



HAWAI'I STATE  
COALITION AGAINST  
DOMESTIC VIOLENCE

April 6, 2022

Members of the Senate Committee on Judiciary:

Chair Karl Rhoads  
Vice Chair Jarrett Keohokalole  
Sen. Laura Acasio  
Sen. Kurt Fevella  
Sen. Mike Gabbard  
Sen. Donna Mercado Kim  
Sen. Chris Lee

Re: SR49 Relating to Requesting the Judiciary to permanently provide an option allowing petitioners of temporary restraining orders to remotely testify for those hearings

Dear Chair Rhoads, Vice Chair Keohokalole, and Members of the Senate Committee on Judiciary:

The Hawai'i State Coalition Against Domestic Violence (HSCADV) advances the safety and healing of victims, survivors and their families. We are the collective voice of a diverse network of organizations and individuals, working to eliminate all forms of domestic violence in Hawai'i by fostering partnership, increasing awareness of domestic violence, developing the capacity our member programs and community partners to address the needs of survivors and their families, and advocating for social justice and change.

On behalf of HSCADV and our 26 member programs statewide, **we are in strong support of this measure** and make technical recommendations for clarity. SR49 would require the Judiciary to permanently provide an option allowing petitioners to testify remotely in Order of Protection hearings, referred to as the Order to Show Cause (OSC) hearing. This would result in greater safety for victims of domestic violence, economic justice and equitable access to the courts.

**Safety, first.**

The most dangerous time for a victim of domestic violence is when they choose to leave an abusive relationship. That action usually coincides with starting the restraining order/order of protection process through the family court, culminating in a confrontation with the abuser at the OSC hearing. The hallways or parking lot of our family courts could very well be the most dangerous place for victims of domestic violence. They are often victims of witness intimidation by their abuser and their abuser's friends and families when appearing in court for the OSC hearing. AEquitas: The Prosecutors' Resource on Violence Against Women (AEquitas) found that:

*"Victims of domestic violence are almost always subjected to some form of intimidation or*

*manipulation during the course of criminal proceedings, as are their children.”<sup>1</sup>*

**Economic Justice and Access to the Courts.**

Remote testimony helps victims who do not have access to childcare or paid leave access the courts. In addition to being one of the most expensive states in the US, Hawai‘i also has one of the highest costs of childcare, and simply not enough childcare to meet the needs of our families. Families on the neighbor islands and our rural communities are particularly vulnerable to the dearth and expense of childcare. While well-intended, [HRS 378-72](#) Leave of absence for domestic or sexual violence mandates a maximum of 30 days or 5 days of unpaid time off, depending on the size of the company. Domestic violence advocates across the state have successfully worked with victims to prepare for and navigate remote hearings while minimizing risk of being losing their jobs for excessive absences or the loss of childcare.

**Remote and Virtual Hearings Are Recommended by the Conference of Chief Justices and Conference of State Court Administrators (CCJ/COSCA).**

Hawaii’s Chief Justice is a member of the [CCJ/COSCA Access and Fairness Committee](#) that proposed Resolution 2 In Support of Remote and Virtual Hearings. The resolution was adopted at the CCJ/COSCA 2021 Annual Meeting on July 28, 2021 and sets forth six principles to guide technological changes for post-pandemic court technology.

*“Although the downward trajectory of US COVID-19 cases has enabled the beginning of a transition towards more in-person court operations, courts should not stop the usage or adoption of technology for court operations, including the filing of court documents, jury selection, and remote and virtual hearings;”<sup>2</sup>*

Committee members found that remote technology has allowed courts to maintain operations during the pandemic, keep court employees safe and resulted higher appearance rates, which in the case of Hawai‘i, would help alleviate the post-pandemic backlog of the judicial calendar.

Finally, we provide the following clarifying amendments for your consideration:

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<sup>1</sup> “Witness Intimidation: Meeting the Challenge,” AEquitas: The Prosecutors’ Resource on Violence Against Women, 2013, <https://aequitasresource.org/wp-content/uploads/2018/09/Witness-Intimidation-Meeting-the-Challenge.pdf>.

<sup>2</sup> “Resolution 2: In Support of Remote and Virtual Hearings,” Conference of Chief Justices and Conference of State Court Administrators, [https://www.srln.org/system/files/attachments/Resolution-2\\_Remote-and-Virtual-Hearings.pdf](https://www.srln.org/system/files/attachments/Resolution-2_Remote-and-Virtual-Hearings.pdf), accessed April 4, 2022.

WHEREAS, since the onset of the coronavirus disease 2019 (COVID-19) pandemic, there has been an increase in gender-based violence against women in Hawaii, especially through domestic and intimate partner violence; and

WHEREAS, the Domestic Violence Action Center's Helpline reported a forty-six percent increase in calls to report cases of domestic and intimate partner violence from late March to early October 2022; and

WHEREAS, due to the adversarial nature of the legal system, petitioners of an order of protection temporary restraining orders (TROs) must face their alleged abusers in court during an Order to Show Cause Hearing (OSC Hearing) where a judge will decide to extend a temporary restraining order (TRO) or dismiss it, before their TRO requests could be granted, which can lead to retraumatization; and

WHEREAS, a 2020 study by the University of Arizona found that eighty-one percent of legal advocates indicated that many, most, or all of their clients identified the behaviors of the alleged abusers or abusers' associates in court as a source of retraumatization; and

WHEREAS, adopting a victim-centered approach and giving petitioners of orders of protection TROs the option to testify without being in the same physical space as their alleged abusers provides a safe space for domestic and intimate partner violence survivors within the adversarial court system; and

WHEREAS, allowing petitioners of TROs to remotely testify for the OSC Hearing ~~those hearings would~~ not only encourage domestic and intimate partner violence survivors to obtain an order of protection ~~temporary restraining order~~ against their abusers without fear of retaliation, but also prevent the infliction of further trauma on the petitioner while preserving the defendant's/respondent's constitutional ~~right to defend themselves an OSC Hearing~~ ~~confront adverse witnesses during a hearing for a TRO~~; and

WHEREAS, as a result of the COVID-19 pandemic, the Judiciary has increased the use of remote technology, including telephonic or video conferencing technology, to conduct court proceedings; now, therefore,

BE IT RESOLVED by the Senate of the Thirty-first Legislature of the State of Hawaii, Regular Session of 2022, that the Judiciary is requested to permanently provide an option allowing petitioners of temporary orders of protection restraining orders to remotely testify at OSC ~~for those~~ hearings; and

BE IT FURTHER RESOLVED that the Judiciary is requested to establish parameters to allow remote testimony for petitioners of orders of protection TROs where certain conditions are present, such as domestic violence, intimate partner violence, or where petitioners are diagnosed with post-traumatic stress disorder; and

BE IT FURTHER RESOLVED that a certified copy of this Resolution be transmitted to the Chief Justice of the Hawaii Supreme Court.

HSCADV  
SR49, JDC Hearing  
April 6, 2022  
Page 4 of 4

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

Sincerely,

Angelina Mercado, Executive Director



‘O kēia ‘ōlelo hō’ike no ke  
**Komikina Kūlana Olakino o Nā Wāhine**

Testimony on behalf of the  
**Hawai‘i State Commission on the Status of  
Women**

IN SUPPORT OF SR49  
April 5, 2022

Aloha Chair Rhoads, Vice Chair Keohokalole, and Honorable Members,

The Hawai‘i State Commission on the Status of Women supports SR49, which requests that the Judiciary make remote testimony a permanent option for domestic violence victims in Order of Protection hearings.

The Judiciary should work to reduce victim exposure to hostile environments, especially when hostility is peaking during victim flight. This could help minimize trauma and dangerous situations for domestic violence victims who are seeking to exit an abusive relationship. This would also alleviate child care challenges for mothers who are being victimized.

Accordingly, the Commission asks that the Committee pass SR49.

Thank you,  
Khara Jabola-Carolus,  
Executive Director

**SR-49**

Submitted on: 4/5/2022 8:11:01 AM

Testimony for JDC on 4/6/2022 9:31:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Karen Tan	Testifying for Child & Family Service	Support	Written Testimony Only

Comments:

Child & Family Service supports SR 49. As the largest, most comprehensive provider of domestic violence services in our state, we agree that survivors of domestic violence should have the right of choice to testify either in-person or virtually. Thank you for this opportunity to submit testimony.



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DATE: January 30, 2018

TO: The Honorable Josh Green, Chair  
The Honorable Stanley Chang, Vice Chair  
Senate Committee on Human Services

The Honorable Rosalyn Baker, Chair  
The Honorable Jill Tokuda, Vice Chair  
Senate Committee on Commerce, Consumer Protection, and Health

FROM: Renae Hamilton-Cambeilh, Executive Director  
YWCA of Kaua`i

RE: Testimony in Support of S.B. 2342  
Relating to Sexual Assault

Good Afternoon, Chairs Green and Baker, Vice Chairs Chang and Tokuda, and members of the Senate Committees on Human Services and on Commerce, Consumer Protection, and Health. My name is Renae Hamilton and I am the Executive Director for the YWCA of Kaua`i.

The YWCA of Kaua`i strongly supports S.B. 2342 which requires health insurers to provide coverage for clinical victim support services by qualified mental health providers for victims of sexual violence. The YWCA is the sole provider on Kaua`i for providing essential services related to sexual assault; crisis intervention and counseling treatment. We provide an average of over 2,000 counseling hours a year for over 200 clients. Over 50% of the victims that receive counseling services are under 18 years old. Adults who were molested as children are a large percentage of our adult clients. This bill provides an avenue to fill a gap in services for survivors of sexual assault who are participating in clinical treatment to heal from the trauma of sexual assault.

In addition to clinical treatment, victims with mental health conditions caused by being sexually assaulted often require clinical support services which can include; working with schools, employers, other agencies and government departments. The range of clinical support issues include; safety planning, assisting with reasonable accommodations as appropriate and accessing correct agencies or government departments for housing, health care etc. This clinical support is an essential aspect of treatment for SA victims and each, each survivors healing journey is unique and it is important to acknowledge that sexual assault offenses are not like other offenses and need additional support throughout the course of treatment.. This bill would help these survivors access all the services they need and a means for those services to be funded with the ability to access health care coverage benefits.

On behalf of the staff and Board of Directors, I urge the committees to pass S.B 2342 as written. Thank you for this opportunity to testify.



**LATE**

**SR-49**

Submitted on: 4/5/2022 9:27:18 PM

Testimony for JDC on 4/6/2022 9:31:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Karen Holt	Individual	Support	Written Testimony Only

Comments:

Our organization helps domestic violence victims to petition for Temporary Restraining Orders on the island of Moloka'i. We also accompany the petitioners to court. We support this resolution because it could help to reduce the stress and to minimize the danger of having to confront a perpetrator in person. Most victims are seriously traumatized, and having a safe distance virtually will help to minimize further trauma. Thank you for considering my testimony.

Karen Holt

Moloka'i Alternatives to Violence

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