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# 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



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:

- 7 (1) Upon the birth of a child of the employee or the  
8 adoption of a child; ~~[or]~~
- 9 (2) To care for the employee's child, spouse, reciprocal  
10 beneficiary, sibling, or parent with a serious health  
11 condition~~[-]~~; or
- 12 (3) To seek safety, medical attention, or victim services  
13 related to domestic or sexual violence against the  
14 employee or the employee's minor child. Family leave  
15 taken related to domestic or sexual violence against  
16 the employee or the employee's minor child shall be  
17 made available to the employee in addition to victim  
18 leave under section 378-72 and shall be treated the  
19 same as family leave taken for the other purposes  
20 permitted under this section for purposes of  
21 calculating accrued benefits under this chapter."



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

3 "§398-6 Certification. (a) An employer may require that  
4 a claim for family leave be supported by written certification.

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

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

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



- 1        (1) The following documents:
- 2            (A) A certificate issued by a health care provider or
- 3            other professional from whom the employee or the
- 4            employee's minor child has sought assistance
- 5            related to the domestic or sexual violence
- 6            against the employee or employee's child; and
- 7            (B) A signed written statement from:
- 8            (i) An employee, agent, or volunteer of a victim
- 9            services organization; or
- 10           (ii) The employee's or a minor child's attorney
- 11           or advocate; or
- 12        (2) A police or court record related to the domestic or
- 13        sexual violence.
- 14        (e) All information provided to the employer under
- 15        subsection (d), including statements of the employee, or any
- 16        other documentation, record, or corroborating evidence, and the
- 17        fact that the employee or employee's minor child has been a
- 18        victim of domestic or sexual violence or that the employee has
- 19        requested leave pursuant to section 398-3 related to domestic or
- 20        sexual violence against the employee or the employee's minor
- 21        child, shall be maintained in the strictest confidence by the



1 employer, and shall not be disclosed, except to the extent that  
2 disclosure is:

- 3 (1) Requested or consented to by the employee;
- 4 (2) Ordered by a court or administrative agency; or
- 5 (3) Otherwise required by applicable federal or state  
6 law."

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

10 SECTION 5. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

12 SECTION 6. This Act shall take effect on January 1, 2023.

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**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. Effective 1/1/2023. (SD2)

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