



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

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

FROM: Scott Morishige, MSW
Executive Director, PHOCUSED

HEARING: **Friday, March 27, 2015 at 9:00 a.m. in Conf. Rm. 016**

Testimony Supporting the Intent of HB538 HD2 SD1, Relating to Domestic Violence

Thank you for the opportunity to provide testimony **supporting the intent** of HB538 HD2 SD1, which would require telecommunications carriers to release survivors of domestic violence from shared or family wireless plans upon written request. PHOCUSED is a nonprofit membership and advocacy organization that works together with community stakeholders to impact program and policy change for the most vulnerable in our community, including survivors of domestic violence.

Our membership includes organizations, such as Child & Family Service, Parents & Children Together, and Domestic Violence Action Center, which serve survivors of domestic violence and their families. Through the work that they do, our members see firsthand that financial and contractual obligations associated with wireless phone plans are often a barrier that prevents a survivor from leaving an abusive relationship. Under the current system, the burden of financial responsibility for paying for phone service, or cancellation fees, often remains with the survivor who – in many cases – has endured long standing economic abuse from their perpetrator.

Although some wireless providers have adopted policies to allow survivors to opt out of contracts, this practice is not consistent among all wireless plan providers. This legislation is needed to implement a uniform policy to ensure the safety of survivors of domestic violence throughout our state. For many survivors, the ability to be released from a phone contract without penalty may mean the difference between staying with or leaving their abuser.

While we support the intent of HB538 HD2 SD1, we have serious concerns about the language of this bill in its current form. One primary concern regarding the SD1 is that it is limited to apply only to survivors of domestic violence who are awarded a court order of protection – In fact, many survivors do not apply for orders of protection even when violence has occurred, largely due to fear of their abuser. In addition, we are concerned about language in the SD1 because this draft includes language that may transfer billing for a phone plan to the survivor, which may leave them responsible for fees/costs incurred by their abuser – This appears counter to the issue that this bill was originally intended to address. We respectfully request that, if this bill moves forward, that it be amended to address the concerns raised above.

Once again, PHOCUSED supports the intent of HB538 HD2, but has reservations regarding the current language. If you have any questions, please do not hesitate to contact PHOCUSED at 521-7462 or by e-mail at admin@phocused-hawaii.org.



TO: Chair Gil Keith-Agaran
Vice Chair Maile Shimabukuro

FR: Nanci Kreidman, M.A.

RE: HB 538, HD2 SD1

Aloha. Thank you for hearing this Bill. The original intent for inspiring discussion about these contracts if the financial abuse and exploitation that many survivors experience. They are, too often, left with debt that isn't theirs, or made to cooperate with abusers who are incurring debt in their name.

A cell phone is a tool used by abusers to control (calls and texts are monitored) or exploit their partners. A survivor's access to a mobile phone is not a luxury. It can be an imperative tool to keeping her safe. Cell phones are used to call domestic violence shelters, legal services, helplines, and the police. They keep a survivor in touch with domestic violence advocates, attorneys, and social workers. Without a cell phone, a survivor of domestic violence is isolated from a network of services, organizations, and individuals who are able to help.

This Bill allows carriers the ability to make survivors responsible for bills/fees. What happens if the survivor is the main account holder in a shared plan? The abuser can easily be removed from the plan, but what happens to her? This version states that petitioners can be released from shared plans - does that apply even if they're the main account holder? Does the survivor have to obtain two court orders? One is the protective order, and the other is directing providers to release the survivor from the contract? That may be burdensome for a survivor to provide evidence persuasive to a judge to issue such an order. Perhaps the survivor simply wants to be released from the contract and does not want the phone number any longer and is not responsible for the Bill, can she be released from the contract?

A DVAC client's experience illustrates how this can be problematic. She and her partner shared a cell phone family plan under her name and in just one month, he racked up over \$800 in charges; an unfathomable sum for a newly single mother. She tried to negotiate with her carrier and explained her predicament. She works, but she was also trying to survive on just one small income. The manager she spoke with was sympathetic, but told her nothing could be done about the charges and she'd have to pay an additional \$200 to terminate her contract. Defeated, she felt like there was no other choice but to go back to her abusive partner.

This testimony is provided to request consideration of the problems created by the current version of House Bill 538 HD2 SD 1, which can inadvertently become another barrier survivors must face. Requiring wireless communication providers to release survivors from their contracts, without a termination fee, can mean the difference between staying and leaving.

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March 27, 2015

To: **Senator Gilbert S.C. Keith-Agaran**, Chair;
Senator Maile S.L. Shimabukuro, Vice Chair; and
Members of the **Senate Committee on Judiciary and Labor**

From: **Dr. Susan J. Wurtzburg**
Policy Chair, **American Association of University Women – Hawaii**

Re. **Testimony in OPPOSITION to the CURRENT HB 538 SD1, Relating to Release of Domestic Violence Victims from Shared Wireless Plans**

I am grateful for this opportunity to testify in **strong opposition to the current version of HB 538 SD 1**, providing survivors of domestic violence with the means to opt-out of communicative device contracts without financial penalty. The bill as originally worded allowed women to “submit an opt-out request in writing and documented evidence of domestic violence.” Three types of evidence were envisaged in the first version of the bill, specifically:

- (a) “Valid police report documenting an instance or series of instances of domestic violence;”
- (b) “Order for protection granted pursuant to chapter 586; or”
- (c) “Signed affidavit from a licensed medical or mental health care provider, employee of a court acting within the scope of their employment, or social worker.”

The current version (SD1) only permits the Family Court to request a telecommunications release for a woman who has received a Protection Order granted by the Courts. Presumably, it is envisaged that the paperwork will be filed by the Court somewhat concurrently. The first major defect with the current SD1 is that many women do not apply for court-issued protection orders for a variety of reasons, so the needs of many victims of violence in Hawaii are ignored in the revised bill. The second major problem with the current SD1 is that it doesn’t do the most efficient job of protecting women who do apply for Protection Orders, so even the women who qualify for release from shared wireless plans under the revised bill are not protected in the best manner possible. When the lives and health of women and children are at stake, surely this public health issue trumps the desire of telecommunications companies (with high profit margins) to limit the scope of this bill.

Research shows that the most dangerous time for a woman survivor of violence is when she has done something to antagonize her violent partner, such as applying

for a Protection Order. Since this current wireless release legislation kicks in after the Protection Order is granted, it will only allow a victim to sort out her phone issues (really her main avenue to safety) after her perpetrator has become enraged by her exercising legal rights to a Protection Order. Generally, it takes a while for the court to process paperwork, and for wireless providers to make system changes, so this enactment also likely leaves her with several days in peril.

While the SD1 amendment is flawed in terms of providing safety to survivors who do obtain Protection Orders, it does nothing for those victims who are unwilling or unable to obtain court-issued Protection Orders. This means that victims lacking the financial resources to deal with the court requirements, or with concerns that their partner will retaliate against them, or with doubts about police enforcement of Protection Orders (because after all, an Order is just a piece of paper, unless the police will uphold it), or with any other valid reason meaning that they don't apply for a Protection Order, then these victims lack any legal means of encouraging telecommunications providers to release them from contracts. Basically, this legislation as it currently stands leaves many women and accompanying children in an unsafe position (and I say women because the research shows that women predominate among the victims).

Many years ago, I worked for Christchurch Women's Refuge (a Battered Women's Shelter) in New Zealand. At that time, few victims possessed hand-held communicative devices. However, in that technologically simpler time, survivors of violence still had to deal with many other costs of separating themselves physically and economically from their violent family members, and the financial costs were often horrendous. Violent perpetrators would often attempt to inflict financial harm on their departing spouses or partners using any available means.

In the current technologically sophisticated world, victims of violence need a simple cost-free method for separating their telecommunications devices from those of their abusers. A cell phone is often key for survivors, allowing them to contact police and other help, as needed. When financial penalties result from changing contracts, survivors may make the decision to forfeit safety, given all the other costs of finding safe housing, feeding children, and other needs.

Thank you for the opportunity to testify. **I urge the Committee to improve the bill such that it serves women's safety needs in the best way possible**, or to scrap the current version, with the hope that a more improved version might occur in the future. Putting this poorly crafted SD1 into effect merely provides the illusion of doing the right thing for women and children in Hawaii, while only helping a tiny proportion of those needing assistance with this issue.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: *Submitted testimony for HB538 on Mar 27, 2015 09:00AM*
Date: Monday, March 23, 2015 6:13:21 PM

HB538

Submitted on: 3/23/2015

Testimony for JDL on Mar 27, 2015 09:00AM in Conference Room 016

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

Comments:

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From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: *Submitted testimony for HB538 on Mar 27, 2015 09:00AM*
Date: Tuesday, March 24, 2015 6:30:17 PM

HB538

Submitted on: 3/24/2015

Testimony for JDL on Mar 27, 2015 09:00AM in Conference Room 016

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

Comments:

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