

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:** 02/09/2023

**Time:** 09:00 AM

**Location:** 329 VIA VIDEOCONFERENCE

**Committee:** Human Services

**Department:** Education

**Person Testifying:** Keith T. Hayashi, Superintendent of Education

**Title of Bill:** HB 0448 RELATING TO MINORS.

**Purpose of Bill:** Provides that a school counselor, 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; provided that certain specified information is provided in support of the petition.

**Department's Position:**

The Hawaii State Department of Education (Department) respectfully offers comments on HB 448.

The Department understands the necessity of supportive measures to ensure the overall safety of Hawaii's youth. However, the measures identified in this bill fall outside the scope of the school counselor's and school based mental health provider's role. While it is within the capacity of these role groups to advocate for the safety of students through the mandated reporting of potential abuse and connecting students to appropriate supports, the ability to adequately assess a situation to determine the necessity of filing a protective order petition is not within their current practices, training, or expertise.

Additionally, the Department has a well articulated, systematic child abuse reporting procedure that defines the obligation to report and the process all Department employees must follow to report any suspicion of harm to a child or substantial risk of a child being harmed to the Department of Human Services Child Welfare Unit and county

police. 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.

Should the measure move forward, the Department respectfully requests the following revisions to ensure those given authority to submit a petition on a minor's behalf are professionals with the necessary knowledge base:

Page 2, Line 2 ~~school counselor or~~ domestic violence victim advocate.

Page 3, Line 4 (3) A ~~school counselor~~, domestic violence victim advocate,

Thank you for the opportunity to submit testimony on HB 0448.



HAWAII STATE  
**COALITION AGAINST  
DOMESTIC VIOLENCE**

February 9, 2023

Members of the House Committee on Human Services:

Chair John M. Mizuno  
Vice Chair Terez Amato  
Rep. Della Au Belatti  
Rep. Greggor Ilagan  
Rep. Bertrand Kobayashi  
Rep. Scott Y. Nishimoto  
Rep. Jenna Takenouchi  
Rep. Diamond Garcia

Re: HB448 Relating to Minors

Dear Chair Mizuno, Vice Chair Amato, and Members of the House Committee on Human Services:

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**. Teen dating violence is a serious problem. The CDC's Youth Risk Behavior Survey in 2019<sup>1</sup> found approximately 1 in 12 high school students experience physical dating violence and approximately 1 in 12 experienced sexual dating violence. We recognize the fear minors experience when telling their parent or legal guardian that a romantic relationship is abusive, especially if they did not have their parent or guardian's consent to engage in that relationship.

However, this bill as drafted creates liabilities 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. **In order to mitigate the potential liability to domestic violence advocates and provide 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.**

**Adding to HRS 586-3, subsection b:**

---

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



HAWAI'I STATE  
COALITION AGAINST  
DOMESTIC VIOLENCE

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

(3) 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 relief from domestic abuse through orders of protection: District of Columbia, Minnesota, Missouri, New Hampshire, Oklahoma, Oregon, Texas, Vermont and Washington.

Lowering the age for minors in Hawai'i to obtain an order of protection would still provide them access to safety, assistance with protection orders at the courts and a domestic violence advocate.

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

Sincerely,  
Angelina Mercado, Executive Director

**HB-448**

Submitted on: 2/8/2023 7:45:37 AM

Testimony for HUS on 2/9/2023 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Russell	Lokahi Treatment Centers	Support	Written Testimony Only

Comments:

**HB448 Relating to Minors**

**(Domestic Violence Protective Orders for Minors)**

**We support the intent of this proposed legislation and on behalf of HSCADV and our 28 member programs statewide, respectfully suggest amendments to HB448. 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 experienced sexual dating violence. We recognize the fear minors experience when telling their parent or legal guardian that a romantic relationship is abusive, especially if they did not have their parent or guardian’s consent to engage in that relationship.**

**However, this bill as drafted creates liabilities 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. In order to mitigate the potential liability to domestic violence advocates and provide 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.**

**HB-448**

Submitted on: 2/7/2023 2:42:29 PM

Testimony for HUS on 2/9/2023 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Marilyn Yamamoto	Hawaii Coalition for Child Protective Reform	Oppose	Written Testimony Only

Comments:

Committee members,

The fundamental right of parents to determine the upbringing, education, and care of children has been upheld by the Constitution for 100 years. It is a dangerous precedent to allow another party to intervene unless there would be extremely narrow circumstances to override a parent. We strongly **OPPOSE** this bill as written.

**HB-448**

Submitted on: 2/8/2023 8:20:50 AM

Testimony for HUS on 2/9/2023 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Dr. Faith Joyner	Individual	Support	Written Testimony Only

Comments:

Aloha, I support this bill. Mahalo for your consideration.

TO: Representative John Mizuno, Chair  
Representative Terez Amato, Vice Chair  
House Human Services Committee Members

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

DATE: February 9, 2023

RE: Comments on HB448

Good Morning Chair Mizuno, Vice Chair Amato & House Human Services Committee Members,  
and my apologies for the following Late Testimony.

While HB448 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 parental rights and unintentionally create unintended consequences for all involved.

Respectfully,

*Dara Carlin, M.A.*

Domestic Violence Survivor Advocate



**HB-448**

Submitted on: 2/8/2023 10:31:52 AM

Testimony for HUS on 2/9/2023 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Cynthia Texeira	Individual	Support	Written Testimony Only

Comments:

I support HB448.

Good afternoon,

Thank you chair, legislative council members for allowing me to speak on House Bill 448.

I, Kanela Kamahalohanuilai support House Bill 448.

As a mother I understand that my children may not open up to me on certain topics that they may be experiencing in school, relationships, or in the community. I feel honored to have another person be a sound board that my children feel they can trust to help them feel safe a protected when I am unable to be of service to my children.

Young people should feel safe in all environments that they encounter throughout their lives. If a young person finds someone they can trust to go through the legal process of submitting a TRO, or DV case this may help build trust and transparency.

The first time I had to file a TRO in 2020, I felt overwhelmed, depressed, and anxious. I felt like everyone in the court house, HPD, and other government agency was judging me. I personally felt like they were mentally comparing me to past victims that would make a TRO and not follow through or allow their partner back in the household wasting government time and money.

If someone was with me that day on the second floor of Honolulu Family Court house. I would have had more comfort to know that I am not alone in that process, but I was alone.

Let's provide our young adult a choice to have the support that they may need in their vulnerable moments in life. Let's allow our service providers to have the opportunity to support, guide, and legally help our young adults in the legal process of domestic abuse, protective order, and petitions.

Thank you.

Chair John Mizuno, Vice Chair Terez Amato and House Human Services Committee Members  
HB448 RELATING TO MINORS

My name is Tristine and I support HB448. However, I do have some concerns. I believe that HB448 has the potential to be an effective and important resource that minors would be able to access and utilize like that of the current law HRS §586-3. Under the current law, HRS §586-3, a family member, a state agency or the victim can petition for a protective order, however a 3rd party cannot petition on the behalf of an abused victim. If HB448 were to be put into place, minors facing domestic abuse would be able to gain support from more than just a family member or a state agency.

My concern, however, is that the law does not take into consideration the possibility that minors do not always confide in those such as family members, school counselors, domestic violence victim advocates, or other mental health professionals about experiencing domestic abuse. There are also times when the only people that know a minor is facing domestic abuse are close friends. For example, from the start of middle school until the middle of high school, my friend was in a long term abusive relationship with her then-boyfriend. When we were 15 years old, my friend tried to turn to her parents for help in leaving the relationship that she was in. She did not want to tell her parents but she did not know what else she to do as we were not of age yet, we did not know of any other places that she could turn to to escape her relationship, and she did not believe she would have the strength to be able to leave him on her own. She was scared to leave him without anything in place but was also too afraid to file a petition for a protective order herself. When she did eventually go to her parents for support, because her then-boyfriend was the child

of a close friend and they had known him for most of his life, her parents trusted him over her and did not believe that he could be capable of hurting her. The abuse only worsened after this and she ended up being stuck in that situation for another year. The only reason that she was able to leave was because the father of her then-boyfriend got a promotion at work and had to relocate to the mainland. If not for that, neither of us know if she would have ever been able to escape.

In a situation such as that which I had experienced with my friend, even if I had not been a minor at the time and wanted to be able to or had been able to convince my parents to do so, under the current law, HRS §586-3, we would not have been allowed to file a petition for a protective order on her behalf because we were not her family members or a state agency. I believe that, either law HRS §586-3 should be amended or for a law such as SB45 to be put into place to allow for those other than a family member or state agency to file petitions for victims with the consent of said victim.

Thank you for the opportunity to testify,

*Tristine Rodrigues*

## CONTACT INFORMATION

(808) 741-3846

trodrigu@hawaii.edu