset provisions of Act 19, SLH 2020, and Act 238, SLH 2021, and ensuring the continuance of the petty misdemeanors and deferral under 709-906. Thank you for the opportunity to testify on this matter.

RICHARD T. BISSEN, JR.
Mayor

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Prosecuting Attorney

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First Deputy Prosecuting Attorney



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TESTIMONY ON
H.B. 1959 HD2
RELATING TO DOMESTIC VIOLENCE

March 17, 2026

The Honorable Joy A. San Buenaventura
Chair
The Honorable Angus L.K. McKelvey
Vice Chair
and Members of the Committee on Health and Human Services

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

The Department of the Prosecuting Attorney, County of Maui respectfully submits the following comments **in support of H.B. 1959 HD2, Relating to Domestic Violence with amendments**. This measure extends for five years provisions relating to the offense of Abuse of Family or Household Member (“AFHM”) that were originally enacted in Act 19, SLH 2021.

We support this bill for the reasons listed in our joint testimony previously submitted by the Hawaii County Office of the Prosecuting Attorney in the HD1 draft of H.B. 1959. In short, the ability to charge a petty misdemeanor form of AFHM and the ability for a defendant to request a deferred plea for both petty misdemeanor and misdemeanor AFHM offenses helps our efficient and fair prosecution of these offenses.

However, we believe that the deferred plea provisions for petty misdemeanor AFHM offenses repealed in the current HD2 version of this bill should, at a minimum, be extended for another five-year period. We respectfully request that this language be reinserted.

For these reasons, the Department of the Prosecuting Attorney, County of Maui **supports H.B. 1959 HD2 with amendments**. Please feel free to contact our office at (808) 270-7777 if you have any questions or inquiries. Thank you very much for the opportunity to provide testimony on this bill.

JON N. IKENAGA
PUBLIC DEFENDER

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March 18, 2026

LATE

**Testimony of the Office of the Public Defender,
State of Hawaii to the House Committee on Health and Human Services**

H.B. 1959 HD 2: RELATING TO DOMESTIC VIOLENCE

Chair San Buenaventura, Vice-Chair McKelvey, and Members of the Committee:

The Office of the Public Defender **strongly objects to H.B. 1959 HD 2:**

First, the Office of the Public Defender strongly **supports** the extension of the Pilot Program relating to Abuse of Family or Household Members in the original draft. The original draft included misdemeanors in Pilot Program. Since the start of the Pilot Program, the laws relating to Abuse of Family or Household Members have changed, most notably was the establishment of the petty misdemeanor offense of Abuse of a Family or Household Member. We support extending the Pilot Program so that we can collect better and more extensive data to better understand domestic violence, treatment options for offenders, improvements in safety measures for victims, and to make better informed decisions on what changes, if any, are needed to address these issues.

The Office of the Public Defender would like to point out that there is currently a Domestic Violence Intervention Working Group, created by the Legislature in 2025, that is actively meeting and working on understanding how we can improve safety for victims and exploring better responses by our State to domestic violence. We humbly ask that the Legislature wait to receive any reports and additional data that the Working Group is able to gather before ending the Pilot Program. The Pilot Program has been successful. With better data, additional reports and input from the Working Group, and input from the various Stakeholders, we may be able

to understand and make strategic improvements to the laws relating to Abuse of a Family or Household Member and to laws relating to the related topics of safety and responses to violations of Temporary Restraining Orders and Orders for Protection.

Second, the Office of the Public Defender strongly **objects** to the removal of misdemeanor Abuse of a Family or Household member for eligibility of a deferral.

The Office of the Public Defender continues to support providing positive incentives for first time offenders to resolve cases without a trial, to have the ability to take mandatory Domestic Violence Intervention (DVI) classes or Anger Management (AM) classes, parenting classes, and to complete Substance Abuse treatment as deemed appropriate while earning the ability to have their case dismissed. A deferred acceptance of a guilty plea – also known as a DAG plea – is a valuable tool for the resolution of cases for first time offenders. For those defendants who want to take responsibility for their actions and who are positively engaged in DVI or AM classes, they are deserving of a DAG for their commitment to embracing new ways of managing stress, anger, and trauma or to help a family navigate tough times in relationships – the loss of stable employment, financial instability, marital or relationship emotional trauma, mental health and/or medical issues, or any number of stressors that can cause a normally stable and loving family to unmoor and lose their foundations while they manage a crisis.

Interfamilial relationships are complex. Any simplification of who is arrested, who is accused, and who is brought into the court system does a disservice to the end goal of helping families maintain long term safe spaces in their homes and in their daily lives. Defendants come to us from all genders and ages. We have clients who are in their 20's and clients who are in their 70's. We have clients who grew up in homes filled with violence who are trying to manage their trauma and learn new skills to deal with emotional irregularity. We have clients who are mentally ill who need specialized services and who may need medication. We have clients and families who are committed to improvement, education, and therapy. These clients value the opportunity to earn and demonstrate that they will and do embrace positive change. These are the clients, and their families, who benefit from the DAG. To be clear, a DAG is not a given or a guarantee. It must be earned. It is not a freebie or a gift. It takes hard work and focus to complete the process. It requires 6-8 weeks of classes, it requires money to pay for those classes, it requires a full commitment to the rules of supervision, and it requires a client to meet regularly with a probation officer. It may require substance abuse treatment if that is an issue. It may require mental health treatment if that is an issue. The process is time consuming and for clients living in poverty, it can be expensive. But a

client who is given that opportunity to demonstrate that commitment, it is a golden opportunity to educate themselves, keep their record clean, and move forward in their lives. Many families stay together. Many complaining witnesses are not interested in severing ties, they want their partner or family member to learn new ways of managing stress and the pressures of daily life. Many families worry that a conviction will impact the employment of their partner and thus negatively impact the family long term. Providing the DAG as an alternative is critical for those families in distress to help create a positive pathway to improving safety and long-term employment stability. Financial stress and the threat of homelessness are strong motivating factors when discussing a DAG where there are allegations of abuse and safety concerns for victims and our clients.

The DAG was never meant to be the sole “solution” for managing Abuse cases in the court system. **It was always meant to be a valuable tool and valuable option for those who qualify.** It was always means to be used sparingly for those who qualify. Only a first-time offender qualifies. A first-time offender does not have a prior record. It is very important to note that a DAG is not a substitute for the right to a trial where a client is simply not guilty. We still see instances of prosecutorial over-charging, incomplete investigations, questioning or cross-examination of witnesses that later reveal facts that contradict the original version of what happened, prosecution witnesses who are not credible, and misrepresentations that come to light in trial. Those cases are appropriate for trial and are a legitimate option for a defendant with a defense.

The misdemeanor Abuse courtrooms are currently managing their cases very well. The backlog is not excessive, jury and bench trials are being held regularly, cases are moving through the system in a timely manner, and cases are being processed efficiently without the long delays of the past. One of the main factors in this positive management of the caseloads is the availability of the DAG. It is an essential part of the process for those who qualify for it and who earn the benefit by completing their obligations to the court.

The DAG is necessary for those defendants who are trying to protect their employment, trying to protect their ability to find and maintain housing, and those defendants in the military. We encourage the Legislature to keep open the option of the DAG for those defendants willing and able to learn from their mistakes, willing and able to commit to therapy, willing and able to meet their court obligations with positive goals for their familial relationships. We caution against removing the DAG as we believe it will cause more cases to stall and linger on the calendars, will result in more trials and more backlog, will result in defendants and their families from experiencing more stress if faced with losing their employment

and financial stability. Causing a family to choose between a conviction and the loss of employment will not create safer families or safer relationships for a first-time offender.

The Office of the Public Defender would also like to point out that there is currently a Domestic Violence Intervention Working Group created by the Legislature that is actively meeting and working on understanding how we can improve safety for victims and exploring how our State responds to domestic violence. We humbly ask that the Legislature wait to receive any reports and additional data that the Working Group is able to gather and explore before eliminating the DAG. The Pilot Program is working in a positive manner because of the inclusion of the DAG for misdemeanor offenses. We do not need a return to courtrooms with huge backlogs and increased stressors on families trying to navigate a crisis.

Thank you for the opportunity to provide testimony on this measure.



LATE

March 18, 2026

Members of the Senate Committee on Health & Human Services:

Chair Joy A. San Buenaventura
Vice Chair Angus L.K. McKelvey
Rep. Dru Mamo Kanuha
Rep. Jarrett Keohokalole
Rep. Kurt Fevella

Re: HB1959 HD2 Relating to Domestic Violence

Dear Chair San Buenaventura, Vice Chair McKelvey, and Members of the Senate Committee on Health & Human Services:

The Hawai'i State Coalition Against Domestic Violence (HSCADV) mission is to unite Hawai'i to end all forms of domestic violence. We are a statewide partnership of domestic violence programs and shelters.

On behalf of HSCADV and our 20 member programs statewide, I respectfully submit testimony in strong support of HB1959 HD2.

This measure extends a pilot program that establishes a petty misdemeanor offense of Abuse of a Family or Household Member (AFHM). The pilot was created and then modified through Acts 19 (2020), 238 (2021), and 23 (2023), and it will sunset on June 30, 2026. HB1959 HD2 extends the pilot program to June 30, 2031, while removing the provision allowing the Deferred Acceptance of Guilty Plea for misdemeanor domestic abuse charges, and requires annual reports from the Judiciary.

The program was created in response to concerns raised by survivors about the unintended effects of the criminal justice approach to domestic violence cases. The response relied heavily on criminal convictions in lower-level domestic violence incidents. However, those convictions could create barriers to employment, housing, and financial stability for individuals responsible for providing child support or contributing to family resources, ultimately undermining survivor safety and economic security.

Since the implementation of the pilot program, we have found that:

- Other than prosecutors, many programs and community partners were unaware

of the pilot project, which hindered our ability to assess its effectiveness in achieving its intended purpose.

- The DAG could be viewed as a diversion and prevention mechanism; however, it lacks the infrastructure and resources of an evidence-based diversion program.
- It is too early to accurately assess the new statutory provision for several reasons, including the impact of *State v Thompson (Thompson)*, which invalidated the methods sometimes used by prosecutors in charging misdemeanor cases. This ruling affected many misdemeanor abuse cases, as many were dismissed by the courts and not recharged due to difficulties arising from the passage of time between the initial charging and the dismissal of *Thompson*. This factor was also briefly cited in the Judiciary's report, making it difficult to discern any trends.

Continued implementation is necessary to collect sufficient data and ensure thoughtful policy evaluation before any permanent decisions are made. The additional time will allow the state to assess whether the existing framework is achieving its intended goals, including improved survivor safety, more accurate risk assessment, reduced recidivism, and increased stability for families affected by domestic violence.

Thank you for the opportunity to testify on this important matter.

Sincerely,
Angelina Mercado, Executive Director