

# SCR 48

**Measure Title:** **URGING CONGRESS TO SUPPORT FEDERAL LEGISLATION PROHIBITING HEALTH INSURERS FROM DENYING COVERAGE TO VICTIMS OF DOMESTIC VIOLENCE ON THE GROUNDS THAT IT IS A PRE-EXISTING CONDITION.**

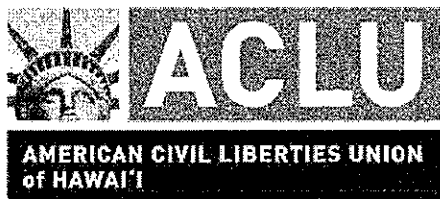
**Report Title:** **Health Insurers; Domestic Violence as Pre-existing Condition**

**Description:**

**Companion:**

**Package:** **None**

**Current Referral:** **CPN**



Committee: Committee on Commerce and Consumer Protection  
Hearing Date/Time: Tuesday, March 29, 2011, 9:00 a.m.  
Place: Conference Room 229  
Re: Testimony of the ACLU of Hawaii in Support of S.C.R. 48

Dear Chair Baker and Members of the Committee on Commerce and Consumer Protection:

The American Civil Liberties Union of Hawaii ("ACLU of Hawaii") writes in support of S.C.R. 48.

Congress has recognized the destructive impact of domestic and sexual violence on the lives of women. Through passage of the Violence against Women Act of 1994 and its reauthorization in 2000 and 2005, Congress has taken important steps in providing legal remedies and services for survivors of intimate partner abuse, sexual assault, and stalking.

However, victims need comprehensive federal legislation to address the obstacles to economic security caused by violence. The House and Senate previously have introduced the Security and Financial Empowerment ("SAFE") Act<sup>1</sup> and the Victims' Economic Security and Safety Act<sup>2</sup> to bolster the financial independence of domestic violence survivors by reducing the likelihood that violence will force survivors out of their jobs and by providing a safety net for those who do lose employment as a result of domestic violence, sexual assault, or stalking.<sup>3</sup> This Committee should urge Congress to enact legislation that will protect domestic violence survivors from insurance discrimination.

### **Domestic and Sexual Violence**

Intimate partner violence continues to be a pervasive crime, committed primarily against women. A Department of Justice study estimated that intimate partners were responsible for 691,710 instances of rape, robbery and assault in 2001, with 588,490 crimes perpetrated against women and 103,220 against men.<sup>4</sup> Twenty-two percent of nonfatal violent crimes experienced by women and thirty percent of homicides against them are committed by intimate partners.<sup>5</sup> Half of those who experience nonfatal violence sustain physical injury as a result.<sup>6</sup>

<sup>1</sup> S.1796, H.R. 3185, 109<sup>th</sup> Cong. (2005); S.1801, H.R. 3420, 108<sup>th</sup> Cong. (2003).

<sup>2</sup> S.1249, H.R. 2670, 107<sup>th</sup> Cong. (2001).

<sup>3</sup> Senator Patty Murray recently introduced the Survivors' Empowerment and Economic Security Act, S.1136, 110<sup>th</sup> Cong. (2007), but a bill has not been introduced yet in the House.

<sup>4</sup> Callie Marie Rennison, U.S. Dep't of Justice, Bureau of Justice Statistics, Intimate Partner Violence 1993-2001 1 (2003).

<sup>5</sup> Shannan Catalano, U.S. Dep't of Justice, Bureau of Justice Statistics, Intimate Partner Violence in the United States (2006).

<sup>6</sup> Id.

American Civil Liberties Union of Hawaii  
P.O. Box 3410  
Honolulu, Hawaii 96801  
T: 808.522-5900  
F: 808.522-5909  
E: [office@acluhawaii.org](mailto:office@acluhawaii.org)  
[www.acluhawaii.org](http://www.acluhawaii.org)

Chair Baker and Members of the Committee on  
Commerce and Consumer Protection  
March 29, 2011  
Page 2 of 2

### **Anti-Discrimination Protections in Insurance**

Federal legislation is needed to prohibit insurance discrimination against survivors of domestic violence, sexual violence, and stalking. The ability to obtain and maintain insurance is a fundamental economic issue for all people, but is particularly significant for victims of violence, who often need medical and psychological treatment because of the crimes that have been committed against them. Insurance companies frequently choose to deny, refuse to renew, or cancel a survivor's policy or benefits plan, particularly when originally issued in the name of the abuser. While forty-one states have anti-discrimination laws on the books, they vary widely and do not apply to the 36% of all employees who receive health insurance coverage through self-funded plans that are governed by the federal Employee Retirement Income Security Act, and are therefore exempt from state law protections.<sup>7</sup> Without confidence that they will not lose their insurance, victims may be reluctant to seek desperately needed medical treatment.

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  
Staff Attorney  
ACLU of Hawaii

---

<sup>7</sup> Women's Law Project, F.Y.I. Insurance Discrimination Against Victims of Domestic Violence: 2002 Supplement (2002), available at [http://www.womenslawproject.org/brochures/InsuranceSup\\_DV2002.pdf](http://www.womenslawproject.org/brochures/InsuranceSup_DV2002.pdf); Women's Law Project, Insurance, [http://www.womenslawproject.org/pages/issue\\_insurance.htm](http://www.womenslawproject.org/pages/issue_insurance.htm) (last visited April 18, 2007).

American Civil Liberties Union of Hawaii  
P.O. Box 3410  
Honolulu, Hawaii 96801  
T: 808.522-5900  
F: 808.522-5909  
E: [office@acluhawaii.org](mailto:office@acluhawaii.org)  
[www.acluhawaii.org](http://www.acluhawaii.org)