



The Judiciary, State of Hawai‘i

Testimony to the House Committee on Judiciary

Rep. Karl Rhoads, Chair

Rep. Joy A. San Buenaventura, Vice Chair

Friday, February 26, 2016, 2:00 p.m.
State Capitol, Conference Room 325

by

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Senior Judge, Deputy Chief Judge

Family Court of the First Circuit

Bill No. and Title: House Bill No. 2201, Relating to Criminal Procedure

Purpose: Prohibits deferred acceptance of a guilty or no contest plea where the defendant has been charged with committing an offense against a family or household member.

Judiciary's Position:

The Judiciary takes no position on this bill and respectfully offers the following comments.

Expanding the prohibition of a deferred acceptance of a guilty plea (DAG) and a deferred acceptance of a nolo contendere plea (DANC) to any other offense committed against family or household members, as defined by HRS Section 709-906, may result in an expansion that the Legislature does not intend (emphasis added). The definition found in HRS Section 709-906 is expansive:

“Family or household member” means spouses or reciprocal beneficiaries, former spouses or reciprocal beneficiaries, persons in a dating relationship as defined under section 586-1, persons who have a child in common, parents, children, persons related by consanguinity, and persons jointly residing or formerly residing in the same dwelling unit.”



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Including “any other offense” for such an expansive list would encompass a very large number of cases, some of which may not be related to family violence.

Another consequence may be the creation of backlogs in the felony criminal division, district court, and family court. If this comes about, victims will be negatively affected by delays, there will be procedural due process issues for defendants, and the risk of case dismissals due to the denigration of the right to speedy trial may increase.

Thank you for the opportunity to submit testimony on this bill.