

**HB-565**

Submitted on: 2/13/2021 12:41:31 PM

Testimony for JHA on 2/16/2021 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Younghi Overly	AAUW of Hawaii	Support	No

Comments:

Members of AAUW of Hawaii are grateful for this opportunity to testify in strong support of H.B. 565, which would repeal the requirement that a person be domiciled or physically present in the State for a continuous period of at least six months before completing a divorce. This requirement is another unnecessary obstacle to the survivors of domestic violence.

Please pass this important measure and mahalo.

Younghee Overly, Public Policy Chair of AAUW of Hawaii

The American Association of University Women (AAUW) of Hawaii is a state-wide organization made up of six branches (Hilo, Honolulu, Kauai, Kona, Maui, and Windward Oahu), and over 3800 members and supporters statewide. As advocates for gender equity, AAUW of Hawaii promotes the economic, social, and physical well-being of all persons.

**HB-565**

Submitted on: 2/14/2021 12:13:59 PM

Testimony for JHA on 2/16/2021 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Amy Monk	Individual	Support	No

Comments:

Legislators,

HB565 will provide relief to domestic violence victims who can not safely wait the 6 months residence requirement to file for divorce from their perpetrator husbands. Please support this bill. Thank you.

Amy Monk

**HB-565**

Submitted on: 2/15/2021 9:26:27 AM

Testimony for JHA on 2/16/2021 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Patricia Bilyk	Individual	Support	No

Comments:

I Support HB 565 Relating to Divorce and Jurisdiction

Patricia L Bilyk, RN, MPH, MSN



*The Judiciary, State of Hawai‘i*

**Testimony to the Thirty-First State Legislature, 2021 Regular Session  
House Committee on Judiciary & Hawaiian Affairs**

Representative Mark M. Nakashima, Chair  
Representative Scot Z. Matayoshi, Vice Chair

Tuesday, February 16, 2021 at 2:00 p.m.  
State Capitol, Conference Room 325  
VIA VIDEOCONFERENCE

by

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

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**Bill No. and Title:** House Bill No. 565, Relating to Divorce.

**Purpose:** Grants exclusive original jurisdiction in matters of divorce to the family court of the circuit in which an applicant is domiciled at the time the application is filed. Repeals the requirement that a person be domiciled or physically present in the State for a continuous period of at least six months before completing a divorce.

**Judiciary's Position:**

The Judiciary does not take a position on the policy of this bill, and offers the following comments:

1. To the extent property division is an issue in these divorce actions, resolving them may be difficult for the parties because Hawai‘i courts will not have jurisdiction over real property situated outside the State of Hawai‘i.
2. To the extent child custody is an issue in these divorce actions, the Uniform Child-Custody Jurisdiction and Enforcement Act (“UCCJEA”) will apply and the court will not have jurisdiction over child custody issues. This would require cases to be filed in two jurisdictions, i.e., Hawai‘i and the home state of the children.
3. Additional divorces under this measure involving a plaintiff who may not have a significant connection or contact with the State of Hawai‘i will draw from the same court resources used to resolve local divorces; depending on the volume, this may impact time to resolve these matters.

Thank you for the opportunity to comment on this measure.

**HB-565**

Submitted on: 2/15/2021 12:00:40 PM

Testimony for JHA on 2/16/2021 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Laurie Field	Planned Parenthood Votes Northwest and Hawaii	Support	No

Comments:

Planned Parenthood Votes Northwest and Hawaii supports HB565.



HAWAI'I STATE  
COALITION AGAINST  
DOMESTIC VIOLENCE

February 16, 2021

Members of the House Committee on Judiciary & Hawaiian Affairs:

Chair Rep. Mark M. Nakashima  
Vice Chair Scot Z. Matayoshi  
Rep. Linda Ichiyama  
Rep. Dale T. Kobayashi  
Rep. Matthew S. LoPresti  
Rep. Nicole E. Lowen  
Rep. Angus L.K. McKelvey  
Rep. Nadine K. Nakamura  
Rep. Roy M. Takumi  
Rep. Chris Todd  
Rep. James Kunane Tokioka  
Rep. Gene Ward

Re: HB565 Relating to Divorce – Strong Support

Dear Chair Nakashima, Vice Chair Matayoshi, and Members of the House Committee on Judiciary & Hawaiian Affairs:

The Hawai'i State Coalition Against Domestic Violence (HSCADV) engages communities and organizations to end domestic violence through education, advocacy, and action for social justice. HSCADV is a private, not-for-profit organization and is a statewide partnership of domestic violence programs and shelters.

On behalf of HSCADV and our 23 member programs statewide, I respectfully submit testimony in strong support of HB565. This bill removes the six-months residency requirement to file for a divorce in the State of Hawai'i resulting in the potential for increased safety for victims of domestic violence who are married. Requiring a victim to stay in the jurisdiction results in an unnecessary delay in safely fleeing their abuser and from connecting to their support networks.

Domestic violence is predicated in an abuser having power and control over their victim, including their ability to leave the relationship. When an abuser feels they are losing that control, their tactics become more aggressive and often the abuse increases. A study published in the American Journal of Public Health found that victims are at higher risk of



HAWAI'I STATE  
**COALITION AGAINST  
DOMESTIC VIOLENCE**

femicide when they leave their abuser, especially after they have been living together<sup>1</sup>. Being forced to remain in the jurisdiction while they wait for a divorce increases that potential for danger.

For the reasons stated above, we are in **strong support** of this measure. Thank you for the opportunity to testify on this important matter.

Sincerely,

Angelina Mercado  
Executive Director, Hawai'i State Coalition Against Domestic Violence

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<sup>1</sup> "Risk Factors for Femicide in Abusive Relationships: Results From a Multisite Case Control Study," Jacquelyn C. Campbell, PhD, RN, et al., Am J Public Health 93(7): 1089–1097 (July 2003)



## Hawaii Women's Coalition

February 16, 2021

Members of the House Committee on Judiciary & Hawaiian Affairs:

Chair Rep. Mark M. Nakashima  
Vice Chair Scot Z. Matayoshi  
Rep. Linda Ichiyama  
Rep. Dale T. Kobayashi  
Rep. Matthew S. LoPresti  
Rep. Nicole E. Lowen  
Rep. Angus L.K. McKelvey  
Rep. Nadine K. Nakamura  
Rep. Roy M. Takumi  
Rep. Chris Todd  
Rep. James Kunane Tokioka  
Rep. Gene Ward

Re: HB565 Relating to Divorce – Support

Dear Chair Nakashima, Vice Chair Matayoshi, and Members of the House Committee on Judiciary & Hawaiian Affairs:

On behalf of the Hawai'i Women's Coalition, we respectfully submit testimony in support of HB565. The Hawai'i Women's Coalition is a catalyst for progressive, social, economic and political change through action on critical issues facing Hawaii's women and girls. Members currently include 29 organizations and agencies (private, public, membership) as well as individuals. The coalition encourages the inclusion of interested parties and in achieving equitable representation.

This bill removes the six-months residency requirement to file for a divorce in the State of Hawai'i resulting in the potential for increased safety for victims of domestic violence who are married. Requiring a victim to stay in the jurisdiction results in an unnecessary delay in safely fleeing their abuser and from connecting to their support networks.

Domestic violence is predicated in an abuser having power and control over their victim, including their ability to leave the relationship. When an abuser feels they are losing that control, their tactics become more aggressive and often the abuse increases. A study published in the American Journal of Public Health found that victims are at higher risk of femicide when they leave their abuser, especially after they have been living together<sup>1</sup>. Being

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<sup>1</sup> "Risk Factors for Femicide in Abusive Relationships: Results From a Multisite Case Control Study," Jacquelyn C. Campbell, PhD, RN, et al., Am J Public Health 93(7): 1089–1097 (July 2003)





## Hawaii Women's Coalition

forced to remain in the jurisdiction while they wait for a divorce increases that potential for danger.

For the reasons stated above, we are in **support** of this measure. Thank you for the opportunity to testify on this important matter.

Sincerely,  
Hawai'i Women's Coalition

**HB-565**

Submitted on: 2/15/2021 2:36:56 PM

Testimony for JHA on 2/16/2021 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Ann S Freed	Individual	Support	No

Comments:

Aloha Chair Nakashima, Vice Chair Matayoshi and members,

Under current law, victims of domestic violence are forced to remain in the State/County of jurisdiction while they wait for a divorce. This increases the potential for physical harm including death.

Domestic violence is predicated in an abuser having power and control over their victim, including their ability to leave the relationship. A study published in the American Journal of Public Health found that victims are at higher risk of femicide when they leave their abuser, especially after they have been living together.

This bill removes the six-months residency requirement to file for a divorce in the State of Hawai'i increasing safety for victims of domestic violence who are married. Requiring a victim to stay in the jurisdiction results in an unnecessary delay in safely fleeing their abuser and from connecting to their support networks.

With domestic violence on the rise under COVID stay-at-home rules, too many women are in dire straits. Please pass out of committee.

Mahalo,

Ann S. Freed

Co-Chair Emeritus, Hawaii Women's Coalition

**HB-565**

Submitted on: 2/16/2021 9:14:17 AM

Testimony for JHA on 2/16/2021 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Nikki-Ann Yee	Individual	Support	No

Comments:

**I testify in support of HB565, which removes the six-months residency requirement to file for a divorce in the State of Hawai'i resulting in the potential for increased safety for victims of domestic violence who are married. Requiring a victim to stay in the jurisdiction results in an unnecessary delay in safely fleeing their abuser and from connecting to their support networks.**

**HB-565**

Submitted on: 2/16/2021 9:49:14 AM

Testimony for JHA on 2/16/2021 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
nanci kreidman	domestic violence action center	Support	No

Comments:

aloha,

this is very helpful for survivors of domestic violence. an improvement over having to reside for 6 months in Hawaii before filing for divorce.

we are grateful for your favorable action on HB 565.

love, nanci kreidman



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**David B. Russell**  
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TESTIMONY OF THOMAS D. FARRELL  
Regarding HB 565, Relating to Divorce  
Committee on Judiciary and Hawaiian Affairs  
Rep. Mark M. Nakashima, Chair/Rep. Scot Z. Matayoshi, Vice Chair  
Friday, February 16, 2021 2:00 p.m.  
(via videoteleconference)

Chair Nakashima, and Members of the Committee:

My apologies for the late testimony.

HB 565 corrects a flaw in our divorce statutes and should pass without controversy. All it does is to provide that IF you can start a divorce in Hawaii, then you can finish it here. It does not change the requirement that you be domiciled in Hawaii at the time you file. It just allows you to finish a divorce if you can start one here. It helps people who have to move before the case is done, and as others have noted, this is a particular issue for DV victims, as well as the military community.

Last year, the Judiciary expressed concerns about this legislation, and anticipating that it will do so again, here is my response.

1. The Judiciary is worried that this will increase the number of divorce cases filed. *We have heard these “sky is falling” predictions from bureaucrats many times. The fact is that this bill doesn’t allow anyone to file who can’t already file for divorce here.* It will not turn Hawaii into a “divorce Mecca.” Maybe a few are currently deterred from filing because they know they won’t be able to finish their case here, but that is not a good thing. Often, people are in desperate need of temporary orders for custody or support that they can only get from a divorce court. Then, they have to leave before the case is finally resolved, and their case gets dismissed (and the temporary orders go out the window). Many times, they can’t immediately re-file in the new place because of durational residency requirements. They wind up in a legal limbo unable to get judicial relief anywhere.

2. It has also been posited that in these cases the court will not have jurisdiction over real property situated outside the State of Hawai‘i. Absolutely not true. If the defendant is served with the *Complaint* “within the state” or if the defendant submits to the personal jurisdiction of the court, the family court has jurisdiction to divide and distribute the

Divorce ♦ Paternity ♦ Custody ♦ Child Support ♦ TROs ♦ Arbitration  
also handling national security cases involving revocation or denial of security clearances

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property of the parties wherever in the world it may be situated. The problem is that under current law, the court loses jurisdiction to continue the divorce case to completion when the parties leave. This bill fixes that.

3. Another fallacious argument raised is that the Uniform Child-Custody Jurisdiction and Enforcement Act (“UCCJEA”) will apply and the court will not have jurisdiction over child custody issues. Supposedly, this would require cases to be filed in two jurisdictions, i.e., Hawai‘i and the home state of the children. This is also completely false. Child custody subject matter jurisdiction is based on the presence of a child in the state at the time the action is filed. This bill addresses the people who can file here but have to leave before the case is completed. If the court had child custody jurisdiction at the time of filing, it retains it until the case is completed.

4. Finally, the Judiciary has previously testified that the increase of filed cases will have a negative impact on the time frame in which divorce cases are resolved. In other words, these new cases involving a plaintiff who may not have a significant connection or contact with the State of Hawai‘i will compete with all other cases for the same judicial resources. There are five thousand divorce cases filed in the Family Court of the First Circuit this year. My off-the-cuff estimate is that perhaps twenty cases get dismissed prior to completion because both parties move away. However, even if it is a hundred cases, that would be affected, that is two percent of the divorce calendar.

HB565 is a minor---but necessary---change that will probably only affect a handful of people. If you can start a divorce here, you ought to be able to finish it here. That’s all this bill does. It deserves your support.