

HB 678

RELATING TO DOMESTIC VIOLENCE.

LAB, FIN

HB678



Submit Testimony

Measure Title: RELATING TO DOMESTIC VIOLENCE.

Report Title: Family Leave; Domestic Violence; Sexual Violence

Description: Allows an employee to take family leave in addition to victim leave when the leave is related to domestic or sexual violence against the employee or the employee's minor child. Requires an employee to submit certification related to domestic or sexual violence of the employee or the employee's minor child. Requires employer confidentiality of information related to domestic or sexual violence against the employee or the employee's minor child.

Companion: [SB516](#)

Package: None

Current Referral: LAB, FIN

Introducer(s): BELATTI, FUKUMOTO, ICHIYAMA, LOPRESTI, MIZUNO, MORIKAWA, OSHIRO, DeCoite

Sort by Date		Status Text
1/20/2017	H	Pending introduction.
1/23/2017	H	Pass First Reading
1/25/2017	H	Referred to LAB, FIN, referral sheet 3
2/10/2017	H	Bill scheduled to be heard by LAB on Tuesday, 02-14-17 8:30AM in House conference room 309.

S = Senate | **H** = House | **D** = Data Systems | **\$** = Appropriation measure | **ConAm** = Constitutional Amendment
Some of the above items require Adobe Acrobat Reader. Please visit [Adobe's download page](#) for detailed instructions.

A BILL FOR AN ACT

RELATING TO DOMESTIC VIOLENCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that victims of domestic
2 violence often need to take leave from their employment to
3 attend to various health or legal matters and that addressing
4 such matters should not pose a risk to their personal health and
5 well-being, financial security, or safety due to a fear of
6 adverse consequences from their employers. Although state law
7 currently requires that employers allow victim leave for victims
8 of domestic or sexual violence, victim employees are required to
9 exhaust all other paid and unpaid leave accrued for the calendar
10 year before victim leave may be applied. Thus an employee may
11 exhaust all sick leave in order to seek safety or medical
12 attention for themselves or their minor child or to take legal
13 action against an abuser, leaving little to no sick leave
14 available for the rest of the calendar year.

15 The purpose of this Act is to amend the Hawaii family leave
16 law to allow an employee to take family leave, separate from



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1 victim leave, related to domestic or sexual violence against the
2 employee or the employee's minor child.

3 SECTION 2. Section 398-3, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) An employee shall be entitled to a total of four
6 weeks of family leave during any calendar year upon the birth of
7 a child of the employee or the adoption of a child~~[, or]~~; to
8 care for the employee's child, spouse or reciprocal beneficiary,
9 or parent with a serious health condition~~[, or]~~; or to seek safety,
10 medical attention, or victim services related to domestic or
11 sexual violence against the employee or the employee's minor
12 child. Family leave taken related to domestic or sexual
13 violence against the employee or the employee's minor child
14 shall be made available to the employee in addition to victim
15 leave under section 378-72 and shall be treated the same as
16 family leave taken for the other purposes permitted under this
17 section for purposes of calculating accrued benefits under this
18 chapter."

19 SECTION 3. Section 398-6, Hawaii Revised Statutes, is
20 amended to read as follows:



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1 "§398-6 Certification. (a) An employer may require that
2 a claim for family leave be supported by written certification.

3 (b) For the birth of a child, certification shall be
4 issued by a health care provider or the family court. For the
5 placement of a child for adoption with the employee,
6 certification shall be issued by a recognized adoption agency,
7 the attorney handling the adoption, or by the individual
8 officially designated by the birth parent to select and approve
9 the adoptive family.

10 (c) When leave is to care for a child, spouse, or parent
11 who has a serious health condition, certification shall be
12 issued by the health care provider of the individual requiring
13 care. Certification shall be considered sufficient if it
14 provides information as required by the director.

15 (d) When leave is to seek safety, medical attention, or
16 victim services related to domestic or sexual violence against
17 the employee or the employee's minor child, certification shall
18 be provided by one of the following methods:

19 (1) A certificate issued by a health care provider or
20 other professional from whom the employee or the
21 employee's minor child has sought assistance related



1 to the domestic or sexual violence against the
2 employee or employee's child;

3 (2) A signed written statement from an employee, agent, or
4 volunteer of a victim services organization from the
5 employee's attorney or advocate or from a minor
6 child's attorney or advocate; or

7 (3) A police or court record related to the domestic or
8 sexual violence.

9 (e) All information provided to the employer under
10 subsection (d), including statements of the employee, or any
11 other documentation, record, or corroborating evidence, and the
12 fact that the employee or employee's minor child has been a
13 victim of domestic or sexual violence or that the employee has
14 requested leave pursuant to section 398-3 related to domestic or
15 sexual violence against the employee or the employee's minor
16 child, shall be maintained in the strictest confidence by the
17 employer, and shall not be disclosed, except to the extent that
18 disclosure is:

19 (1) Requested or consented to by the employee;

20 (2) Ordered by a court or administrative agency; or



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1 (3) Otherwise required by applicable federal or state
2 law."

3 SECTION 4. This Act does not affect rights and duties that
4 matured, penalties that were incurred, and proceedings that were
5 begun before its effective date.

6 SECTION 5. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 6. This Act shall take effect upon its approval.

9

INTRODUCED BY:

Sam A. Kelli
Lyn LaCrosse
Jirdeedingame
John M. [unclear]
Matt [unclear]
[unclear]
[unclear]



H.B. NO. 678

Report Title:

Family Leave; Domestic Violence; Sexual Violence

Description:

Allows an employee to take family leave in addition to victim leave when the leave is related to domestic or sexual violence against the employee or the employee's minor child. Requires an employee to submit certification related to domestic or sexual violence of the employee or the employee's minor child. Requires employer confidentiality of information related to domestic or sexual violence against the employee or the employee's minor child.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



DAVID Y. IGE
GOVERNOR

SHAN S. TSUTSUI
LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA
DIRECTOR

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DEPUTY DIRECTOR

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February 14, 2017

To: The Honorable Aaron Ling Johanson, Chair,
The Honorable Daniel Holt, Vice Chair, and
Members of the House Committee on Labor & Public Employment

Date: Tuesday, February 14, 2017
Time: 8:30 a.m.
Place: Conference Room 309, State Capitol

From: Linda Chu Takayama, Director
Department of Labor and Industrial Relations (DLIR)

Re: H.B. No. 678 Domestic Violence

I. OVERVIEW OF PROPOSED LEGISLATION

HB678 extends protected job status to victims of domestic violence or sexual assault under the Hawaii Family Leave Law, chapter 398, Hawaii Revised Statutes (HRS). This extension of the Hawaii Family Leave Law is in addition to either the thirty or five days provided by §378-72. The proposed amendments to chapter 398 mirror the language in §378-72.

DLIR appreciates the intent of the measure and offers comments.

II. CURRENT LAW

The Hawaii Family Leave Law provides four weeks of protected leave for employees of employers with 100 or more employees, on the birth or adoption of a child or to care for family member who is seriously ill.

Chapter 378, Part VI Victims Protections, allows up to 30 days of protected leave for employees working for an employer with 50 or more employees to take because of domestic violence or sexual assault. For employers with not more than 49 employees, victims of domestic violence or sexual assault are provided 5 days.

III. COMMENTS ON THE SENATE BILL

The title of the bill "RELATING TO DOMESTIC VIOLENCE" may be too narrow for the subject matter. The bill allows a person to take family leave for "domestic or sexual violence." This term "domestic or sexual violence" is defined by §378-71 to include "domestic abuse, sexual assault, or stalking." "Sexual assault" and/or "stalking" may not be sufficiently within the scope of the title.

The bill amends §398-3 to allow the proposed leave to be taken by the employee of a qualifying employer for the employee's own self or the employee's minor child. The Hawaii Family Leave Law generally does not allow an employee under §398-3 to take leave for their own conditions.

The reason stated for the measure is avoid employees from exhausting all paid leave they may have accrued as they are required to do in §378-73 reproduced below. Making an amendment to this provision may be a more direct approach to these problems.

~~[§378-73] Relationship to other leaves. [If an employee is entitled to take paid or unpaid leave pursuant to other federal, state, or county law, or pursuant to an employment agreement, a collective bargaining agreement, or an employment benefits program or plan, which may be used for the purposes listed under section 378-72(a), the employee shall exhaust such other paid and unpaid leave benefits before victim leave benefits under this chapter may be applied.]~~ The combination of such other paid or unpaid leave benefits that may be applied and victim leave benefits shall not exceed the maximum number of days specified under section 378-72(a).

DLIR would require additional staffing and resources to take on any additional responsibilities if the measure were enacted.

HAWAII
STATE
COMMISSION
ON THE
STATUS
OF
WOMEN



Chair
LESLIE WILKINS

COMMISSIONERS:

SHERRY CAMPAGNA
CYD HOFFELD
JUDY KERN
MARILYN LEE
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LISA ELLEN SMITH

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February 13, 2017

Testimony in Support, HB 678, Relating to Domestic Violence

To: Representative Aaron Ling Johanson, Chair
Representative Daniel Holt, Vice Chair
Members of the House Committee on Labor and Public Employment

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

Re: Testimony in Support, HB 678, Relating to Domestic Violence

The Commission supports HB 678, which would amend our Hawaii Family Leave Law by providing family leave for employees who have experienced domestic violence or sexual violence. Currently, the Hawaii Family Leave Law applies only to businesses with more than 100 employees. The HFLL allows for 4 weeks of unpaid leave.

This measure would enable victims of domestic violence and/or sexual assault to participate in legal proceedings, receive medical treatment or counseling, or obtain other critical services, without fear that they may lose their job.

While the Commission supports this measure, it should be noted that many working people in Hawaii simply cannot take unpaid leave. Oftentimes, taking unpaid leave would mean an inability to make rent or purchase much-needed items like groceries or food for children. We should be mindful that many people will still be unable to access the leave simply because it is unpaid.

The Commission suggests adding one provision to this measure. The Commission respectfully requests that this Committee add “stalking” to the list of violent crimes for which an employee could take leave. Thank you for this opportunity to provide testimony on this measure.



Chamber of Commerce HAWAII
The Voice of Business

**Testimony to the House Committee on Labor & Public Employment
Tuesday, February 14, 2017 at 8:30 A.M.
Conference Room 309, State Capitol**

RE: HOUSE BILL 678 RELATING TO DOMESTIC VIOLENCE

Chair Johanson, Vice Chair Holt, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **opposes** HB 678, which allows an employee to take family leave in addition to victim leave when the leave is related to domestic or sexual violence against the employee or the employee's minor child; requires an employee to submit certification related to domestic or sexual violence of the employee or the employee's minor child; requires employer confidentiality of information related to domestic or sexual violence against the employee or the employee's minor child.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,600+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

We are opposed to HB 678, as we believe that this bill is duplicative as the law already requires this benefit. Also, this is another mandated benefit that will increase the cost and administrative burden to employers, who already provide this and other benefits for employees to take leave.

We respectfully ask that this bill be deferred. Thank you for the opportunity to testify.

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 10, 2017 4:05 PM
To: LABtestimony
Cc: victor.ramos@mpd.net
Subject: *Submitted testimony for HB678 on Feb 14, 2017 08:30AM*

HB678

Submitted on: 2/10/2017

Testimony for LAB on Feb 14, 2017 08:30AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Victor K. Ramos	Individual	Support	No

Comments:

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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From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 10, 2017 8:42 PM
To: LABtestimony
Cc: clareloprinzi@gmail.com
Subject: Submitted testimony for HB678 on Feb 14, 2017 08:30AM

HB678

Submitted on: 2/10/2017

Testimony for LAB on Feb 14, 2017 08:30AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
clare loprinzi	Individual	Support	No

Comments: The health of the family is essential and in reality always saves money, health improves and na keiki remain healthier.

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HB 678

Late Testimony



LATE

February 13, 2017

To: Representative Aaron Ling Johanson, Chair
Representative Daniel Holt, Vice Chair
Committee on Labor & Public Employment

LATE

From: Deborah Zysman, Executive Director
Hawaii Children's Action Network

Re: **HB678 – Relating to Domestic Violence**
Hawaii State Capitol, Room 309, February 14, 2017, 8:30 AM

LATE

On behalf of Hawaii Children's Action Network (HCAN), we are writing to support HB678 – Relating to Domestic Violence.

After suffering from domestic or sexual violence, often victims or the parent of the victim needs to attend to legal, medical, and emotional issues. By amending the current law, this bill would provide victims the ability to retain their sick leave and other earned leave, while utilizing victims or family leave. This provides an important option to victims so that they can retain leave for future needs.

For these reasons, HCAN respectfully requests that the committee PASS this bill.

HCAN is committed to building a unified voice advocating for Hawaii's children by improving their safety, health, and education. Last fall, HCAN convened input in person and online from more than 50 organizations and individuals that came forward to support or express interest for a number of issues affecting children and families in our state that resulted in the compilation of 2017 Hawai'i Children's Policy Agenda, which can be accessed at <http://www.hawaii-can.org/2017policyagenda>.



LATE

LATE

LATE

COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

Aaron Ling Johanson, Chair

Daniel Holt, Vice Chair

DATE: Tuesday, February 14, 2017

TIME: 8:30 AM

PLACE: Conference Room 309

Comments on HB678 RELATING TO DOMESTIC VIOLENCE.

Allows an employee to take family leave in addition to victim leave when the leave is related to domestic or sexual violence against the employee or the employee's minor child, etc.

Aloha Chair Johanson, Vice Chair Holt

This bill is good as far as it goes but the Coalition prefers the more comprehensive HB1434 to this bill and in addition supports the position of the Hawaii State Commission on the Status of Women with regard to comprehensive paid family leave. Which is:

The provisions of HB 1434 bill go far to protect women, men and their families in the work place. "It would set a standard practice for allowing sick and safe leave for workers at establishments of 25 or more employees. Additionally, it would enable victims of domestic violence, sexual assault or stalking to participate in legal proceedings, receive medical treatment or counseling, or obtain other critical services, without fear that they may lose their job. A minimum of paid sick and/or safe leave would also allow victims to maintain some sense of safety and independence, without fear of retribution for asking for time off.

However, The Commission (and the Coalition) **do not support an employee carve out**, which only applies to employers with 25 or more employees. This excludes a large number of employees in Hawaii and prevents them from earning paid sick leave.

HB 1434 bill also excludes "day or temporary" workers who work less than 20 hours per week at a job. This would exclude a large number of non-food establishment service workers who still interact regularly with the public and still have a need for a minimum amount of paid sick leave. Compounding this problem: many low income women work multiple minimum wage part time jobs just to stay financially afloat. This exclusion would prevent certain female service workers from earning paid sick leave, even though they may be working more than 40 hours a week at various different service positions.

The Commission commends the language allowing eligible employees to take paid sick leave for a child and/or for activities relating to their status as a **victim of family violence**. This language enables victims of violence to participate in legal proceedings, receive medical treatment, counseling, or obtain other critical services. **However, the bill only allows an employee to take leave for a child or spouse, which is not consistent with the leave permitted under our Hawaii Family Leave Law.** Adding parent and grandparent would enable employees at establishments of over 100 employees to take their paid sick leave during their HFLL protected time (i.e. they would be able to take family leave and get paid).

Finally, the Commission suggests adding an **anti-retaliation** provision to this bill's language. This would protect employees who are threatened or retaliated against for requesting to use their paid sick leave under the law."

We hope that the multiple family leave bills can be combined and incorporate our suggestions.

Mahalo for the opportunity to testify,

Ann S. Freed Co-Chair, Hawai'i Women's Coalition

Contact: annsreed@gmail.com Phone: 808-623-5676