

JOSH GREEN, M.D.
GOVERNOR



KEITH T. HAYASHI
SUPERINTENDENT

STATE OF HAWAII
DEPARTMENT OF EDUCATION
KA 'OIHANA HO'ONA'AUAO
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 02/24/2023

Time: 02:00 PM

Location: 325 VIA VIDEOCONFERENCE

Committee: House Judiciary & Hawaiian
Affairs

Department: Education

Person Testifying: Keith T. Hayashi, Superintendent of Education

Title of Bill: HB 0448, HD1 RELATING TO MINORS.

Purpose of Bill: Provides that, subject to certain requirements, a domestic violence victim advocate or other mental health professional licensed by the State may petition for a protective order on a minor's behalf when the minor's parent or guardian is unwilling or unable to submit a petition.

Department's Position:

The Hawaii State Department of Education (Department) respectfully offers comments on HB 448, HD1, and appreciates that the requested revisions to HB 448 were adopted.

The Department understands the necessity of supportive measures to ensure the overall safety of Hawaii's youth and all Department employees will continue to follow articulated systematic child abuse reporting procedures. The Department defers to the Department of Human Services and county police for expertise with regard to the trajectory of referrals involving suspected maltreatment of children.

Thank you for the opportunity to submit testimony on HB 448, HD1.



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

February 24, 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: HB448 HD1 Relating to Minors

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.

We support the intent of this proposed legislation and on behalf of HSCADV and our 28 member programs statewide, respectfully **suggest amendments to HB448 HD1**. Teen dating violence is a serious problem. The CDC's Youth Risk Behavior Survey in 2019¹ found approximately 1 in 12 high school students experience physical dating violence and approximately 1 in 12 experience sexual dating violence. We recognize the fear minors experience telling their parent or legal guardian that a romantic relationship is abusive, especially if they did not have their parent or legal guardian's consent to engage in that relationship.

However, we have significant concerns with this bill as drafted:

1. it creates potential liability for domestic violence programs and their staff who petition for an order of protection on behalf of a minor without their parent or legal guardian's consent;

¹ <https://www.cdc.gov/violenceprevention/intimatepartnerviolence/teendatingviolence/fastfact.html>



HAWAI'I STATE
COALITION AGAINST
DOMESTIC VIOLENCE

2. there is the potential for the unintended consequence of jeopardizing a domestic violence advocate's ability to maintain privilege under the victim counselor statute; and
3. the circumstances under which a parent or legal guardian is "unable or unwilling" to petition on a minor's behalf are not defined and resulting in ambiguity about when child welfare services should be intervening.

To mitigate the concerns addressed above and to enable minors access to services and safety, we propose allowing minors 16 years of age or older to petition for an order of protection without a parent or legal guardian's consent.

We recommend deleting lines 3-18 on page 3 of HB448 HD1 and instead include the following language:

(3) Any minor 16 years of age or older on their own behalf without the consent of a parent or legal guardian; or

(4) Any emancipated minor as defined in Section 577-25 Hawaii Revised Statutes.

The following nine states/jurisdictions already have laws in place that allow minors of various ages to petition for a protective order without a parent or legal guardian's consent:

- District of Columbia
- Minnesota
- Missouri
- New Hampshire
- Oklahoma
- Oregon
- Texas
- Vermont
- Washington

Minors in Hawai'i should have the right to seek relief from abuse through a protection order without having to demonstrate that their parents or legal guardians are unable or unwilling to do so on their behalf.

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

Sincerely,
Angelina Mercado, Executive Director



Parents And Children Together

BUILDING THE RELATIONSHIPS
THAT MATTER MOST

ParentsAndChildrenTogether.org

TESTIMONY ON HB 448 HD1 – *Comments with Amendment Request*

TO: Chair Tarnas, Vice-Chair Takayama, & Members - House Committee on Judiciary & Hawaiian Affairs
FROM: Ryan Kusumoto, President & CEO
DATE: February 24, 2023 at 2:00 PM

Parents and Children Together (PACT) offers comments on HB 448 HD1 Relating to Minors, respectfully requesting amendments. HB 448 HD1 amends HRS 586-3 to allow a domestic violence victim advocate or other licensed mental health professional to petition for an order of protection on a minor's behalf when the minor's parent or guardian is unwilling or unable to submit a petition.

Founded in 1968, PACT is a statewide community-based organization providing a wide array of innovative and educational social services to families in need. Assisting more than 15,000 people across the state annually, we help identify, address, and successfully resolve challenges through our 20 programs. Among our services are early education programs, domestic violence prevention and intervention programs, child abuse prevention and intervention programs, childhood sexual abuse supportive group services, child and adolescent behavioral health programs, sex trafficking intervention, poverty prevention and community building programs.

PACT's mission is to work together with Hawaii's children, individuals, and families to create safe and promising futures. Teen dating violence is a serious problem. The CDC's Youth Risk Behavior Survey in 2019 found approximately 1 in 12 high school students experience physical dating violence and approximately 1 in 12 experience sexual dating violence. We recognize the fear minors experience telling their parent or legal guardian that a romantic relationship is abusive, especially if they did not have their parent or legal guardian's consent to engage in that relationship.

However, we have significant concerns with this bill as drafted:

1. it creates potential liability for domestic violence programs and their staff who petition for an order of protection on behalf of a minor without their parent or legal guardian's consent;
2. there is the potential for the unintended consequence of jeopardizing a domestic violence advocate's ability to maintain privilege under the victim counselor statute; and
3. the circumstances under which a parent or legal guardian is "unable or unwilling" to petition on a minor's behalf are not defined and resulting in ambiguity about when child welfare services should be intervening.

To mitigate the concerns addressed above and to enable minors access to services and safety, we favor allowing minors 16 years of age or older to petition for an order of protection without a parent or legal guardian's consent.

We are in favor of deleting lines 3-18 on page 3 of HB448 HD1 and instead including the following language:

(3) Any minor 16 years of age or older on their own behalf without the consent of a parent or legal guardian; or

(4) Any emancipated minor as defined in Section 577-25 Hawaii Revised Statutes.

Minors in Hawai'i should have the right to seek relief from abuse through a protection order without having to demonstrate that their parents or legal guardians are unable or unwilling to do so on their behalf.

Thank you for the opportunity to testify. Please contact me at (808) 847-3285 or rkusumoto@pacthawaii.org if you have any questions.



HB-448-HD-1

Submitted on: 2/23/2023 2:33:47 PM

Testimony for JHA on 2/24/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Amanda Pump	Child and Family Service	Oppose	Written Testimony Only

Comments:

Regarding HB448 HD1

Child and Family Service submits testimony in opposition of HB448 HD1. Child and Family Service is a Hawai'i-born, impact driven, community-based non-profit organization that has been serving Hawai'i's families since 1899. Since inception, its mission has been to strengthen families and foster the healthy development of children. Over the last year CFS directly served nearly 15,000 individuals and indirectly served over 75,000. We are the largest and most comprehensive provider of domestic violence in the State of Hawaii. We are concerned with this bill due to the following reasons as indicated below:

1. it creates potential liability for domestic violence programs and their staff who petition for an order of protection on behalf of a minor without their parent or legal guardian's consent;
2. there is the potential for the unintended consequence of jeopardizing a domestic violence advocate's ability to maintain privilege under the victim counselor statute; and
3. the circumstances under which a parent or legal guardian is "unable" to petition on a minor's behalf are not defined and resulting in ambiguity about when child welfare services should be intervening.

CFS considers supporting this bill if language was indicated as follow:

(1) Any minor 16 years of age or older on their own behalf without the consent of a parent or legal guardian; or

(2) Any emancipated minor as defined in Section 577-25 Hawaii Revised Statutes.

The following nine states/jurisdictions already have laws in place that allow minors of various ages to petition for a protective order without a parent or legal guardian's consent:

- District of Columbia
- Minnesota

- Missouri
- New Hampshire
- Oklahoma
- Oregon
- Texas
- Vermont
- Washington

Minors in Hawai'i should have the right to seek relief from abuse through a protection order without having to demonstrate that their parents or legal guardians are unable to do so on their behalf.

Thank you for the attention to this matter.

Sincerely,

Amanda Pump

Chief Program Officer

HB-448-HD-1

Submitted on: 2/22/2023 8:53:14 AM

Testimony for JHA on 2/24/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ellen Godbey Carson	Individual	Support	Written Testimony Only

Comments:

Please support this bill. It will help protect minors in vulnerable circumstances, where their life or safety is at risk but they do not have loving parents willing to seek a protective order for their safety. We all hope that every child has a loving, protective home, but the reality of our world is that some children are not fortunate to be in safe, loving circumstances and instead face risks and threats of violence. This bill can help protect them and allow the courts to provide a shield for them.

Thank you for your consideration of my testimony.

TO: Representative David Tarnas, Chair
Representative Gregg Takayama, Vice Chair
House Judiciary & Hawaiian Affairs Committee Members

FROM: Dara Carlin, M.A.
Domestic Violence Survivor Advocate

DATE: February 24, 2023

RE: Concerns about HB448 HD1

Good afternoon, Chair Tarnas, Vice Chair Takayama & House Judiciary & Hawaiian Affairs Committee Members,

While HB448 HD1 sounds like a good idea, I'm not exactly sure how it would play out - **specifically I'm concerned about professionals coming to the conclusion or deeming that a minor's parents are "unwilling or unable" to petition on a minor's behalf then proceeding with legal action potentially without the parents' awareness and/or consent.**

I think other steps would need to be in-place before this kind of over-reach which could have very serious repercussions for the parents who may not even have been made aware of a threat against their child, ie: Child Welfare Services investigation/involvement. Parents should be notified first before any action is taken on behalf of their child/ren so they have a chance to respond before potentially being *labeled as "unwilling or unable" on paper.*

While I completely understand the concern and intent of this measure, I think it needs to be worked on a little more so as not to set a very dangerous precedent for **Constitutionally protected parental rights** and unintentionally create unintended consequences for all involved.

Respectfully,

Dara Carlin, M.A.

Domestic Violence Survivor Advocate

HB-448-HD-1

Submitted on: 2/22/2023 3:22:12 PM

Testimony for JHA on 2/24/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Marilyn Yamamoto	Individual	Oppose	Written Testimony Only

Comments:

Committee members,

I have serious concerns that the terms "unwilling" and "unable" could be misused by a third-party authorization to override parental rights of a minor.

Marilyn Yamamoto

Hawaii coalition for Child Protective Reform

TO: House Committee on Judiciary & Hawaiian Affairs

RE: HB448 HD1 - RELATING TO MINORS.

POSITION: **STRONG SUPPORT**

February 22, 2023

Aloha Chair Tarnas, Vice Chair Takayama, and members of the committee:

February 24, 2023 14:00
325 Via Videoconference

My name is Mary Ann Castro and I am a graduate student at University of Hawaii at Mānoa in the Department of Social Work. I am representing for myself as an individual in favor of this bill relating to minors to protect them from domestic abuse and to petition for protective orders.

The following are reasons for STRONG SUPPORT HB448 HD1:

I fully advocate for young individuals to have the right to have access to obtaining a restraining order with the help of a licensed mental health professional or other victim advocate who can petition for protective order on behalf of that minor. As the bill mentions, not every minor may have support or a trusted adult in their life to advocate for them and to protect them from domestic violence. But that should not stop them from seeking it. This bill will help protect the minors safety, provide a safe environment in the judiciary system, and reinforce that regardless of your age, your voice is heard.

I strongly urge the committee to pass HB448 HD1. Mahalo for the opportunity to testify.

Mary Ann N. Castro

HB-448-HD-1

Submitted on: 2/22/2023 5:19:13 PM

Testimony for JHA on 2/24/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Alan Garcia	Individual	Support	Written Testimony Only

Comments:

I support HB448, HD1, because this provides an option of safety for a minor who may be facing domestic violence and is having difficulty securing safety.

Here, this bill will allow a domestic violence victim advocate or a mental health professional licensed by the State to petition for a protective order for that minor, when minor's parent or guardian is unwilling or unable to submit a petition.

This will ensure our minors are protected from a violent relationship and/or violent household.

HB-448-HD-1

Submitted on: 2/23/2023 4:24:32 AM

Testimony for JHA on 2/24/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Lisa Smith	Individual	Support	Written Testimony Only

Comments:

I support HB448, HD1 because this bill will allow minors the ability to secure a TRO to protect them in a violent relationship.

Many times a minor in a relationship will have a difficult time asking their parents to assist them in securing a TRO - Protective Order (should the relationship turn violent) as parents may have already told their child not to be in that relationship.

This bill will allow a safe option to protect minors dealing with domestic violence.

Thank you for allowing me the opportunity to provide testimony in support of HB448, HD1.

HB-448-HD-1

Submitted on: 2/23/2023 7:05:54 PM

Testimony for JHA on 2/24/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Vanessa Corwin	Individual	Comments	Written Testimony Only

Comments:

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

I am writing as a former domestic violence and sexual assault survivor advocate. While I understand the intent of this proposed legislation, I have concerns and respectfully suggest amendments to HB448 HD1.

Teen dating violence is a serious problem, with studies showing that 1 in 3 U.S. teens will experience physical, sexual, or emotional abuse from someone they're in a relationship with before they become adults (Loveisrespect.org). It can be challenging for survivors of any age to seek support, and there are added obstacles for minors who do not have as many options available to them.

Based on my experiences, my concerns with this bill are as follows:

1. it creates potential liability for domestic violence programs and their staff who petition for an order of protection on behalf of a minor without their parent or legal guardian's consent;
2. there is the potential for the unintended consequence of jeopardizing a domestic violence advocate's ability to maintain privilege under the victim counselor statute; and
3. the circumstances under which a parent or legal guardian is "unable" to petition on a minor's behalf are not defined and resulting in ambiguity about when child welfare services should be intervening.

I was an advocate in Washington state, where a petitioner can be the age of 16 to file for a protective order. While supporting teens in this process, I saw how empowering it could be for them to take this step towards safety, with or without the knowledge or consent of their parent or guardian. Survivors deserve to have options available to them so that they can make the best decision for their situation.

This is why I recommend that the state of Hawai'i allow minors 16 years of age or older to petition for an order of protection without a parent or legal guardian's consent. Minors in Hawai'i should have the right to seek relief from abuse through a protection order without having to demonstrate that their parents or legal guardians are unable to do so on their behalf.

In addition to Washington, the following states/jurisdictions already have laws in place that allow minors of various ages to petition for a protective order without a parent or legal guardian's consent:

- District of Columbia
- Minnesota
- Missouri
- New Hampshire
- Oklahoma
- Oregon
- Texas
- Vermont

Mahalo for your time and consideration, and for making space for conversation about the safety of domestic violence survivors.

Respectfully,

Vanessa Corwin

February 23, 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: HB448 HD1 Relating to Minors

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

I support the intent of this proposed legislation and respectfully **suggest amendments to HB448 HD1**. I recognize the fear minors experience telling their parent or legal guardian that a romantic relationship is abusive, especially if they did not have their parent or legal guardian's consent to engage in that relationship. However, as a former domestic violence victim advocate, I have significant concerns with this bill as drafted:

1. It creates potential liability for domestic violence programs and their staff who petition for an order of protection on behalf of a minor without their parent or legal guardian's consent;
2. There is the potential for the unintended consequence of jeopardizing a domestic violence advocate's ability to maintain privilege under the victim counselor statute;
3. The circumstances under which a parent or legal guardian is "unable" to petition on a minor's behalf are not defined and resulting in ambiguity about when child welfare services should be intervening; and
4. It may create safety concerns for the domestic violence program and/or advocate from parents and legal guardians who object to the filing of a petition. If a parent or legal guardian refuses to file a petition and later learns that another adult filed on behalf of their minor, there may be retaliation against the program or advocate.

To mitigate the concerns addressed above and to enable minors access to services and safety, I propose allowing minors 16 years of age or older to petition for an order of protection without a parent or legal guardian's consent.

I recommend deleting lines 3-18 on page 3 of HB448 HD1 and instead include the following language:

(3) Any minor 16 years of age or older on their own behalf without the consent of a parent or legal guardian; or

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- Missouri
- New Hampshire
- Oklahoma
- Oregon
- Texas
- Vermont
- Washington

Minors in Hawai'i should have the right to seek relief from abuse through a protection order without having to demonstrate that their parents or legal guardians are unable to do so on their behalf.

Mahalo,

Chelsey Stewart

HB-448-HD-1

Submitted on: 2/24/2023 2:10:12 PM

Testimony for JHA on 2/24/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Dana Keawe	Individual	Oppose	Written Testimony Only

Comments:

oppose