



The Judiciary, State of Hawai‘i

**Testimony to the Senate Committee on Public Safety,
Intergovernmental and Military Affairs**

Senator Clarence K. Nishihara, Chair
Senator Glenn Wakai, Vice Chair

Friday, January 31, 2020 at 1:15 pm
State Capitol, Conference Room 414

by

Christine E. Kuriyama
Senior Judge, Deputy Chief Judge
Family Court of the First Circuit

Bill No. and Title: Senate Bill No. 2304, Relating to Domestic Violence.

Purpose: Provides that family courts may withhold from public inspection any record of a denied temporary restraining order or denied protective order; provided that these records shall remain accessible to law enforcement without a court order.

Judiciary's Position:

The Judiciary takes no position on this bill as this is a matter of policy. The Judiciary offers the following comments and observations. With regard to the request to withhold from the public a denied Temporary Restraining Order (“TRO”) petition record, hearings are not required by the statute. If the ex parte TRO petition is denied, the denied petition is filed. This is the end of the case; no other hearings are held.

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

THE CIVIL BEAT
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Senate Committee on Public Safety, Intergovernmental, and Military Affairs
Honorable Clarence K. Nishihara, Chair
Honorable Glenn Wakai, Vice Chair

RE: Testimony Commenting on S.B. 2304, Relating to Domestic Abuse
Hearing: January 31, 2020 at 1:15 p.m.

Dear Chair and Members of the Committee:

My name is Brian Black. I am the Executive Director of the Civil Beat Law Center for the Public Interest, a nonprofit organization whose primary mission concerns solutions that promote government transparency. Thank you for the opportunity to submit comments on S.B. 2304.

This bill opens the door to denying all public access to judicial records concerning the adjudication of domestic abuse TROs and protective orders when those orders are denied – irrespective of the reason for denial or other circumstances. The proposal raises constitutional concerns under the First Amendment right of public access to judicial records. *E.g., Globe Newspaper Co. v. Superior Ct.*, 457 U.S. 596, 607-10 (1982) (striking down state statute that barred public access to all court testimony by minor victims of sex crimes because it failed to consider individualized circumstances on a case-by-case basis).

From the preamble, it appears that the intent of the bill focuses on discrimination against domestic abuse victims in housing and employment. **We would ask that the Committee consider addressing such concerns directly in the relevant discrimination statutes.** Hiding court records is not the solution.

Thank you again for the opportunity to provide comments on S.B. 2304.



To: Chair Nishihara

Vice Chair Wakai

Fr: Nanci Kreidman, MA,

CEO, Domestic Violence Action Center

Re: SB 2304; Support

Aloha. And thank you for placing this Bill on your agenda for consideration. We offer testimony to support this initiative which represents a positive change that would impact many survivors and island families. This Bill creates a response to tactics used to harm victims that we believe is worth considering.

It is an identifiable trend for abusers to fabricate and file petitions for restraining orders as an act of retaliation; it may also be a way of continuing efforts to assert power in a relationship that is ending or is over.

These acts by abusers become part of the public record. And the information is accessible to employers and landlords. The presence of the record creates barriers for survivors that interfere with their capacity to live independently and become financially stable.

Even though the survivor did not create the problems, landlords and employers do not look kindly on a victim applicant to a job or a home.

If there is no merit to the allegations, and the protection order is not granted, after an Order to Show Cause hearing where both parties are

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present, and where witnesses and evidence are presented, it would be a tremendous boon to a victim's journey to have the retaliatory behavior invisible.

This Bill will permit the Court to withhold the records from public inspection. The exception would be for law enforcement, in the event other incidents, problems or need arises.

We shall look forward to your favorable action on SB 2304.
Thank you.

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SB-2304

Submitted on: 1/29/2020 7:09:04 PM

Testimony for PSM on 1/31/2020 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
aimee chung	Individual	Support	No

Comments:

Thank you in advance for supporting safety for victims of domestic violence.

Aimee Chung, MSW, LSW

Social Worker & Faculty

Domestic Violence Action Center, Board Memeber

SB-2304

Submitted on: 1/29/2020 8:25:26 PM

Testimony for PSM on 1/31/2020 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
kara england	Individual	Support	No

Comments:

Thank you for your support !

Kara England

COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS

Senator Clarence K. Nishihara, Chair

Senator Glenn Wakai, Vice Chair

Friday, January 31, 2020 TIME: 1:15 p.m.

Conference Room 414

State Capitol

Re: Support for SB 2304

Aloha Chair Nishihara and Vice Chair Wakai:

Thank you for placing SB 2304 on your agenda for consideration. I am in support of this initiative which will positively impact many survivors and their families. This Bill will help to eliminate or minimize the negative impacts of abusers' continued efforts to intimidate, dominate and retaliate against their victims by filing false accusations against them.

The ongoing bad acts by abusers may become part of the case record, even if the accusations are unfounded and/or dismissed. And the public accessibility of this record often creates overwhelming barriers for victims/survivors as they try desperately to safely leave the relationship for more independent and financially stable lives.

SB 2304 will provide that family courts may withhold from public inspection any record of a denied temporary restraining order or denied protective order. It would be a tremendous help to a victim's journey if the denied retaliatory actions of their abuser are withheld from public inspection. Please vote to support SB 2304.

Mahalo,

Marsha H. Bolson