

Honolulu, Hawaii

March 24, 2011

RE: S.B. No. 1054
S.D. 1
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawaii

Sir:

Your Committee on Human Services, to which was referred S.B. No. 1054, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO TEMPORARY RESTRAINING ORDERS,"

begs leave to report as follows:

The purpose of this bill is to improve the current process and timeline for obtaining a temporary restraining order (TRO) against harassment and domestic abuse by allowing a TRO to be issued:

- (1) Upon the submission of sworn oral testimony or complaint to the family and district courts by means of electronic voice communication; and
- (2) When the applicant is not physically present under certain circumstances.

The Hawaii Family Law Clinic dba Ala Kuola testified in support of this bill. The City and County of Honolulu Department of the Prosecuting Attorney supported this bill with amendments. The Office of the Public Defender and the Family Law Section of the Hawaii State Bar Association opposed this measure. The Judiciary provided comments.



Your Committee received testimony submitted by the Judiciary that points out that time is needed to allow the Judiciary and all law enforcement agencies to first develop procedures for all circuits, then enough time to seek adequate appropriations from the Legislature and implement the new program including training.

Testimony submitted by the Family Law Section of the Hawaii State Bar Association and received by your Committee states that currently, forms for a petition for protection are available online. Another method of submitting a petition is via fax, which is only being practiced on Maui, but could be adopted by other circuits. Moreover, an e-filing system would allow for petitions to be filled out and submitted online. However, the circuit and family courts have not implemented an e-filing system, but are expected to within the next year.

Your Committee finds that before statutorily allowing a TRO to be issued upon the submission of sworn oral testimony or complaint to the family and district courts by means of electronic voice communication, that the matter should first be examined with input from stakeholders to ensure prudence and conservation of limited resources. Accordingly, your Committee has amended this bill by substituting its contents with provisions that:

- (1) Establish within the Judiciary, a temporary task force that shall discuss, review, and seek input on policy for establishing a process to issue temporary restraining orders by the family and district courts upon submission of sworn oral testimony or complaint communicated to the courts by means of electronic voice communication; and
- (2) Authorize the establishment of a program within the Judiciary to assist applicants seeking temporary restraining orders and protective orders on state furlough days and when essential protective services are needed, and authorize the Judiciary to contract with a third party to administer the program.

Among other things, the amendments:

- (1) Establish the task force membership; and
- (2) Require the task force to submit a report of its findings and recommendations, including any proposed legislation, to the Legislature no later than 20 days prior to the convening of the 2012 Regular Session.



As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1054, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1054, S.D. 1, H.D. 1, and be referred to the Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Human Services,


JOHN M. MIZUNO, Chair



