



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 2, 2023 at 2:00 p.m.
Conference Room 325 & Via Videoconference

by:

Matthew J. Viola

Senior Judge, Deputy Chief Judge

Family Court of the First Circuit

WRITTEN TESTIMONY ONLY

Bill No. and Title: House Bill No. 841, H.D.1, Relating to Domestic Abuse Protective Orders.

Purpose:. Amends the automatic referral requirements to apply when there are allegations of child abuse and a domestic abuse restraining order is sought. (HD1)

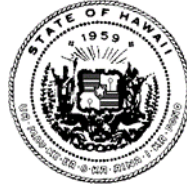
Judiciary’s Position:

The Judiciary supports House Bill No. 841, H.D.1.

This bill amends Hawai‘i Revised Statutes Section 586-10.5, which is entitled: “Reports by the department of human services [“DHS”].” This section outlines responsibilities of the court and the DHS related to HRS Chapter 350, and aligns the chapter 586 definition to the definition of chapter 350. This will provide greater consistency between chapters 350 and 586.

Thank you for the opportunity to testify on this measure.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



CATHY BETTS
DIRECTOR
KA LUNA HO'OKELE

JOSEPH CAMPOS II
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

STATE OF HAWAII
KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF HUMAN SERVICES
KA 'OIHANA MĀLAMA LAWELAWE KANAKA
Office of the Director
P. O. Box 339
Honolulu, Hawaii 96809-0339

March 1, 2023

TO: The Honorable Representative David A. Tarnas, Chair
House Committee on Judiciary & Hawaiian Affairs

FROM: Cathy Betts, Director

SUBJECT: [HB 841 HD1](#) – RELATING TO DOMESTIC ABUSE PROTECTIVE ORDERS.

Hearing: March 2, 2023, 2:00 p.m.
Conference Room 325, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) supports this bill, provides comments, and defers to the Judiciary.

PURPOSE: The measure amends the automatic referral requirements to apply when there are allegations of child abuse and a domestic abuse restraining order is sought. (HD1) The House Committee on Human Services amended the measure by making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

Child Welfare Services (CWS) works closely with the Family Court to ensure children's safety, permanency, stability, and well-being. Section 586-10.5, Hawaii Revised Statutes, requires the Family Courts to report all temporary restraining orders to the CWS involving a family or household member who is a minor in cases of alleged domestic abuse. Many referrals do not indicate safety concerns for the children.

The current mandate to refer to Child Welfare Services (CWS) may deter parents from seeking a temporary restraining order (TRO), as petitioners fear DHS will take their children from their care as they seek protection from abuse. Perpetrators often use the threat of child

custody or the potential for a child's removal against their abuse victims. Filing a petition for a TRO is a proactive step toward creating safety for oneself and one's children; individuals experiencing domestic violence should not be "punished" with unnecessary CWS involvement for taking this protective step.

Additionally, the current statute that mandates an automatic referral to CWS puts more demands on CWS staff investigating reports of abuse or neglect. With the TRO referral, CWS workers have 2-5 days to screen the referrals, investigate the cases, submit written reports to the court, and appear for the hearing.

The proposed amendment limits referrals to CWS to petitions for restraining orders that include allegations of child abuse as defined in section 350-1, HRS. The amendments will:

- Reduce reporting families where harm or a threat of harm to a child does not exist,
- Increase and strengthen support for domestic violence survivors,
- Reduce some fears of TRO petitioners that seeking protection will generate a CWS investigation and report, and
- Reserve CWS resources for investigations of reports of child abuse.

Thank you for the opportunity to testify.



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

March 2, 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: HB841 HD1 Relating to Domestic Abuse 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 support of HB841 HD1**. This bill amends HRS 586-10.5, Domestic Abuse Protective Orders to require reports by the Department of Human Services Child Welfare Services when there are allegations of child abuse as defined in HRS 350-1 instead of allegations of domestic abuse.

Without this amendment, survivors of domestic violence would continue to face the potential of a Child Welfare Services (CWS) investigation when they include their children in a domestic violence protective order. Too often, survivors are subjected to more traumatization and victimization during a CWS investigation - instead of receiving trauma-informed help and resources, they are subjected to victim blaming and are held accountable for the abuse, not their partner. Survivor safety is not addressed, and yet we know, when a survivor is safe, their children are more likely to be safe as well.

Domestic violence protective orders are the only survivor-led legal remedy to which they have access and we must balance strengthening the intent of domestic violence protective orders and ensuring that allegations of child abuse are investigated and children are protected.

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 IN SUPPORT OF HB 841 HD1

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

Parents and Children Together (PACT) supports HB 841 HD1 Relating to Domestic Abuse Protective Orders, which amends HRS 586-10.5, Domestic Abuse Protective Orders to require referral to the Department of Human Services Child Welfare Services Branch when there are *allegations of child abuse* as defined in HRS 350-1.

Currently, the law requires that a referral to the Department of Human Services Child Welfare Services Branch be made when a parent seeks a domestic abuse restraining order against another parent or household member for *allegations of domestic abuse*. We have found this requirement to be ineffectively broad and not helpful to the safety of the domestic abuse survivor. Too often, survivors are subjected to more traumatization and victimization during a CWS investigation. Instead of receiving trauma-informed help and resources, they are blamed and are held accountable for the abuse, instead of the actual perpetrator. Survivor safety is not addressed, and yet we know that when a survivor is safe, their children are more likely to be safe as well.

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 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.

In relation to this bill, PACT's Family Peace Center has been providing domestic violence counseling for over 25 years and offers a comprehensive community-based program that includes prevention and intervention services. Services on Oahu and Maui strive to bring peace to Hawaii families through a service array that promotes safety, support and accountability to offenders, survivors, and their children. We also operate three domestic violence shelters and have extensive experience with keeping survivors safe.

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

HB-841-HD-1

Submitted on: 2/28/2023 10:34:44 AM

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

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|---------------------------|
| Marilyn Yamamoto | Individual | Support | Written Testimony Only |

Comments:

Committee members,

I am in SUPPORT of this bill.

Marilyn Yamamoto

HB-841-HD-1

Submitted on: 2/28/2023 9:35:01 PM

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

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|---------------------------|
| Dana Keawe | Individual | Support | Written Testimony Only |

Comments:

support

HB-841-HD-1

Submitted on: 3/1/2023 10:21:05 AM

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

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|---------------------------|
| pahnelopi mckenzie | Individual | Support | Written Testimony Only |

Comments:

Please support the Amendments of automatic referral requirements to apply when there are allegations of child abuse and a domestic abuse restraining order is sought.

Thank you Pahnelopi McKenzie