



Testimony to the Twenty -Fifth State Legislature, 2009 Session

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

Thursday, January 29, 2009, 9:00 a.m.
State Capitol, Conference Room 329

by
Frances Q.F. Wong
Senior Judge / Deputy Chief Judge
Family Court, First Circuit

WRITTEN TESTIMONY ONLY

Bill No. and Title: House Bill No. 728, Relating to Temporary Restraining Orders

Purpose: Authorizes the Judiciary to establish a three-year statewide electronic TRO pilot project to allow the filing and issuance of TRO orders on weekends and nights. Includes an appropriation.

Judiciary's Position:

The Judiciary takes no position on House Bill No. 728, which authorizes the Judiciary to establish a three-year statewide electronic Family Court TRO pilot project and the issuance of TRO's on nights and weekends, based on the New Jersey's E-TRO program.

Although New Jersey's E-TRO project is promising, our state and counties may not be able to fulfill the mandate of this bill, that is, to begin and test a three-year pilot project in after-hours processing of temporary restraining orders.

In the New Jersey project, the police departments are at the forefront of the program. They help to draft the petition, call the judge after-hours, and put the petitioner on the line to speak to that judge. Thereafter, they file the petition (using an electronic signature) and then effect service. There must be good computer capabilities as well as good connectivity among all of the various county departments and state courts.



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In New Jersey, the process is as follows (quoted from the New Jersey Judiciary website <www.judiciary.state.nj.us/notices/2007/n070720a.htm>, accessed February 1, 2008):

“The program provides an efficient means for filing domestic violence complaints and temporary restraining orders after normal court hours. E-TRO streamlines the procedures so that after hours, a police officer interviews the complainant at the police station, completing both the complaint and the proposed TRO at a computer terminal. The rule relaxations allow the police officer to enter the complainant's name electronically on the complaint in lieu of requiring the complainant's signature. The judge then takes sworn testimony by telephone. If the judge determines to issue the TRO, the judge directs the police officer to enter the judge's name on the TRO electronically. The electronic TRO is immediately enforceable and may be served on the defendant. Police staff prints out and retains hard copies of the complaint and TRO and then transmits the documents to a server that is interfaced with the Judiciary's mainframe computer. The interface allows the complaint and TRO to be immediately available on the Domestic Violence Central Registry ("Central Registry") and entered in FACTS ("Family Automated Case Tracking System") without the need for additional manual data entry. A Municipal Court or Superior Court judge thereafter will sign a confirmatory order. Thus, the E-TRO eliminates the need for the police officers to fax documents to the Family Division. The E-TRO also eliminates the need for Family Division staff to enter this faxed information into FACTS.”

Thank you for providing the opportunity to testify on this measure.

To: Representative John Mizuno, Chair
Representative Tom Brower, Vice-Chair
Members of the Committee on Human Services

From: Dara Carlin, M.A.
Independent Domestic Violence Survivor Advocate
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Date: January 29, 2009

Re: SUPPORT for HB728

Domestic Violence is not a 9:00am - 5:00pm kind of problem; as you can imagine, the majority of incidents occur after-hours during the evenings and weekends when couples and families are more likely to be together. While our police already have the authority and do remove perpetrators from their victims, this is only a first step and a very short-term fix to a very large problem.

As it stands, the process of obtaining a TRO is not an easy or a quick one regardless of how dangerous or violent your abuser is. First you must call ahead to obtain an appointment date to just APPLY for the TRO. If you're lucky and can swing it, you can get an immediate appointment which would be for 7:45am the next day. If the applicant has a job and/or children, they'll have less than a day's time to arrange for childcare and ask their employer for the morning off. The TRO application window is from 7:45am - 8:00am; arriving any later - regardless of reason - and you can be turned away. If you've made it this far, you'll spend the next two hours filling out the appropriate paperwork and will then wait at Family Court to see if your application has been granted or denied. If your petition's been granted, you then take the TRO to the correct police sub-station and are given a phone number to call to see if your abuser's been served (because if he hasn't been served, it doesn't count). This is not an easy process to go through, particularly if you're in fear for your life and even the "upside" is bad news: abusers typically aren't happy to be served with restraining orders so if you thought he was mad at you before...

New Jersey's eTRO program appears to be a promising one and there is absolutely no harm in simply exploring such a possibility, so I am hoping that you'll support HB728 to take a closer look at how it could be of assistance to us in Hawaii, PARTICULARLY to our outer islands. As with any intervention to domestic violence, eTROs won't be a "magic bullet" but they would certainly make the process a lot better and a lot easier for those who really need it the most. Considering the difficulties to access our outer islands already have, eTROs would be a tremendous help, especially on evenings and weekends (so victims don't have to hide in their houses until Tuesday morning at 7:45am from an incident that occurred on Friday at 10:00pm).

Thank you for your time and consideration.

Respectfully, Dara Carlin, M.A.