



CATHOLIC CHARITIES HAWAII

Testimony in Support of HB 858, HD2, SD1 Relating to Domestic Violence.

TO: Senator Gilbert Keith-Agaran, Chair
Senator Maile Shimabukuro, Vice Chair
Members, Committee on Judiciary and Labor

FROM: Trisha Kajimura, Social Policy Director

HEARING: **Monday, April 6, 2015 at 9:25 a.m. in Conf. Rm. 016**

Thank you for the opportunity to provide **testimony in support of HB 858, HD2, SD1** which would permit the early termination of residential rental agreements in cases of domestic violence.

Catholic Charities Hawai'i (CCH) is a tax exempt, non-profit agency that has been providing social services in Hawai'i for over 60 years. CCH has programs serving individuals, elders, children, developmentally disabled, homeless and immigrants. Our mission is to provide services and advocacy for the most vulnerable in Hawai'i.

As part of program services, CCH provides individual and group counseling services for domestic violence victims. CCH also provides services to prevent homelessness and help homeless people obtain and maintain housing.

The issue of housing is a critical one for domestic violence victims and complicates the situation for victims wanting to leave their abusive household. Housing and where a victim and her children will stay if she leaves her abuser is a major consideration for victims. Being locked into a lease may prevent a victim from leaving her abuser as she considers her financial resources and ability to find a new place to live if she were to leave. A victim who has a rental lease agreement and the ability to pay rent needs the opportunity to leave her abuser and spend her income on rent at a home without her abuser. We do not want that victim's ability to be self-sufficient to be hampered by bad credit, rent payments for a place she does not live in, or penalty fees from breaking her old lease.

Thank you for your support. We appreciate this opportunity to bring to light one of the housing challenges faced by victims of domestic violence. Please consider supporting this bill and helping to strengthen policy that protects victims of domestic violence.

Please contact me at (808)527-4810 or trisha.kajimura@catholiccharitieshawaii.org if you have any questions.





PARENTS AND
CHILDREN TOGETHER
A FAMILY SERVICE AGENCY

TO: Senator Gilbert S. C. Keith Agaran, Chair
Senator Maile S. L. Shimabukuro, Vice Chair
Senate Committee on Judiciary & Labor

FROM: Ryan Kusumoto
President & CEO

RE: **In strong support of HB 858, HD2, SD1 Termination of Rental Agreements in Cases of Domestic Violence**

DATE: April 3, 2015

My name is Ryan Kusumoto and I am the President & CEO of Parents And Children Together. I also serve on a number of national and community boards that promote social and economic justice for working families.

I strongly urge you to **support the passage of HB 858, HD2, SD1**, a bill that allows victims domestic violence to be released from rental agreements of one year or less without penalty. Victims will be required to provide a copy of the court order of protection, a copy of the police report that was filed with an agency, a copy of the conviction of the batterer and a signed verification by the victim and a third party witness. The victim will also be required to provide a written statement that the batterer knows the victim's address.

The highest number of deaths among victims of domestic violence occurs when the victim takes steps to leave to leave the batterer. If we can support policies that allow victims to untangle themselves from lethal relationships, we can increase the likelihood that they will remain safe from further battering and possibly death.

Domestic violence is a public health issue that cuts across socio-economic class, education, gender and age. We have the power to significantly reduce the number of deaths that occur daily as a result of domestic violence. Making it easier and faster for victims to get out of rental agreements is a small step toward a big future of safety for those who flee from domestic violence every day. **I strongly urge you to support HB858, HD2, SD1.** Thank you for this opportunity to submit testimony.



PROTECTING HAWAII'S OHANA, CHILDREN, UNDER SERVED, ELDERLY AND DISABLED

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TO: Senator Gilbert S.C. Keith-Agaran, Chair
Senator Maile S.L. Shimabukuro, Vice Chair
Members, Senate Committee on Judiciary and Labor

FROM: Scott Morishige, MSW
Executive Director, PHOCUSED

HEARING: **Monday, April 6, 2015 at 9:25 a.m. in Conf. Rm. 016**

Testimony in Support of HB858 HD2 SD1, Relating to Domestic Violence.

Thank you for the opportunity to provide testimony in **support** of HB858 HD2 SD1, which would permit the termination of residential rental agreements in cases of domestic violence. PHOCUSED is a nonprofit membership and advocacy organization that works together with community stakeholders to impact program and policy change for the most vulnerable in our community, including victims of domestic violence.

Our membership includes organizations, such as Child & Family Service, Parents & Children Together, and Domestic Violence Action Center, which serve victims of domestic violence and their families. Through the work these organizations do every day, they can attest firsthand that the inability to exit a rental agreement quickly and without penalty or fees often serves as a barrier that prevents a victim from leaving an abusive relationship.

In addition, under our current system, if a victim does break a rental agreement to exit a dangerous situation, they are often unable to pay fees or other penalties associated with breaking the agreement and this information may negatively impact the victim's credit. Poor credit then makes it more difficult for a victim of domestic violence to secure new housing for themselves and their family.

HB858 would enable victims of domestic violence to exit early from a residential agreement, upon showing written documentation of their situation (i.e. copy of an order of protection, copy of a police report, etc.). We see this bill as a critical step to strengthen protections for victims of domestic violence in our community.

Once again, PHOCUSED urges your support of this bill. If you have any questions, please do not hesitate to contact PHOCUSED at 521-7462 or by e-mail at admin@phocused-hawaii.org.

Hawaii Family Law Clinic, dba



To: Chair Keith-Agaran, Vice-Chair Shimabukuro, Members of the Senate
Judiciary and Labor Committee
From: Edwin K. Flores, Ala Kuola
Hearing Date and Time: April 6, 2015, 9:25 a.m.
Re: HB858

Good morning Chair Keith-Agaran, Vice-Chair Shimabukuro, Members of the Senate Judiciary and Labor Committee. My name is Edwin K. Flores and I am writing this on behalf of the Hawaii Family Law Clinic aka Ala Kuola. We are a non-profit organization that provides services to victims of domestic violence on Oahu. Specifically, we assist the victims of domestic violence to obtain protective orders (TROs) through the Family Court. Ala Kuola also provides a domestic violence prevention program to various high schools athletic departments on the islands of Oahu, Hawaii and Kauai.

Ala Kuola strongly supports HB 858. Too many times victims of domestic violence are further penalized by being forced to stay in a premises that has become economically unfeasible or face imposition of civil penalties if they fail pay their rent or are compelled to vacate prior to expiration of the lease. HB 858 contains protections not only for the victims of domestic violence, but also for landlords to prevent fraudulent claims to avoid rental leases.

Thank you for allowing us to provide testimony in strong support of HB 858.

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From: mailinglist@capitol.hawaii.gov
To: [JDL Testimony](#)
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for HB858 on Apr 6, 2015 09:25AM*
Date: Tuesday, March 31, 2015 11:57:07 AM

HB858

Submitted on: 3/31/2015

Testimony for JDL on Apr 6, 2015 09:25AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

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HB858

Submitted on: 3/31/2015

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Submitted By	Organization	Testifier Position	Present at Hearing
Dara Carlin, M.A.	Individual	Support	No

Comments:

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

David W.H. Chee, Esq.
dchee@tqlawyers.com

April 3, 2015

RE: H.B. 858 HD2 SD1, Relating to Domestic Violence

HEARING: April 6, 2015 at 9:25 a.m.

Dear Committee Members:

I am an attorney who represents landlords and some tenants in landlord/tenant disputes.

First, I applaud the legislature's efforts to keep provide victims of domestic violence options to escape.

However, I do not support this proposed legislation because, the way it is written presently, this legislation will encourage abuse, can have unintended results that are counter to its goals, and because it contains unconstitutional provisions.

A. Incentive for Abuse

As an attorney, I have met many tenants who want to get out of their leases. Usually, people want to get out of their leases because of changes in circumstance – a new job on the other end of the island, a change in income that makes the apartment not affordable, a disagreeable new neighbor, they don't like their roommate or the arrival of a better housing opportunity – such as marriage, or moving in with a boyfriend or girlfriend.

Until this legislation, there was no way for someone to break their contract without liability for the landlord's losses. This bill would change that radically and will give tenants an incentive to claim domestic violence to avoid financial responsibility.

Much like the change in the law regarding comfort animals has caused an extraordinary number of people to claim mental disabilities to allow them to keep pets, or the change in the law regarding marijuana has caused many people to seek treatment for diseases that may ameliorated by the use of marijuana, this legislation gives incentive to claim domestic abuse where none may exist.

This incentive is all the more compelling because there is virtually no disincentive to falsely claiming domestic abuse. While the law provides some penalty to tenants who lie, there is no criminal penalty. The only way the civil penalty actually comes into existence is if a landlord expends the resources to file a lawsuit against the tenant. When a tenant falsely claims domestic a landlord would need to carry the burden of proof in a court of law to disprove the claim of domestic abuse – this is a nearly impossible task that will almost always cost more than the amount that can be recovered. Furthermore, when there is a long time left on the lease, the penalty can be much less than the financial obligations under the lease, making a false claim a more attractive option.

B. Unfortunate Consequences of Abuse

For any family, having safe housing is essential. In families with children, parents seek to establish a place where their children can become a part of the community, including the school community. Everyone knows that the cost of housing in Hawaii is very high. Usually the income of both parents is required in order for decent housing to be obtained. Once an affordable home is established, few people want to move.

One of the unintended consequences of this legislation is that a perpetrator of domestic violence¹ could deprive a victim and her children of their home through application of this law.

If a husband commits an act of domestic violence against his spouse or other family member, then he will be entitled, pursuant to section (a)², to terminate their involvement in the lease. If the perpetrator then terminates his involvement in the lease pursuant to paragraph (a), in most cases the wife will have no choice but to pay the full rent herself or to move out because she cannot afford to pay the rent on their own.

¹ Section (j) states: “(j) For the purposes of this part, ‘domestic violence’ shall have the same meaning as ‘domestic abuse’ as defined in section 586-1.”

Haw. Rev. Stat. § 586-1 defines “Domestic abuse” as:

(1) Physical harm, bodily injury, assault, or the threat of imminent physical harm, bodily injury, or assault, extreme psychological abuse or malicious property damage between family or household members; or

(2) Any act which would constitute an offense under section 709-906, or under part V or VI of chapter 707 committed against a minor family or household member by an adult family or household member.

² “(a) A tenant may terminate a rental agreement of a term of one year or less without penalty or fees for early termination or liability for future rent if the tenant or an immediate family member of the tenant residing at the dwelling unit has been the victim of domestic violence.”

For example: Man and Woman are married tenants in a rented unit. Man hits Woman. Man is “an immediate family member of the tenant residing at the dwelling unit (that) has been the victim of domestic violence” and is therefore entitled to terminate the rental agreement without liability for future rent. For any number of reasons, Woman may want to stay in her home – so that her children can stay in the same school, so that she can stay close to family support, because moving is so difficult – but unless she can pay the rent herself she will be forced to move.

The same result could occur in other circumstances. For example: Man and Woman are married tenants in a rented unit with two minor children, Boy and Girl. Boy gets mad at Girl and intentionally takes Girl’s personal property and breaks it. Or Woman gets mad at Man and breaks his cell phone. Boy and Woman have committed an act of domestic violence.³ Man, as an immediate family member of Girl or as a direct victim of domestic violence, can now terminate his involvement in the lease, regardless of whether Woman wants to stay or not. This leaves Woman with the choice of paying all the rent or moving.

The same result can occur if Man lies about being a victim of domestic violence by Woman. As mentioned above, there is little real disincentive to lying. All Man would need to do is to present to his landlord a statement complying with section (h) and he would be free of any further obligation to pay rent, leaving Woman in financial distress.

Certainly, the proposed legislation could result in civil liability for Man for lying about the situation (see section (f)), but the only time a penalty would arise is if the Man’s former landlord decided to pursue a civil suit against Man. Especially in a situation where Man has no real assets, that is highly unlikely.

The legislature should re-examine the language of this law to prevent it from being used in a manner contrary to the legislature’s intent.

C. Constitutional Issues

Section (d)(3) prohibits disclosure of information by a landlord. Clearly, this prohibition restricts landlords’ right to speak – a right guaranteed by Section 4 of the Constitution of the State of Hawaii – and is unconstitutional.

³ Haw. Rev. Stat. § 586-1 (West)

“Domestic abuse” means:

(1) Physical harm, bodily injury, assault, or the threat of imminent physical harm, bodily injury, or assault, extreme psychological abuse or **malicious property damage between family or household members**; or ...

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HB858

Submitted on: 4/2/2015

Testimony for JDL on Apr 6, 2015 09:25AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Walter Benavitz	Individual	Support	No

Comments:

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HB858

Submitted on: 4/5/2015

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Submitted By	Organization	Testifier Position	Present at Hearing
Jasmine Ramos	Individual	Support	No

Comments: I support HB858, because it will serve as an important option to provide our victims of domestic abuse the ability to legally flee from their abuser. This measure will save lives. Thank you for your kind consideration for this measure to protect our victims of domestic violence.

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HB858

Submitted on: 4/5/2015

Testimony for JDL on Apr 6, 2015 09:25AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Kanani Souza	Individual	Support	No

Comments: I support HB858, HD2, SD1, to save the lives of domestic violence victims in rental agreements with their abuser. It is important to note that the bill before you was actually written using the uniform code on real property. The Real Estate organization in Hawaii assisted in drafting this bill. Therefore, I am respectfully thankful that the rights of landlords and/or property owners will be protected, while providing the safe option of a victim of domestic abuse to have the ability to legally leave an abusive relationship. This bill will save lives and families. Mahalo for allowing me to provide testimony in support of HB858, HD2, SB1.

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