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To: Senator Keith-Agaran, Chair
Senator Shimabukuro, Vice Chair
JDL Committee Members
Re: Comments & Additional Suggested Language for SB2409
Date: February 3, 2016

Good Morning Chair Keith-Agaran, Vice Chair Shimabukuro & JDL Committee Members,

While SB2409 is not aimed at or intended for Domestic Violence-related cases and situations, I must ask that you take this into consideration.

Too many people are unaware that domestic violence (DV) does not end once the victim "successfully escapes" (isn't killed by) her abuser; this is particularly true in cases where the victim-survivor has children in-common with her abuser.

In the cases I am involved with, the abuser does not re-abuse the victim-survivor alone post-separation; with alarming frequency, abusers involve third parties because in this way, the abuser can't be held accountable for the actions of *other people* who aren't a party to the court orders that exist between the abuser and survivor. Most typically, **abusers will turn to their own parents and/or even co-opt the survivor's own parents to accomplish this.**

At present, our laws aim to protect the survivor and the children from the abuser solely - there is no legal recourse or provisions for when third parties "aid and abet" an abuser in a family court matter.

For example:

Per court order, the abuser is not allowed to be left unsupervised with the children; his parents agree to be supervisors but they don't believe their son ever was or truly is abusive so **the grandparents violate the court's intentions and orders** without concern for consequence because they are not a direct and accountable party to the case. If the survivor and/or children report the grandparents for violating the court's orders, no one can or will do anything about it because

- A. The grandparents are not a party to the case to begin with
- B. They're seen as kupuna harboring only good intentions
(but in some instances, I've seen grandparents with a real contempt for the court and its orders because they do not recognize the court's authority over their family).

To avoid instances such as this, might I suggest that you add language to SB2409 to the effect of:

Home Shouldn't Hurt

When a finding of family violence between the parents has been determined by the court, grandparents shall not misuse any visitation granted to them by transferring or relinquishing their time to any other party. Should grandparents violate the terms and conditions of the court's order they shall be subject to the court's sanction.

Please bear in-mind that **until abuse is *factored in* instead of out of child custody and visitation issues, legislation such as this could have the unintended consequence of assisting family violence perpetrators** in circumventing court orders restraining them from access to vulnerable children.

If grandparents are trying to access their grandchildren with parents who have mental illness/drug and alcohol issues, that's one thing but a red flag should be waving if a grandparent is trying to circumvent a parent's wishes in absence of such extreme circumstances and is choosing a court setting over a coffee shop to "resolve" such matters.

Thank you for this opportunity to provide comments and additional suggested language for SB2409, Relating to Child Visitation.

Respectfully,



Dara Carlin, M.A.
Domestic Violence Survivor Advocate

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: Submitted testimony for SB2409 on Feb 3, 2016 09:30AM
Date: Monday, February 01, 2016 7:22:46 PM
Attachments: [testimonysb2409.rtf](#)

SB2409

Submitted on: 2/1/2016

Testimony for JDL on Feb 3, 2016 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Mary	Individual	Oppose	No

Comments: Please consider adding language to SB2409 to the effect of: When a finding of family violence between the parents has been determined by the court, grandparents shall not misuse any visitation granted to them by transferring or relinquishing their time to any other party. Should grandparents violate the terms and conditions of the court's order they shall be subject to the court's sanction. To ensure safety of children when even considering the abusers parents be allowed visitation, custody or foster roles. Thank you

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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Good Morning Representatives,

I hold a degree in Psychology, and with a few credits shy of a Doctorate in Clinical Psychology, I would like to strongly urge you to be extremely cautious with SB2409 for the sake of the children of Hawaii.

As a doctoral student, I would like to share a disturbing account about a case in the Family Court of Oahu where three small children were placed in Foster Care with their son's parents. Their son was found to be violent and a domestic abuser, the children's mother was granted a five year restraining order which the children were not allowed to stay on. The grandparents denied at every possible opportunity that their "good boy" had done any of these things. The grandparents refused the mother phone calls with her children and the children reported that the grandmother blacked out their mothers face in a family photo displayed on the wall for them to see. The children reported to the police at the Children's Justice Center that they were sexually abused by their father in the grandparent's bathroom and bedroom multiple times.

One of the children suffered a broken arm and recieved no medical attention by the grandparents. CASA had to make stricter guidelines due to this neglect. In this situation, the grandparents provided unproven alibis, interfered with visitation calls, could not properly care for the children and did not follow the same rules for their son as they did for the childrens mother. The father was allowed phone calls, visitation, and was left alone unsupervised in rooms in their house with the children. One of the children disclosed that "nana told me not to tell anyone anything bad about daddy".

Grandparents, like in this case, violate the court's intentions and orders without concern for consequences because they are not a direct and accountable party to the case.

To avoid instances such as this, might I suggest that you add language to SB2409 to the effect of:

"When a finding of family violence between the parents has been determined by the court, grandparents shall not misuse any visitation granted to them by transferring or relinquishing their time to any other party. Should grandparents violate the terms and conditions of the court's order they shall be subject to the court's sanction. "

Please bear in-mind that until abuse is factored in instead of out of child custody and visitation issues, legislation such as this could have the unintended consequence of assisting family violence perpetrators in circumventing court orders restraining them from access to vulnerable children.