

**HB-566**

Submitted on: 2/22/2021 9:05:56 AM

Testimony for JHA on 2/23/2021 2:00:00 PM

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

Comments:

Planned Parenthood Votes Northwest and Hawaii supports HB 566.

**Date:** February 22, 2021

**To:** House Committee on Judiciary and Hawaiian Affairs  
Representative Mark Nakashima, Chair  
Representative Scot Matayoshi, Vice-Chair

House Committee on Health, Human Services and Homelessness  
Representative Ryan I. Yamane, Chair  
Representative Adrian K Tam, Vice Chair

**From:** Early Childhood Action Strategy  
**Re:** Support for HB566, Relating to Coercive Force of a Family Member

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Hawai`i's Early Childhood Action Strategy (ECAS) is a statewide, cross-sector collaborative designed to improve the system of care for Hawai`i's youngest children and their families. ECAS partners work to align priorities for children prenatal to age eight, streamline services, maximize resources and improve programs to support our youngest keiki.

**ECAS strongly supports the passage of HB566.** Research shows that exposure to sustained trauma within the first five years of life can have lasting effects on brain development and long-term health outcomes. Adverse Childhood Experiences (ACEs) and early trauma, such as chronic child abuse and neglect and intimate partner violence, often impede on healthy early brain development. Additionally, women exposed to intimate partner violence are at four-times the risk for antepartum hemorrhage, preterm delivery and low birth weight for baby, which all impact overall family health. According to UNICEF, sixty countries, states and territories have adopted legislation that fully prohibits using corporal punishment against children. Hawai`i's keiki are our up-and-coming teachers, doctors, business owners, employees and legislators. We want them to grow into adulthood, without the effects of trauma, so that our communities and economies thrive.

The impacts of exposure to early trauma can have long-term consequences. Risks include

- Behavioral, psychological, and physical health challenges
- Academic failure
- Alcohol and substance use
- Youth Delinquency
- Adult criminality

Abuse and neglect of family members are on the rise in Hawai`i, due to the stressors of the COVID19 pandemic and have ripple effects into our communities. Efforts to deter violence in the home are critical. Amending subsection (6) to read "It shall be a petty misdemeanor for a person to intentionally or knowingly strike, shove, kick or otherwise touch a family or household member in an offensive manner..." is an important step in decreasing family violence across the islands.

Mahalo for your consideration in supporting HB566.

STATE OF HAWAI‘I  
**OFFICE OF THE PUBLIC DEFENDER**

**Testimony of the Office of the Public Defender,  
State of Hawai‘i to the House Committee on  
Judiciary and Hawaiian Affairs**

February 23, 2021

H.B. No. 566: RELATING TO ABUSE

Chair Nakashima, Vice Chair Matayoshi, and Members of the Committee:

The Office of the Public Defender strongly opposes H.B. 566.

This measure seeks to create a petty misdemeanor offense for subjecting a family or household member to “coercive control.” HRS § 586-1 defines “coercive control” as follows:

“Coercive control” means a pattern of threatening, humiliating, or intimidating actions, which may include assaults, or other abuse that is used to harm, punish or frighten an individual.

“Coercive control” includes a pattern of behavior that seeks to take away the individual’s liberty or freedom and strip away the individual’s sense of self, including bodily integrity and human rights, whereby the “coercive control” is designed to make an individual dependent by isolating them from support, exploiting them, depriving them of independence, and regulating their everyday behavior including:

- (1) Isolating the individual from friends and family;
- (2) Controlling how much money is accessible to the individual and how it is spent;
- (3) Monitoring the individual’s activities, communications, and movements;
- (4) Name-calling, degradation, and demanding the individual frequently;
- (5) Threatening to harm or kill the individual or a child or relative of the individual;
- (6) Threatening to publish information or make reports to the police or the authorities;
- (7) Damaging property or household goods, and
- (8) Forcing the individual to take part in criminal activity or child abuse.

We are troubled with the broad language of the definition as it may be applied to HRS § 709-906. Everyday or common behavior in marriages or relationship are at

risk of being criminalized if they occur more than once, thus creating a “pattern” of behavior. The following are just a few examples of conduct, which could be considered coercive control that would result in a criminal offense if it occurred more than a few occasions.

1. A couple arguing about money, budgets, debts or other monetary obligations, and the arguments become heated and unpleasant words are uttered
2. A partner in a relationship who becomes concerned that monies are being spent unwisely (e.g., gambling, illicit substances) chooses to step in and “control how much money is accessible”
3. A couple arguing over an act of infidelity expresses harsh and angry words and flings insults (name-calling) at each other in the course of an argument or verbal confrontation
4. A partner threatening to post an insult or some vague form of “information” on their Instagram or Facebook page
5. A partner in a dating relationship repeatedly pesters the other partner about where they are going or what they are doing

These are just a few examples of behavior that can happen in the course of a new relationship or a marriage of 30+ years. This measure will criminalize arguments or disagreements in relationships and marriages. Married couples or people in long term relationships experience disagreements and arguments, some of which may last days or weeks or months. Parties may say or do things that should not be labelled “abuse” and thus criminalized. This measure fails to narrow or clarify what should or should not be considered actual criminal activity.

We are also concerned that the phrase “pattern of behavior” is vague and ambiguous as applied to HRS § 709-906. What constitutes a “pattern of behavior” in this measure? How many incidents must occur and over what period of time would be considered a pattern of behavior? Are arguments involving name-calling that occur several times during a span of two-months considered a pattern of “abuse” and thus a criminal act? Is it “abuse” if the enumerated behavior occurs twice a year over the course of a five, ten or twenty year relationship? An unspecified number of incidents coupled with an unspecified time period will certainly lead to legal challenges.

Finally, we are concerned about misuse of this measure by the actual abusers who may easily twist and manipulate the definition of “coercive control” for their own use to further subjugate a partner. The phenomenon of weaponizing the abuse statutes by the perpetrator, sometimes called revenge abuse cases, to further perpetrate power and control on their partners is real. We have seen an increase in situations where the true abuser has had their partner arrested to demonstrate that they have the additional power and control of using law enforcement to perpetrate more subjugation.

Thank you for the opportunity to comment on this measure.



HAWAI'I STATE  
COALITION AGAINST  
DOMESTIC VIOLENCE

February 23, 2021

Members of the House Committee on Judiciary & Hawaiian Affairs:

Chair Rep. Mark M. Nakashima

Vice Chair Scot Z. Matayoshi

Rep. Linda Ichiyama

Rep. Dale T. Kobayashi

Rep. Matthew S. LoPresti

Rep. Nicole E. Lowen

Rep. Angus L.K. McKelvey

Rep. Nadine K. Nakamura

Rep. Roy M. Takumi

Rep. Chris Todd

Rep. James Kunane Tokioka

Rep. Gene Ward

Re: HB566 Relating to abuse of family or household members - Support

Dear Chair Nakashima, Vice Chair Matayoshi, and Members of the House Committee on Judiciary & Hawaiian Affairs:

The Hawai'i State Coalition Against Domestic Violence (HSCADV) engages communities and organizations to end domestic violence through education, advocacy, and action for social justice. HSCADV is a private, not-for-profit organization and is a statewide partnership of domestic violence programs and shelters.

On behalf of HSCADV and our 23 member programs statewide, I respectfully submit testimony in support of HB566. This bill adds coercive control, as defined in HRS §586-1, to the offense of abuse of family or household members as a petty misdemeanor, creating additional criminal justice recourse for victims and additional layer of accountability for domestic violence perpetrators.

The National Intimate Partner Violence and Sexual Violence Survey (NISVS) measurement for intimate partner violence includes psychological aggression (name calling insults and humiliation) and coercive control (behaviors that reflect monitoring, controlling or threatening)



HAWAI'I STATE  
COALITION AGAINST  
DOMESTIC VIOLENCE

of a victim<sup>1</sup>, behaviors that are included in Hawai'i's definition of coercive control. The most recent NISVS State Report found that found that 43.5% of women and 41.6% of men in Hawai'i have experience some form of psychological aggression in their lifetime.<sup>2</sup>

The domestic violence victims throughout Hawai'i who are abused without any physical proof often believe there will be no justice for them, nor accountability for their perpetrators because their abuse does not meet the current legal standard. The coercive control addition would apply to many victims and would encourage them to come forward and seek a legal safety net for themselves and their loved ones.

HSCADV supports the passage of this bill. Thank you for the opportunity to submit testimony on this important matter.

Sincerely,

Angelina Mercado  
Executive Director, Hawai'i State Coalition Against Domestic Violence

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<sup>1</sup> Smith, S.G., Chen, J., Basile, K.C., Gilbert, L.K., Merrick, M.T., Patel, N., Walling, M., & Jain, A. (2017). The national intimate partner and sexual violence survey (NISVS): 2010-2012 state report. Atlanta: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention. Retrieved from <https://www.cdc.gov/violenceprevention/pdf/NISVS-StateReportBook.pdf>.

<sup>2</sup> Ibid.



## Hawaii Women's Coalition

February 23, 2021

Members of the House Committee on Judiciary & Hawaiian Affairs:

Chair Rep. Mark M. Nakashima  
Vice Chair Scot Z. Matayoshi  
Rep. Linda Ichiyama  
Rep. Dale T. Kobayashi  
Rep. Matthew S. LoPresti  
Rep. Nicole E. Lowen  
Rep. Angus L.K. McKelvey  
Rep. Nadine K. Nakamura  
Rep. Roy M. Takumi  
Rep. Chris Todd  
Rep. James Kunane Tokioka  
Rep. Gene Ward

Re: HB566 Relating to abuse of family or household members - Support

Dear Chair Nakashima, Vice Chair Matayoshi, and Members of the House Committee on Judiciary & Hawaiian Affairs:

The Hawai'i Women's Coalition is a catalyst for progressive, social, economic and political change through action on critical issues facing Hawaii's women and girls. Members currently include 29 organizations and agencies (private, public, membership) as well as individuals. The coalition encourages the inclusion of interested parties and in achieving equitable representation.

We respectfully submit testimony in support of HB566. This bill adds coercive control, as defined in HRS §586-1, to the offense of abuse of family or household members as a petty misdemeanor, creating additional criminal justice recourse for victims and additional layer of accountability for domestic violence perpetrators.

The National Intimate Partner Violence and Sexual Violence Survey (NISVS) measurement for intimate partner violence includes psychological aggression (name calling insults and humiliation) and coercive control (behaviors that reflect monitoring, controlling or threatening) of a victim<sup>1</sup>, behaviors that are included in Hawai'i's definition of coercive control. The most

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<sup>1</sup> Smith, S.G., Chen, J., Basile, K.C., Gilbert, L.K., Merrick, M.T., Patel, N., Walling, M., & Jain, A. (2017). The national intimate partner and sexual violence survey (NISVS): 2010-2012 state report. Atlanta: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention. Retrieved from <https://www.cdc.gov/violenceprevention/pdf/NISVS-StateReportBook.pdf>.





## Hawaii Women's Coalition

recent NISVS State Report found that found that 43.5% of women and 41.6% of men in Hawai'i have experience some form of psychological aggression in their lifetime.<sup>2</sup>

The domestic violence victims throughout Hawai'i who are abused without any physical proof often believe there will be no justice for them, nor accountability for their perpetrators because their abuse does not meet the current legal standard. The coercive control addition would apply to many victims and would encourage them to come forward and seek a legal safety net for themselves and their loved ones.

For the reasons stated above, we are in **support** of this measure. Thank you for the opportunity to testify on this important matter.

Sincerely,  
Hawai'i Women's Coalition

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<sup>2</sup> Ibid.

**HB-566**

Submitted on: 2/22/2021 2:03:22 PM

Testimony for JHA on 2/23/2021 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Patricia Bilyk	Individual	Support	No

Comments:

Rep Nakashima, Chair and Members of the House Judiciary and Hawaiian Affairs Committee

Relating to The Abuse of Family or Household Member

February 24, 2021 2pm

i am Patricia Bilyk an advanced practice nurse who has practiced in the State of Hawaii for 49 years, working with Families experiencing the abuse identified in this bill.

I am in strong support of HB 566.

I agree with the testimony submitted by HSCADV. Also, I wish to highlight the importance and need to amend our present law to help those abused individuals who do not have physical proof of abuse.

Thank you for your interest and support to change this law for the abused people of Hawaii

Patricia L Bilyk APRN, MPH, MSN

**HB-566**

Submitted on: 2/22/2021 3:30:53 PM

Testimony for JHA on 2/23/2021 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Younghee Overly	AAUW Of Hawaii	Support	No

Comments:

Members of AAUW of Hawaii are grateful for this opportunity to testify in strong support of H.B. 566, which adds coercive control between family or household members to the offense of abuse of family or household members as a petty misdemeanor. The domestic abuse without any physical violence does not meet the current legal standard which means too often the perpetrators get away without any accountability, leaving the victims without any legal safety net.

Please pass this important measure and thank you for your consideration.

Younghee Overly, Public Policy Chair of AAUW of Hawaii

DEPARTMENT OF THE PROSECUTING ATTORNEY  
**CITY AND COUNTY OF HONOLULU**

ALII PLACE  
1060 RICHARDS STREET • HONOLULU, HAWAII 96813  
PHONE: (808) 768-7400 • FAX: (808) 768-7515

STEVEN S. ALM  
PROSECUTING ATTORNEY

THOMAS J. BRADY  
FIRST DEPUTY  
PROSECUTING ATTORNEY



**THE HONORABLE MARK M. NAKASHIMA, CHAIR**  
**HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS**  
**Thirty-first State Legislature**  
**Regular Session of 2021**  
**State of Hawai`i**

February 23, 2021

**RE: H.B. 566; RELATING TO ABUSE OF FAMILY OR HOUSEHOLD MEMBERS.**

Chair Nakashima, Vice-Chair Matayoshi and members of the House Committee on Judiciary and Hawaiian Affairs, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony expressing concerns regarding H.B. 566.

The purpose of H.B. 566 is to add the act of “coercive control” to the manner in which an individual commits the petty misdemeanor offense of Abuse of Family or Household Member under section 709-906 (6), Hawaii Revised Statutes (H.R.S.).

During the 2020 Legislative Session, the Legislature passed Act 19 creating a five-year pilot project, aimed at strengthening the state and county responses to domestic violence. As part of this pilot project, many stakeholders spent a great deal of time crafting language that would address acts against a family or household member that did not cause bodily injury, similar to Harassment (§711-1106, Hawaii Revised Statutes). The result was the creation of a petty misdemeanor offense which went into effect on January 1, 2021. Due to the unforeseen effects that COVID-19 has had on our judiciary, the various agencies have not been able to see the positive or negative ramifications Act 19 has or will have on domestic violence in our courts. Because the petty misdemeanor created by Act 19 is a pilot project, the Department cautions against prematurely adding variables to a very complicated endeavor before any form of important data collection can be done. Additionally, the Department notes that the addition of “coercive control” into section 709-906, H.R.S. is not a new idea. During the passage of Act 19, the House Committee on Human Services and Homelessness made this identical amendment which was met with opposition by stakeholders and was subsequently removed by the House Committee on Judiciary.

The Department also notes that the proposed definition for “coercive control” could create a Modica<sup>1</sup> issue. Under the definition “coercive control” subsection (5), “Threatening to harm or kill the individual or a child or relative of the individual” could be construed to encompass the same action that is defined in Terroristic Threatening in the 2<sup>nd</sup> Degree (H.R.S. §707-717). This definition could limit the Department to petty misdemeanor penalties which would otherwise be classified as misdemeanor offenses. This issue is not limited to only subsection (5), but could apply to numerous other offenses that are currently established in the H.R.S. Additionally, the Department is concerned that the language used to define “coercive control” is simply too broad and may criminalize unintended behavior. The broad nature of the definition is illustrated in subsection (2) which could potentially subject an individual to arrest and possible prosecution when they fail to provide money to a family or household member (eg. not providing lunch money to a child). The Department appreciates the intent of H.B. 566 in giving additional tools to ensure individuals are held accountable for various forms of domestic violence. However, without greater specificity ensuring the definition is not vague, ambiguous or too broad, the Department is concerned that this proposed offense will not be utilized to prosecute offenders as envisioned.

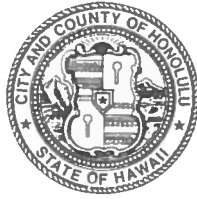
For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu expresses concerns with the passage of H.B. 566, and asks that the measure be deferred. Thank for you the opportunity to testify on this matter.

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<sup>1</sup> State v. Modica, 567 P.2d 420, 58 Haw 249 (1977)

POLICE DEPARTMENT  
CITY AND COUNTY OF HONOLULU

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



RICK BLANGIARDI  
MAYOR

SUSAN BALLARD  
CHIEF

JOHN D. MCCARTHY  
AARON TAKASAKI-YOUNG  
DEPUTY CHIEFS

OUR REFERENCE  
RP-KK

February 23, 2021

The Honorable Mark M. Nakashima, Chair  
and Members  
Committee on Judiciary  
and Hawaiian Affairs  
House of Representatives  
Hawaii State Capitol  
415 South Beretania Street, Room 325  
Honolulu, Hawaii 96813

Dear Chair Nakashima and Members:

SUBJECT: House Bill No. 566, Relating to Abuse of Family or Household Members

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

The HPD appreciates the intent of House Bill No. 566, Relating to Abuse of Family or Household Members, but has the following concerns.

The HPD understands that domestic abuse takes many forms and that coercive control is part of the domestic violence cycle. It is indeed a control over the victims' lives that makes them feel powerless. The HPD is concerned that the definition of "coercive control" is somewhat subjective and including it in subsection (6) of the Hawaii Revised Statute (HRS), Section 709-906, may make this subsection difficult to establish, document, and enforce.

Under HRS, Section 586-1, Definitions, subsection (1) lists "Isolating the individual from friends and family" as coercive control. This raises the question of what type of isolation and what level is sufficient for the offense. Similarly, subsection (2) lists "Controlling how much money is accessible to the individual and how it is spent" as coercive behavior. Again, this raises the question of what type of control of funds is necessary to meet the offense. With subsections (3) and (4), the line of what actions

The Honorable Mark M. Nakashima, Chair  
and Members  
Page 2  
February 23, 2021

actually meet the "coercive control" definition is a little blurry. Subsections (6) through (8) would already be covered by existing HRS statutes.

The HPD appreciates the committee's consideration of our concerns regarding House Bill No. 566, Relating to Abuse of Family or Household Members.

Thank you for the opportunity to testify.

Sincerely,



Randall Platt, Captain  
Criminal Investigation Division

APPROVED:



Susan Ballard  
Chief of Police