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February 14, 2017

To: The Honorable Gilbert S.C. Keith-Agaran, Chair,
The Honorable Karl Rhoads, Vice Chair, and
Members of the Senate Committee on Judiciary and Labor

Date: Tuesday, February 14, 2017
Time: 9:00 a.m.
Place: Conference Room 016, State Capitol

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

Re: S.B. No. 516 Domestic Violence

I. OVERVIEW OF PROPOSED LEGISLATION

SB516 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



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February 12, 2017

Testimony in Support, SB 516, Relating to Domestic Violence

To: Senator Gilbert S.C. Keith-Agaran, Chair
Senator Karl Rhoads, 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 516, Relating to Domestic Violence

The Commission supports SB 516, 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 two provisions to this measure. First, the Commission respectfully requests that this Committee add “stalking” to the list of violent crimes for which an employee could take leave. Finally, the Commission requests that an anti-retaliation provision be added to this bill’s language. This would protect employees who are threatened or retaliated against for requesting to use their family leave and victim leave under the law. Thank you for this opportunity to provide testimony on this measure.



Chamber of Commerce HAWAII
The Voice of Business

**Testimony to the Senate Committee on Judiciary and Labor
Tuesday, February 14, 2017 at 9:00 A.M.
Conference Room 016, State Capitol**

RE: SENATE BILL 516 RELATING TO DOMESTIC VIOLENCE

Chair Keith-Agaran, Vice Chair Rhoads, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **opposes** SB 516, 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 SB 516, 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.