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OFFICE OF THE PROSECUTING ATTORNEY

JOINT TESTIMONY REGARDING HOUSE BILL 2087 WITH MAUI COUNTY OFFICE OF THE PROSECUTING ATTORNEY WITH MAUI COUNTY DEPARTMENT OF THE PROSECUTING ATTORNEY & KAUA'I COUNTY OFFICE OF THE PROSECUTING ATTORNEY

A BILL FOR AN ACT
RELATING TO ABUSE OF FAMILY OR
HOUSEHOLD MEMBERS

COMMITTEE ON HUMAN SERVICES & HOMELESSNESS

Representative Lisa Marten, Chair
Representative Ikaika Olds, Vice Chair

Tuesday, February 10, 2026 at 9:30 a.m.
Via Videoconference
State Capitol Conference Room 329
415 South Beretania Street

Honorable Chair Marten, Vice Chair Olds, and the members of the House Committee on Human Services & Homelessness:

In coordination with the Maui County Department 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 House Bill 2087, which extends the petty misdemeanor offenses of Abuse of Family or Household Member but repeals the availability of a deferred acceptance of guilty plea.

Our offices join the Honolulu Prosecuting Attorney **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 five 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 **oppose a repeal of the deferred acceptance of guilty plea for misdemeanor and petty misdemeanor Abuse offenses**. 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. It can also help resolve cases quickly: for example, in Hawai'i County last year, deferrals were granted an average of 120 days after the case was charged. The deferral period provides these offenders time to attend domestic violence intervention or anger management classes, to be under court supervision, and often to work on their sobriety or obtain mental health services, if that is a factor.

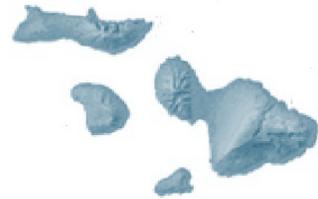
Further, if the defendant re-offends while being supervised, the ability to set aside the deferral and impose the Abuse conviction is a significant improvement. Before the deferral was made available for misdemeanor and petty misdemeanor offenses under HRS 709-906, domestic violence offenders could still be granted a deferral if the charge was amended to Assault in the Third Degree during plea negotiations. This meant, however, that if the deferral was set aside, the subsequent conviction imposed was 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 firearms restrictions. In reality, many offenders successfully complete their deferral period and have their cases dismissed. Nevertheless, the fact that a defendant can only use a deferral once on an Abuse charge, and that Abuse is the conviction that will be imposed if the terms of the deferral are violated, more accurately captures the case in the defendant's criminal record.

For the foregoing reasons, the Maui Department of the Prosecuting Attorney and Hawai'i and Kaua'i Offices of the Prosecuting Attorney support the intent of House Bill 2087 to ensure the continuance of the petty misdemeanor offenses under HRS 709-906, but recommend repealing the sunset provisions of Act 19, SLH 2020, and Act 238, SLH 2021, in their entirety. Thank you for the opportunity to comment on this matter.

RICHARD T. BISSEN, JR.
Mayor

ANDREW H. MARTIN
Prosecuting Attorney

SHELLY C. MIYASHIRO
First Deputy Prosecuting Attorney



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TESTIMONY ON
H.B. 2087
RELATING TO ABUSE OF FAMILY OR HOUSEHOLD MEMBERS

February 8, 2026

The Honorable Lisa Marten
Chair
The Honorable Ikaika Olds
Vice Chair
and Members of the Committee on Human Services and Homelessness

Chair Marten, Vice Chair Olds, and Members of the Committee:

The Department of the Prosecuting Attorney, County of Maui respectfully submits the following comments **in partial support of H.B. 2087, Relating to Abuse of Family or Household Members**. This measure extends for five years some of the provisions relating to the offense of Abuse of Family or Household Member (“AFHM”) that were originally enacted in Act 19, SLH 2021 while repealing provisions related to deferred pleas for petty misdemeanor and misdemeanor AFHM offenses.

The Department of the Prosecuting Attorney, County of Maui joins the Hawaii County and Kauai County Offices of the Prosecuting Attorney in supporting this bill with amendments for the reasons listed in our joint testimony submitted by the Hawaii County Office of the Prosecuting Attorney. 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. We believe that the deferred plea provisions repealed in this bill should, at a minimum, be extended for another five-year period as reflected by pending bills SB2843 and HB1959.

For these reasons, the Department of the Prosecuting Attorney, County of Maui **supports H.B. 2087 in part**. 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.

HOUSE OF REPRESENTATIVES
THIRTY-THIRD LEGISLATURE, 2026
STATE OF HAWAII

H.B. NO. 2087

A BILL FOR AN ACT

RELATING TO ABUSE OF FAMILY OR HOUSEHOLD MEMBERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 709-906, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§709-906 Abuse of family or household members; penalty.**

4 (1) It shall be unlawful for any person, singly or in concert,
5 to physically abuse a family or household member or to refuse
6 compliance with the lawful order of a police officer under
7 subsection (4). The police, in investigating any complaint of
8 abuse of a family or household member, upon request, may
9 transport the abused person to a hospital or safe shelter.

10 (2) Any police officer, with or without a warrant, may
11 arrest a person if the officer has reasonable grounds to believe
12 that the person is physically abusing, or has physically abused,
13 a family or household member and that the person arrested is
14 guilty thereof.

15 (3) A police officer who has reasonable grounds to believe
16 that the person is physically abusing, or has physically abused,
17 a family or household member shall prepare a written report.



1 (4) Any police officer, with or without a warrant, shall
2 take the following course of action, regardless of whether the
3 physical abuse or harm occurred in the officer's presence:

4 (a) The police officer shall make reasonable inquiry of
5 the family or household member upon whom the officer
6 believes physical abuse or harm has been inflicted and
7 other witnesses as there may be;

8 (b) If the person who the police officer reasonably
9 believes to have inflicted the abuse is eighteen years
10 of age or older, the police officer lawfully shall
11 order the person to leave the premises for a period of
12 separation, during which time the person shall not
13 initiate any contact, either by telephone or in
14 person, with the family or household member; provided
15 that the person is allowed to enter the premises with
16 police escort to collect any necessary personal
17 effects. The period of separation shall commence when
18 the order is issued and shall expire at 6:00 p.m. on
19 the second business day following the day the order
20 was issued; provided that the day the order is issued



1 shall not be included in the computation of the two
2 business days;

3 (c) If the person who the police officer reasonably
4 believes to have inflicted the abuse is under the age
5 of eighteen, the police officer may order the person
6 to leave the premises for a period of separation,
7 during which time the person shall not initiate any
8 contact with the family or household member by
9 telephone or in person; provided that the person is
10 allowed to enter the premises with police escort to
11 collect any necessary personal effects. The period of
12 separation shall commence when the order is issued and
13 shall expire at 6:00 p.m. on the second business day
14 following the day the order was issued; provided that
15 the day the order is issued shall not be included in
16 the computation of the two business days. The order
17 of separation may be amended at any time by a judge of
18 the family court. In determining whether to order a
19 person under the age of eighteen to leave the
20 premises, the police officer may consider the
21 following factors:



- 1 (i) Age of the person;
- 2 (ii) Relationship between the person and the family or
- 3 household member upon whom the police officer
- 4 reasonably believes the abuse has been inflicted;
- 5 and
- 6 (iii) Ability and willingness of the parent, guardian,
- 7 or other authorized adult to maintain custody and
- 8 control over the person;
- 9 (d) All persons who are ordered to leave as stated above
- 10 shall be given a written warning citation stating the
- 11 date, time, and location of the warning and stating
- 12 the penalties for violating the warning. A copy of
- 13 the warning citation shall be retained by the police
- 14 officer and attached to a written report which shall
- 15 be submitted in all cases. A third copy of the
- 16 warning citation shall be given to the abused person;
- 17 (e) If the person so ordered refuses to comply with the
- 18 order to leave the premises or returns to the premises
- 19 before the expiration of the period of separation, or
- 20 if the person so ordered initiates any contact with
- 21 the abused person, the person shall be placed under



1 arrest for the purpose of preventing further physical
2 abuse or harm to the family or household member; and

3 (f) The police officer shall seize all firearms and
4 ammunition that the police officer has reasonable
5 grounds to believe were used or threatened to be used
6 in the commission of an offense under this section.

7 (5) Abuse of a family or household member and refusal to
8 comply with the lawful order of a police officer under
9 subsection (4) are misdemeanors and the person shall be
10 sentenced as follows:

11 (a) For the first offense the person shall serve a minimum
12 jail sentence of forty-eight hours; and

13 (b) For a second offense that occurs within one year of
14 the first conviction, the person shall be termed a
15 "repeat offender" and serve a minimum jail sentence of
16 thirty days.

17 (6) It shall be a petty misdemeanor for a person to
18 intentionally or knowingly strike, shove, kick, or otherwise
19 touch a family or household member in an offensive manner;
20 subject the family member or household member to offensive
21 physical contact; or exercise coercive control, as defined in



1 section 586-1, over a family or household member and the person
2 shall be sentenced as provided in sections 706-640 and 706-663.
3 Upon conviction and sentencing of the defendant, the court may
4 order that the defendant immediately be incarcerated to serve
5 the mandatory minimum sentence imposed; provided that the
6 defendant may be admitted to bail pending appeal pursuant to
7 chapter 804. The court may stay the imposition of the sentence
8 if special circumstances exist.

9 (7) Whenever a court sentences a person [~~or grants a~~
10 ~~motion for deferral~~] pursuant to subsections (5) and (6), it
11 shall also require that the offender first complete, within a
12 specified time frame, an assessment at any available domestic
13 violence intervention program, and then complete a domestic
14 violence intervention or anger management course as determined
15 by the domestic violence program, and, if the offense involved
16 the presence or abuse of a minor, any available parenting
17 classes ordered by the court. The court shall revoke the
18 defendant's probation [~~or set aside the defendant's deferred~~
19 ~~acceptance of guilty plea~~] and enter an adjudication of guilt,
20 if applicable, and sentence or resentence the defendant to the
21 maximum term of incarceration if:



1 (a) The defendant fails to complete, within the specified
2 time frame, any domestic violence intervention course,
3 anger management course, or parenting classes ordered
4 by the court; or

5 (b) The defendant violates any other term or condition of
6 the defendant's probation [~~or deferral~~] imposed by the
7 court;

8 provided that, after a hearing on an order to show cause, the
9 court finds that the defendant has failed to show good cause why
10 the defendant has not timely completed the domestic violence
11 intervention course, anger management course, or parenting
12 classes, if applicable, or why the defendant violated any other
13 term or condition of the defendant's sentence. However, the
14 court may suspend any portion of a jail sentence, except for the
15 mandatory sentences under subsection (5)(a) and (b), upon the
16 condition that the defendant remain arrest-free and
17 conviction-free or complete court-ordered intervention.

18 (8) For a third or any subsequent offense that occurs
19 within two years of a second or subsequent conviction, the
20 offense shall be a class C felony.



1 (9) Where the physical abuse consists of intentionally or
2 knowingly causing bodily injury by impeding the normal breathing
3 or circulation of the blood by:

4 (a) Applying pressure on the throat or the neck with any
5 part of the body or a ligature;

6 (b) Blocking the nose and mouth; or

7 (c) Applying pressure to the chest,

8 abuse of a family or household member is a class C felony;
9 provided that infliction of visible bodily injury shall not be
10 required to establish an offense under this subsection.

11 For the purposes of this subsection, "bodily injury" shall
12 have the same meaning as in section 707-700.

13 (10) Where physical abuse occurs in the presence of a
14 minor, as defined in section 706-606.4, and the minor is a
15 family or household member less than fourteen years of age,
16 abuse of a family or household member is a class C felony.

17 (11) Any police officer who arrests a person pursuant to
18 this section shall not be subject to any civil or criminal
19 liability; provided that the police officer acts in good faith,
20 upon reasonable belief, and does not exercise unreasonable force
21 in effecting the arrest.



1 (12) The family or household member who has been physically
2 abused or harmed by another person may petition the family
3 court, with the assistance of the prosecuting attorney of the
4 applicable county, for a penal summons or arrest warrant to
5 issue forthwith or may file a criminal complaint through the
6 prosecuting attorney of the applicable county.

7 (13) The defendant shall be taken into custody and brought
8 before the family court at the first possible opportunity. The
9 court may dismiss the petition or hold the defendant in custody,
10 subject to bail. Where the petition is not dismissed, a hearing
11 shall be set.

12 (14) This section shall not operate as a bar against
13 prosecution under any other section of this Code in lieu of
14 prosecution for abuse of a family or household member.

15 (15) It shall be the duty of the prosecuting attorney of
16 the applicable county to assist any victim under this section in
17 the preparation of the penal summons or arrest warrant.

18 (16) This section shall not preclude the physically abused
19 or harmed family or household member from pursuing any other
20 remedy under law or in equity.



1 (17) When a person is ordered by the court to complete any
2 domestic violence intervention course, anger management course,
3 or parenting classes, that person shall provide adequate proof
4 of compliance with the court's order. The court shall order a
5 subsequent hearing at which the person is required to make an
6 appearance, on a date certain, to determine whether the person
7 has completed the ordered domestic violence intervention course,
8 anger management course, or parenting classes. The court may
9 waive the subsequent hearing and appearance where a court
10 officer has established that the person has completed the
11 intervention ordered by the court.

12 ~~[(18) Notwithstanding any provision of law to the~~
13 ~~contrary, the court may grant a deferred acceptance of guilty~~
14 ~~plea pursuant to chapter 853 for misdemeanor or petty~~
15 ~~misdemeanor offenses of abuse of a family or household member~~
16 ~~when the defendant:~~

17 ~~(a) Has no prior conviction; or~~

18 ~~(b) Has not been previously granted a deferred acceptance~~
19 ~~of guilty plea,~~

20 ~~for any offense charged in family court under this section~~
21 ~~regardless of the final plea.~~



1 ~~(19)~~] (18) For the purposes of this section:

2 "Business day" means any calendar day, except Saturday,
3 Sunday, or any state holiday.

4 "Family or household member":

5 (a) Means spouses or reciprocal beneficiaries, former
6 spouses or reciprocal beneficiaries, persons in a
7 dating relationship as defined under section 586-1,
8 persons who have a child in common, parents, children,
9 persons related by consanguinity, and persons jointly
10 residing or formerly residing in the same dwelling
11 unit; and

12 (b) Does not include those who are, or were, adult
13 roommates or cohabitants only by virtue of an economic
14 or contractual affiliation."

15 SECTION 2. Section 853-4, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) This chapter shall not apply when:

18 (1) The offense charged involves the intentional, knowing,
19 reckless, or negligent killing of another person;

20 (2) The offense charged is:



- 1 (A) A felony that involves the intentional, knowing,
2 or reckless bodily injury, substantial bodily
3 injury, or serious bodily injury of another
4 person; or
- 5 (B) A misdemeanor or petty misdemeanor that carries a
6 mandatory minimum sentence and that involves the
7 intentional, knowing, or reckless bodily injury,
8 substantial bodily injury, or serious bodily
9 injury of another person;
- 10 [~~provided that the prohibition in this paragraph shall~~
11 ~~not apply to offenses described in section 709-~~
12 ~~906(18);~~]
- 13 (3) The offense charged involves a conspiracy or
14 solicitation to intentionally, knowingly, or
15 recklessly kill another person or to cause serious
16 bodily injury to another person;
- 17 (4) The offense charged is a class A felony;
- 18 (5) The offense charged is nonprobationable;
- 19 (6) The defendant has been convicted of any offense
20 defined as a felony by the Hawaii Penal Code or has



1 been convicted for any conduct that if perpetrated in
2 this State would be punishable as a felony;

3 (7) The defendant is found to be a law violator or
4 delinquent child for the commission of any offense
5 defined as a felony by the Hawaii Penal Code or for
6 any conduct that if perpetrated in this State would
7 constitute a felony;

8 (8) The defendant has a prior conviction for a felony
9 committed in any state, federal, or foreign
10 jurisdiction;

11 (9) A firearm was used in the commission of the offense
12 charged;

13 (10) The defendant is charged with the distribution of a
14 dangerous, harmful, or detrimental drug to a minor;

15 (11) The defendant has been charged with a felony offense
16 and has been previously granted deferred acceptance of
17 guilty plea or no contest plea for a prior offense,
18 regardless of whether the period of deferral has
19 already expired;

20 (12) The defendant has been charged with a misdemeanor
21 offense and has been previously granted deferred



- 1 acceptance of guilty plea or no contest plea for a
2 prior felony, misdemeanor, or petty misdemeanor for
3 which the period of deferral has not yet expired;
- 4 (13) The offense charged is:
- 5 (A) Escape in the first degree;
 - 6 (B) Escape in the second degree;
 - 7 (C) Promoting prison contraband in the first degree;
 - 8 (D) Promoting prison contraband in the second degree;
 - 9 (E) Bail jumping in the first degree;
 - 10 (F) Bail jumping in the second degree;
 - 11 (G) Bribery;
 - 12 (H) Bribery of or by a witness;
 - 13 (I) Intimidating a witness;
 - 14 (J) Bribery of or by a juror;
 - 15 (K) Intimidating a juror;
 - 16 (L) Jury tampering;
 - 17 (M) Promoting prostitution;
 - 18 (N) Abuse of family or household member [~~except as~~
19 ~~provided in paragraph (2) and section 709-~~
20 ~~906(18)];~~
 - 21 (O) Sexual assault in the second degree;



- 1 (P) Sexual assault in the third degree;
- 2 (Q) A violation of an order issued pursuant to
- 3 chapter 586;
- 4 (R) Promoting child abuse in the second degree;
- 5 (S) Promoting child abuse in the third degree;
- 6 (T) Electronic enticement of a child in the first
- 7 degree;
- 8 (U) Electronic enticement of a child in the second
- 9 degree;
- 10 (V) Commercial sexual exploitation pursuant to
- 11 section 712-1200.5;
- 12 (W) Street prostitution and commercial sexual
- 13 exploitation under section 712-1207(1)(b) or
- 14 (2)(b);
- 15 (X) Commercial sexual exploitation near schools or
- 16 public parks under section 712-1209;
- 17 (Y) Commercial sexual exploitation of a minor under
- 18 section 712-1209.1;
- 19 (Z) Habitual commercial sexual exploitation under
- 20 section 712-1209.5;



- 1 (AA) Violation of privacy in the first degree under
- 2 section 711-1110.9;
- 3 (BB) Violation of privacy in the second degree under
- 4 section 711-1111(1)(d), (e), (f), (g), or (h);
- 5 (CC) Habitually operating a vehicle under the
- 6 influence of an intoxicant under section
- 7 291E-61.5(a);
- 8 (DD) Promoting gambling in the first degree; or
- 9 (EE) Promoting gambling in the second degree;
- 10 (14) The defendant has been charged with:
 - 11 (A) Knowingly or intentionally falsifying any report
 - 12 required under part XIII of chapter 11, with the
 - 13 intent to circumvent the law or deceive the
 - 14 campaign spending commission; or
 - 15 (B) Violating section 11-352 or 11-353; or
- 16 (15) The defendant holds a commercial driver's license and
- 17 has been charged with violating a traffic control law,
- 18 other than a parking law, in connection with the
- 19 operation of any type of motor vehicle."

20 SECTION 3. Act 19, Session Laws of Hawaii 2020, is amended
21 by amending section 15 to read as follows:



1 "SECTION 15. This Act shall take effect on January 1,
2 2021; provided that [~~sections~~] section 2 [~~3, and 4~~] shall be
3 repealed on June 30, 2026; provided further that [~~sections~~]
4 section 706-623, [~~709-906, and 853-4,~~] Hawaii Revised Statutes,
5 shall be reenacted in the form in which [~~they~~] it read on the
6 day prior to the effective date of this Act."

7 SECTION 4. This Act does not affect rights and duties that
8 matured, penalties that were incurred, and proceedings that were
9 begun before its effective date.

10 SECTION 5. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 6. This Act shall take effect upon its approval;
13 provided that section 3 shall take effect on June 29, 2026.

14

INTRODUCED BY:



By Request

JAN 23 2026



H.B. NO. 2087

Report Title:

Honolulu Prosecuting Attorney Package; Abuse of Family or Household Member; Petty Misdemeanor; Deferred Acceptance of Guilty Plea

Description:

Maintains the petty misdemeanor offense of abuse of family or household member by repealing the sunset of amendments made to sections 709-906 and 853-4, HRS, by Act 19, SLH 2020. Repeals provisions authorizing a deferred acceptance of a guilty plea for misdemeanor and petty misdemeanor abuse of family or household members offenses.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.





February 10, 2026

Members of the House Committee on Human Services & Homelessness:

Chair Lisa Marten
Vice Chair Ikaika Olds
Rep. Terez Amato
Rep. Daisy Hartsfield
Rep. Sue L. Keohokapu-Lee Loy
Rep. Gregg Takayama
Rep. Jenna Takenouchi
Rep. David Alcos III
Rep. Diamond Garcia

Re: HB2087 Relating to Abuse of Family or Household Member

Dear Chair Marten, Vice Chair Olds, and Members of the House Committee on Human Services & Homelessness:

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, **we support the intent of HB2087 and respectfully offer comments.**

This measure extends the petty misdemeanor pilot program through June 30, 2031, and rescinds the availability of Deferred Acceptance of Guilty (DAG) pleas for certain misdemeanor and petty misdemeanor AFHM cases.

The DAG option was introduced through Acts 19 (2020), 238 (2021), and 23 (2023) as part of a pilot program to address several challenges in Hawai'i's domestic violence response system. These included significant court backlogs, overreliance on criminal convictions for lower-level cases, and concerns raised by survivors about the unintended consequences of traditional prosecution approaches.

Under the existing framework, eligible defendants may enter a Deferred Acceptance of Guilty plea and complete court-ordered domestic violence intervention or parenting programs. Upon successful completion, charges may be dismissed.

This structure can function as a prevention and accountability mechanism while reducing long-term collateral consequences that may undermine economic stability for families and, ultimately, survivor safety.

At this time, there is insufficient data to justify eliminating this tool. Evaluation of the pilot has been limited by a lack of awareness among community partners, the absence of comprehensive outcome data (including survivor safety and recidivism), and external factors such as the impact of State v. Thompson on misdemeanor case processing. Maintaining the DAG option allows continued assessment while preserving judicial flexibility.

We believe the approach taken in HB1959, which extends the pilot program to allow for further data collection and thoughtful evaluation, is preferable. Additional time is needed to determine whether the framework is achieving its intended goals, including improved survivor safety, reduced recidivism, and increased family stability.

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

Sincerely,
Angelina Mercado, Executive Director