



## *The Judiciary, State of Hawai‘i*

### **Testimony to the House Committee on Human Services and Homelessness**

Representative Joy A. San Buenaventura, Chair  
Representative Nadine K. Nakamura, Vice Chair

Wednesday, January 30, 2019, 8:30 a.m.  
State Capitol, Conference Room 329

By  
Christine E. Kuriyama  
Senior Judge, Deputy Chief Judge  
Family Court of the First Circuit

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**Bill No. and Title:** House Bill No. 491, Relating to Domestic Violence.

**Purpose:** Amends the offense of abuse of family or household members to provide for misdemeanor and petty misdemeanor penalties. Allows the granting of a deferred acceptance of guilty plea in cases involving misdemeanor and petty misdemeanor abuse of a family or household member if certain conditions are met. Requires the judiciary to submit annual reports to the legislature on the number and outcome of abuse of family or household member cases

### **Judiciary's Position:**

The Judiciary offers this testimony in strong support of this bill that allows greater flexibility in the sentencing options in HRS Section 709-906 while still emphasizing accountability of the defendant, safety of the victims, and increasing protection for the children in families wracked by domestic violence.

There may be an area of confusion in the bill as written regarding the availability of deferred acceptance of guilty pleas. It is clear that the bill will not allow deferred acceptance of nolo contendere pleas (page 8 of the bill, lines 1-2) in furtherance of the Legislature's policy to promote accountability of the defendants. However, subsequent provisions do not distinguish between guilty pleas and nolo contendere pleas. Therefore, the Judiciary respectfully suggests the following amendments to the bill's language.



House Bill No. 491, Relating to Domestic Violence  
House Committee on Human Services and Homelessness  
Wednesday, January 31, 2019 at 8:30 a.m.  
Page 2

At page 11, from line 16, the bill should read (note that the new language is bolded in caps and underlined for clarity):

(17) Notwithstanding any provision of law to the contrary, the court may accept a deferred **GUILTY** plea pursuant to chapter 853 for misdemeanor or petty misdemeanor offenses of abuse of a family or household member when the defendant . . .

At page 13, from line 1, the bill should read (note that the new language is bolded in caps and underlined for clarity, deleted language is bolded and lined out in brackets):

provided that the prohibition in this paragraph shall not apply to offenses **ELIGIBLE FOR GUILTY PLEAS PROFERRED PURSUANT TO** [~~described in~~] section 709-906(17);

The Judiciary also wishes to reassure the Legislature that, if passed, this bill will not require additional judicial resources to implement.

The Judiciary reiterates its strong support of this attempt to provide more timely process to defendants without sacrificing community safety.

Thank you for the opportunity to comment on this measure.