

Honolulu, Hawaii

FEB 26 2010

RE: S.B. No. 2183
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2010
State of Hawaii

Madam:

Your Committee on Judiciary and Government Operations, to which was referred S.B. No. 2183 entitled:

"A BILL FOR AN ACT RELATING TO DOMESTIC ABUSE ORDERS,"

begs leave to report as follows:

The purpose of this measure is to:

- (1) Allow a temporary restraining order to remain in effect for ninety days or until service of a protective order, whichever occurs first; and
- (2) Provide that a protective order orally stated by the court on the record shall be effective as of service upon the respondent.

Testimony in support of the measure was submitted by three county police departments, one private organization, and one individual. Testimony in support, with comments, was submitted by one individual. Testimony in opposition was submitted by one state agency. Written testimony presented to your Committee may be reviewed on the Legislature's website.

Your Committee finds that presently, when a petitioner has petitioned the court for a temporary restraining order and it has been properly served, the order is valid for up to ninety days. If the petitioner seeks a longer-term protective order and the respondent does not attend the Order to Show Cause hearing, the judge may grant a default judgment to the petitioner and issue the



protective order. However, the protective order is not in effect until it can be served on the respondent. In such cases, there is a gap in protection for the petitioner. Your Committee finds that this measure will allow a temporary restraining order to remain in effect for up to ninety days or until service of a protective order is made, whichever occurs first.

Your Committee notes a concern in testimony that the amendments proposed in this measure may allow a temporary restraining order to stay in place indefinitely if the family court does not issue a protective order. However, your Committee believes that the language of section 586-5(a), Hawaii Revised Statutes, as amended by this measure, is clear that the longest a temporary restraining order may be effective is ninety days.

Nevertheless, your Committee recognizes that the language of section 586-5(a), Hawaii Revised Statutes, as amended by this measure, may create other unintended gaps in protection. Your Committee believes that further discussion should address and resolve this possibility.


Your Committee has amended this measure by:

- (1) Inserting an effective date of July 1, 2050, to ensure further discussion regarding other unintended gaps in protection that may be created under section 586-5(a), as amended; and
- (2) Making technical, nonsubstantive changes for purposes of style and clarity.

As affirmed by the record of votes of the members of your Committee on Judiciary and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2183, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2183, S.D. 1, and be placed on the calendar for Third Reading.



Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Government Operations,



BRIAN T. TANIGUCHI, Chair



