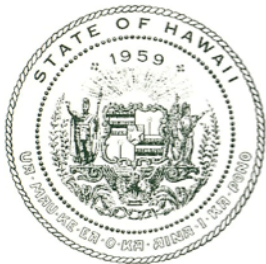


HAWAII
STATE
COMMISSION
ON THE
STATUS
OF
WOMEN



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LESLIE WILKINS

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January 31, 2016

To: Senator Gilbert S.C. Keith-Agaran, Chair
Senator Maile S.L. Shimabukuro, Vice Chair
Members of the Senate Committee on Judiciary and Labor

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

Re: Testimony in Support, SB 2310

The Commission supports SB 2310 which would prohibit courts from issuing mutual protective orders in instances where the respondent has not filed the requisite cross petition alleging details to substantiate the need for a protective order.

Through multiple community discussions with victims and victim service providers, we have been notified of multiple instances where a court has issued a "mutual" protective order and essentially told two parties to stay away from each other. This negates the purpose of the initial petition for a temporary restraining order and undermines basic fundamental rights to notice and due process for the initial petitioning party. Additionally, it allows the court to avoid the process of fact finding, thereby deeming both parties as "potentially abusive". This has serious implications for child custody proceedings and child welfare proceedings.

Most victims do not ever file a petition for a restraining order, nor do they ever seek outside resources or help. For those that are able to make that step, we should be doing more to support them through the process without re-victimizing them. The Commission respectfully requests that this Committee pass this measure.

Thank you for this opportunity to testify.



25 Years

TO: Chair Keith-Agaran
Vice Chair Shimabukuro
Members of the Committee on Judiciary and Labor
FR: Nanci Kreidman, MA
Chief Executive Officer

RE: SB 2310

Aloha. Thank you for the opportunity to provide our perspective on this important Bill. Seeking a protective order is one of the most difficult and frightening decisions a survivor of domestic violence makes. Detailing the private, and embarrassing events that are perpetrated against her by her abuser is a distressing experience.

To face her abuser in court, and feel the intimidation and shame are a test most of us cannot imagine. It is important that this process is preserved for the survivors who really need the court's protection and have taken the bold steps necessary to file the petition, have it served and appear in court to seek its issuance (after the ex parte stage). Survivors who have been tormented by their abusers fear they will not be believed, and they have been threatened with that potential by the abuser. If she gets to court, and the court grants an order against her, the message she receives from the Court, to whom she has gone for protection, reinforces his message that she cannot expect support from the system – which is, in fact, designed to increase safety and accountability.

We support this proposal to eliminate the availability of a mutual protection order at the time of the Order to Show Cause Hearing, issued spontaneously by a judge. If there is sufficient reason to fear the other party, or there is real danger, it would seem appropriate to expect that person (often the abuser) to file a petition, as well.

Our system makes it a priority to uphold due process rights for parties in court proceedings. This measure matches that commitment.

Thank you for acting favorably to pass SB 2310. We appreciate the opportunity to provide this testimony today.

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hscadv



HAWAII STATE COALITION AGAINST DOMESTIC VIOLENCE

January 28, 2016

To: Senate Committee on Judiciary and Labor
Senator Gilbert S.C. Keith-Agaran, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

From: Michelle Rocca, Training and Technical Assistance Director
Hawaii State Coalition Against Domestic Violence

Re: Testimony in Support of SB 2310

Good afternoon Chair Keith-Agaran, Vice Chair Shimabukuro, and members of the committee. On behalf of the Hawaii State Coalition Against Domestic Violence we thank you for the opportunity to share our testimony in **support of SB 2310** relating to domestic abuse protective orders.

The process that a victim/survivor engages in to obtain a restraining order can feel ambiguous, frightening, and vulnerable. Pursuing a restraining order against an intimate partner is a step in the direction to seek safety and peace, and most certainly requires courage. When a victim takes this courageous step and ultimately has the unfortunate outcome of a mutual restraining order issued against her as well, the message to the victim is devastating. The consequences of this action not only include a negative experience for the victim for seeking Court protection but may also include a variety of other challenges for the petitioner as well.

In the instance that both parties are truly a safety concern to one another, it is reasonable to expect the same process be followed for a protective order to be issued by the courts. We simply urge this committee to eliminate the spontaneous issuance of a mutual protective order at an Order to Show Cause Hearing and instead expect each citizen of this community to follow the same process should they require assistance from the Courts in the form of a protective order.

This bill highlights, enhances, and underlines our criminal justice's commitment to due process rights in court proceedings and strengthens the Court's response to those who have the need, and the courage to seek a protective order as a vehicle to safety.

Thank you for your consideration and for the opportunity to provide testimony on this matter.