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## A BILL FOR AN ACT

RELATING TO POLICE DEPARTMENTS.

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

1           SECTION 1. The legislature finds that domestic violence is  
2 an epidemic affecting individuals in every community, regardless  
3 of age, economic status, race, religion, nationality, or  
4 educational background. According to the National Coalition  
5 Against Domestic Violence, one in every four women will  
6 experience domestic violence in her lifetime. Between 2008 and  
7 2012, there was an 18 per cent increase statewide in arrests  
8 relating to abuse of family or household members. During this  
9 same time period, there was also an increase in the number of  
10 persons served by various statewide agencies who provide  
11 services to victims of domestic violence.

12           The legislature further finds that the Honolulu police  
13 department has been heavily criticized by lawmakers and the  
14 public in the wake of a recent high-profile incident involving  
15 an off-duty Honolulu police department sergeant. In September  
16 2014, the off-duty sergeant was captured on surveillance video  
17 punching his then-girlfriend in a Waipahu restaurant. However,



1 the sergeant was not arrested at the scene and responding  
2 officers failed to file a report. According to news reports, it  
3 was only on the following day, after a citizen provided the  
4 Honolulu police department and the press with the surveillance  
5 video, that the department took action to remove the sergeant of  
6 his police powers and began an internal investigation into the  
7 incident. An Oahu grand jury later determined there was not  
8 enough evidence to indict the sergeant for his actions, although  
9 the internal investigation into the sergeant and the responding  
10 officers is still ongoing.

11 The sergeant's actions sparked concern about the way police  
12 handle domestic violence cases and triggered an informational  
13 briefing at the state capitol, where Honolulu's police chief and  
14 two of his deputies were intensively questioned about the  
15 Honolulu police department's policies regarding domestic  
16 violence investigations.

17 Service providers who assist domestic violence victims were  
18 also at the informational briefing. Some of these providers  
19 expressed concern that the incident involving the Honolulu  
20 police department sergeant reflects a larger problem within the  
21 department. Between May 2013 and September 2014, the Hawaii



1 state commission on the status of women received approximately  
2 thirty-eight separate complaints from women who said officers  
3 with the Honolulu police department did not respond  
4 appropriately to allegations of abuse. According to the  
5 commission, approximately one-third of these instances involved  
6 a police officer or a relative of a police officer as the  
7 alleged abuser. The commission believes that the September 2014  
8 incident involving the off-duty sergeant was not an isolated  
9 incident, but rather a pattern of inappropriate handling by some  
10 police officers in response to allegations of domestic violence.

11 The Honolulu police chief and his deputies told lawmakers  
12 at the informational briefing that the Honolulu police  
13 department has a zero tolerance policy when it comes to domestic  
14 violence and other serious offenses. However, the department's  
15 record on disciplining officers for domestic violence-related  
16 misconduct was called into question by lawmakers at the  
17 briefing.

18 Pursuant to section 52D-3.5, Hawaii Revised Statutes, the  
19 chief of each county police department is required to submit an  
20 annual report to the legislature that includes, among other  
21 things, a summary of the facts and the nature of the misconduct



1 for incidents which resulted in the suspension or discharge of a  
2 police officer and the disciplinary action imposed for each  
3 incident. The Honolulu police department's 2013 report to the  
4 legislature indicates thirty incidents which resulted in  
5 discipline against an officer. Of these, three specifically  
6 involved domestic-related incidents, including an officer who  
7 was involved in a domestic dispute that escalated into a  
8 physical altercation causing pain to the complainant, an officer  
9 repeatedly contacting an ex-girlfriend after being told the  
10 contact was unwanted, and an officer repeatedly contacting an  
11 estranged spouse after being told the contact was unwanted.  
12 Each of these three incidents resulted in a one-day suspension.

13 In comparison, other non-domestic related incidents in the  
14 2013 report resulted in much harsher disciplinary action. For  
15 instance, an officer arrested for possession of marijuana and  
16 driving under the influence received a twenty-day suspension.  
17 Another officer conspired with other officers relating to  
18 special duty assignments and received a ten-day suspension.  
19 Another officer was discharged for failing a drug urinalysis  
20 test. Furthermore, a *Honolulu Civil Beat* analysis of annual  
21 Honolulu police department misconduct summaries turned up



1 twenty-five incidents of domestic violence from 2000 through  
2 2012. Three officers were discharged but their dismissals were  
3 not upheld, according to information provided to *Honolulu Civil*  
4 *Beat* by the Honolulu police department.

5 This disciplinary disparity leads the legislature to  
6 question whether the Honolulu police department is minimizing  
7 the problem of domestic violence, particularly when incidents  
8 involve a police officer. The legislature also questions  
9 whether any potential minimization of alleged incidents of  
10 domestic violence involving police officers is based on concern  
11 over the Lautenberg Amendment, a federal law that forbids  
12 anyone, including a police officer, with a misdemeanor domestic  
13 violence conviction from owning or possessing a firearm.

14 The legislature additionally finds that as part of the  
15 police union's collective bargaining agreement, all external  
16 complaints against a police officer must be in writing and sworn  
17 to by the complainant. The legislature is concerned that this  
18 requirement may discourage individuals involved in a domestic  
19 dispute with a police officer from reporting the abuse. The  
20 legislature is also concerned that this requirement



1 re-victimizes a complainant, by forcing the complainant to swear  
2 to something in writing.

3 The legislature acknowledges that the majority of police  
4 officers enforce the law and act appropriately toward members of  
5 the public. However, there are also police officers who do not  
6 respond to domestic violence situations appropriately when the  
7 perpetrator is a fellow police officer. Such actions lessen the  
8 public's trust in the police and bring down the reputation of  
9 police departments as a whole.

10 The purpose of this Act is to avoid the re-victimization of  
11 officer-involved domestic violence victims by ensuring that  
12 individuals who wish to report allegations of officer-involved  
13 domestic abuse against a family or household member do not have  
14 to do so in writing or by notarized statement.

15 SECTION 2. Chapter 52D, Hawaii Revised Statutes, is  
16 amended by adding a new section to be appropriately designated  
17 and to read as follows:

18 "§52D- Citizen complaints; officer-involved domestic  
19 violence. Citizen complaints against a police officer that  
20 involve allegations of domestic abuse by the police officer



# H.B. NO. 457

1 against a family or household member shall not be required to be  
2 in writing or sworn to by the complainant.

3 For purposes of this section, "family or household member"  
4 has the same meaning as defined in section 709-906."

5 SECTION 3. New statutory material is underscored.

6 SECTION 4. This Act shall take effect upon its approval.

7

INTRODUCED BY: Allen A. Beutti

Linda Achingame

[Signature]

[Signature]

[Signature]

[Signature]

Gonhi Hueter

Michele E. Loner

J. K. Mahle

JAN 23 2015



# H.B. NO. 486

**Report Title:**

County Police Departments; Police Officers; Citizen Complaints;  
Officer-involved Domestic Violence

**Description:**

Specifies that citizen complaints against a police officer that involve allegations of domestic abuse against a family or household member on the part of the police officer shall not be required to be in writing or sworn to by the complainant.

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







**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-EIGHTH LEGISLATURE, 2015**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 456, RELATING TO POLICE DEPARTMENTS.

**BEFORE THE:**

HOUSE COMMITTEE ON PUBLIC SAFETY

**DATE:** Thursday, February 12, 2015                      **TIME:** 9:00 a.m.

**LOCATION:** State Capitol, Room 309

**TESTIFIER(S):** Russell A. Suzuki, Attorney General, or  
Erin L. S. Yamashiro, Deputy Attorney General

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Chair Takayama and Members of the Committee:

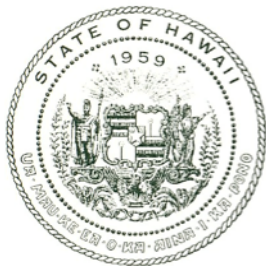
The Department of the Attorney General appreciates the intent of this bill, but believes that this bill violates the Hawaii Constitution.

The purpose of this bill is to change the procedure for submitting citizen complaints to the police commission. This bill proposes that a written or sworn statement is not required when the complaint involves allegations of domestic abuse by a police officer against a family or household member.

The Hawaii Constitution, article VIII, section 2, allows each political subdivision to adopt a charter for its own self-government. Although the Legislature has the authority to enact general laws allocating and reallocating powers and functions, a charter, with respect to each political subdivision, is superior to any statutory provision regarding its structure and organization. The county charters currently allow each county police commission to adopt its own rules necessary to conduct its own business, including, receiving, reviewing, and investigating citizen complaints against a police officer pursuant to sections 6-1606 of the Honolulu Charter, section 7-2.2(c) of the Hawaii County Charter, section 8-12.2 of the Maui County Charter, and section 11.03 of the Kauai County Charter. Because the procedure for any citizen complaints against a police officer is controlled by county charter provisions, this bill will violate the Hawaii Constitution, article VIII, section 2.

We recommend that this bill be held.

HAWAII  
STATE  
COMMISSION  
ON THE  
STATUS  
OF  
WOMEN



Chair  
LESLIE WILKINS

COMMISSIONERS:

ELENA CABATU  
CARMILLE LIM  
AMY MONK  
LISA ELLEN SMITH  
MARILYN LEE  
JUDY KERN

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February 10, 2015

To: Representative Gregg Takayama, Chair  
Representative Kyle T. Yamashita, Vice Chair  
Members of the House Committee on Public Safety

From: Cathy Betts, Executive Director  
Hawaii State Commission on the Status of Women

Re: Testimony in Support, HB 456, Relating to Police Departments

The Commission supports HB 456, which would allow a safe mechanism for citizen complaints against a police officer regarding domestic violence. As testified to at the HPD informational briefing in September of 2014, the Commission received over thirty complaints from women in the community, alleging inappropriate response to an array of domestic violence incidents. These responses included, responding police officers not taking a report of domestic violence, refusing to arrest an abuser because of his relationship to the police department, ordering a victim to provide her confidential address to the abuser, and making light of officer involved domestic violence allegations. Many of the victims who came forward did so anonymously or through a domestic violence service provider. Most were afraid that their complaints would not be taken seriously, but felt compelled to share their stories.

To further compound this problem, when I inquired with HPD's command about citizen complaints, I was informed that the complaints had to be notarized and written, in person. Not only is this process frightening to victims, it acts as a deterrent on future complaints. Victims of domestic violence or any other citizen wishing to make a complaint about an officer should not have to go through such a stringent process with little anonymity or mechanism to prevent retaliation. HB 456 would allow victims a mechanism for their voices to be heard, without fear that their name be publicized throughout the department and without fear of retaliation for making the complaint.

The Commission requests that you pass HB 456. Thank you for your consideration of this important bill.

**yamashita1-Marianne**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 09, 2015 5:08 PM  
**To:** pbstestimony  
**Cc:** mlopes@hscadv.org  
**Subject:** Submitted testimony for HB456 on Feb 12, 2015 09:00AM  
**Attachments:** HB 456 Citizen complain of HPD.doc

**HB456**

Submitted on: 2/9/2015

Testimony for PBS on Feb 12, 2015 09:00AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Marci Lopes	Hawaii State Coalition Against Domestic Violence	Support	No

Comments: Thank you for your work to improve police response for victims of domestic violence.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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# hscadv



## HAWAII STATE COALITION AGAINST DOMESTIC VIOLENCE

Date: February 9, 2015

To: Rep. Gregg Takayama, Chair  
Rep. Kyle T. Yamashita, Vice Chair

COMMITTEE ON PUBLIC SAFETY

From: Marci Lopes, Executive Director  
Hawaii State Coalition Against Domestic Violence

RE: SB 456 – STRONG SUPPORT

PLACE: Conference Room 309

DATE and TIME: Tuesday, February 12, 2015 9:00 a.m.

The Hawaii State Coalition Against Domestic Violence is a statewide partnership of 21 domestic violence program and domestic violence shelter providers on 6 of our Hawaiian Islands. Our mission is to engage communities and organizations to end domestic violence through education, advocacy, and action for social justice.

As a result of the highly publicized incident in which an officer abused his former girlfriend, many concerns have surfaced in regards to the victimization of domestic violence victims whose partners serve in the police force. Our police department must improve its responses to officers who have violated their intimate partners. HSCADV supports the amendment defined in Section Two and believe and further supports the efforts to ensure that individuals who wish to report allegations of officer-involved domestic abuse do not have to do so in writing or by notarized statement. Removing this requirement removes yet another barrier that victims of officer related abuse endure when trying to seek assistance and hold their perpetrator accountable.

We hope the committee would look to the Hawaii State Coalition Against Domestic Violence membership and our Survivor Action Committee as a resource and source of support for any needed recommendations.

Marci Lopes, Executive Director

**LATE**



February 10, 2015

To: Representative Gregg Takayama, Chair  
Representative Kyle Yamashita, Vice Chair and  
Members of the Committee on Public Safety

From: Jeanne Y. Ohta, Co-Chair

RE: HB 456 Relating to Police Departments  
Hearing: Thursday, February 12, 2015, 9:00 a.m., Room 309

Position: SUPPORT

The Hawai'i State Democratic Women's Caucus writes in support of HB 456 Relating to Police Departments which would specify that citizen complaints against a police officer that involve allegations of domestic abuse against a family or household member on the part of the police officer shall not be required to be in writing or sworn to by the complainant.

Recent events and questions related to those events made apparent the need for a change in policy with regard to officer-involved domestic violence cases. The requirement that the complaint be in writing or sworn to by the complainant is used to deter victims from filing complaints or the victim is told that she must return when a notary is available to notarize the statement. These requirements re-victimize the victim and make it appear that her complaint will have a higher bar to overcome than those of domestic violence victims whose partners are not police officers. Victims are already reluctant to file complaints against their spouses who are officers.

This measure is a good start to improve how officer-involved domestic violence cases are handled. We respectfully request that the committee pass this measure and we thank the committee for the opportunity to provide testimony.

**LATE**

**yamashita1-Marianne**

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 11, 2015 6:09 PM  
**To:** pbstestimony  
**Cc:** thirr33@gmail.com  
**Subject:** Submitted testimony for HB456 on Feb 12, 2015 09:00AM

**HB456**

Submitted on: 2/11/2015

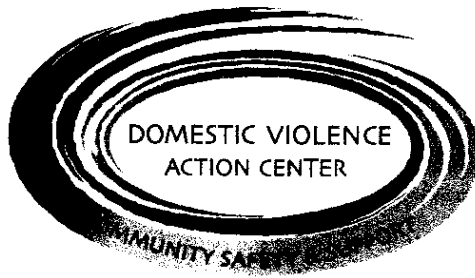
Testimony for PBS on Feb 12, 2015 09:00AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Arvid Tadao Youngquist	Individual	Oppose	No

Comments: Chair PBS Committee Honorable Committee Members I oppose HB 456, but appreciate the co-sponsors Representatives BELATTI, FUKUMOTO CHANG, ICHiyAMA, LOWEN, LUKE, MATSUMOTO, MORIKAWA, THIELEN, & San Buenaventura. Even though the measure is introduced with the best of intentions to protect family and loved ones from direct retaliation while, i.e., under the same roof or other living arrangements, it reduces the rights of the accused to due process and right to face his accusers, and even though not requiring the complaints to be made in writing, it is bound to become part of the record, even if by audio or video recordings upon with the Departments will have to base their obligation for further follow-up and "warnings" and discipline, up to and including termination. Provided some appropriate amendments can be made which affirmatively takes into account the needs of the complainants, but does not negate the rights of the police officers (lieutenant and below), this will be a very difficult bill to pass. Suggest that a will of the House be re-written into a Resolution format and transmitted to each of the County Police Commissions for follow up with the Chiefs and the Police Union. It is time that all force employees learn to stop tolerating harassment, domestic violence, and ignoring TROs. Mahalo, Arvid Tadao Youngquist Oahu Resident and Voter (Wahiawa, Aiea, Kaimuki, Makiki, Salt Lake, Kalihi Valley, Kalihi-Palama, Downtown, University, and Liliha)

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**LATE**

TO: Chair Gregg Takayama  
Vice Chair Kyle Yamashita  
Members of the Committee

FR: Nanci Kreidman, M.A

RE: HB 365 Support

Thank you for scheduling this Bill for Hearing and consideration. It could be an important improvement to law enforcement response to domestic violence.

This testimony is provided to express strong support of HB 365. There have been challenges to effective police response and encounters between survivors and law enforcement are sometimes compromised by the difficulty inherent in the circumstances or the behavior of police, or the survivor.

Documentation of police enforcement and collection of factual information at domestic violence calls is very important for accountability. It can make the difference in a trial or sentencing of an abuser. It may assist with prosecution when survivors recant their experience due to fear or doubt.

With digital imagery the criminal case can be strengthened, as it is apparent what witnesses were present, whether children were present and what, if any disturbance was evident at the scene. With body cameras police officers can capture the demeanor of witnesses and the early statements made before there has been time to reflect on the consequences of the police intervention. With body cameras, we can get a complete statement from a complainant.

There has been demonstrated improvement in police response in communities that have employed the use of digital cameras. Complaints have dropped and police have been protected because their good work is evident to all.

Thank you for your continuing efforts to make improvements to our system in the interests of families suffering the harm of abuse.

10/10/10