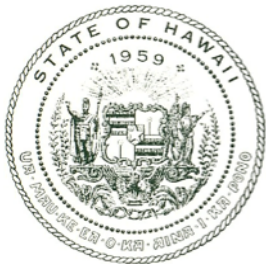


HAWAII
STATE
COMMISSION
ON THE
STATUS
OF
WOMEN



Chair
LESLIE WILKINS

COMMISSIONERS:

SHERRY CAMPAGNA
CYD HOFFELD
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MARILYN LEE
AMY MONK
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February 23, 2016

To: Representative Dee Morikawa, Chair
Representative Bertrand Kobayashi, Vice Chair
Members of the House Committee on Human Services

From: Cathy Betts, Executive Director
Hawaii State Commission on the Status of Women

Re: Testimony in Support, SB 2310

The Commission supports SB 2310 which would prohibit courts from issuing mutual protective orders in instances where the respondent has not filed the requisite cross petition alleging details to substantiate the need for a protective order.

Through multiple community discussions with victims and victim service providers, we have been notified of numerous instances where a court has either threatened to issue or actually issued a “mutual” protective orders even though only one petition for a restraining order was filed. This negates the purpose of the initial petition for a temporary restraining order and undermines basic fundamental rights to notice and due process for the initial petitioning party. Additionally, it allows the court to avoid the process of fact finding, thereby deeming both parties as “potentially abusive”. This has serious implications for child custody proceedings and child welfare proceedings.

Most victims do not ever file a petition for a restraining order, nor do they ever seek outside resources or help. For those that are able to make that step, encountering a court that oversteps boundaries can endanger their safety. The Commission respectfully requests that this Committee pass this measure.

Thank you for this opportunity to testify.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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KEITH M. KANESHIRO
PROSECUTING ATTORNEY

ARMINA A. CHING
FIRST DEPUTY PROSECUTING ATTORNEY



**THE HONORABLE DEE MORIKAWA, CHAIR
HOUSE COMMITTEE ON HUMAN SERVICES
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawai`i**

February 25, 2016

RE: S.B. 2310; RELATING TO DOMESTIC ABUSE PROTECTIVE ORDERS.

Chair Morikawa, Vice-Chair Kobayashi, members of the House Committee on Human Services, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in support of S.B. 2310.

The purpose of S.B. 2310 is to prohibit the practice of issuing mutual protective orders. The issuance of mutual Protective Order typically occurs under circumstances where victims of domestic abuse are convinced, without the advice of an attorney, that it is beneficial to them agree to a mutual Order and avoid a full trial on the issue of granting the petitioner a full Protection Order. The problems with issuance of mutual orders are twofold. First a mutual order leaves the impression that the abuse committed was mutual, which is typically not the case and has clearly not been adjudicated as such. Ultimately the victim may be blamed for or feeling like the violence committed against them was their fault. Secondly the enforcement of violations of a mutual Protective are very problematic because perpetrators will frequently file cross complaints with the police under circumstances where they have violated the Protective Order arguing that the victim is also in violation of the order since it is mutual. This type of circumstance often stymies prosecutors and discourages police from enforcing or even knowing how to effectively enforce such orders. Mutual Protective Orders become an obstacle for victims seeking safety not the protection that they are seeking when they apply for a Protective Order. While protective orders are intended to protect a victim of abuse from imminent threat of abuse or further domestic abuse, mutual protective orders can present a variety of problems that may be contrary to the purpose of a protective order.

For all of the reasons stated above, the Department of the Prosecuting Attorney of the City and County of Honolulu supports S.B. 2310. Thank you for the opportunity to testify on this matter.



25 Years

TO: Chair Dee Morikawa
Vice Bertrand Kobayashi
Members of the Committee on Human Services

FR: Nanci Kreidman, MA
Chief Executive Officer

RE: SB 2310

Aloha. Thank you for the opportunity to provide our perspective on this important Bill. Seeking a protective order is one of the most difficult and frightening decisions a survivor of domestic violence makes. Detailing the private, and embarrassing events that are perpetrated against her by her abuser is a distressing experience.

To face her abuser in court, and feel the intimidation and shame are a test most of us cannot imagine. It is important that this process is preserved for the survivors who really need the court's protection and have taken the bold steps necessary to file the petition, have it served and appear in court to seek its issuance (after the ex parte stage). Survivors who have been tormented by their abusers fear they will not be believed, and they have been threatened with that potential by the abuser. If she gets to court, and the court grants an order against her, the message she receives from the Court, to whom she has gone for protection, reinforces his message that she cannot expect support from the system – which is, in fact, designed to increase safety and accountability.

We support this proposal to eliminate the availability of a mutual protection order at the time of the Order to Show Cause Hearing, issued spontaneously by a judge. If there is sufficient reason to fear the other party, or there is real danger, it would seem appropriate to expect that person (often the abuser) to file a petition, as well.

Our system makes it a priority to uphold due process rights for parties in court proceedings. This measure matches that commitment.

Thank you for acting favorably to pass SB 2310. We appreciate the opportunity to provide this testimony today.

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dvac@stoptheviolence.org | www.domesticviolenceactioncenter |
facebook.com/domesticviolenceactioncenterhawaii



kobayashi2-Jessi

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 22, 2016 3:19 PM
To: HUS testimony
Cc: annsfreed@gmail.com
Subject: Submitted testimony for SB2310 on Feb 25, 2016 11:00AM

SB2310

Submitted on: 2/22/2016

Testimony for HUS on Feb 25, 2016 11:00AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Ann S Freed	Hawaii Women's Coalition	Support	No

Comments: Aloha Chair Morikawa, Vice Chair Kobayashi, and members, As in previous testimony the Hawaii Women's Coalition supports this bill which would uphold the prime reason and necessity for a temporary restraining order - to protect victims from their abuser. Mahalo Ann S. Freed, Co-Chair, Hawaii Women's Coalition

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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TESTIMONY OF THOMAS D. FARRELL

Regarding Senate Bill 2310 Relating to Domestic Abuse Protective Orders
House Committee on Human Services
Representative Dee Morikawa, Chair

Thursday, February 25, 2016 11:00 a.m.
Conference Room 329, State Capitol

SB2310 is unnecessary as the practice that it seeks to prohibit is not occurring.

I appear on the FC-DA calendar in the Family Court on a regular basis, and have handled hundreds of these cases over the past twenty years. Many years ago, there were occasional cases when, after trial, the court entered a mutual Order for Protection. Sometimes, the parties would even agree to mutual orders.

That practice was abandoned many years ago. Today, if the respondent in case number 1 wants a protective order against the petitioner, he must file his own petition as petitioner in case number 2.

I suppose the bill does no harm that I can discern, but I am not in favor of enacting unnecessary legislation.

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*Certified by the National Board of Trial Advocacy. The Supreme Court of Hawaii grants Hawaii certification only to lawyers in good standing who have successfully completed a specialty program accredited by the American Bar Association.



Thursday, February 25, 2016
1:15PM
Conference Room 211

healthy
mothers
healthy
babies
COALITION
OF HAWAII

To: House Committee on Human Services
From: Lisa Kimura, Executive Director, Healthy Mothers Healthy Babies
Re: Testimony in Support of S.B. 2310

Dear Chair Morikawa, Vice Chair Kobayashi, and House Committee Members,

Healthy Mothers Healthy Babies Coalition of Hawaii (HMHB) supports S.B. 2310, which prohibits the court from granting mutual protective orders unless separate petitions are filed.

Domestic violence is a health care problem of epidemic proportions. In addition to the immediate trauma caused by abuse, domestic violence contributes to a number of chronic health problems, including depression, alcohol and substance abuse, sexually transmitted diseases, and often limits the ability of women to manage other chronic illnesses¹. Despite these facts, a critical gap remains in the delivery of health care to battered women, with many providers discharging a woman with only the presenting injuries being treated, leaving the underlying cause of those injuries not addressed².

Mutual protective orders are commonly issued after one party involved petitions for a protective order and may have negative effects on both parties and may place blame on the victim rather than the abuser.

Mutual protective orders are meant to protect a victim of abuse from any threat of their abuser or future abuse, but these mutual protective orders present unforeseen problems that may void the purpose of the protective order. The purpose of S.B. 2310 is to prohibit the court from granting mutual protective orders unless separate petitions are filed.

Prohibiting the court from granting mutual protective orders will place victims in safer hands and prevent them from being future victimized or placed at blame instead of the abuser. HMHB supports this bill.

Thank you for the opportunity to submit testimony on this important women's health issue.

¹ Coker, A., Smith, P., Bethea, L., King, M., McKeown, R. 2000. "Physical Health Consequences of Physical and Psychological Intimate Partner Violence." Archives of Family Medicine. 9.

² Gazmararian JA; et al. 2000. "Violence and Reproductive Health; Current Knowledge and Future Research Directions." Maternal and Child Health Journal. 4(2):79-84.

hscadv



HAWAII STATE COALITION AGAINST DOMESTIC VIOLENCE

February 24, 2016

To: House Committee on Human Services
Representative Morikawa, Chair
Representative Kobayashi, Vice Chair

From: Michelle Rocca, Training and Technical Assistance Director
Hawaii State Coalition Against Domestic Violence

Re: Testimony in Support of SB 2310

Good morning Chair Morikawa, Vice Chair Kobayashi, and members of the committee. On behalf of the Hawaii State Coalition Against Domestic Violence we thank you for the opportunity to share our testimony in **support of SB 2310** relating to domestic abuse protective orders.

The process that a victim/survivor engages in to obtain a restraining order can feel ambiguous, frightening, and vulnerable. Pursuing a restraining order against an intimate partner is a step in the direction to seek safety and peace, and most certainly requires courage. When a victim takes this courageous step and ultimately has the unfortunate outcome of a mutual restraining order issued against her as well, the message to the victim is devastating. The consequences of this action not only include a negative experience for the victim for seeking Court protection but may also include a variety of other challenges for the petitioner as well.

In the instance that both parties are truly a safety concern to one another, it is reasonable to expect the same process be followed for a protective order to be issued by the courts. We simply urge this committee to eliminate the spontaneous issuance of a mutual protective order at an Order to Show Cause Hearing and instead expect each citizen of this community to follow the same process should they require assistance from the Courts in the form of a protective order.

This bill highlights, enhances, and underlines our criminal justice's commitment to due process rights in court proceedings and strengthens the Court's response to those who have the need, and the courage to seek a protective order as a vehicle to safety.

Thank you for your consideration and for the opportunity to provide testimony on this matter.

kobayashi2-Jessi

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 22, 2016 3:55 PM
To: HUS testimony
Cc: breaking-the-silence@hotmail.com
Subject: *Submitted testimony for SB2310 on Feb 25, 2016 11:00AM*

SB2310

Submitted on: 2/22/2016

Testimony for HUS on Feb 25, 2016 11:00AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Dara Carlin, M.A.	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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February 23, 2016

To: Representative Keith-Agaran, Chair, Representative Shimabukuro, Vice Chair, and members of the Senate Committee on Judiciary and Labor

From: Leina'ala Launiu, BA, Psychology, SW in East Hawai'i community

Hearing Date: Thursday, February 25, 2016, 11:00am, Rm 329

RE: SB2310 Relating to Domestic Abuse Protective Orders

WRITTEN TESTIMONY in SUPPORT of SB2310

Aloha e Chair Keith-Agaran, Vice Chair Shimabukuro and members of the Senate Committee on Judiciary and Labor,

I am testifying as an individual in strong support of SB2310 Relating to Domestic Abuse Protective Orders. I have been servicing the East Hawai'i community as a social worker in the areas of child welfare and domestic violence. In working with children and families, who are victims of domestic violence, I see, firsthand, the benefits of a temporary restraining order (TRO) not only in providing safety, but also in providing a nurturing environment for children to prosper emotionally and mentally. There are times where the conflict between parents rises to the level of risk and harm for the child(ren), and a petitioner files for a protective order on behalf of minors, which results in a spontaneous issuance of a mutual TRO before evidence is presented and reviewed.

The petitioner, who is oftentimes the victim of domestic violence, should be given a right to due process in court proceedings through an evidentiary hearing before a mutual TRO is granted. In addition, a mutual TRO shouldn't be spontaneously granted on the pretense that both the petitioner and the respondent are unable to "get along" and therefore should be issued an order to stay away from each other. Simply ordering the two parties to stay away from each other does not necessarily resolve the conflict within families. Instead, it creates barriers for service providers in facilitating familial conflict resolution. In addition, a mutual TRO does not hold the abuser accountable for his/her actions of domestic violence against the victim and the child(ren). Instead, it suggests that both parents are "risks of harm" for the children, which can be problematic in child welfare proceedings.

SB2310 will eliminate the spontaneous issuance of a mutual protective order at an Order to Show Cause (OSC) Hearing, especially during a hearing, where only the victim filed the petition for the protective order. If the respondent has reason to fear the petitioner, then the respondent should follow the same procedures as the petitioner in filing for a protective order. Then all evidence should be presented and reviewed before any issuance of a protective order is given, whether it is mutual or not.

Mahalo nui for your time and consideration and support in this matter.
Leina'ala Launiu, BA, Psychology, SW in East Hawai'i community

LATE



February 24, 2016

To: Hawaii State Senate Committee on Human Services
Hearing Date/Time: Thursday, February 25, 2016 (11:00 a.m.)
Place: Hawaii State Capitol, Rm. 329
Re: Testimony of American Association of University Women –
Hawaii in support of S.B. 2310, Relating to domestic abuse
protective orders

Dear Representative Dee Morikawa (Chair), and Representative Bertrand Kobayashi (Vice Chair), and Members of the Committee,

I am grateful for this opportunity to testify in **strong support of S.B. 2310**, relating to domestic abuse protective orders.

My testimony is on behalf of the approximately 400 members of the American Association of University Women (AAUW) in Hawaii, who list gender-based violence as an important current concern. My area of expertise is gender violence, and I worked for many years with survivors of domestic violence in New Zealand.

On behalf of my current constituents, I argue that passage of S.B. 2310 is important, with great potential to smooth the path of domestic violence survivors in court. At the time I lived in New Zealand, and accompanied women to court, judges were not issuing mutual restraining orders because of the unfortunate manner in which this court mechanism had been used previously by perpetrators to inflict additional abuse on their victims. Based on discussions with women in Hawaii, I understand that mutual protection orders are being utilized in harmful ways here against survivors of violence. I ask committee members to listen carefully to the voices of survivors, and please diminish the use of mutual restraining orders.

In conclusion, passage of S.B. 2310 is an important step in increasing access to justice for survivors of violence in Hawaii, and improving the health and wellbeing of our community.

Thank you for the opportunity to testify.

Sincerely
Susan J. Wurtzburg, Ph.D.
Policy Chair