



LATE TESTIMONY

Committee: Committee on Judiciary and Labor
Hearing Date/Time: Tuesday, March 1, 2011, 9:00 a.m.
Place: Conference Room 016
Re: Testimony of the ACLU of Hawaii in Support of S.B. 229,
Relating to Employment Relations

Dear Chair Hee and Members of the Committee on Judiciary and Labor:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in support of S.B. 229.

State legislation is needed to prohibit employment and insurance discrimination against survivors of domestic violence, sexual violence, and stalking. Currently, a victim is vulnerable to being rejected for or fired from a position when an employer learns that she may have been subjected to abuse. An employer may act on outdated, but commonly held, notions about a victim – that she must enjoy being abused because she stayed in a relationship, or that she invited sexual assault by her attire or behavior. Very few jurisdictions currently deal with this issue. Only the state of Illinois, as well as New York City and Westchester County in New York state, ban discrimination against a victim of domestic violence, sexual assault, or stalking.¹ Connecticut and Rhode Island bar employers from penalizing victims who have attended court or obtained restraining orders.² State anti-discrimination law must intervene to combat these stereotypes about victims of domestic violence, sexual assault, and stalking.³

Success of Legislation like the SAFE Act

Laws containing provisions such as those embodied in the previously introduced federal SAFE Act already have proven effective in guaranteeing the rights of survivors on the local level. In 2001, New York City amended its Human Rights Law to prohibit employment discrimination against victims of domestic violence – the first jurisdiction in the country to do so.⁴ The City extended these protections in 2003 to require employers to make reasonable

¹ 820 Ill. Comp. Stat. 180/30; N.Y.C. Admin. Code § 8-107.1; Westchester County Code §§ 700.02, 700.03.

² Conn. Gen. Stat. § 54-85b; R.I. Gen. Laws § 12-28-10.

³ State legislatures have acted to prohibit discrimination on the basis of one’s status as a victim of domestic violence, sexual assault, and stalking in other contexts, notably housing. N.C. Gen. Stat. §§ 42-40, -42.2, -42.3, -45.1; R.I. Gen. Laws §§ 34-37-1, -2, -2.4, -3, -4; Wash. Rev. Code Ann. § 59.18.130(8)(b)(ii). The 2005 reauthorization of the Violence Against Women Act also prohibited discrimination against these survivors in public and Section 8 housing. See 42 U.S.C. §§ 1437d, 1437f.

⁴ N.Y.C. Admin. Code § 8-107.1.

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accommodations – such as allowing time off from work or shifts in schedule – to employees who are experiencing domestic and sexual violence or stalking.

The national ACLU relied on these provisions of the Human Rights Law when representing “Kathleen,”⁵ a long-time employee of the New York City public schools. After her intimate partner assaulted her, Kathleen obtained an order of protection. She needed to take off several days of work in order to attend court proceedings and seek medical attention. When her employer reprimanded her for excessive absences, she disclosed her partner’s violence and requested to be transferred to another school for safety reasons. Shortly after this conversation, she was fired. The same day, another woman at the school where Kathleen worked who had also experienced domestic violence was terminated under similar circumstances. Because she lost her job and was unable to find comparable employment, Kathleen was forced to move to substandard housing and send her son to live with a relative.

The national ACLU brought suit against the New York City Department of Education on Kathleen’s behalf, invoking the anti-discrimination mandate of the City Human Rights Law. Ultimately, the Department of Education agreed to settle the case and to void Kathleen’s termination and pay her retroactive compensation and damages. It also agreed to undertake systemic changes, including amending its Equal Employment Opportunity policy to cover victims of domestic violence, sexual assault, and stalking as protected classes, acknowledging that reasonable accommodations must be offered to these survivors, and publicizing its new policies throughout the school system. Had the New York City Human Rights Law not existed, Kathleen may have been out of work with no recourse, as a result of the violent conduct of her partner. Had Kathleen lived almost anywhere else in the country, financial ruin likely would have been her fate.

Enacting state protection for the employment rights of victims of domestic violence, sexual assault, and stalking is crucial to building on local progress and ensuring economic security to survivors nationwide. State legislation that models the previously introduced federal SAFE Act would enable battered women to seek safety while working towards financial independence. The ACLU of Hawaii therefore calls on this Committee to pass state legislation that would secure the employment rights of victims of domestic violence, sexual assault, and stalking and allow these survivors to pursue both physical security and economic independence.

⁵ A pseudonym has been used to protect “Kathleen”’s identity.

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The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for over 45 years.

Thank you for this opportunity to testify.

Sincerely,

Laurie A. Temple
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ACLU of Hawaii

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hscadv
HAWAII STATE COALITION AGAINST DOMESTIC VIOLENCE

To: The Honorable Clayton Hee
SENATE COMMITTEE ON JUDICIARY AND LABOR

From: Veronika Geronimo
Hawaii State Coalition Against Domestic Violence

RE: SB229 -SUPPORT

Hearing Date: 03-01-11 9:00AM in conference room 016

The Hawai`i State Coalition Against Domestic Violence (HSCADV) is a statewide coalition of domestic violence programs and shelters. HSCADV and its member agencies advocate for policies and services to end domestic violence in Hawai`i. Our primary focus is on the empowerment, safety, and protection of domestic violence survivors and their children, and the accountability of batterers. On behalf of our member agencies, we thank you for the opportunity to testify in support of SB229.

All too often though, domestic violence can jeopardize a survivor's ability to keep and maintain a job, because of discrimination and fear. It is not unlikely for a survivor to be fired, demoted, suspended, or forced to quit their job after their employer has learned that they were in an abusive relationship.

SB229 would prohibit employers from discriminating against an employee or applicant for employment based upon the employee's or the applicant's domestic abuse victim status; provided that the domestic abuse victim notifies the employer of such status. This measure would protect survivors from potential discriminatory actions of employers so that they can gain and maintain employment and work towards economic self-sufficiency.

Thank you for your consideration.