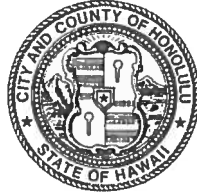


POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 · INTERNET: www.honoluluupd.org



KIRK CALDWELL
MAYOR

SUSAN BALLARD
CHIEF

JOHN D. McCARTHY
CLYDE K. HO
DEPUTY CHIEFS

RP-KK

OUR REFERENCE

January 30, 2020

The Honorable Chris Lee, Chair
and Members
Committee on Judiciary
House of Representatives
Hawaii State Capitol
415 South Beretania Street, Room 325
Honolulu, Hawaii 96813

Dear Chair Lee and Members:

SUBJECT: House Bill No. 1742, Relating to Abuse of a Family or Household Member

I am Randall Platt, Captain of the Criminal Investigation Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports House Bill No. 1742, Relating to Abuse of a Family or Household Member.

Acts that constitute felony abuse cause significant harm to victims, and we feel that the felony abuse portions of the Hawaii Revised Statutes (HRS), Sections 709-906 (7), (8), and (9), relating to abuse of family or household member, should be included in the sentencing of repeat offenders (HRS Section 706-606.5). Offenders should be sentenced to mandatory minimum periods of imprisonment without the possibility of parole.

The HPD urges you to support House Bill No. 1742, Relating to Abuse of a Family or Household Member.

Thank you for the opportunity to testify.

APPROVED:

A handwritten signature in black ink that reads "Susan Ballard".

Susan Ballard
Chief of Police

Sincerely,

A handwritten signature in black ink that reads "Randall Platt".

Randall Platt, Captain
Criminal Investigation Division

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
PHONE: (808) 547-7400 • FAX: (808) 547-7515

LATE

DWIGHT K. NADAMOTO
ACTING PROSECUTING ATTORNEY



LYNN B.K. COSTALES
ACTING FIRST DEPUTY
PROSECUTING ATTORNEY

**THE HONORABLE CHRIS LEE, CHAIR
HOUSE COMMITTEE ON JUDICIARY
Thirtieth State Legislature
Regular Session of 2020
State of Hawai`i**

January 30, 2020

RE: H.B. 1742; RELATING TO ABUSE OF A FAMILY OR HOUSEHOLD MEMBER.

Chair Lee, 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 (“Department”) submits the following testimony in strong support of H.B. 1742. This bill is part of the Department's 2020 legislative package.

The purpose of H.B. 1742 is to strengthen and update the sentencing statutes applicable to the offense of Abuse of a Family or Household Member. Section 706-606.5, Hawaii Revised Statutes (“H.R.S.”), Sentencing for Repeat Offender, first enacted in 1976, provides specialized sentencing provisions for repeat felony offenses, and has been amended a number of times to include various Class C felonies. Although this list covers a range of very serious crimes, one violent Class C felony which is not on this list, is felony-level Abuse of a Family or Household Member (“AFHM”), under H.R.S. §709-906 (7), (8) and (9).

Currently, the offense of AFHM has 3 subsections categorized as Class C felonies:

- **H.R.S. §709-906 (7)** For a third or any subsequent conviction, that occurs within two years of a second or subsequent conviction, the offense shall be a class C felony.
(Enacted by Act 19, Session Laws 1999; amended by Act 5, Session Laws 2002)
- **H.R.S. §709-906 (8)** Where the physical abuse consists of intentionally or knowingly causing bodily injury by impeding the normal breathing or circulation of the blood by:
 - o Applying pressure on the throat or neck with any part of the body or a ligature,
 - o Blocking the nose and mouth; or
 - o Applying pressure to the chest,

Abuse of a family or household member is a class C felony; provided that infliction of visible bodily injury shall not be required to establish an offense under this subsection. **(Enacted by Act 230, Session Laws 2006)**

- **H.R.S. §709-906 (9)** Where physical abuse occurs in the presence of a minor, as defined in section 706-606.4, and the minor is a family or household member less than fourteen years of age, abuse of a family or household member is a class C felony **(Enacted by Act 117, Session Laws 2014)**

Given that C felony offenses have been added to H.R.S. §709-906 “piecemeal” over the years, the Department believes it was not intentional to leave felony-level AFHM off of the list, but rather an oversight, as the three Class C felony subsections were created long after the the Sentencing for Repeat Offenders statute was enacted (in 1976), and also long after the AFHM statute was enacted (in 1973); until 1999, AFHM was only classified as a misdemeanor offense. The Department believes that these heightened penalties for felony-level AFHM will more accurately reflect the seriousness of these types of offenses in today’s society, by placing them on the same level as all other violent Class C felonies.

For these reasons, the Department of the Prosecuting Attorney strongly supports the passage of H.B. 1742. Thank you for this opportunity to testify.

HB-1742

Submitted on: 1/28/2020 3:22:06 PM

Testimony for JUD on 1/30/2020 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Victor K. Ramos	Individual	Support	No

Comments:

ROBERT K. MERCER

2467 Aha Aina Place
Honolulu, Hawai'i 96821

phone: (808) 398-9594 (cell)
email: mercer001@hawaii.rr.com

January 29, 2020

TO: Committee on Judiciary
RE: HB1742
HEARING: January 30, 2020
TIME: 2:45 p.m.
ROOM: Conf. Rm. 325
POSITION: OPPOSE

Chair Lee Vice-Chair, Vice Chair San Buenaventura and members of the committee:

My name is Bob Mercer. I am a retired lawyer and recently served as Vice-Chair of the House Concurrent Resolution 85 Task Force on Prison Reform.

HB1742 creates repeat offender status with a mandatory minimum sentence of imprisonment under HRS §706-606.5 HRS for defendants convicted of abuse of a family member under HRS § 709-906(7), (8), or (9), all of which are class C felonies and carry a sentence of up to five years in prison and a fine of up to \$10,000.¹

I oppose SB1742.

I am not aware of any empirical evidence indicating a need to increase the penalty for abuse of a family member under HRS § 709-906(7), (8), or (9), and SB1742 does not recite any such evidence, or any other rationale, for changing the current law.

Absent evidence that a law is not functioning as it should in terms of deterrence, incapacitation, and retribution, it should not be modified.

Thank you for allowing me to testify on this matter.

¹ See Haw. Rev. Stat. § 706-640 and §706-660.

HB-1742

Submitted on: 1/29/2020 5:47:54 PM

Testimony for JUD on 1/30/2020 2:45:00 PM

LATE

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

Comments: