

Testimony on behalf of the  
Office of the Public Defender, State of Hawai`i  
to the Senate Committee on Judiciary and  
Government Operations

March 3, 2009

RE: S.B. No. 672: Relating to Service of Court Orders

Chair Taniguchi and Members of the Committee:

S.B. No. 672 seeks to amend the domestic abuse protective order statute to allow for substituted means of service of a protective order if the court finds that the person named is avoiding service. We have a concern that this measure substantially waters down the requirement of service of a protective order by either personal or certified mail service. "Substituted means of service" is not defined. Therefore, it is unclear what the bill would permit as valid service. The concern is that the "substituted means of service" will become the norm rather than the exception. It would be very difficult to prove that someone is avoiding service. Thus, the representation would be made to the court that attempts at service were repeatedly unsuccessful. The concern is that the court would then allow for substituted means of service.

Substituted means of service could result in the subject of the order not knowing about the order or not seeing it. A violation of the order could mean a mandatory prison sentence, therefore, actual knowledge of the order and its contents is essential to placing the order in effect. To the extent that this measure waters down the service requirement, we oppose its adoption.

Thank you for the opportunity to comment on this bill.



Hearing date and time: March 3, 2009, 9:30am.

RE: SB 672 Relating to the Service of Court Orders

TO: Chair Senator Taniguchi, Vice Chair Takamine and members of the Committee on Judiciary and Government Operations

FR: Carol Lee ([clee@hscadv.org](mailto:clee@hscadv.org)), Hawaii State Coalition Against Domestic Violence

Aloha, my name is Carol Lee. HSCADV is a private non-profit agency which serves as a touchstone agency for the majority of domestic violence programs throughout the state. For many years HSCADV has worked with the Hawaii Legislature by serving as an educational resource and representing the many voices of domestic violence programs and survivors of domestic violence.

HSCADV supports SB672.

Many victims of intimate partner abuse (IPV) seek Temporary Restraining Orders (TRO)/Protective Orders (PO) as a tool to increase their safety. As victims become more informed about the services and tools available to them - batterers have also become knowledgeable about how to manipulate the systems intended to protect the victim. When a TRO is not served victims are left in a quandary of being unable to enforce the order and often have to return to court to reapply. This bill would address the issue of batterers who intentionally avoid service of a TRO.

Thank you for the opportunity to testify.