



**STATE OF HAWAII  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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January 21, 2010

To: The Honorable John Riki Karamatsu, Chair  
and Members of the House Committee on Judiciary

Date: January 22, 2010

Time: 2:00 p.m.

Place: Conference Room 325, State Capitol

From: Darwin L.D. Ching, Director  
Department of Labor and Industrial Relations

**S.B. 782 S.D.1 H.D.1 - Relating to Employment Security**

**I. OVERVIEW OF PROPOSED LEGISLATION**

S.B. 782 S.D. 1 H.D.1 proposes to add a new section to Chapter 383, HRS, to provide unemployment insurance (UI) benefits to victims of domestic or sexual violence. This measure will allow UI benefits to an individual who is separated voluntarily or involuntarily from employment due to circumstances resulting from the individual or the individual's minor child being a victim of domestic or sexual violence. The bill also provides for good cause to refuse work due to an unreasonable risk of violence.

**II. CURRENT LAW**

Act 171 was enacted on July 2, 2009 and includes some of the same provisions as S.B. 782 S.D.1 H.D.1. The newly added section 383-7.6, Hawaii Revised Statutes, does not disqualify individuals for separating from employment for compelling family reasons.

Currently, the administrative rules under section 12-5-47(c)(7), Chapter 5, Title 12, also provide for "good cause" for leaving employment where there is "evidence that the individual was a victim of domestic or sexual violence."

### **III. SENATE/HOUSE BILL**

The Department believes that the current statute, as amended by Act 171 in 2009, sufficiently addresses UI eligibility in job separations involving domestic or sexual violence. Act 171 was enacted to qualify for a special transfer of federal funds made available by the American Recovery and Reinvestment Act (ARRA) of 2009 to states that broadened UI eligibility. The US DOL certified Act 171 to be in compliance with federal requirements and awarded \$20.3 million in ARRA funds to Hawaii in August 2009.

While SB 782, SD1, HD1 also includes good cause for refusal of work due to domestic or sexual violence, the Department to ensure consistency, follows the guidelines established for terminations in similar situations to determine eligibility for UI benefits under section 383-30(3), HRS. Existing adjudication practices consider domestic or sexual violence in determining suitability of job offers or to establish good cause for refusing work. As such, this proposed amendment is not necessary.

Based on the foregoing, the Department feels that the intent of SB 782, SD1 HD1 has already been accomplished and therefore, recommends that this measure be tabled.

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**THE HONORABLE JON RIKI KARAMATSU, CHAIR  
HOUSE COMMITTEE ON JUDICIARY**

**TWENTY-FIFTH STATE LEGISLATURE  
REGULAR SESSION OF 2010**

January 22, 2010

**RE: SENATE BILL 782, S.D. 1, H.D. 1; RELATING TO EMPLOYMENT  
SECURITY**

Good morning Chairs Karamatsu and members of the Committee on Judiciary, the Department of the Prosecuting Attorney provides the following testimony **in support of the intent of S.B. 782, S.D.1, H.D. 1, with amendments**, which proposes to provide eligibility for unemployment benefits for victims of domestic violence and sexual assault.

The purpose of H.B 782, S.D. 1, H.D. 1 is to assure that victims of domestic violence and sexual assault who are forced to leave employment due to the effects of their victimization do not lose their eligibility for unemployment benefits. Domestic abusers will frequently target their spouse or partner's ability to make a living as a means of furthering their agenda of complete control over the victim. This places domestic abuse victims at greater risk of loss of employment. Since financial security is often a key factor in forcing victims back to their abuser, we believe that it is critical that victims of domestic violence and sexual assault remain eligible for unemployment benefits. To allow other wise would only reward abusers for their violent behavior and aid them in cutting off the victim's means of support.

**While we support the intent of this bill as it stands, we note that the current content of the bill is virtually identical to the provisions included in S.B. 1568, S.D.2, H.D. 1 that was passed by the Legislature last year and signed into law as Act 171 of 2009.**

We would, however, recommend replacement of the current contents of the bill with the language below, which was incorporated into H.B. 332, H.D. 2, (a similar House version of the

bill that was passed by the 2009 Legislature and was signed into law), but was not included in the measure that was enacted :

Notwithstanding any provision of this chapter to the contrary, an individual who is a victim of domestic or sexual violence shall have good cause for not accepting otherwise suitable, available work if the individual reasonably believes that the employment will subject the individual, the individual's minor child, or other individuals in the workplace to an unreasonable risk of violence, despite the individual having sought appropriate assistance in responding to the domestic or sexual violence, including reporting the violence to the police, obtaining services from a victim services organization, or taking other appropriate legal action.

(c) The department may require an individual to provide certification demonstrating that the individual's failure to accept otherwise suitable, available work is due to an unreasonable risk of violence. To demonstrate the individual's eligibility for benefits, the department may request the following evidence:

- (1) A notarized written statement of the individual attesting to the status of the individual or the individual's minor child as a victim of domestic or sexual violence and explaining how the domestic or sexual violence creates an unreasonable risk of

further violence if the offer of otherwise suitable, available work were accepted;

(2) A signed written statement from:

(A) An employee, agent, or volunteer of a victim services organization;

(B) The individual's attorney or advocate;

(C) A minor child's attorney or advocate; or

(D) A medical or other professional from whom the individual or the individual's minor child has sought assistance related to the domestic or sexual violence,

attesting to the domestic or sexual violence and explaining how the domestic or sexual violence creates an unreasonable risk of further violence; or

(3) A police or court record suggesting or demonstrating that the domestic or sexual violence may cause an unreasonable risk of further violence if otherwise suitable, available work were accepted.

(d) All information provided to the department pursuant to this section, including any statement of the individual or any other documentation, record, or corroborating evidence discussing or relating to domestic or sexual violence, and the fact that the individual has applied for, inquired about, or obtained unemployment compensation by reason of this section

shall be retained in the strictest confidence by the individual's former or current employer, and shall not be disclosed except to the extent that disclosure is requested or consented to by the employee, ordered by a court or administrative agency, or otherwise required by applicable federal or state law.

(e) As used in this section, the terms "domestic or sexual violence", "stalking", and "victim services organization" shall have the same meaning as in section 378-71."

For the reasons cited above, we request your support for our proposed amendments to S.B. 782, S.D. 1, H.D. 1. Thank you for your time and consideration.