



The Judiciary, State of Hawai'i

**Testimony to the Thirty-Second State Legislature
2023 Regular Session**

House Committee on Judiciary & Hawaiian Affairs
Representative David A. Tarnas, Chair
Representative Gregg Takayama, Vice Chair

Thursday, March 16, 2023 at 2:00 p.m.
State Capitol, Conference Room 325 & Videoconference

by:
Andrew T. Park
Judge, Family Court of the First Circuit

Bill No. and Title: Senate Bill 1267, S.D. 1, Relating to Protective Orders.

Purpose: Allows nonresidents to apply for a temporary restraining order or order for protection in cases of domestic abuse. Allows nonresidents to apply for a temporary restraining order and an injunction from further harassment. (SD1).

Judiciary's Position:

The Judiciary takes no position on Senate Bill 1267 S.D.1, but wishes to express our gratitude for the amendments made by the Senate Committee on Judiciary in S.D.1.

In order to accommodate the changes to the jurisdictional filing requirements in domestic abuse protective order cases, the Judiciary will need to make certain operational changes, and we will need to revise our current forms to reflect the statutory changes and to ensure that they are ADA compliant. Therefore we respectfully request an effective date of September 1, 2023.

Thank you for the opportunity to testify on this matter.

SB-1267-SD-1

Submitted on: 3/14/2023 2:04:57 PM

Testimony for JHA on 3/16/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Samuel M Mitchell	Individual	Support	Remotely Via Zoom

Comments:

I support allowing temporary restraining orders for out-of-state residents who have children, relatives, friends, or spouses living in Hawaii. Because Oahu has a large military population that is not state citizens.

Samuel Mitchell Makiki NB-10 & Leg V.P. of NARFE Hawaii



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

March 16, 2023

Members of the House Committee on Judiciary & Hawaiian Affairs

Chair David A. Tarnas

Vice Chair Gregg Takayama

Rep. Sonny Ganaden

Rep. Troy N. Hashimoto

Rep. Daniel Holt

Rep. Linda Ichiyama

Rep. Greggor Ilagan

Rep. Sam Satoru Kong

Rep. John M. Mizuno

Rep. Kanani Souza

Re: SB1267 SD1 Relating to Protective Orders

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

The Hawai'i State Coalition Against Domestic Violence (HSCADV) addresses the social, political, and economic impacts of domestic violence on individuals, families, and communities. We are a statewide partnership of domestic violence programs and shelters.

On behalf of HSCADV and our 28 member programs statewide, I respectfully submit testimony in **strong support of SB1267 SD1**.

We already allow non-residents such as the University of Hawai'i students to petition for an order of protection. This measure would ensure that former residents or temporary residents have the same access to remedies provided by an order of protection, including for instances when the offense occurred in the state. The changes to our current law are not unprecedented, there are:

- **14 states** currently allow petitions where the victim is a resident, temporarily located, the defendant is a resident, and where the offense occurred. (DE, FL, IL, IN, MN, MO*, MS, MT, NV, NJ, PA*, UT**, WV, WI)
- **25 states** (+ DC) allow petitioners to be nonresidents. (AL, DC, DE, FL, ID, IL, IN, KS, KY, ME, MA, MN, MS, MO*, MT, NM, ND, NV, NJ, OH, PA*, UT, VT, WA, WV, WI)



HAWAI'I STATE
COALITION AGAINST
DOMESTIC VIOLENCE

- **33 states** allow filing in the abuser's county. (AL, AR*, CO, CT, DE, FL, GA, ID, IL, IN, IA, LA, ME, MN, MS, MO*, MT, NV, NH, NJ, NY, NC, OK, OR, PA*, SC, SD, TN, TX, UT, VA, WV, WI)
- **25 states** allow filing if the abuse occurred there. (AR*, CO, DE, FL, GA, IL, IN, LA, MD, MN, MS, MO*, MT, NV, NJ, NY, OK, PA*, SC, TN, TX, UT, VA, WV, WI)

* In AR, MO, PA, the petition may also be filed where the defendant is temporarily located.

** In UT, the petition may also be filed anywhere a defendant may be served.

Thank you for the opportunity to testify on this important matter.

Sincerely,

Angelina Mercado, Executive Director



March 14, 2023

Dear Chair Tarnas, Vice Chair Takayama, and distinguished members of the House Judiciary & Hawaiian Affairs Committee:

My name is Nazeedah Khan and I am the Founder of Restraining Orders Without Borders, a state and federal campaign advocating for access to restraining orders and police reports for 25 million sexual/domestic violence survivors across America. **I am also the sexual assault survivor whose story prompted SB 1267/HB 752.**

Thank you for your passage of SB 1267's companion HB 752 in the House last month, we are immensely grateful for your dedication to ensuring sexual/domestic violence survivors have equal access to protection and safety, and your efforts do not go unnoticed.

Background

I am a former Hawaii resident who moved to California in 2019 for work. On a trip to visit my family on Oahu, I was sexually assaulted. **14 months since my assault, I do not have a restraining order from either California or Hawaii due to residency status.** When I was denied a restraining order in California due to the perpetrator being a Hawaii resident, I turned to Hawaii only to find HRS 586-2 and HRS 604-10.5 limits restraining order petitions to residents. Today, the evidence I collected while being assaulted sits in a flashdrive in my home because no Judge had the jurisdiction to assess the merits of my case. The sexual assault clinic I turned to advised that I wait for my perpetrator to come to California or make contact with me to try again.

The Problem

- 1) Defendants have the federal right, based on the Federal Rules of Civil Procedures, to submit themselves to an out of state court while victims must rely on state-by-state laws for the same right. Hawaii does not currently provide this right for restraining orders while 25 other states do.
- 2) States inconsistently apply case law and the minimum contacts requirement when determining jurisdiction in cases of interstate sexual and domestic violence. As a result, courts are denying restraining orders to resident survivors due to jurisdiction concerns over a nonresident offender, leaving the survivor to turn to the offender's court for protection. In Hawaii, this is not possible, as a nonresident may not petition for a restraining order.

Why Hawaii

SB 1267 is crucial in the State of Hawaii due to the following reasons:

- 1) Hawaii is one of seven states with the most restrictive restraining order requirements for victims of sexual/domestic violence in the nation;
- 2) Hawaii faces a unique case of invisible survivors. These are survivors who have no paper trail of having been abused in Hawaii or of needing protection from a Hawaii perpetrator if they do not call the police while on the island as the state's judicial system does not grant them the ability to engage with the system;
- 3) Hawaii has a prominent tourism industry which receives almost 10 million tourists a year – that is almost half the amount of nationwide survivors. Roughly 60% of visitors are from the Mainland;¹ and
- 4) While a federal bill is being actively pursued, federal legislation can take up to 10 years to pass, and survivors need their right to protection urgently.

¹ 2019 Annual Visitor Research Report, The Department of Business, Economic Development & Tourism, State of Hawaii.



RESTRAINING ORDERS
WITHOUT BORDERS

The Precedent

The bill is modeled off of states which already have the provisions of SB 1267 in place:

- 1) **14 states** currently allow petitions where the victim is a resident, temporarily located, the defendant is a resident, and where the offense occurred. (DE, FL, IL, IN, MN, MO, MS, MT, NV, NJ, PA, UT, WV, WI)
- 2) **25 states** (+ DC) allow petitioners to be nonresidents. (AL, DC, DE, FL, ID, IL, IN, KS, KY, ME, MA, MN, MS, MO, MT, NM, ND, NV, NJ, OH, PA, UT, VT, WA, WV, WI)
- 3) **33 states** allow filing in the abuser's county. (AL, AR, CO, CT, DE, FL, GA, ID, IL, IN, IA, LA, ME, MN, MS, MO, MT, NV, NH, NJ, NY, NC, OK, OR, PA, SC, SD, TN, TX, UT, VA, WV, WI)
- 4) **25 states** allow filing if the abuse occurred there. (AR, CO, DE, FL, GA, IL, IN, LA, MD, MN, MS, MO*, MT, NV, NJ, NY, OK, PA, SC, TN, TX, UT, VA, WV, WI)

Benefit to Hawaii

- 1) Hawaii would join 14 other states with the most comprehensive restraining order access laws;
- 2) Hawaii creates a safety net for its 6 million annual Mainland visitors, including those who are former residents, and ensures their safety from sexual/domestic violence;
- 3) Hawaii takes a proactive approach which prevents future instances of sexual/domestic violence;
- 4) Passing SB 1267 ensures Hawaii's congressional and state lawmakers are aligned as Restraining Orders Without Borders has met with Hawaii's congressional senators who are in support of this model of legislation federally; and
- 5) Hawaii would reassure the 43,000 people who signed our campaign's petition globally that they are seen and heard.

When our laws protecting survivors are weak, our laws protecting perpetrators are inadvertently strong.

I am incredibly grateful this bill has been brought to the House JHA Committee and **thank Chair Tarnas, Vice Chair Takayama, sponsor Representative Ichiyama, and the Committee for your continued support and prioritization of survivor safety.** I am happy to be contacted for questions and **encourage the Committee's passage of SB 1267.**

Sincerely,

Nazeehah Khan

Founder, Restraining Orders Without Borders

ROWB.National@gmail.com

www.ROWBNational.com

SB-1267-SD-1

Submitted on: 3/15/2023 12:07:25 AM

Testimony for JHA on 3/16/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Rehnuma khan	Individual	Support	Written Testimony Only

Comments:

Aloha..I'm Nazeedah Khan's mom and i support SB1267

PI humbly request this bill be passed as law so our daughter can come home to us..

And so many other victims who are also suffering get some justice.

Please dont let evil win over justice.

everyday becomes a bit harder with no justice.

SB-1267-SD-1

Submitted on: 3/14/2023 2:49:31 PM

Testimony for JHA on 3/16/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Sarah Pearson	Individual	Support	Written Testimony Only

Comments:

My name is Sarah Pearson and I wholeheartedly support this bill. The provisions of this bill are critical for protecting survivors and ensuring their right to feel safe. I urge you to support SB1267 and help protect sexual assault survivors. By passing this bill, we can send a clear message that sexual assault is never acceptable and that survivors will be supported.

SB-1267-SD-1

Submitted on: 3/14/2023 1:04:16 PM

Testimony for JHA on 3/16/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kellie Oosterman	Individual	Support	Written Testimony Only

Comments:

My name is Kellie Oosterman and I support SB1267. All survivors of sexual assault deserve protection basic protections.

SB-1267-SD-1

Submitted on: 3/15/2023 7:28:11 AM

Testimony for JHA on 3/16/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Zoha	Individual	Support	Written Testimony Only

Comments:

I support SB1267. This bill is a high priority since sexual and domestic violence survivors are being failed by laws in Hawaii which restrict restraining orders for victims who have been assaulted in Hawaii. Please ensure survivor safety.



Rise, Inc. | www.risenow.us
P.O. Box 34462 | Washington, DC 20043

15 March, 2023

Dear Chairman Tarnas and Members of the Committee:

Thank you for allowing me to address you. My name is Caitlin Ryan. I write today as an ally to survivors and as a woman affected by the tremors of sexual violence.

On January 21, 2017, I helped organize the largest single-day mass protest in the history of the United States. The Women's March brought together women and allies from all backgrounds, political persuasions, and religions from all around the world to stand together against misogyny, against violence, and against hatred. For many, the Women's March helped us feel a little less alone. A little less helpless. A little bit stronger.

That same evening as I was dismissing the last group of volunteers, one of the volunteers on my team, a man at least 30 years older than me, forcibly pulled me toward him and kissed me on the lips. I did not consent to or welcome this action. I was visibly uncomfortable and humiliated in front of other volunteers who had looked up to me. Suddenly, after a day of feeling so empowered, I felt alone and so small. My strength was gone.

I'd known this feeling before. I first learned what rape was when I was 11 years old, in the fifth grade. While kicking around a soccer ball after school, my good friend confided in me that on a recent family vacation out of state, she was raped in a hotel room. That feeling of helplessness set in right away—my friend was in pain. And there was nothing I could do to make things right for her.

It was this sinking, powerless feeling I've felt in my stomach every time since then when I've heard from another friend, classmate, or co-worker who has experienced sexual violence and has walked the long, lonely road toward justice.

But I write today because I now know I am not helpless. We are not helpless. We can support survivors, starting by breaking down the barriers faced by survivors in the justice system. Today, survivors face immense challenges from a system that re-victimizes them when they seek basic care and justice. Today I urge you to support SB1267. This bill presents an opportunity to

improve conditions for survivors like my childhood friend, by expanding access to restraining orders to nonresident survivors.

Access to justice shouldn't depend on one's zip code, and survivors everywhere deserve access to protection. Through this bill (SB1267), you have the opportunity to improve conditions for survivors like my childhood friend. Thank you for your time and consideration.

A handwritten signature in black ink that reads "Caitlin M Ryan". The signature is written in a cursive, flowing style.

Caitlin Ryan
Chief Strategy Officer, Rise

SB-1267-SD-1

Submitted on: 3/15/2023 5:59:39 PM

Testimony for JHA on 3/16/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Dara Carlin, M.A.	Individual	Support	Written Testimony Only

Comments:

Stand in Support