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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 12, 2023

TO: The Honorable Senator Joy A. San Buenaventura, Chair
Senate Committee on Health & Human Services

FROM: Cathy Betts, Director

SUBJECT: [HB 841 HD2](#) – RELATING TO DOMESTIC ABUSE PROTECTIVE ORDERS.

Hearing: March 13, 2023, 1:00 p.m.
Conference Room 225 & Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) supports this bill, provides comments, and defers to the Judiciary. DHS appreciates the Legislature's support for executive budget requests and other measures that increase resources to the Child Welfare Service Branch.

PURPOSE: The measure requires domestic abuse protective order cases to be reported to the department of human services when the case involves allegations of child abuse or neglect, rather than allegations of domestic abuse. (HD2)

The HD1 amended the measure by making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style. The HD2 made additional technical amendments.

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.



The Judiciary, State of Hawai'i

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

Senate Committee on Health & Human Services

Senator Joy A. San Buenaventura, Chair

Senator Henry J.C. Aquino, Vice Chair

Monday, March 13, 2023 at 1:00 p.m.
State Capitol, Conference Room 225 & 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. 2, 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.

Judiciary's Position:

The Judiciary supports House Bill No. 841, H.D. 2.

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.



HAWAI'I STATE
COALITION AGAINST
DOMESTIC VIOLENCE

March 13, 2023

Members of the Senate Committee on Health and Human Services:

Chair Joy A. San Buenaventura
Vice Chair Henry J.C. Aquino
Sen. Sharon Y. Moriwaki
Sen. Maile S.L. Shimabukuro
Sen. Brenton Awa

Re: HB841 HD2 Relating to Domestic Abuse Protective Orders

Dear Chair San Buenaventura, Vice Chair Aquino and Members of the Senate Committee on Health and 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.

On behalf of HSCADV and our 28 member programs statewide, I respectfully submit testimony **in support of HB841 HD2**. 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



TO: Chair San Buenaventura
Vice Chair Aquino
FR: Nanci Kreidman, M.A.
Chief Executive Officer
RE: H.B. 841 HD2

HB 841 HD 2 Support

Aloha. And thank you for scheduling this Bill for hearing early in the Session. This is an issue of great importance, and necessitates review.

The requirement for Family Court to make an automatic report to child welfare when a temporary restraining order is sought by a survivor places an unnecessary burden on the child welfare system and creates an unfortunate impact on survivors. Seeking court protection and taking the affirmative step to secure a restraining order is a proactive step that is aimed at providing protection for a family. Involving child welfare, if necessary, could still be done if circumstances warrant such a report.

Judges are given discretion in many ways, and have maintained consistently they function best with discretion. It appears in these kinds of cases, such discretion is well founded.

Additionally, if a person reaches out for help it is an affirmative action and the community should not be forcing other system interventions that may be harmful or threatening in nature. It would be an unintended, and deleterious effect for survivors to avoid working with available resources, like Family Court restraining orders for fear that they would be investigated for potential child abuse. It is not uncommon or unfamiliar that child welfare services is over-extended and cannot conduct an investigation in a timely fashion, requiring multiple appearances by survivors. This burdens the Court and the community's families.

Thank you for your favorable action to amend the current statute and focus on child abuse rather than domestic violence.

DOMESTIC VIOLENCE ACTION CENTER
ADDRESS: P.O. BOX 3198, HONOLULU, HI 96801-3198
LEGAL HELPLINE: (808) 531-3771
TOLL-FREE NEIGHBOR ISLAND HELPLINE: (800) 690-6200
WEBSITE: WWW.DOMESTICVIOLENCEACTIONCENTER.ORG
EMAIL: DVAC@STOPTHEVIOLENCE.ORG



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HB-841-HD-2

Submitted on: 3/11/2023 5:30:30 PM

Testimony for HHS on 3/13/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Marilyn Yamamoto	Testifying for Hawaii Coalition for Child Protective Reform	Support	Written Testimony Only

Comments:

Committee members,

The Hawaii Coalition for Child Protective Reform supports this bill.

HB-841-HD-2

Submitted on: 3/11/2023 12:39:43 PM

Testimony for HHS on 3/13/2023 1:00:00 PM

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

Comments:

Stand in Support