



THE JUDICIARY, STATE OF HAWAII

Testimony to the Twenty-Fifth Legislature, Regular Session of 2009

House Committee on Human Services
The Honorable John M. Mizuno, Chair
The Honorable Tom Brower, Vice Chair

Monday, February 9, 2009, 8:15 a.m.
State Capitol, Conference Room 329

by
Karen M. Radius
District Family Judge
Family Court, First Circuit

Bill No. and Title: House Bill No. 892, Relating to Protective Orders

Purpose: Requires the periodic court review of domestic abuse protective orders where the duration of the original or extended order exceeds three years.

Judiciary's Position:

The Judiciary opposes the passage of House Bill No. 892, which would require a review hearing every three years for those domestic abuse protective orders issued under HRS Chapter 586, for a period of over three years.

Under current procedures, both parties in HRS Chapter 586 cases can (and do) file motions with the court to modify or to "close" the case and rescind the protective order.

Mandating court reviews every three years is not necessary and may be detrimental. Many victims simply want the abuse to stop and want to "get on with their lives." Requiring them to come back every three years "to determine whether the protective order should remain in force" puts a burden on the victim that is unwarranted. The language "whether good cause exists to continue the protective order" appears to put the burden on the petitioner to continually "prove the case." Since there would have been a sufficient basis to issue the protective order in the first place, what else should a petitioner be mandated to continually prove?



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We reiterate that the current statute and current procedures allow for either party to come back to court to seek modification or dismissal of a protective order. The court has provided forms for this purpose that are easy to obtain and easy to fill out. There are no extra court fees. These motions are heard in a timely manner.

Thank you for the opportunity to present testimony on this matter.

Testimony on behalf of the
Office of the Public Defender, State of Hawai'i
to the House Committee on Human Services

February 9, 2009

RE: H.B. No. 892: Relating to Protective Orders

Chair Mizuno and Members of the Committee:

H.B. No. 892 provides for a review hearing every three years when a protective order is issued by the court for a duration exceeding three years. We support this measure and would encourage a more frequent review of the order. Human relationships are subject to constant change. When a protective order is issued for a long time period, the necessity of that order often dissipates. Parties move on to other relationships and children mature and attempt to interact in a positive manner with both parents. If the order is no longer needed, it must be discontinued. If it is not, an unintended or inadvertent violation of the order may occur.

Thank you for the opportunity to comment on this bill.