



STATE OF HAWAII
KA MOKU'ĀINA O HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
KA 'OIHANA PONO LIMAHANA

February 15, 2023

To: The Honorable Sharon Y. Moriwaki, Chair,
The Honorable Chris Lee, Vice Chair, and
Members of the Senate Committee on Labor and Technology

Date: Wednesday, February 15, 2023

Time: 3:10 p.m.

Place: Conference Room 224, & Videoconference, State Capitol

From: Jade T. Butay, Director
Department of Labor and Industrial Relations (DLIR)

Re: S.B. 1115 RELATING TO WORKERS' COMPENSATION

I. OVERVIEW OF PROPOSED LEGISLATION

The **DLIR opposes** this measure that would create a disparity in the weekly benefits for the dependents of deceased workers. SB1115 proposes to amend Section 386-41(b), Hawaii Revised Statutes (HRS) to increase the weekly workers' compensation percentage rate for partially dependent parents of a deceased child from twenty-five percent to fifty percent.

II. CURRENT LAW

§386-41(b) specifically states if there is no dependent widow, widower, or reciprocal beneficiary, or child, but there is a dependent parent, the weekly workers' compensation rate to the parent, if wholly dependent shall be fifty percent, or, if partially dependent, twenty five percent. Additionally, §386-41(c) identifies in part, if no dependent widow, but a dependent child, then to the child forty percent.

§386-71 states the director of labor and industrial relations shall be in charge of all matters of administration pertaining to the operation and application of this chapter. The director shall have and exercise all powers necessary to facilitate or promote the efficient execution of this chapter and, in particular, shall supervise, and take all measures necessary for, the prompt and proper payment of compensation.

§386-42(a)(1)(3) states if a parent or grandparent, if actually dependent upon the deceased, (b) A person shall be deemed to be actually dependent upon the deceased, if the deceased contributed all or a substantial portion of the living

expenses of that person at the time of the injury.

III. COMMENTS ON THE SENATE BILL

DLIR opposes this measure as it provides the same benefit calculation rate for a parent that was partially supported by the deceased employee financially as one that was wholly supported financially. This disparity is not in line with the intent of the workers' compensation law.

The measure conflicts with the intent of the workers' compensation law to provide a higher financial benefit to family members who were financially supported by the deceased than of those who received only partial financial support.

The workers' compensation law presumes the widow and children as wholly dependent at a rate of forty percent. Increasing the partially dependent parent to a rate higher than a widow or child would create a disparity between the family members that are wholly supported financially from those that are partially supported financially. Therefore, increasing a partially dependent parent to fifty percent would not be fair or equitable.

Testimony of Heidi Siefkas, life partner of deceased Hawaii Life Flight pilot, Brian Treptow

Last December 15th, my life partner, Brian Treptow, died while flying a Hawaii Life Flight mission from Maui to Big Island. Brian and two crew members passed that day. The holidays, New Year, and even now are unimaginable. However, what adds to the grief and wounds are the limitations to the survivors in the eyes of Hawaii State law. That is why I'm giving testimony in support of amendments to Workman's Comp Law 386-41.

My Brian didn't get injured. He didn't come back. Apparently, in Hawaii a life is worth \$310,000. I have no idea where you came up with that, but Brian's family is not getting the full value of a life. Because Brian and I were not legally married because Hawaii doesn't honor common law marriage, I can't claim the widow amount of 50%. We were together twelve beautiful years. And, because the law states that the next of kin, Brian's parents, will receive 25% of that (\$77,500). They had 47 wonderful years with Brian.

That the State of Hawaii is treating a death with less respect because of the life Brian chose to live with me is insensitive and unjust. And, to treat parents will almost no respect when you see the number 25% when they were the creators and caregivers of this amazing human being.

The benefits for parents should be equal to a widow. I would like this law to be amended so that other families do not have to go what we are going through. Loss and grief are painful enough without the hurdles of the legal system that was put in place to protect us. I ask if in all fairness if you can pass this law and make it retroactive to honor this particular Hawaii Life Flight N13GZ, Dec 15, 2022. Do what's right for their families because they were called to duty for the State of Hawaii and did not come back home.