



To: House Committee on Human Services and
House Committee on Labor & Public Employment

Hearing: Monday, March 15, 2010
10:30 a.m.
Conference Room 329

Re: SB 2341, relating to employment relations

From: Society for Human Resource Management - Hawaii Chapter

The Society for Human Resource Management – Hawaii Chapter (“SHRM Hawaii”) represents more than 1,500 human resource professionals in the State of Hawaii. On behalf of our members, we would like to thank the committee for giving us an opportunity to comment on SB 2341, relating to employment relations.

We are currently opposed to SB 2341.

This bill prohibits employers from discriminating against an employee or applicant for employment based upon the employee's or the applicant's domestic abuse victim status. SHRM Hawaii is keenly aware of the special circumstances that sometimes arise in connection with employees in unique situations, such as domestic violence. However, we also recognize that employers, and HR professionals, have certain legal obligations to address the safety of the entire population of employees with whom they work. We believe that the measure as currently worded may unintentionally complicate a difficult situation and cause employers to act in a manner which could tend to create additional risk. We would welcome an opportunity to work with legislators to address their concerns.

Thank you for the opportunity to speak on this measure.



TO: Chair Mizuno, Chair Rhoads, and Members of the Committees

FR: Jane Seymour, Hawaii State Coalition Against Domestic Violence

Hearing date and time: Monday, March 15, 2010 at 10:30am

RE: Support for SB2341 SD1: Relating to Employment Relations

Aloha, my name is Jane Seymour and I am representing the HSCADV, a private non-profit agency which serves as a touchstone agency for the majority of domestic violence programs throughout the state. For many years HSCADV has worked with the Hawaii Legislature by serving as an educational resource and representing the many voices of domestic violence programs and survivors of domestic violence.

HSCADV supports SB 2341 SD1.

Having financial independence is vital for victims of domestic violence, and securing or maintaining employment will assist these women in achieving that financial freedom. A victim of domestic violence may need to share their TRO or PO with their employer as a part of her safety plan. These women should be assured that the sharing of these documents will not be used against her and cost her to lose her job or to lose the opportunity for a job.

Victims of domestic violence often have many personal matters, outside of their employment to attend to, both during the immediate crisis and as they continue to protect the safety of themselves and their children. These could include court hearings, counseling, medical appointments, etc. These are all a direct result of the domestic violence and are the fault of the batterer. The victim should not be penalized and lose her job because of the crimes perpetrated against her.

Without the protections provided in SB 2341, an employer may fire a victim of domestic violence because of unfounded concerns about how her status may affect her job performance. This bill will further protect victims of domestic violence from the loss of their employment and will allow these women to gain their financial independence and maintain a safe environment for themselves and their children.

We respectfully ask that you support this bill and pass SB 2341 SD1. Thank you for the opportunity to testify.

From: mailinglist@capitol.hawaii.gov [mailto:mailinglist@capitol.hawaii.gov]
Sent: Friday, March 12, 2010 6:26 PM
To: HUS testimony
Cc: erinann815@aol.com
Subject: Testimony for SB2341 on 3/15/2010 10:30:00 AM

Testimony for HUS/LAB 3/15/2010 10:30:00 AM SB2341

Conference room: 329
Testifier position: **support**
Testifier will be present: No
Submitted by: erin rutherford
Organization: Individual
Address:
Phone:
E-mail: erinann815@aol.com
Submitted on: 3/12/2010

Comments:

I support this bill. lets do what we can to help the victims of domestic violence.

From: Pema Gilman [mailto:pemagilman@yahoo.com]
Sent: Sunday, March 14, 2010 1:15 PM
To: HUS testimony
Cc: LAB testimony
Subject: SB 2341 Testimony

Joint Hearing is MONDAY, MARCH 15, 2010 at 10:30AM
Human Services Committee
Labor and Public Employment Committee

Dear Committee Members,

It is imperative, in my opinion, that SB 2341 be approved as part of the recognition that oppression of women is a violence that our society can not tolerate.

Prohibiting employers from discriminating against an employee or applicant for employment based on the employee's or applicant's status as a domestic abuse victim is not only the morally and ethically right thing to do, but is also a way to protect women and children from poverty, homelessness and continued trauma as victims of domestic abuse.

In my experience as an advocate for victims of abuse, these are the devastating conditions that arise when a victim is deprived of the right to earn a living or is threatened with being fired based on the employers knowledge of their status as victims of abuse and not on any prior acknowledgment of their deficiency as an employee.

I count on you as representatives of the community to advance justice and fairness for the good of all. Mahalo for your consideration.

Pema Gilman, Program Coordinator, Trainer & Advocate
Women Helping Women - West Maui
Email: pemagilman@yahoo.com Phone: 661-7111

Email "In Her Own Words" Journal Submissions to: JournalMeMaui@gmail.com

The mission of Women Helping Women is to end domestic violence through advocacy, education and prevention; and to offer safety, support and empowerment to women and children, victims of domestic violence.

From: Pema Gilman [mailto:pemagilman@yahoo.com]
Sent: Monday, March 15, 2010 8:29 AM
To: HUS testimony
Subject: Fw: SB341 Testimony--Strongly Support Passage of SB341

CORRECTION: SB2341

Hearing: Monday 3/15/10 at 10:30am

--- On Sun, 3/14/10, Joan Martin <martinmaui@aol.com> wrote:

From: Joan Martin <martinmaui@aol.com>
Subject: SB341 Testimony--Strongly Support Passage of SB341
To: HUS testimony@capitol.hawaii.gov
Cc: pemagilman@yahoo.com
Date: Sunday, March 14, 2010, 8:32 PM

Dear Committee Chair, Co-Chair and members,

I wish to respectfully state my strong support for your approval of SB341. I ask that you pass the bill out of committee with a recommendation to approve. This legislation corrects a wrong that has harmed those seeking protection from Domestic Violence, often life-threatening, by allowing them to be dismissed from work because they have sought protection under the law.

Thank you,

Joan Martin
10 Kai Makani Loop #201
Kihei, HI 96753
(808) 891-0205
martinmaui@aol.com



HAWAI`I CIVIL RIGHTS COMMISSION

830 PUNCHBOWL STREET, ROOM 411 HONOLULU, HI 96813 · PHONE: 586-8636 FAX: 586-8655 TDD: 568-8692

March 15, 2010
Rm. 325, 10:30 a.m.

To: The Honorable John Mizuno, Chair
The Honorable Karl Rhoads, Chair
Members of the House Committees on Human Services and Labor & Public Employment

From: Coral Wong Pietsch, Chair, and Commissioners of the Hawai`i Civil Rights Commission

Re: S.B. No. 2341 S.D. 1

The Hawai`i Civil Rights Commission (HCRC) has enforcement jurisdiction over state laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state-funded services. The HCRC carries out the Hawai`i constitutional mandate that "no person shall be discriminated against in the exercise of their civil rights because of race, religion, sex or ancestry". Art. I, Sec. 5.

The HCRC supports the intent of S.B. No. 2341 S.D.1, which adds "domestic abuse victim status" as a protected class under H.R.S. § 378-2, the state's employment discrimination law. The HCRC recognizes the serious and devastating impact that domestic violence has on women's physical and emotional health and financial security. Domestic abuse takes a heavy toll on both victims and their employers, including increased security and safety concerns, reduced productivity, and increased health care costs. As a result, victims of domestic abuse can face loss of their jobs at a time when employment and financial independence is critical.

However, the HCRC recently testified on S.B. No. 2369 which addressed employment-related issues faced by victims of domestic or sexual violence in at least six areas, including: emergency unemployment benefits, employment discrimination, expansion of protections for employees on leaves of absence for domestic or sexual violence, establishment of emergency leave benefits, establishment of protections for recipients of public benefits, and establishment of protections for insurance applicants or insureds, raising specific concerns over the effect on the employment discrimination statutes that the HCRC enforces. Similarly, we have specific concerns regarding this bill:

1. Need for clarification as to what an employer's obligations are under the newly created protected class.

The bill would prohibit the discriminatory practices described in H.R.S. § 378-2, but it does not expressly require employers to provide reasonable leave, safety and/or other accommodations. If requirement of such accommodations is intended, the bill should expressly provide for an affirmative obligation, delineate the kinds of accommodations required, and provide for any defenses or exceptions, e.g. if the requested accommodation would cause an undue hardship in the operation of the employer's business.

If the new protection includes a reasonable accommodation requirement, the bill should address how a person establishes he or she is a victim of domestic violence in order to trigger an employer obligation to provide an accommodation. Initial research indicates that other jurisdictions that have provided or required reasonable safety accommodations have allowed employers to require an employee to certify that he or she is a "victim of domestic violence," which can be established through: a medical certificate; a signed written statement from a victim services organization, an attorney or advocate, a member of the clergy, or medical or other professional stating that the employee has sought assistance related to the domestic violence; a police report or court record (including TRO) related to domestic violence; or other corroborating evidence related to the domestic violence. Under H.R.S. Chapter 378 Part VI (the Victims Leave

law), such certification may be similarly requested by employers prior to granting leave accommodations for domestic or sexual violence victims.

2. If the bill requires employers to provide reasonable leave accommodations, this may create potentially overlapping jurisdiction with the specific provisions and private action already provided under the Victims Leave law, H.R.S. Chapter 378 Part VI.

3. If “domestic abuse victim status” is added as a protected basis to H.R.S. Chapter 378-2, the HCRC will require additional funding and staffing. During the current fiscal biennium, the HCRC lost 3 of 11 permanent investigator positions and 1 of 4 enforcement attorney positions, in addition to two days per month of work productivity lost to furloughs. As such, our focus will be on timely processing and effective enforcement in the face of a growing caseload and shrinking resources. The proposed new protected basis will require additional funding and staffing, in light of the data suggesting that the affected protected class will be large, and we would also request the addition/restoration of one full time investigator position and one enforcement attorney position.

Thank you for considering these concerns.