

STATE OF HAWAII  
**DEPARTMENT OF HUMAN SERVICES**  
P. O. Box 339  
Honolulu, Hawaii 96809-0339

February 2, 2015

**TO:** The Honorable Dee Morikawa, Chair  
House Committee on Human Services

**FROM:** Rachael Wong, Director

**SUBJECT: H.B. 447 Relating to Domestic Violence**

Hearing: Tuesday, February 3, 2015, 8:30 a.m.  
Conference Room 329, State Capitol  
415 South Beretania Street, Honolulu

**PURPOSE:** The purpose of this bill is to remove certain unnecessary and redundant reporting responsibilities of the family courts and the Department of Human Services in cases where temporary restraining orders are sought for alleged domestic abuse involving a family or household member who is a minor or incapacitated person.

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) supports the proposed bill as section 586-10.5, Hawaii Revised Statutes, is duplicative of section 350-1.1(a)(3) and (4), and (b), which mandates reporting by persons who, in their professional or official capacity, have reason to believe that child abuse or neglect has occurred or that there exists a substantial risk that child abuse or neglect may occur in the reasonably near future.

In practice, per the current statute, the Family Courts are reporting all temporary restraining orders to the DHS where there are minors in the home, regardless of the minors' involvement in the alleged domestic abuse. As many reports do not indicate any safety concerns

for the children, this practice has created an unnecessary burden on Child Welfare Services staff who must screen the referrals, investigate the cases, and submit written reports to the court in advance of the hearings.

Survivors have stated that the referral of temporary restraining orders to Child Welfare Services is a deterrent to their seeking safety through this process as these victims fear having their children removed from their care. Batterers often use the threat of losing custody of the children to prevent survivors from reporting domestic abuse.

Thank you for the opportunity to testify.



*The Judiciary, State of Hawai'i*

**Testimony to the House Committee on Human Services**

Representative Dee Morikawa, Chair

Representative Bertrand Kobayashi, Vice Chair

Tuesday, February 3, 2015, 8:30 AM

State Capitol, Conference Room 329

by

Judge R. Mark Browning

Deputy Chief Judge, Senior Judge

Family Court of the First Circuit

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**Bill No. and Title:** House Bill 447, Relating to Domestic Violence

**Purpose:** Relating to reporting responsibilities of the Family Courts and Department of Human Services in domestic abuse cases.

**Judiciary's Position:**

The Family Court respectfully opposes this bill for the following reasons.

1. It has been clear for a great many years that domestic violence is prevalent in our community and our nation. It has become clear that the effects of domestic violence are not limited to "just" the batterer and the victim. The entire family, network of friends and acquaintances, the neighborhood, the work place, indeed, our community, are all negatively impacted. Most concerning is the mounting data that documents the lasting harm on children who are exposed to domestic violence, even in those cases when they witness the violence by hearing rather than by sight, as well as the lasting harm caused by the tension and stress of their caregivers.

2. Despite the many cases where petitioners ask the court for help and relief, there is no public agency to serve this population with the case management and access to a panoply of services needed to address this multi-faceted problem and all of the various participants. The Family Court is not a service provider; our role is to hear cases and apply the law. Unlike child abuse cases, there is no state agency that is a party to the proceedings that will find or refer the



parties and children to appropriate resources and then consistently monitor and enforce the conditions of the court orders.

3. When children are involved, the stakes are obviously higher for the family and the community. In these cases, the Family Court is a mandatory reporter. We have fulfilled and will continue to follow through with these reporting obligations. A major problem in the past was the almost total lack of any information from the Department of Human Services (DHS) once a report was made.

4. This untenable situation was alleviated when the Legislature amended Hawai'i Revised Statutes Chapter 586 requiring written reports from DHS. The application of this amendment was further eased by the Family Court and the DHS accommodating the expectations of reporting. Because the time requirements under Hawai'i Revised Statutes Chapter 586 are stringent, it was important that the DHS respond quickly to mandated reports and equally important that the Family Court did not demand more than DHS could possibly provide. For example, when the DHS refers the family to services provided by a non-profit organization, the report back responsibilities shift to that organization. When DHS reports directly to the Court, there are no requirements for the kind of full reporting provided under Hawai'i Revised Statutes Chapter 587A.

5. The existing statute already requires that reports of abuse must satisfy Hawai'i Revised Statutes Chapters 350 and 587A. There is no redundancy. In other words, the mandatory reporting in Hawai'i Revised Statutes Chapters 350, 586, and 587A are identical. As such, the Legislature has already balanced the public policies behind mandatory reporting and has determined that safety issues in certain cases will outweigh the public policy to encourage persons to voluntarily seek professional help.

6. This bill will not affect Family Court's mandatory reporting nor will it decrease such reporting.

7. The only different outcome generated by this bill is to release DHS from its obligation to provide a written report about the disposition of the mandatory reports. Unlike some other mandatory reporters, Family Court has a dire need to know the disposition of the case. This is why, even though Hawai'i Revised Statutes Chapters 350 and 587A were already applicable to the Family Court, the Legislature had to include a reference to mandatory reporting in Hawai'i Revised Statutes Chapter 586 so that a required written report from the DHS could be codified.

8. Basically, to now repeal the requirement of a written report means that the Family Court will have no independent information in those reported cases where we "have reason to believe that child abuse or neglect has occurred or that there exists a substantial risk that child



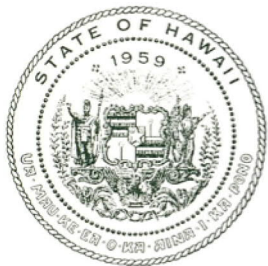
House Bill No. 447, Relating to Domestic Violence  
House Committee on Human Services  
Tuesday, February 3, 2015  
Page 3

abuse or neglect may occur in the reasonably foreseeable future” or we “have reason to believe that a vulnerable adult has incurred abuse or is in danger of abuse if immediate action is not taken.”

For all these reasons, the Family Court respectfully opposes passage of this bill.

Thank you for the opportunity to provide testimony on this bill.

HAWAII  
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WOMEN



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/hscsw/

235 S. Beretania #407  
Honolulu, HI 96813  
Phone: 808-586-5758  
FAX: 808-586-5756

February 3, 2015

To: Representative Dee Morikawa, Chair  
Representative Bertrand Kobayashi, Vice Chair  
Members of the House Committee on Human Services

From: Cathy Betts  
Executive Director, Hawaii State Commission on the Status of Women

Re: Testimony in Support, HB 447, Relating to Domestic Violence

Thank you for this opportunity to testify in strong support of HB 447, which would repeal Hawaii Revised Statute section 586-10.5. This section requires family courts to report to the Department of Human Services in each case where a restraining order is sought for abuse of family or household member and a minor or incapacitated person is involved.

Under this statute, family court is mandated to involve child welfare in every petition for a temporary restraining order or protective order that is filed with children involved. A victim's petition for a restraining order is often the first step to safety. It takes tremendous courage and often lengthy periods of time for a victim to come forward and apply for a restraining order. When a child welfare investigation is automatically triggered, it has a chilling effect on victims who come forward. Women who are victims of abuse should not have to feel afraid that filing for a restraining order will automatically render their families to further scrutiny, or worse, that their children may be taken from them into state custody by virtue of their applying for a restraining order.

Our family courts already have the discretion to direct the Department of Human Services to become involved where there is reason to believe that child abuse or neglect has occurred. The Department of Human Services regularly investigates cases of threat of harm or actual harm if the allegations surface from a restraining order application. The current practice of an automatic referral overburdens our DHS social workers and prevents them from focusing more of their time and attention on serious cases of abuse and neglect.

The Commission supports the passage of HB 447.

Thank you for this opportunity to testify.



# hscadv



## HAWAII STATE COALITION AGAINST DOMESTIC VIOLENCE

January 30, 2015

To: Representative Dee Morikawa, Chair  
Representative Bertrand Kobayashi, Vice Chair  
Members of the House Committee on Human Services

From: Marci Lopes  
Executive Director, Hawaii State Coalition Against Domestic Violence

Re: Testimony in Support, HB 447, Relating to Domestic Violence

Thank you for this opportunity to testify in strong support of HB 447, which would repeal Hawaii Revised Statute section 586-10.5, which requires family courts to report to the Department of Human Services in each case where a restraining order is sought for abuse of family or household member and a minor or incapacitated person is involved.

Under this statute, family court is mandated to involve child welfare in every petition for a temporary restraining order or protective order that is filed with children involved. Victims and Advocates have reported to HSCADV that victims do not want to file for a TRO out of fear that they will lose custody of their children to CWS. Victims of abuse should not have to feel afraid that filing for a restraining order will automatically render their families to further scrutiny, or worse, that their children may be taken from them into state custody by virtue of their applying for a restraining order.

Our family courts already have the discretion to direct the Department of Human Services to become involved where there is reason to believe that child abuse or neglect has occurred. Advocates who are working with domestic violence victims are mandated reporters, and they must report to CWS if they feel that the parent is abusing or neglecting their child/ren. The Department of Human Services regularly investigates cases of threat of harm or actual harm if the allegations surface from a restraining order application. The current practice of an automatic referral overburdens our DHS social workers and prevents them from focusing more of their time and attention on serious cases of abuse and neglect.

HSCADV supports the passage of HB 447.

Thank you for this opportunity to submit testimony, and to improve services to victims of domestic violence.





TO: Chair Dee Morikawa  
Vice Chair Bertrand Kobayashi  
Members of the Committee

FR: Nanci Kreidman, M.A

RE: HB 447 Support

Aloha. And thank you for scheduling this Bill for hearing early in the Session. This is an issue of great importance, and deserves the legislature's attention.

The requirement for Family Court to make an automatic report to child welfare when a temporary restraining order is sought by a survivor places an unnecessary burden on the child welfare system and creates an unfortunate impact on survivors. Seeking court protection and taking the affirmative step to secure a restraining order is a proactive step that is aimed at providing protection for a family. Involving child welfare, if necessary, could still be done if circumstances warrant such a report.

Judges are given discretion in many ways, and have maintained consistently they function best with discretion. It appears in these kinds of cases, such discretion is well founded.

Additionally, if a person reaches out for help it is an affirmative action and the community should not be forcing other system interventions that may be harmful or threatening in nature. It would be an unintended, and deleterious effect for survivors to avoid working with available resources, like Family Court restraining orders for fear that they would be investigated for potential child abuse. It is not uncommon or unfamiliar that child welfare services is over-extended and cannot conduct an investigation in a timely fashion, requiring multiple appearances by survivors. This burdens the Court and the community's families.

Thank you for your favorable action to repeal HRS 586-10.5.

**kobayashi2-Lynda**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, January 30, 2015 6:00 PM  
**To:** HUS testimony  
**Cc:** kalawaiag@hotmail.com  
**Subject:** \*Submitted testimony for HB447 on Feb 3, 2015 08:30AM\*

**HB447**

Submitted on: 1/30/2015

Testimony for HUS on Feb 3, 2015 08:30AM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kalawai'a Goo	Individual	Support	No

Comments:

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**kobayashi2-Lynda**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, January 31, 2015 8:07 AM  
**To:** HUS testimony  
**Cc:** jlouis@hawaii.edu  
**Subject:** \*Submitted testimony for HB447 on Feb 3, 2015 08:30AM\*

**HB447**

Submitted on: 1/31/2015

Testimony for HUS on Feb 3, 2015 08:30AM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jamie Louis	Individual	Support	No

Comments:

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**PACT PARENTS AND CHILDREN TOGETHER**  
A FAMILY SERVICE AGENCY

**LATE**

**TO:** Representative Dee Morikawa, Chair  
Representative Bertrand Kobayashi, Vice Chair  
House Committee on Human Services

**FROM:** Celene Roberts  
Program Director Family Peace & Shelter Services,  
Parents And Children Together

**RE:** **HB 447, Relating to Domestic Violence**

**DATE:** February 3, 2015

Thank you for this opportunity to testify **in strong support of HB 447**, which would repeal Hawaii Revised Statute section 586-10.5, relating to domestic violence. My name is Celene Roberts and I am employed by Parents And Children Together as the Program Director of the Family Peace & Shelter Services Program. I have worked in the field of domestic violence/family violence and provided support services for families involved with Child Welfare Services for over 14 years. I have also provided emergency intervention for individuals with mental health illnesses.

Survivors of domestic violence/family violence must be allowed to seek safety through petitioning for a temporary restraining order or protective order without the threat of being reported to the Department of Human Services. For many survivors of domestic violence/family violence, filing a temporary restraining order or protective order is a terrifying experience as they take the first step towards safety.

The repeal of Hawaii Revised Statute section 586-10.5 is a measure that supports survivors in their journey to safety. This section requires Family Courts to report to the Department of Human Services in each case where a restraining order is sought for abuse of family or household member and a minor or incapacitated person is involved.

The current statute mandates the Court to refer every petition for a temporary restraining order or protective order to the Department of Human Services when there are children involved. The unintended result of this statute creates a dilemma for survivors who are actively seeking safety: if they continue to pursue safety, they unwittingly open up their family to a Department of Human Services investigation. Survivors seeking safety for themselves and their children, should not be further traumatized by involvement with the Department of Human Services or the fear that their children may be taken away and placed in foster care.

When there is an indication of child abuse and/or neglect our Family Courts already have the ability to involve the Department of Human Services. A deliberate and informed referral process eliminates unnecessary burdens to families and to our already overburdened Department of Human Services. I strongly urge that you **support the passage of HB 447**.

Thank you for this opportunity to testify.

**LATE**

**GAY LESBIAN  
BISEXUAL AND  
TRANSGENDER  
CAUCUS**



**DEMOCRATIC  
PARTY OF HAWAII**

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Rep. Richard P. Creagan

Rep. Beth Fukumoto Chang

Rep. Mark J. Hashem

DATE AND TIME: Tuesday, February 03, 2015, 8:30 a.m.- 10:30 a.m.

PLACE: Conference Room 329, State Capitol, 415 South Beretania Street

**Testimony in Support, HB 447, Relating to Domestic Violence**

Removes certain unnecessary and redundant reporting responsibilities of the family courts and DHAS where TROs are sought for alleged domestic abuse

HB 447 would repeal Hawaii Revised Statute section 586-10.5, which requires family courts to report to the Department of Human Services in each case where a restraining order is sought for abuse of family or household member and a minor or incapacitated person is involved.

A petition for a restraining order is often the first step to safety.

If a child welfare investigation is automatically triggered, it has a chilling effect on victims of domestic violence.

Women who are victims of domestic abuse should not fear that filing for a restraining order may result in their children may be taken into state custody by applying for a restraining order.

The family courts already have the discretion to direct the Department of Human Services investigate where there is reason to believe that child abuse or neglect has occurred. The Department of Human Services regularly investigates cases of threat of harm or actual harm if the allegations surface from a restraining order application.

The current practice of an automatic referral overburdens our DHS social workers and prevents them from focusing more of their time and attention on serious cases of abuse and neglect.

Thank you for this opportunity to testify.

Jo-Ann M. Adams, Legislative Liaison  
Gay, Lesbian, Bisexual and Transgender Caucus  
Democratic Party of Hawaii



**LATE**

PROTECTING HAWAII'S OHANA, CHILDREN, UNDER SERVED, ELDERLY AND DISABLED

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TO: Representative Dee Morikawa, Chair  
Representative Bertrand Kobayashi, Vice Chair  
Members, Committee on Human Services

FROM: Scott Morishige, Executive Director, PHOCUSED

HEARING: House Committee on Human Services  
**Tuesday, February 3, 2015 at 8:30 a.m. in Conf. Rm. 329**

**Testimony in Support of HB447, Relating to Domestic Violence**

Thank you for the opportunity to provide testimony in **support** of HB447 which would repeal Hawaii Revised Statute section 586-10.5, which requires family courts to report to the Department of Human Services (DHS) in each case where a restraining order is sought for abuse of family or household member and a minor or incapacitated person is involved. PHOCUSED is a nonprofit membership and advocacy organization that works together with community stakeholders to impact program and policy change for the most vulnerable in our community, including victims of domestic violence.

Our membership includes organizations, such as Child & Family Service, Parents & Children Together, and Domestic Violence Action Center, which serve victims of domestic violence and their families. Advocates at these organizations have reported that victims are often hesitant to complete a Temporary Restraining Order (TRO) against an abuser due to fear that they will lose custody of their children to DHS.

HRS 586-10.5 is duplicative, and unnecessary. Regardless of this section of the HRS, the Family Courts already have the discretion to direct DHS to become involved where there is a reason to believe that child abuse and neglect has occurred. Domestic violence advocates are mandated reporters, and must report to DHS.

Once again, PHOCUSED urges your support of this bill. We strongly believe that this will be a step in the right direction for victims of domestic violence and their families. If you have any questions, please do not hesitate to contact PHOCUSED at 521-7462 or by e-mail at [admin@phocused-hawaii.org](mailto:admin@phocused-hawaii.org).



## Hawaii Women's Coalition

**COMMITTEE ON HUMAN SERVICES**  
**Representative Dee Morikawa, Chair**  
**Representative Bertrand Kobayashi, Vice Chair**  
**Members of the House Committee on Human Services**

**LATE**

DATE: Tuesday, February 03, 2015  
TIME: 8:30 a.m.- 10:30 a.m.  
PLACE: Conference Room 329

### **STRONG SUPPORT FOR HB 447**

Thank you for this opportunity to testify in strong support of HB 447, which would repeal Hawaii Revised Statute section 586-10.5. This section **requires** family courts to report to the Department of Human Services in **each** case where a restraining order is sought for abuse of family or household member and a minor or incapacitated person is involved.

Under this statute, family court is mandated to involve child welfare in **every** petition for a temporary restraining order or protective order that is filed with children involved. A victim's petition for a restraining order is often the first step to safety. It takes tremendous courage and often-lengthy periods of time for a victim to come forward and apply for a restraining order.

Our family courts already have the discretion to direct the Department of Human Services to become involved where there is reason to believe that child abuse or neglect has occurred. The Department of Human Services regularly investigates cases of threat of harm or actual harm if the allegations surface from a restraining order application. **The current practice of an automatic referral overburdens our DHS social workers and prevents them from focusing more of their time and attention on serious cases of abuse and neglect.**

When a child welfare investigation is automatically triggered, it has a chilling effect on victims who come forward. Women who are victims of abuse should not have to feel afraid that filing for a restraining order will automatically render their families to further scrutiny, or worse, that their children may be taken from them into state custody by virtue of their applying for a restraining order.

The Coalition is in strong support of this bill. Please pass the important bill out of committee.

Mahalo for the opportunity to testify,  
Ann S. Freed Co-Chair, Hawai'i Women's Coalition  
Contact: [annsreed@gmail.com](mailto:annsreed@gmail.com) Phone: 808-623-5676