



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-FIRST LEGISLATURE, 2022**

ON THE FOLLOWING MEASURE:

H.B. NO. 1891, RELATING TO THE UNIFORM RECOGNITION AND ENFORCEMENT OF CANADIAN DOMESTIC-VIOLENCE PROTECTION ORDERS ACT.

BEFORE THE:

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES, AND HOMELESSNESS

DATE: Thursday, February 10, 2022 **TIME:** 9:00 a.m.

LOCATION: State Capitol, Via Videoconference

TESTIFIER(S): Holly T. Shikada, Attorney General, or
Cheuk Fu Lui, Deputy Attorney General

Chair Yamane and Members of the Committee:

The Department of the Attorney General (Department) appreciates the intent of this bill, but has concerns.

The purpose of this bill is to recognize and enforce a valid order of protection obtained in a court of Canada. The Department has concerns about the issue of criminal enforcement. As it stands, the bill provides for local enforcement of a valid Canadian Protection Order, and allows law enforcement to arrest a violator, but the bill does not provide for a state offense upon which the offense would be based, or a penalty for such a violation. It is unclear whether Hawaii law would be applied in the event of a violation. Therefore, it is recommended that on page 7 of the bill, after line 13, a subsection (f) be inserted which would read as follows:

A person who violates a valid Canadian order for protection is subject to the penalties provided in section 586-26.

Section 586-21, in turn, is recommended to be amended for conformity such that it would read as follows:

Any valid protective order, as defined in 18 U.S.C. §2266, issued by a court or tribunal of another state, tribe, or territory of the United States, or issued by a court or tribunal of Canada and recognized under chapter _____, shall be accorded full faith and credit by the courts of this State and shall be enforced as if it were an order issued in this State.

The Department of the Attorney General appreciates the opportunity to provide its comments.

HB-1891

Submitted on: 2/8/2022 4:22:33 PM

Testimony for HHH on 2/10/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Elizabeth Kent	Commission to Promote Uniform Legislation	Support	Yes

Comments:

Aloha,

Thank you for the opportunity to submit comments on behalf of the Commission to Promote Uniform Legislation in strong **support** of House Bill No. 1891. This act would protect Canadian travelers who have domestic violence protection orders while they are visiting Hawaii.

The uniform act was developed by the Uniform Law Commission with input from judges and practicing lawyers from both the United States and Canada. To date, the Act has been enacted in California, Delaware, Minnesota, Nevada, North Dakota, Washington, and Wisconsin.

I urge adoption of HB 1891 for the following reasons:

- Adoption will **encourage enforcement** of Canadian domestic violence protection orders in Hawaii. If enacted, a law enforcement officer, upon finding probable cause that a valid order was violated, must enforce the provisions of the Canadian order.
- This act **protects law enforcement officers and other officials** from criminal or civil liability for the good faith enforcement of a Canadian protection order.
- This act **provides clear rules for judicial enforcement** of Canadian protection orders.
- This act allows for registration of Canadian orders and helps **prevent possible challenges** which facilitates effective enforcement.

HB 1891 will help protect victims of domestic violence. Thank you for allowing me to testify in support of House Bill No. 1891.

Elizabeth Kent

TESTIMONY OF EVAN OUE ON BEHALF OF THE HAWAII ASSOCIATION FOR JUSTICE (HAJ) WITH COMMENTS ON HB 1891

Date: Thursday, February 10, 2022

Time: 9:00 a.m.

My name is Evan Oue and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) providing **COMMENTS** on HB 1891, Relating to the Uniform Recognition and Enforcement of Canadian Domestic-Violence Protection Orders Act. HAJ has concerns with HB 1891 in its current form as it grants immunity from any civil and criminal liability.

Specifically, Section -6 states that the State, state agency, local governmental agency, law enforcement officer, prosecuting attorney, clerk of court, and state or local governmental official acting in an official capacity shall be immune from civil and criminal liability for an act or omission arising out of the registration or enforcement of a Canadian domestic-violence protection order or the detention or arrest of an alleged violator of a Canadian domestic-violence protection order if the act or omission was in good faith.

The immunity in this bill is overbroad and could result in unintended consequences. For instance, an officer could violate a person's civil rights or cause injury including death in attempting to "enforce" an order of protection and would have absolute immunity for their actions. To preserve the rights of individuals to seek recourse, HAJ recommends that Section -6 be deleted.

Thank you for allowing us to testify regarding this measure. Please feel free to contact us should you have any questions or desire additional information.