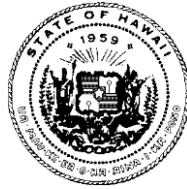


DAVID Y. IGE  
GOVERNOR



PANKAJ BHANOT  
DIRECTOR

BRIDGET HOLTHUS  
DEPUTY DIRECTOR

STATE OF HAWAII  
DEPARTMENT OF HUMAN SERVICES  
P. O. Box 339  
Honolulu, Hawaii 96808

January 26, 2017

TO: The Honorable Josh Green, Chair  
Senate Committee on Human Services

FROM: Pankaj Bhanot, Director

SUBJECT: **SB 507 - Relating to Domestic Violence**

Hearing: Friday, January 27, 2017, 2:45 p.m.  
Conference Room 016, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) supports this bill. Section 586-10.5, Hawaii Revised Statute (HRS), is duplicative of section 350-1.1(a)(3) and (4), and (b) (HRS), which mandate reporting to Child Welfare Services (CWS) 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.

**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 violence abuse involving a family or household member who is a minor or incapacitated person.

Child Welfare Services (CWS) works closely with the Family Court to ensure the safety, permanency (stability), and well-being of children. Under the current statute, the Family Courts report all temporary restraining orders to the CWS branch where there are minors present in the home, regardless of the minors' exposure to the alleged domestic abuse. Many reports do not indicate any safety concerns for the children, consequently, the current statute has created an unnecessary burden on CWS as CWS staff must screen the referrals, investigate the cases, and submit written reports to the court in advance of the hearings.

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Additionally, the automatic referral for investigation to CWS is a potential deterrent to survivors seeking safety through the restraining order process, as petitioners fear being referred for investigation and having their children removed from their care. To prevent survivors from reporting domestic partner abuse, batterers often threaten that survivors will lose custody of their children.

Section 350-1.1, HRS, identifies those persons in their professional or official capacity who are "mandated reporters" of child abuse and neglect. Section 350-1.1(a)(3) and (4), and (b), HRS, requires, amongst others, law enforcement, court staff, the department of public safety, parole and probation officers report all situations of suspected abuse and neglect to Child Welfare Services. An automatic referral in every case through the restraining order process is not necessary. The Judiciary should have the discretion to refer cases to CWS for investigation on a case by cases given the circumstances.

Thank you for the opportunity to testify.



*The Judiciary, State of Hawai'i*

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

Senator Josh Green, Chair  
Senator Stanley Chang, Vice Chair

Friday, January 27, 2017, 2:45 p.m.  
State Capitol, Conference Room 016

By

R. Mark Browning  
Senior Judge, Deputy Chief Judge  
Family Court of the First Circuit

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**Bill No. and Title: Senate Bill No. 507**, Relating to Domestic Violence

**Purpose:** Repeals HRS Section 586-10.5

**Judiciary's Position:**

The Judiciary opposes the complete repeal of HRS §586-10.5 and we respectfully strongly suggest the following language regarding reports requested by judges in HRS Chapter 586 cases.

The Judiciary staff will continue to report appropriate cases as mandated by HRS Chapter 350. However, we are concerned that, in some cases, we will not be able to adequately assess the safety of the children involved in domestic violence cases without timely input from the Department of Human Services (DHS). Therefore, we respectfully request this language that we believe balances the need of providing safety to children, the court's need for information independent of the parties, and avoiding unnecessary work by the DHS.

**§586-10.5 Reports by the department of human services.** If directed by the court, the department of human services shall provide the family court with an oral or written report regarding the safety of a minor child of the parties on or prior to the next regularly scheduled court hearing. If the



Senate Bill No. 507, Relating to Domestic Violence  
Senate Committee on Human Services  
Friday, January 27, 2017 at 2:45 p.m.  
Page 2

department chooses to provide a written report, the department need not appear at the hearing unless ordered by the court. The court shall provide copies of all written reports to the parties.

Our suggested language addresses the bill's concerns regarding redundancy of reporting requirements.

The Judiciary notes that, except with minor amendments, this section has been part of HRS Chapter 586 since 1987 and we have always been deemed a "mandatory reporter" under HRS Chapter 350. Despite this, the number of cases has drastically increased rather than decreased. National "best practices" are based on the diverse practices across the nation. Focusing just on our own state, it does not appear that fear of automatic referral to child welfare or adult protective services has dampened the flow of these cases.

Victims, their children, and perpetrators need case management and access to a panoply of services needed to address this multi-faceted problem and to provide safety. The Family Court is not a service provider; our role is to hear cases and apply the law. Unlike child and incapacitated adult/elder abuse cases, there is no state agency that is a party to the HRS Chapter 586 proceedings that will investigate or find, or refer the parties and children to, appropriate resources. Lacking such an agency, the court must be able to get the help of the DHS through oral/written reports.

Furthermore, it is not enough to simply rely on the mandatory reporting procedures because there is no mechanism that will ensure the court's receiving the needed information within the time frames established by HRS Chapter 586. A complete repeal of HRS §586-10.5 will sever the necessary information flow from the DHS to the court and vice versa. These cases are among the toughest faced by Family Court. Alone, we can provide the required protective order but such an order may not address the needs and safety of the children.

For all these reasons, the Family Court respectfully opposes repealing HRS Section 560-10.5 and respectfully suggests alternative language to replace the current language.

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

Department of the Prosecuting Attorney  
**City and County of Honolulu**

ALII PLACE  
1060 RICHARDS STREET • HONOLULU, HAWAII 96813  
PHONE: (808) 768-7400 • FAX: (808) 768-7515



KEITH M. KANESHIRO  
PROSECUTING ATTORNEY

CHRISTOPHER D.W. YOUNG  
FIRST DEPUTY  
PROSECUTING ATTORNEY

**THE HONORBLE JOSH GREEN, CHAIR  
THE HONORABLE STANLEY CHANG, VICE CHAIR  
SENATE COMMITTEE ON HUMAN SERVICES  
Twenty-Ninth State Legislature  
Regular Session of 2017  
State of Hawai`i**

January 26, 2017

**RE: S.B. 507; RELATING TO DOMESTIC VIOLENCE.**

Chair Green, Vice-Chair Chang and members of the Senate Committee on Human Services, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in support of S.B. 507.

The purpose of S.B. 507 is to repeal H.R.S. Section 586-10.5 and eliminate the requirement that a Child Protective Services Investigation be initiated every time a Protective Order is sought that involves a minor or incapacitated person. Not only is such a requirement a waste of the thinly stretched resources of the department of Human Services but it duplicates and creates confusion with existing mandatory reporting requirements for child and dependent adult abuse. A judge who is convinced that facts revealed in a Protective Order application requires a CPS investigation will still be required to report the matter for investigation. However, requiring that each and every application that involves a child or dependent adult trigger an investigation simply makes no sense. In addition there are very serious concerns among most domestic violence service providers that having such a requirement in the Protective Order law inhibits many victims who badly need this type of legal protection from seeking them because they are wary of an unnecessary and unwarranted CPS investigation of their lives. This negative incentive is clearly counter to the very purpose of our Protective Order law.

For all of the reasons stated above, the Department of the Prosecuting Attorney of the City and County of Honolulu supports S.B. 507. Thank you for the opportunity to testify on this matter.

HAWAII  
STATE  
COMMISSION  
ON THE  
STATUS  
OF  
WOMEN



Chair  
LESLIE WILKINS

COMMISSIONERS:

SHERRY CAMPAGNA  
CYD HOFFELD  
JUDY KERN  
MARILYN LEE  
AMY MONK  
LISA ELLEN SMITH

Executive Director  
Catherine Betts, JD

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

January 27, 2017

To: Senator Josh Green, M.D., Chair  
Senator Stanley Chang, Vice Chair  
Members of the Senate Committee on Human Services

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

Re: Testimony in Support, SB 507, Relating to Domestic Violence

Thank you for this opportunity to testify in support of SB 507, 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 coming forward as they may fear that the application will cause further scrutiny on their family.

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 the court system and our child welfare workers, while potentially causing further harm to victims of domestic violence and abuse.

The Commission supports the passage of SB 507.

Thank you for this opportunity to testify.



*25 Years*

January 27, 2017

TO: Senator Josh Green, Chair  
Senator Stanley Chang, Vice Chair  
Members of the Committee

FR: Nanci Kreidman, M.A

RE: SB 507 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 force 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.

Sincerely,

Nanci Kreidman, M.A.  
Chief Executive Officer

P. O. Box 3198 Honolulu, HI 96801-3198  
O'ahu Helpline: 808 531-3771 | Toll-free: 800 690-6200 | Administration: 808 534-0040 | Fax 808 531-7228  
dvac@stoptheviolence.org | www.domesticviolenceactioncenter |  
facebook.com/domesticviolenceactioncenterhawaii





## HAWAII STATE COALITION AGAINST DOMESTIC VIOLENCE

January 26, 2017

To: Senator Josh Green, Chair  
Senator Stanley Chang, Vice Chair  
Members of the Senate Committee on Human Services

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

Re: Testimony in Support, SB 507 Relating to Domestic Violence

Thank you for this opportunity to testify in strong support of SB 507. The Hawaii State Coalition Against Domestic Violence is a statewide Coalition made of 25 member programs that provide domestic violence services across all our Islands in Hawaii. We would like to thank you for your ongoing efforts to work towards ensuring victims of domestic violence in Hawaii are safe.

SB 507 would repeal Hawaii Revised Statute section 586-10.5. This section requires that the Child Welfare Services section of the Department of Human Services be automatically notified when a petitioner with children files for a restraining order against an abusive partner.

Victims and advocates from across the state have reported to HSCADV that this automatic referral is a barrier to seeking a restraining order. In many rural areas of the state, word of mouth has spread among each other that Child Welfare Services often referred to by victims as CPS will investigate them if they take this otherwise protective measure. In some cases, this has resulted in folks who would benefit from obtaining a restraining order from engaging in the process out of fear that they may lose their children or be mandated to participate in a system that they do not feel would be beneficial to their current circumstances.

Victims of intimate partner violence 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 in the instance that the need for the service is warranted. Domestic Violence Advocates working with domestic violence victims are mandated reporters and are required to report to CWS if they observe child abuse or neglect. 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 is in strong support for the passage of SB 507.

Thank you for this opportunity to testify on this matter, and for your efforts to keep victims safe.

Respectfully  
Marci Lopes



**FAMILY LAW SECTION  
OF THE  
HAWAII STATE BAR ASSOCIATION**

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January 26, 2017

TO: Senator Josh Green, Chair  
Senator Stanley Chang, Vice Chair  
Senator Committee on Human Services

FROM: LYNNAE LEE, Chair  
TOM TANIMOTO, Vice-Chair  
Family Law Section of the Hawaii State Bar Association  
E-mail: [lee@lla-hawaiiaw.com](mailto:lee@lla-hawaiiaw.com); [tanimoto@coatesandfrey.com](mailto:tanimoto@coatesandfrey.com)  
Phone: 237-4100; 524-4854

HEARING DATE: January 27, 2017 at 2:45 p.m.

RE: Testimony in Opposition to SB507 Relating to Domestic Violence

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Dear Chairman Green and Vice Chair Chang and fellow committee members:

We are writing in opposition to SB507 on behalf of the Family Law Section of the Hawaii State Bar Association which is comprised of approximately 140 members statewide all practicing and/or expressing an interest in Family Law.

First and foremost, we truly value the work of the Child Welfare Services ("CWS") division of the Department of Human Services. Second, we know that they are overworked (and probably underpaid) for their time and commitment.

However, we respectfully submit that it is necessary to keep HRS 586-10.5 as is. HRS 586 provides a mechanism to protect abused spouses or intimate partners and/or children. Some individuals are particularly vulnerable and are in dire need of the protection a restraining order provides. The Court, though, does not provide case management, nor does it have the on-site resources to determine what services are appropriate to further the safety and protection of those who are abused. A mandatory reporting requirement for CWS to prepare reports provides just that; namely, information about recommended services not only for the abused, but for the abuser as well.

More importantly, we have seen an increase in individuals filing restraining orders, not to obtain safety, but mainly to gain custody. As practitioners we rely

on the issuance of the CWS report pursuant to HRS 586-10.5 to wean out false allegations from actual threats of harm to a child. We believe the Court also heavily relies on that because the Court simply does not have the time to have full evidentiary hearings on every temporary restraining order ("TRO") matter.

Without the requirement of the report having to be provided by the next hearing, those falsely accused of abusing their spouse or child would not be able to see their child for extended periods of time. This is extremely problematic particularly when the alleged abuser did not do anything to warrant the issuance of the TRO.


That being said, it is our understanding and our experience, that the Family Court does not automatically refer every TRO case to CWS. Family Court has been selective in only sending those that have sufficiently serious allegations to warrant a potential threat of harm or abuse or actual harm or abuse to a minor child.

Without another process in place to carry out the services that CWS currently provides to help protect our community and facilitate justice in the Family Court, we cannot support SB507.

For the reasons stated above, the Family Law Section opposes repealing HRS 586-10.5.

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

Sincerely,



Lynnae Lee, Chair, Family Law Section  
Tom Tanimoto, Vice-Chair, Family Law Section

***NOTE: The comments and recommendations submitted reflect the position/viewpoint of the Family Law Section of the HSBA. The position/viewpoint has not been reviewed or approved by the HSBA Board of Directors, and is not being endorsed by the Hawaii State Bar Association.***

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, January 25, 2017 3:34 PM  
**To:** HMS Testimony  
**Cc:** breaking-the-silence@hotmail.com  
**Subject:** \*Submitted testimony for SB507 on Jan 27, 2017 14:45PM\*

**SB507**

Submitted on: 1/25/2017

Testimony for HMS on Jan 27, 2017 14:45PM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dara Carlin, M.A.	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, January 27, 2017 12:41 AM  
**To:** HMS Testimony  
**Cc:** begoniabarry@gmail.com  
**Subject:** Submitted testimony for SB507 on Jan 27, 2017 14:45PM

**SB507**

Submitted on: 1/27/2017

Testimony for HMS on Jan 27, 2017 14:45PM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Barbara Barry	Individual	Support	No

Comments: Aloha Chair and Committee, I strongly support this bill, Please consider the long term implications if it doesn't pass. Protect our Keiki! Mahalo, Ms. Barbara Barry

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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Sandy Wilson  
MSW Student at University of Hawaii  
January 26, 2017

Measure Title: Relating to Domestic Violence

Report Title: Domestic Abuse; Family Court; Report

BILL NO: SB507

Introducer(s): KIM, BAKER, ENGLISH, ESPERO, GREEN, INOUYE, KEITH-AGARAN, K. RHOADS, SHIMABUKURO, L. THIELEN, TOKUDA, S. Chang, Ihara, Kidani, Kouchi, Nishihara

Hearing Date: January 27, 2017  
Hearing Time: 2:45PM  
Hearing Place: Conference Room 016  
State Capitol  
415 South Beretania Street  
Honolulu, Hawaii

### Introduction

I am a MSW student at the University of Hawaii and I am representing myself as an individual person. I am submitting my testimony in support of BILL SB507 to repeal section 586 – 10.5. I have worked in the social service field with Child and Family Services for over 5 years and I am also a Resource Caregiver for the Department of Human Services. I am currently doing my practicum learning at Child and Family Service in the Domestic Violence program and I have come to know that domestic violence is a very serious issue.

On review of BILL SB507, I believe that the courts are able to determine if a family requesting for a TRO – Temporary Restraining Order will need further assistance from the Department of Human Service if the courts have reason to believe that child abuse or neglect may occur in the reasonable foreseeable future.

In my closing remarks, I am in support of BILL SB507 – the removal of investigating and reporting requirements of the Department of Human Services and the family courts 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.

Sandy Wilson  
PO Box 955  
Waimea, Hawaii 96796  
Ph: 808-634-0204

Senator Josh Green, Chair and Senator Stanley Chang, Vice Chair- Committee for Human Services.

In Regards to SB 507

Hearing Date 01/27/17 @ 2:24 pm

Hello, my name is Carla Ebube I am submitting testimony in support for SB 507. I have worked in the field of Child Welfare for the last 15 years some here in Hawaii and on the Mainland. In this field, it is very busy and social workers respond to many erroneous reports of child abuse and neglect. These reports take away from reports that are not erroneous and need the assistance of Child Welfare Services. This bill poses a solution to part of Child Welfare Services (CWS) issues and will free up the social worker to respond to reports that are requiring immediate assistance.

As it stands right now in Hawaii, every TRO that is filed within the court system where children are involved requires a mandatory call to the CWS hotline for an investigation although a protective parent has already been identified. The reason most are asking for a TRO is to protect their children and themselves from the perpetrator. I am sure, there have been times where children were removed due to the parents fear of obtaining a TRO because CWS would be called immediately upon their filing with the courts. Many times if the parents followed through with obtaining a TRO without fear of repercussion they would not have been subject to losing their children because CWS would view it as the parent is protective. It is important to also see through the eyes of the social worker where they are already overburdened with the size of their caseloads and barely able to meet the outcomes required by Federal and State law. The social worker now must stop everything to respond to every TRO filed with the courts, write a report about the family and children in question. Let me explain how the investigative process is when a TRO report is received; the call comes in sometimes a day later the report is provided to CWS

office, it goes through the intake supervisor that in turn assigns it on a rotational basis to an assessment worker. This worker has 48 hours to interview both parents, the one asking for protection and the perpetrator and the children in question. The social worker completes their assessment goes back to the office and writes a report to the courts letting them know the assessment of the family. This is done for each and every report made to CWS. It is impossible to do a social workers job in a 40 hour work week which leads to burn out rates in Child Welfare. On the flip side the family is feeling like they did something wrong by trying to protect themselves and their families. Most of the time, the families are provided resources by the agencies helping the family file the TRO which makes it redundant for a Child Welfare worker to respond when it is not necessary. So, please help these families and these social workers by passing this bill in support showing these families it is not a crime to seek the help they need and by showing social workers support by lessening their caseloads by taking out reports that don't need their assistance and pass SB 507. If you have any further question please call anytime, again my name is Carla Ebube, I live on the island of Maui, 760-718-8153.

Commented [ce1]: