



The Judiciary, State of Hawai'i

Testimony to the House Committee on Finance

Representative Sylvia Luke, Chair
Representative Ty J.K. Cullen, Vice Chair

Monday, June 29, 2020, 2:00 p.m.
State Capitol, Conference Room 329

by

Christine E. Kuriyama
Senior Judge, Deputy Chief Judge
Family Court of the First Circuit

WRITTEN TESTIMONY ONLY

Bill No. and Title: Senate Bill No. 2638, S.D.2, H.D.2, Relating to Domestic Violence.

Purpose: Part I: Establishes a petty misdemeanor offense of abuse of family or household members. Clarifies the penalties for violations. Allows a deferred acceptance of guilty plea for misdemeanor and petty misdemeanor abuse of family or household members offenses. Part II: Makes consistent the types of documents accepted as proof of domestic or sexual violence victim status. Part III: Requires the judiciary to submit annual reports on the number and outcome of abuse cases. Part I sunsets 6/30/2026. Effective 1/1/2021. (HD2)

Judiciary's Position:

The Judiciary offers this testimony in strong support of this bill that allows greater flexibility in the sentencing options in HRS Section 709-906 while still emphasizing accountability of the defendant, safety of the victims, and increasing protection for the children in families wracked by domestic violence. To implement these sentencing changes, we want to reassure the Legislature that the Judiciary will not require additional resources.

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

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THE HONORABLE SYLVIA LUKE, CHAIR
HOUSE COMMITTEE ON FINANCE
Thirtieth State Legislature
Regular Session of 2020
State of Hawai`i

June 29, 2020

RE: S.B. 2638, S.D. 2, H.D. 2; RELATING TO DOMESTIC VIOLENCE.

Chair Luke, Vice-Chair Cullen and members of the House Committee on Finance, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in **opposition** to S.B. 2638, S.D. 2, H.D. 2 with comments and an attached proposed H.D. 3.

Over the years, the Department had previously supported the intent of various iterations of S.B. 2638, S.D. 2, H.D. 2; however, with the events surrounding COVID 19, the Department currently does not believe the purpose of this bill – reducing congestion in the court system caused by a backlog of jury trial cases - will be achieved. Thus, the Department believes that in the current form, the cost – **defendants who would otherwise be ineligible to own a firearm, would be allowed to now own a firearm following the completion of the deferral period** – outweighs the benefit.

However, if this committee decides to move forward with S.B. 2638, S.D. 2, H.D. 2, the Department would suggest the following amendments as outlined in attached proposed H.D. 3:

Page 7, Line 15-21 – this section addresses the penalty for a petty misdemeanor under Section 709-906. Currently there is no court certified domestic violence intervention program that can be completed within a six (6) month period (allotted probationary period for a petty misdemeanor offense under 706-623, H.R.S.). Therefore the Department would suggest inserting the following language in Section 706-623(d), H.R.S. to ensure that defendants are not set up to fail under S.B. 2638, S.D. 2, H.D. 2:

“(d) Six months upon conviction of a petty misdemeanor; provided that up to one year may be imposed upon a finding of good cause; except upon a conviction under section 709-906, the court may sentence the defendant to a period of probation not exceeding one year...”

Allowing the courts to impose a one (1) year probationary period for petty misdemeanor AFHM cases will ensure that a defendant has sufficient time to complete all the mandatory terms and conditions imposed by the courts under S.B. 2638, S.D. 2, H.D. 2 and **will ensure that defendants placed on probation will get the same amount of time as a defendant placed on deferral.** This committee does not need to address the circumstance in which a defendant is granted a deferral because under Section 853-1(b), courts are already authorized to impose a one (1) year deferral period for petty misdemeanor offenses. This amendment is addressed in proposed H.D. 3 on page 16, lines 3-5.

Page 7, Line 15-21 – the Department would concur with the concerns by the Attorney Generals and would suggest removing the petty misdemeanor offense from subsection (5) (penalty section) and create its own subsection to ensure misdemeanor AFHM offenses will not be reduced to a petty misdemeanor offense at sentencing.

Page 11, Line 3 – replace “respondent” with “defendant”

Page 12, Line 13 – remove “status”

Committee Report/Legislative Intent – the Department would strongly request that this committee add legislative intent to the committee report that indicates the following:

“The intent of this bill is to hold offenders accountable by offering them an opportunity to take responsibility early in the prosecution with the chance to keep their record clear of arrest or conviction while minimizing court delay thus reducing trauma to victims.”

This will help ensure that the stakeholders are aware of the intent and purpose of this pilot project and will help guide agencies in pertinent statistics to collect to illustrate the success or failure of the project.

While the Department is generally supportive of creating a petty misdemeanor offense for the charge of Abuse of a Family or Household Member (§709-906, H.R.S.), we would note that this change is unlikely to address the First Circuit’s ongoing challenges with court congestion and case dismissals. On April 17, 2020 by order of the court, most if not all courts across the State of Hawaii were closed with limited hearings for individuals in custody. Therefore, during this time the Department attempted to address the increasing backlog of criminal family court cases and resolve matters that have remained static due to courts being closed by extending plea offers. This process involved plea offers which included but were not limited to global pleas for defendants with multiple cases to amendments to deferral eligible offenses in which an offender may ask the court to grant a motion for deferred acceptance of guilty or no contest pleas. Between May 8, 2020 and June 8, 2020, the Department dealt with over two hundred cases. Of the two hundred plus cases during this time, approximately one hundred and eighty-eight (188) cases involved the Office of the Public Defenders (PD). Of those cases, about one hundred and thirty-six (136) offers were submitted to the PD’s office for approval with over 50% of the offers involving amendments to deferral eligible offenses with the additional agreement for the defendant to participate in a domestic violence intervention program (DVI). Of the one hundred and thirty six (136) offers sent, about one hundred and six (106) were rejected by the PDs (approximately 10 defendants accepted a plea offer with the remaining defendants either losing contact with the PDs or still considering the plea offer). S.B. 2638, S.D. 2 was built on the idea that if a defendant had the option of a deferral

with domestic violence treatment, more likely than not, a defendant would utilize the deferral and avoid numerous continuances commonly associated with family court cases. Unfortunately, the data collected during this COVID-19 period paints the opposite picture. Therefore, the Department cannot in good conscious support S.B 2638, S.D. 2, H.D. 2.

The Department is in agreement with other stakeholders that a three (3) year pilot project would be an appropriate amount of time to engage in the proposed pilot project to determine success or failure. Therefore, the Department would suggest amending S.B. 2638, S.D. 2, H.D. 2 to a three (3) year pilot project with appropriate data collection to be submitted to the Legislature each year.

Based on the foregoing, the Department of the Prosecuting Attorney of the City and County of Honolulu **opposes** the passage of S.B. 2638, S.D. 2, H.D. 2 with comments and an attached proposed H.D. 3. **Please note that the attached proposed H.D. 3 only addresses the two concerns raised in the Department's testimony referencing Page 7, Line 15-21 as these changes were previously discussed with prior committees with no opposition. The Department will leave the remaining concerns addressed in the testimony to this committee to determine whether it should be added.** Thank you for the opportunity to testify on this matter.

Report Title:

Abuse of Family or Household Member; Petty Misdemeanor; Penalties; Pilot Program; Domestic Violence; Sexual Violence; Victims; Proof of Status

Description:

Part I: Establishes a petty misdemeanor offense of abuse of family or household members. Clarifies the penalties for violations. Allows a deferred acceptance of guilty plea for misdemeanor and petty misdemeanor abuse of family or household members offenses. Part II: Makes consistent the types of documents accepted as proof of domestic or sexual violence victim status. Part III: Requires the judiciary to submit annual reports on the number and outcome of abuse cases. Part I sunsets 6/30/2026. Effective 1/1/2021. (HD3)

A BILL FOR AN ACT

RELATING TO DOMESTIC VIOLENCE.

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

1 PART I

2 SECTION 1. The purpose of this part is to establish a
3 five-year pilot project to strengthen state and county responses
4 to domestic violence and increase offender accountability by:

5 (1) Establishing a petty misdemeanor offense of abuse of
6 family or household members and penalties;

7 (2) Reducing congestion in the court system caused by a
8 backlog of jury trial cases by permitting persons
9 charged with a petty misdemeanor or misdemeanor
10 offense of abuse of a family or household member to
11 enter a deferred acceptance of guilty plea under
12 certain conditions, and specifying that the deferred
13 acceptance shall be set aside if the defendant fails
14 to complete any court-ordered domestic violence
15 intervention programs or parenting classes within the
16 time frame specified by the court; and

17 (3) Requiring data collection and reporting to determine
18 the effectiveness of the pilot project by the

1 judiciary on the number of cases filed with the
2 judiciary and the outcome of each case relating to
3 domestic violence.

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

6 "~~§709-906 Abuse of family or household members; penalty.~~

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

13 ~~[For the purposes of this section:~~

14 ~~"Business day" means any calendar day, except Saturday,~~
15 ~~Sunday, or any state holiday.~~

16 ~~"Family or household member":~~

17 ~~(a) Means spouses or reciprocal beneficiaries, former~~
18 ~~spouses or reciprocal beneficiaries, persons in a~~
19 ~~dating relationship as defined under section 586-1,~~
20 ~~persons who have a child in common, parents, children,~~
21 ~~persons related by consanguinity, and persons jointly~~
22 ~~residing or formerly residing in the same dwelling~~
23 ~~unit; and~~

1 ~~(b) Does not include those who are, or were, adult~~
2 ~~roommates or cohabitants only by virtue of an economic~~
3 ~~or contractual affiliation.]~~

4 (2) Any police officer, with or without a warrant, may
5 arrest a person if the officer has reasonable grounds to believe
6 that the person is physically abusing, or has physically abused,
7 a family or household member and that the person arrested is
8 guilty thereof.

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

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

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

19 (b) If the person who the police officer reasonably
20 believes to have inflicted the abuse is eighteen years
21 of age or older, the police officer lawfully shall
22 order the person to leave the premises for a period of
23 separation, during which time the person shall not
24 initiate any contact, either by telephone or in

1 person, with the family or household member; provided
2 that the person is allowed to enter the premises with
3 police escort to collect any necessary personal
4 effects. The period of separation shall commence when
5 the order is issued and shall expire at 6:00 p.m. on
6 the second business day following the day the order
7 was issued; provided that the day the order is issued
8 shall not be included in the computation of the two
9 business days;

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

1 the family court. In determining whether to order a
2 person under the age of eighteen to leave the
3 premises, the police officer may consider the
4 following factors:

5 (i) Age of the person;

6 (ii) Relationship between the person and the family or
7 household member upon whom the police officer
8 reasonably believes the abuse has been inflicted;
9 and

10 (iii) Ability and willingness of the parent, guardian,
11 or other authorized adult to maintain custody and
12 control over the person;

13 (d) All persons who are ordered to leave as stated above
14 shall be given a written warning citation stating the
15 date, time, and location of the warning and stating
16 the penalties for violating the warning. A copy of
17 the warning citation shall be retained by the police
18 officer and attached to a written report which shall
19 be submitted in all cases. A third copy of the
20 warning citation shall be given to the abused person;

21 (e) If the person so ordered refuses to comply with the
22 order to leave the premises or returns to the premises
23 before the expiration of the period of separation, or
24 if the person so ordered initiates any contact with

1 the abused person, the person shall be placed under
2 arrest for the purpose of preventing further physical
3 abuse or harm to the family or household member; and

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

8 (5) The penalties for the offense of abuse of a family or
9 household member shall be as follows:

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

14 ~~[(a)]~~ (i) For the first offense the person shall serve a
15 minimum jail sentence of forty-eight hours; and

16 ~~[(b)]~~ (ii) For a second offense that occurs within one year
17 of the first conviction, the person shall be
18 termed a "repeat offender" and serve a minimum
19 jail sentence of thirty days~~[-]~~; and

20 ~~[(b)]~~ (6) It shall be a petty misdemeanor for a person to
21 intentionally or knowingly strike, shove, kick, or
22 otherwise touch a family or household member in an
23 offensive manner or subject the family member or
24 household member to offensive physical contact and the

1 person shall be sentenced as provided in sections 706-
2 640 and 706-663.

3 Upon conviction and sentencing of the defendant, the court
4 [~~shall~~] may order that the defendant immediately be incarcerated
5 to serve the mandatory minimum sentence imposed; provided that
6 the 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 ~~(6)~~(7) Whenever a court sentences a person or grants a
10 motion for deferral pursuant to subsection (5), it also shall
11 require that the offender [~~undergo~~] complete within a specified
12 time frame any available domestic violence intervention programs
13 and, if the offense involved the presence of or abuse of a
14 minor, any available parenting classes ordered by the court.
15 The court shall revoke the defendant's probation or set aside
16 the defendant's deferred acceptance of guilty plea and enter an
17 adjudication of guilt, if applicable, and sentence or resentence
18 the defendant to the maximum term of incarceration if:

- 19 (a) The defendant fails to complete, within the specified
20 time frame, any domestic violence intervention
21 programs or parenting classes ordered by the court; or
22 (b) The defendant violates any other term or condition of
23 the defendant's probation or deferral imposed by the
24 court;

1 provided that, after a hearing on an order to show cause, the
2 court finds that the defendant has failed to show good cause why
3 the defendant has not timely completed the domestic violence
4 intervention programs or parenting classes, if applicable, or
5 why the defendant violated any other term or condition of the
6 defendant's sentence. However, the court may suspend any
7 portion of a jail sentence, except for the mandatory sentences
8 under subsection [~~(5) (a) and (b)~~], (5) (a) (i) and (ii), upon the
9 condition that the defendant remain arrest-free and conviction-
10 free or complete court-ordered intervention.

11 ~~(7)~~(8) For a third or any subsequent offense that occurs
12 within two years of a second or subsequent conviction, the
13 offense shall be a class C felony.

14 ~~(8)~~(9) Where the physical abuse consists of intentionally
15 or knowingly causing bodily injury by impeding the normal
16 breathing or circulation of the blood by:

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

19 (b) Blocking the nose and mouth; or

20 (c) Applying pressure to the chest,

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

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

3 ~~(9)~~(10) Where physical abuse occurs in the presence of a
4 minor, as defined in section 706-606.4, and the minor is a
5 family or household member less than fourteen years of age,
6 abuse of a family or household member is a class C felony.

7 ~~(10)~~(11) Any police officer who arrests a person pursuant
8 to this section shall not be subject to any civil or criminal
9 liability; provided that the police officer acts in good faith,
10 upon reasonable belief, and does not exercise unreasonable force
11 in effecting the arrest.

12 ~~(11)~~(12) The family or household member who has been
13 physically abused or harmed by another person may petition the
14 family court, with the assistance of the prosecuting attorney of
15 the applicable county, for a penal summons or arrest warrant to
16 issue forthwith or may file a criminal complaint through the
17 prosecuting attorney of the applicable county.

18 ~~(12)~~(13) The respondent shall be taken into custody and
19 brought before the family court at the first possible
20 opportunity. The court may dismiss the petition or hold the
21 respondent in custody, subject to bail. Where the petition is
22 not dismissed, a hearing shall be set.

1 ~~(13)~~(14) This section shall not operate as a bar against
2 prosecution under any other section of this Code in lieu of
3 prosecution for abuse of a family or household member.

4 ~~(14)~~(15) It shall be the duty of the prosecuting attorney
5 of the applicable county to assist any victim under this section
6 in the preparation of the penal summons or arrest warrant.

7 ~~(15)~~(16) This section shall not preclude the physically
8 abused or harmed family or household member from pursuing any
9 other remedy under law or in equity.

10 ~~(16)~~(17) When a person is ordered by the court to undergo
11 any domestic violence intervention~~[7]~~ programs or parenting
12 classes, that person shall provide adequate proof of compliance
13 with the court's order. The court shall order a subsequent
14 hearing at which the person is required to make an appearance,
15 on a date certain, to determine whether the person has completed
16 the ordered domestic violence intervention~~[7]~~ programs or
17 parenting classes. The court may waive the subsequent hearing
18 and appearance where a court officer has established that the
19 person has completed the intervention ordered by the court.

20 ~~(17)~~(18) Notwithstanding any provision of law to the
21 contrary, the court may accept a deferred acceptance of guilty
22 plea pursuant to chapter 853 for misdemeanor or petty
23 misdemeanor offenses of abuse of a family or household member
24 when the defendant:

1 (a) Has no prior conviction; or
2 (b) Has not been previously granted deferred acceptance of
3 guilty plea status,
4 for any offense charged in family court under this section
5 regardless of the final plea.

6 ~~(18)~~(19) For the purposes of this section:

7 "Business day" means any calendar day, except Saturday,
8 Sunday, or any state holiday.

9 "Family or household member":

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

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

20 SECTION 3. Section 853-4, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:

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

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

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

- 1 (7) The defendant is found to be a law violator or
2 delinquent child for the commission of any offense
3 defined as a felony by the Hawaii Penal Code or for
4 any conduct that if perpetrated in this State would
5 constitute a felony;
- 6 (8) The defendant has a prior conviction for a felony
7 committed in any state, federal, or foreign
8 jurisdiction;
- 9 (9) A firearm was used in the commission of the offense
10 charged;
- 11 (10) The defendant is charged with the distribution of a
12 dangerous, harmful, or detrimental drug to a minor;
- 13 (11) The defendant has been charged with a felony offense
14 and has been previously granted deferred acceptance of
15 guilty plea or no contest plea for a prior offense,
16 regardless of whether the period of deferral has
17 already expired;
- 18 (12) The defendant has been charged with a misdemeanor
19 offense and has been previously granted deferred
20 acceptance of guilty plea or no contest plea for a
21 prior felony, misdemeanor, or petty misdemeanor for
22 which the period of deferral has not yet expired;
- 23 (13) The offense charged is:
24 (A) Escape in the first degree;

- 1 (B) Escape in the second degree;
- 2 (C) Promoting prison contraband in the first degree;
- 3 (D) Promoting prison contraband in the second degree;
- 4 (E) Bail jumping in the first degree;
- 5 (F) Bail jumping in the second degree;
- 6 (G) Bribery;
- 7 (H) Bribery of or by a witness;
- 8 (I) Intimidating a witness;
- 9 (J) Bribery of or by a juror;
- 10 (K) Intimidating a juror;
- 11 (L) Jury tampering;
- 12 (M) Promoting prostitution;
- 13 (N) Abuse of family or household member[+] except as
- 14 provided in paragraph (2) and section
- 15 709-906(17);
- 16 (O) Sexual assault in the second degree;
- 17 (P) Sexual assault in the third degree;
- 18 (Q) A violation of an order issued pursuant to
- 19 chapter 586;
- 20 (R) Promoting child abuse in the second degree;
- 21 (S) Promoting child abuse in the third degree;
- 22 (T) Electronic enticement of a child in the first
- 23 degree;

- 1 (U) Electronic enticement of a child in the second
- 2 degree;
- 3 (V) Prostitution pursuant to section 712-1200(1)(b);
- 4 (W) Street solicitation of prostitution under section
- 5 712-1207(1)(b);
- 6 (X) Solicitation of prostitution near schools or
- 7 public parks under section 712-1209;
- 8 (Y) Habitual solicitation of prostitution under
- 9 section 712-1209.5; or
- 10 (Z) Solicitation of a minor for prostitution under
- 11 section 712-1209.1;

12 (14) The defendant has been charged with:

13 (A) Knowingly or intentionally falsifying any report

14 required under chapter 11, part XIII with the

15 intent to circumvent the law or deceive the

16 campaign spending commission; or

17 (B) Violating section 11-352 or 11-353; or

18 (15) The defendant holds a commercial driver's license and

19 has been charged with violating a traffic control law,

20 other than a parking law, in connection with the

21 operation of any type of motor vehicle."

22 SECTION 4. Section 706-623, Hawaii Revised Statutes, is

23 amended by amending subsection (d) to read as follows:

1 victim status. This is complicated by the fact that the types
2 of documents accepted as proof of domestic or sexual violence
3 victim status vary among the different laws, even though the
4 actual substance of the requirements is similar. As a result,
5 victims may be discouraged from trying to seek assistance under
6 these laws.

7 The purpose of this part is to make consistent the types of
8 documents accepted as proof of domestic or sexual violence
9 victim status.

10 SECTION ~~5~~ 6. Section 378-2, Hawaii Revised Statutes, is
11 amended by amending subsection (b) to read as follows:

12 "(b) For purposes of subsection (a)(1):

13 (1) An employer may verify that an employee is a victim of
14 domestic or sexual violence by requesting that the
15 employee provide:

16 [~~(A)~~ ~~A signed written statement from a person listed~~
17 ~~below from whom the employee or the employee's~~
18 ~~minor child has sought assistance in relation to~~
19 ~~the domestic or sexual violence;~~

20 ~~(i) An employee, agent, or volunteer of a victim~~
21 ~~services organization;~~

22 ~~(ii) The employee's attorney or advocate;~~

23 ~~(iii) The attorney or advocate of the employee's~~
24 ~~minor child;~~

1 ~~(iv) A medical or other health care professional;~~

2 ~~or~~

3 ~~(v) A member of the clergy; or~~

4 ~~(B) A police or court record supporting the~~
5 ~~occurrence of the domestic or sexual violence;~~
6 ~~and]~~

7 (A) Certified or exemplified restraining orders,
8 injunctions against harassment, and documents
9 from criminal cases;

10 (B) Documentation from a victim services organization
11 or domestic or sexual violence program, agency,
12 or facility, including a shelter or safe house
13 for victims of domestic or sexual violence; or

14 (C) Documentation from a medical professional, mental
15 health care provider, attorney, advocate, social
16 worker, or member of the clergy from whom the
17 employee or the employee's minor child has sought
18 assistance in relation to the domestic or sexual
19 violence; and

20 (2) An employer may verify an employee's status as a
21 domestic or sexual violence victim not more than once
22 every six months following the date the employer:

1 (A) Was provided notice by the employee of the
2 employee's status as a domestic or sexual
3 violence victim;
4 (B) Has actual knowledge of the employee's status as
5 a domestic or sexual violence victim; or
6 (C) Received verification that the employee is a
7 domestic or sexual violence victim;
8 provided that where the employee provides verification
9 in the form of a protective order related to the
10 domestic or sexual violence with an expiration date,
11 the employer may not request any further form of
12 verification of the employee's status as a domestic or
13 sexual violence victim until the date of the
14 expiration or any extensions of the protective order,
15 whichever is later."

16 SECTION ~~6~~ 7. Section 378-72, Hawaii Revised Statutes, is
17 amended by amending subsection (d) to read as follows:

18 "(d) Where an employee has taken not more than five
19 calendar days of leave for non-medical reasons, the employee
20 shall provide certification to the employer in the form of a
21 signed statement within a reasonable period after the employer's
22 request, that the employee or the employee's minor child is a
23 victim of domestic or sexual violence and the leave is for one
24 of the purposes enumerated in subsection (a). If the leave

1 exceeds five days per calendar year, then the certification
2 shall be provided by one of the following methods:

3 ~~[(1) A signed written statement from an employee, agent, or
4 volunteer of a victim services organization, from the
5 employee's attorney or advocate, from a minor child's
6 attorney or advocate, or a medical or other
7 professional from whom the employee or the employee's
8 minor child has sought assistance related to the
9 domestic or sexual violence; or~~

10 ~~(2) A police or court record related to the domestic or
11 sexual violence.]~~

12 (1) Certified or exemplified restraining orders,
13 injunctions against harassment, and documents from
14 criminal cases;

15 (2) Documentation from a victim services organization or
16 domestic or sexual violence program, agency, or
17 facility, including a shelter or safe house for
18 victims of domestic or sexual violence; or

19 (3) Documentation from a medical professional, mental
20 health care provider, attorney, advocate, social
21 worker, or member of the clergy from whom the employee
22 or the employee's minor child has sought assistance in
23 relation to the domestic or sexual violence."

1 SECTION 7 8. Section 383-7.6, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) The department may request as reasonable and
4 confidential documentation under subsection (a)(1) the following
5 evidence:

6 (1) A notarized written statement of the individual
7 attesting to the status of the individual or the
8 individual's minor child as a victim of domestic or
9 sexual violence and explaining how continued
10 employment creates an unreasonable risk of further
11 violence;

12 (2) A signed written statement from:

- 13 [~~(A) An employee, agent, or volunteer of a victim~~
14 ~~services organization;~~
- 15 ~~(B) The individual's attorney or advocate;~~
- 16 ~~(C) A minor child's attorney or advocate; or~~
- 17 ~~(D) A medical or other professional from whom the~~
18 ~~individual or the individual's minor child has~~
19 ~~sought assistance related to the domestic or~~
20 ~~sexual violence,]~~

21 (A) A victim services organization or domestic or
22 sexual violence program, agency, or facility,
23 including a shelter or safe house for victims of
24 domestic or sexual violence; or

1 (B) A medical professional, mental health care
2 provider, attorney, advocate, social worker, or
3 member of the clergy from whom the individual or
4 the individual's minor child has sought
5 assistance in relation to the domestic or sexual
6 violence,

7 attesting to the domestic or sexual violence and
8 explaining how the continued employment creates an
9 unreasonable risk of further violence; or

10 (3) [~~A police or court record~~] Certified or exemplified
11 restraining orders, injunctions against harassment,
12 and documents from criminal cases suggesting or
13 demonstrating that the continued employment may cause
14 an unreasonable risk of further violence."

15 SECTION ~~8~~ 9. Section 383-30.5, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) In applying the provisions of section 383-30(1), an
18 individual who has established eligibility based on full-time
19 employment may be found to have good cause for voluntarily
20 separating from subsequent part-time employment based on any of
21 the following conditions:

22 (1) Loss of full-time work with a regular employer made it
23 economically unfeasible to continue part-time
24 employment;

1 (2) The part-time employment was outside the individual's
2 customary occupation and would not have been
3 considered suitable work at the time the individual
4 accepted part-time employment. In determining whether
5 an individual is reasonably fitted for a particular
6 job, the department shall consider:

7 (A) The degree of risk involved to the individual's
8 health, safety, and morals;

9 (B) The individual's physical fitness;

10 (C) The individual's prior training;

11 (D) The individual's experience;

12 (E) The individual's prior earnings;

13 (F) The length of the individual's unemployment;

14 (G) The individual's prospects for obtaining work in
15 the individual's customary occupation;

16 (H) The distance of available work from the
17 individual's residence; and

18 (I) The individual's prospects for obtaining local
19 work.

20 As used in this paragraph, "suitable work" means work
21 in the individual's usual occupation or work for which
22 the individual is reasonably fitted;

23 (3) The employer failed to provide sufficient advance
24 notice of a work schedule change;

- 1 (4) There was a work schedule conflict with other
2 concurrent part-time or full-time employment;
- 3 (5) A real, substantial, or compelling reason, or a reason
4 that would cause a reasonable and prudent employee,
5 genuinely and sincerely desirous of maintaining
6 employment, to take similar action and to try
7 reasonable alternatives before terminating the
8 employment relationship;
- 9 (6) Change in working conditions and the change is
10 prejudicial or detrimental to the health, safety, or
11 morals of the employee;
- 12 (7) Change in terms and conditions of employment,
13 including change in rate of pay, position or grade,
14 duties, days of work, or hours of work;
- 15 (8) Discrimination that violates federal or state laws
16 regarding equal employment opportunity practices;
- 17 (9) Change in the employee's marital or domestic status;
- 18 (10) Acceptance of a definite, firm offer made of other
19 employment where the offer is subsequently withdrawn
20 and the former employer refuses to rehire the
21 employee;
- 22 (11) Retirement under a mandatory requirement imposed by a
23 collective bargaining agreement;

1 (12) Evidence that the employee was a victim of domestic or
2 sexual violence, including any circumstance that
3 causes a reasonable employee to believe that other
4 available alternatives, such as a leave of absence, a
5 transfer of jobs, or an alternate work schedule, would
6 not be sufficient to guarantee the safety of the
7 employee and that separation from employment was
8 necessary to address the resulting physical and
9 psychological effects, to seek or reside in an
10 emergency shelter, or to avoid future domestic or
11 sexual violence. Evidence includes [~~police records,~~
12 ~~court records, statements from the individual, a~~
13 ~~volunteer of a victim services organization, the~~
14 ~~employee's attorney or advocate, a member of the~~
15 ~~energy, medical, or other professional from whom the~~
16 ~~employee has sought assistance related to the domestic~~
17 ~~or sexual violence, or other corroborating evidence.]:~~

18 (A) Certified or exemplified restraining orders,
19 injunctions against harassment, and documents
20 from criminal cases;

21 (B) Documentation from a victim services organization
22 or domestic or sexual violence program, agency,
23 or facility, including a shelter or safe house
24 for victims of domestic or sexual violence;

1 (C) Documentation from a medical professional, mental
2 health care provider, attorney, advocate, social
3 worker, or member of the clergy from whom the
4 employee or the employee's minor child has sought
5 assistance in relation to the domestic or sexual
6 violence; or

7 (D) Statements from the individual, or other
8 corroborating evidence.

9 As used in this paragraph, "domestic or sexual
10 violence" includes domestic abuse, sexual assault, or
11 stalking; or

12 (13) Any other factor relevant to a determination of good
13 cause."

14 SECTION 9 10. Section 521-80, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) A tenant may terminate a rental agreement of a term
17 of one year or less without penalty or fees for early
18 termination or liability for future rent if the tenant or an
19 immediate family member of the tenant residing at the dwelling
20 unit has been the victim of domestic violence during the ninety
21 days preceding the date the notice of early termination is
22 provided to the landlord. The notice shall be given at least
23 fourteen days prior to the early termination date specified in
24 the notice, which shall be no more than one hundred four days

1 from the date of the most recent act of domestic violence. The
2 notice shall be accompanied by one of the following documents:

3 ~~[(1) A copy of a valid order of protection issued by a
4 court of any state to the tenant or immediate family
5 member of the tenant as a result of the tenant or the
6 immediate family member of the tenant having been a
7 victim of domestic violence;~~

8 ~~(2) A copy of a police report filed with an agency of any
9 state that states that the tenant or immediate family
10 member of the tenant was a victim of domestic
11 violence; or~~

12 ~~(3) A copy of the conviction of a person for an act of
13 domestic violence against the tenant or immediate
14 family member of the tenant.]~~

15 (1) Certified or exemplified restraining orders,
16 injunctions against harassment, and documents from
17 criminal cases;

18 (2) Documentation from a victim services organization or
19 domestic violence program, agency, or facility,
20 including a shelter or safe house for victims of
21 domestic violence; or

22 (3) Documentation from a medical professional, mental
23 health care provider, attorney, advocate, social
24 worker, or member of the clergy from whom the victim

1 has sought assistance in relation to the domestic
2 violence.

3 The tenant shall also provide to the landlord a written
4 statement, which describes that the tenant reasonably believes
5 that the person who committed the domestic violence knows the
6 address or location where the tenant or immediate family member
7 of the tenant resides, unless the person who committed the
8 domestic violence resides in the same dwelling unit."

9 SECTION ~~10~~ 11. Section 801G-3, Hawaii Revised Statutes, is
10 amended by amending subsection (b) to read as follows:

11 "(b) The application shall be as prescribed by the program
12 director and shall contain the following:

- 13 (1) The primary applicant's name;
- 14 (2) A statement by the primary applicant that the primary
15 applicant is a victim of domestic abuse, a sexual
16 offense, or stalking and that the primary applicant
17 fears for the primary applicant's safety;
- 18 (3) Evidence that the primary applicant is a victim of
19 domestic abuse, a sexual offense, or stalking,
20 including any of the following:
 - 21 (A) Records or files of a court or government agency
22 including but not limited to police reports,
23 valid restraining orders, injunctions against
24 harassment, and documents from criminal cases;

- 1 (B) Documentation from a domestic abuse program,
2 agency, or facility including [~~but not limited~~
3 ~~to~~] a [~~women's~~] shelter or safe house[+] for
4 domestic abuse victims;
- 5 (C) Documentation from a sexual assault program; [~~or~~]
- 6 (D) Documentation from a medical professional, mental
7 health care provider, [~~or other class of~~
8 ~~professionals designated by the program director~~]
9 attorney, advocate, social worker, or member of
10 the clergy from whom the primary applicant has
11 sought assistance in dealing with the alleged
12 domestic abuse, sexual offense, or stalking; or
- 13 (E) Documentation from a victim services
14 organization;
- 15 (4) A statement by the primary applicant that disclosure
16 of the primary applicant's actual address will
17 endanger the primary applicant's safety;
- 18 (5) A statement by the primary applicant that the primary
19 applicant has confidentially relocated to an address
20 in the State or will relocate to an address in the
21 State within thirty days of the date of application
22 and will not disclose the location to assailants or
23 known potential assailants;

- 1 (6) The primary applicant's written consent that the
2 program shall serve as the agent for the primary
3 applicant for purposes of service of process and
4 receiving mail;
- 5 (7) The mailing address and telephone number where the
6 primary applicant may be contacted by the program;
- 7 (8) The actual address of the primary applicant;
- 8 (9) A statement as to whether there is any existing court
9 order or court action involving the primary applicant
10 or an individual identified in paragraph (10) related
11 to dissolution of marriage proceedings, child support,
12 or the allocation of parental responsibilities or
13 parenting time, including the court that issued the
14 order or has jurisdiction over the action;
- 15 (10) The name of any person who resides with the primary
16 applicant who may apply as a secondary applicant
17 pursuant to section 801G-4 to ensure the safety of the
18 primary applicant;
- 19 (11) The primary applicant's sworn statement that the
20 information contained in the application is true;
- 21 (12) The application assistant's statement that the
22 application assistant has met with and discussed the
23 application with the primary applicant and that the

1 application assistant recommends that the primary
2 applicant be assigned a substitute address; and
3 (13) The date and signature of the primary applicant, the
4 application assistant, and, if applicable, the primary
5 applicant's parent or guardian."

6 PART III

7 SECTION ~~11~~ 12. No later than forty days prior to the
8 convening of the regular sessions of 2022, 2023, 2024, 2025, and
9 2026, the judiciary shall submit a report to the legislature
10 that includes, for cases filed with the judiciary involving
11 offenses under section 709-906, Hawaii Revised Statutes, the
12 outcome of each case, including the number of cases dismissed,
13 by category; the number found not guilty; the number found
14 guilty; and other outcomes, by category; provided that in cases
15 in which an offender was required to complete a domestic
16 violence intervention programs or parenting classes, the report
17 shall include, by category, the number of cases in which the
18 program was completed or not completed and the consequences for
19 failure to complete the program.

20 PART IV

21 SECTION ~~12~~ 13. This Act does not affect rights and duties
22 that matured, penalties that were incurred, and proceedings that
23 were begun before its effective date.

1 SECTION ~~13~~ 14. Statutory material to be repealed is
2 bracketed and stricken. New statutory material is underscored.

3 SECTION ~~14~~ 15. This Act shall take effect on January 1,
4 2021; provided that sections 2 and 3 shall be repealed on June
5 30, 2026; provided further that sections 709-906 and 853-4, and
6 706-623 Hawaii Revised Statutes, shall be reenacted in the form
7 in which they read on the day prior to the effective date of
8 this Act.



To: Chair Luke
Vice Chair Cullen
Members of the Committee
Fr: Nanci Kreidman, MA,
CEO, Domestic Violence Action Center
Re: SB 2638 SD2 HD2 ; Support

Aloha. And thank you for placing this Bill on your agenda for consideration. We offer testimony to support this initiative which represents a potentially positive change that would impact many, many survivors and island families. The system has not been functioning as effectively as it might these last few years. This Bill creates an opportunity for a shift that is worth considering.

It is a last resort for survivors to seek assistance from outside their community. From strangers. From the criminal or civil justice system. When they do, it must work to protect them, hold perpetrators accountable and pave the way for remedy as they navigate a path to freedom and self-sufficiency.

The current law was the best work and an innovation when it was first devised and passed. It was a collaborative undertaking. Its enforcement has been uneven. **It is our great hope that the Bill before you today represents an improvement and an opportunity for system reform that is desperately needed.**



Too few perpetrators of relationship violence get arrested. But those that do often do not result in convictions in court. Sanctions are few. And plea bargains have historically delivered a lukewarm message that family and relationship violence is not tolerated or acceptable.

SB 2638 SD2 HD1 will advance safety, accountability and hope.

The amendments to the existing statute create options for law enforcement and system intervention. Three degrees of the offense provides latitude for officers, courts, attorneys and judges to respond in a way that offers protection, and direction for personal responsibility. Interventions are not sought unless there is criminal justice involvement; abusers do not wake up the morning after an assault, look at their partners bruises and say, “my god, I need help.” Unfortunately.

We support the standardization and inclusion of [Proof of Compliance](#) hearings for defendants ordered to participate in sanctioned batterer's intervention programs. This is a key part of oversight and accountability.

We suggest that Courts make orders for participation in intervention programs that meet the [Hawaii Batterer Intervention Program Standards](#). Not all programs are appropriate or responsive to the dynamics and potential lethality present by abusers. For example, online courses would not meet such standards.



We are **appreciative** that the subject matter Committee **deleted** the deferred acceptance of guilt for **a no contest plea** for abuse of a family or household member in the first degree or third degree. Without any acceptance of responsibility by perpetrators, we cannot really expect change. It is important to make a strong statement how seriously we take this crime.

We would also like the Committee to consider that the language related to accepting a DAG if one has not been entered previously **be strengthened**. Such a plea will not be accepted – **ever** - if there is one on the record. At one court hearing where I was present, a judge indicated that a second DAG was allowable (even though the language says it is not acceptable) because the first one was so many years ago; our perspective on that is there must be a long history of abuse, if an incident occurred many years ago and has occurred again; perhaps the perpetrator had not been caught?

A final thought about the data to be collected. It is a very important step for us to compile data about the crimes committed and the ways the cases are adjudicated and resolved. If the only cases captured are 709-906, what about all the crimes related to the family or partnership like property damage, stalking, sexual assault, trespassing, etc. We are unable to fully understand the scope of the problem without data that accurately reflects the incidence and prevalence of the problem. The only piece of data that would be needed to determine if the crime



involved family members of partners is their relationship to one another. A checkbox. If not, we miss all the other crimes.

Thank you. We shall look forward to favorable action and the system reform that is necessary for safety in island families.

DOMESTIC VIOLENCE ACTION CENTER

ADDRESS: P.O. BOX 3198, HONOLULU, HI 96801-3198

LEGAL HELPLINE: (808) 531-3771

TOLL-FREE NEIGHBOR ISLAND HELPLINE: (800) 690-6200

WEBSITE: WWW.DOMESTICVIOLENCEACTIONCENTER.ORG

EMAIL: DVAC@STOPTHEVIOLENCE.ORG

SB-2638-HD-2

Submitted on: 6/28/2020 8:35:38 AM

Testimony for FIN on 6/29/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Younghi Overly	AAUW of Hawaii	Support	No

Comments:

SB-2638-HD-2

Submitted on: 6/26/2020 7:51:51 PM

Testimony for FIN on 6/29/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
MARSHA H BOLSON	Individual	Support	No

Comments:

SB-2638-HD-2

Submitted on: 6/27/2020 6:44:39 AM

Testimony for FIN on 6/29/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Shawn Benton	Individual	Support	No

Comments:

I am currently a member of the Board of Directors for Domestic Violence Action Center and support SB 2638 SD2 HD2. I also strongly suggest that the Legislature take into consideration the recommendations made by Nanci Kreidman, MA, CEO of DVAC, in her letter of support of this bill. Specifically, she recommends: the standardization and inclusion of Proof of Compliance hearings; ensure that that intervention programs meet the Hawaii Batterer Intervention Program Standards; strengthen the language relating to accepting a DAG if one has not been entered previously; and an additional question for purposes of collecting data. Thank you for your consideration and support of this bill.

SB-2638-HD-2

Submitted on: 6/27/2020 12:05:23 PM

Testimony for FIN on 6/29/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jen Jenkins	Individual	Support	No

Comments:



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

LATE

ON THE FOLLOWING MEASURE:

S.B. NO. 2638, S.D. 2, H.D. 2, RELATING TO DOMESTIC VIOLENCE.

BEFORE THE:

HOUSE COMMITTEE ON FINANCE

DATE: Monday, June 29, 2020

TIME: 2:00 p.m.

LOCATION: State Capitol, Room 329

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**

(For more information, contact Landon M.M. Murata,
Deputy Attorney General, at 586-1160)

Chair Lee and Members of the Committee:

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

The purpose of this bill is to establish a five-year pilot project to strengthen government responses to domestic violence and increase offender accountability by: (1) amending the offense of abuse of family or household members to provide for a petty misdemeanor offense; (2) allowing a deferred acceptance of guilty or no contest plea in cases involving petty misdemeanor or misdemeanor abuse offenses and specifying that the deferral shall be set aside if the defendant fails to complete court ordered domestic violence intervention programs or parenting classes; and (3) requiring the Judiciary to submit annual reports to the Legislature on the number and outcome of abuse of family or household members cases.

The wording of subsection (5)(b) being added to section 709-906, Hawaii Revised Statutes (HRS), in section 2, page 7, lines 15-21, does not create a stand-alone petty misdemeanor abuse offense and may make it difficult to prosecute misdemeanor abuse cases. By placing the petty misdemeanor in subsection (5), the penalty section of section 709-906, it forces the State to first prove the misdemeanor abuse offense, then prove that the misdemeanor was committed by striking, shoving, kicking, etc. Additionally, part of the list of conduct prohibited as a petty misdemeanor

on page 7, line 16, i.e. to “strike, shove, kick,” covers virtually all of the most common methods of physically abusing someone and could result in either all misdemeanor abuses being reduced to petty misdemeanor abuse or the State being forced to charge the more specific petty misdemeanor offense rather than the general misdemeanor offense.

Accordingly, the Department recommends the petty misdemeanor abuse offense be added to section 709-906, HRS, as a new subsection (6), as follows:

(6) It shall be a petty misdemeanor for a person to intentionally or knowingly touch a family or household member in an offensive manner or subject a family or household member to offensive physical contact.

The remaining subsections should be renumbered accordingly.

Assuming the Committee elects to make the above changes to the bill and that it is the intent of the Legislature that persons convicted of the petty misdemeanor abuse offense be sentenced pursuant to the renumbered subsection (7), then reference to subsection (5) on page 8, line 8, should be amended to “subsections (5) and (6), it shall also require”.

Section 853-4(a)(2)(B), HRS, section 3, page 14, lines 3-4, will only apply to the misdemeanor abuse offense and not to the petty misdemeanor abuse offense being added to section 709-906. This is because that section only applies to misdemeanor and petty misdemeanor offense involving some level of bodily injury and the new petty misdemeanor abuse is designed to not require bodily injury. Additionally, the mandatory minimum sentence for abuse set forth in subsection (5)(a) on page 7, lines 9-14, do not appear to apply to the new petty misdemeanor abuse. Thus, the provision in section 853-4(a)(2)(B), HRS, in section 3, page 14, lines 3-5, need not reference the petty misdemeanor abuse, only the misdemeanor abuse. The Department recommends changing the provision to “except that the prohibition in this paragraph shall not apply to misdemeanor offenses of abuse of family or household member.”

Finally, if it is the intent of the Legislature to maintain the prohibition against deferrals in felony abuse of family or household member cases, then the Department recommends changing the wording of section 853-4(a)(13)(N), HRS, section 3, page 16, lines 11-13, to “(N) Any felony abuse of family or household member offense;”.

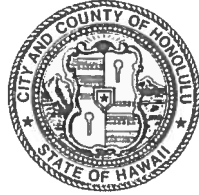
Thank you for the opportunity to provide comments.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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

LATE

KIRK CALDWELL
MAYOR



SUSAN BALLARD
CHIEF

JOHN D. McCARTHY
CLYDE K. HO
DEPUTY CHIEFS

OUR REFERENCE **KH-KK**

June 29, 2020

The Honorable Sylvia Luke, Chair
and Members
Committee on Finance
House of Representatives
Hawaii State Capitol
415 South Beretania Street, Room 329
Honolulu, Hawaii 96813

Dear Chair Luke and Members:

SUBJECT: Senate Bill No. 2638, S.D. 2, H.D. 2, Relating to Domestic Violence

I am Keith Horikawa, Major of the Criminal Investigation Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD opposes Senate Bill No. 2638, S.D. 2, H.D. 2, Relating to Domestic Violence.

The HPD has historically supported a review and reorganization of the Hawaii Revised Statutes (HRS), Section 709-906, Abuse of family or household members; penalty, to include the creation of a petty misdemeanor domestic violence offense to achieve consistency with the rest of the HRS. However, our concern is specific to the allowance of a deferred acceptance of guilt or no contest plea to a misdemeanor or petty misdemeanor domestic violence offense.

Over the years, a number of felony domestic violence laws were enacted to address what were considered the more serious domestic violence offenses. In practice, the downgrading of felony domestic violence offenses to misdemeanor or petty misdemeanor offenses already occurs in the vast majority of domestic violence cases, even when the violation might meet the letter of the law. To further allow for a deferred acceptance of guilt or no contest plea for misdemeanor or petty misdemeanor offenses,

The Honorable Sylvia Lee, Chair
and Members
June 29, 2020
Page 2

which are the vast majority, would virtually eliminate any accountability for many of these offenders. This would further diminish the value of felony domestic violence laws and would remove any prohibitions attached to a domestic violence conviction; prohibitions which were enacted specifically to mitigate any further or more serious harm from occurring.

The HPD urges you to oppose Senate Bill No. 2638, S.D. 2, H.D. 2, Relating to Domestic Violence.

Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read 'Keith Horikawa', with a large, sweeping underline.

Keith Horikawa, Major
Criminal Investigation Division

APPROVED:

A handwritten signature in black ink, appearing to read 'Susan Ballard', with a large, sweeping underline.

Susan Ballard
Chief of Police

LATE

SB-2638-HD-2

Submitted on: 6/29/2020 10:01:09 AM

Testimony for FIN on 6/29/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Laurie Field	Planned Parenthood Votes Northwest and Hawaii	Support	No

Comments:

PATRICIA LOUI SCHMICKER
841 BISHOP STREET
HONOLULU Hawai'i 96813

LATE

June 29, 2020

The Honorable Sylvia Luke, Chair
Committee on Finance
Hawai'i State House of Representatives
Hawai'i State Capitol
Via email submission

Dear Honorable Chair Luke:

With aloha to you and all members of the Finance Committee, I write in support of bill SB2638 which is being heard today by the State of Hawai'i House Finance Committee. This bill relates to domestic violence, updating current law, and facilitating the ability of survivors to receive timely resolution of issues through the legal system.

While we appreciate all that the Legislature has done in the past to address gender-based violence, current laws have resulted in a backlog of cases. Based on our research with domestic violence survivors, I have come to understand that timely resolution through the justice system is extremely important to protect the safety of survivors and to allow them to move on to safe and productive lives for themselves and their children.

Our research with domestic violence survivors and children has helped me to gain a better understanding of the widespread incidence of gender-based violence in Hawai'i, its long lasting impact on family, working and academic lives, and the breadth of socio-economic cohorts impacted by this problem.

I hence respectfully request that the Legislature act favorably on this bill.

Yours sincerely,
Pat Loui Schmicker

LATE

SB-2638-HD-2

Submitted on: 6/29/2020 11:24:57 AM
Testimony for FIN on 6/29/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
aimee chung	Individual	Support	No

Comments:

Thank you for your support of this bill - and for supporting safety for Hawaii's families.

Mahalo,

Aimee B Chung, MSW, LSW

DVAC Board Member