



The Judiciary, State of Hawai‘i

Testimony to the Thirty-First Legislature, 2021 Regular Session

House Committee on Finance
Representative Sylvia Luke, Chair
Representative Ty J.K. Cullen, Vice Chair

Thursday, April 1, 2021 at 2:30 p.m.
State Capitol 308
VIA VIDEOCONFERENCE

by
Judge Christine E. Kuriyama
Senior Judge, Deputy Chief Judge
Family Court of the First Circuit

Bill No. and Title: Senate Bill No. 828, H.D.1, Relating to Divorce.

Purpose: Grants exclusive original jurisdiction in matters of divorce to the family court of the circuit in which an applicant is domiciled at the time the application is filed. Repeals the requirement that a person be domiciled or physically present in the State for a continuous period of at least six months before completing a divorce. Effective 7/1/3021. (HD1)

Judiciary's Position:

The Judiciary does not take a position on the policy of this bill, and offers the following comments for cases initially filed without a party having been present in the State for a period of at least six months:

1. To the extent property division is an issue in these divorce actions, resolving them may be difficult for the parties because Hawai‘i courts will not have jurisdiction over real property situated outside the State of Hawai‘i.
2. To the extent child custody is an issue in these divorce actions, the Uniform Child-Custody Jurisdiction and Enforcement Act (“UCCJEA”) will apply and the court will not have jurisdiction over child custody issues. This would require cases to be filed in two jurisdictions, i.e., Hawai‘i and the home state of the children.
3. Additional divorces under this measure involving a plaintiff who may not have a significant connection or contact with the State of Hawai‘i will draw from the same court resources used to resolve local divorces; depending on the volume, this may impact the time to resolve these matters.



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Testimony from others have raised concerns regarding the situation in which the parties who were residing in Hawai'i prior to filing have since left the jurisdiction before the completion of the divorce matter. For these cases we would suggest that the language in Hawai'i Revised Statutes § 580-1 be amended as follows:

§580-1 Jurisdiction; hearing. (a) Exclusive original jurisdiction in matters of annulment, divorce, and separation, subject to section 603-37 as to change of venue, and subject also to appeal according to law, is conferred upon the family court of the circuit in which the applicant has been domiciled or has been physically present for a continuous period of at least three months next preceding the application therefor, except as provided in subsection (b). No absolute divorce from the bond of matrimony shall be granted for any cause unless either party to the marriage has been domiciled or has been physically present in the State for a continuous period of at least six months next preceding the application therefor, except as provided in subsection (b). Notwithstanding the foregoing, if an application for divorce is filed in accordance with this section, the family court may grant an absolute divorce from the bond of matrimony even if both parties to the marriage subsequently leave the State of Hawaii. A person who may be residing on any military or federal base, installation, or reservation within the State or who may be present in the State under military orders shall not thereby be prohibited from meeting the requirements of this section. The family court of each circuit shall have jurisdiction over all proceedings relating to the annulment, divorce, and separation of civil unions entered into in this State or unions recognized as civil unions in this State in the same manner as marriages.

Thank you for the opportunity to comment on this measure.



HAWAI'I STATE
COALITION AGAINST
DOMESTIC VIOLENCE

April 1, 2021

Members of the House Committee on Finance

Chair Sylvia Luke
Vice Chair Ty J.K. Cullen
Rep. Patrick Pihana Branco
Rep. Stacelynn K.M. Eli
Rep. Daniel Holt
Rep. Greggor Ilagan
Rep. Bertrand Kobayashi
Rep. Lisa Marten
Rep. Scott Y. Nishimoto
Rep. Amy A. Perruso
Rep. Jackson D. Sayama
Rep. Adrian K. Tam
Rep. Tina Wildberger
Rep. Kyle T. Yamashita
Rep. Bob McDermott

Re: SB828 HD1 Relating to Divorce – Strong Support

Dear Chair Luke, Vice Chair Cullen, and Members of the House Committee on Finance:

The Hawai'i State Coalition Against Domestic Violence (HSCADV) engages communities and organizations to end domestic violence through education, advocacy, and action for social justice. HSCADV is a private, not-for-profit organization and is a statewide partnership of domestic violence programs and shelters.

On behalf of HSCADV and our 23 member programs statewide, I respectfully submit testimony in **strong support** of SB828 HD1. This bill removes the six-months residency requirement to file for a divorce in the State of Hawai'i resulting in the potential for increased safety for victims of domestic violence who are married. Requiring a victim to stay in the jurisdiction results in an unnecessary delay in safely fleeing their abuser and from connecting to their support networks.

Domestic violence is predicated in an abuser having power and control over their victim, including their ability to leave the relationship. When an abuser feels they are losing that control, their tactics become more aggressive and often the abuse increases. A study published in the American Journal of Public Health found that victims are at higher risk of femicide when they leave their abuser, especially after they have been living together¹. Being forced to remain in the jurisdiction while they wait for a divorce increases that potential for danger.

¹ "Risk Factors for Femicide in Abusive Relationships: Results From a Multisite Case Control Study," Jacquelyn C. Campbell, PhD, RN, et al., Am J Public Health 93(7): 1089–1097 (July 2003)



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

For the reasons stated above, we are in **strong support** of this measure. Thank you for the opportunity to testify on this important matter.

Sincerely,

Angelina Mercado
Executive Director, Hawai'i State Coalition Against Domestic Violence

SB-828-HD-1

Submitted on: 3/30/2021 5:06:42 PM

Testimony for FIN on 4/1/2021 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
nanci kreidman	domestic violence action center	Support	No

Comments:

Thank you for including this Bill for hearing.

We recognize the need and shall look forward to favorable action from the Committee.

thank you.

love, nanci kreidman

SB-828-HD-1

Submitted on: 3/30/2021 10:14:15 PM

Testimony for FIN on 4/1/2021 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Younghi Overly	AAUW of Hawaii	Support	No

Comments:

Members of AAUW of Hawaii thank you for this opportunity to testify in strong support of S.B. 828 HD1, which would repeal the requirement that a person be domiciled or physically present in the State for a continuous period of at least six months before completing a divorce. This requirement is another unnecessary obstacle to the survivors of domestic violence. Please pass this important measure and mahalo.

Younghee Overly, Public Policy Chair of AAUW of Hawaii

SB-828-HD-1

Submitted on: 3/30/2021 11:52:33 AM

Testimony for FIN on 4/1/2021 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ann S Freed	Individual	Support	No

Comments:

Aloha Chair Luke, Vice Chair Cullen and members,

Strong support for this measure that would get victims out a catch 22 situation, one in which a victim flees to a safe place out of the jurisdiction only to find the she is unable to divorce the abuser due to residency requirements,

Mahalo, Ann S. Freed in Mililani

SB-828-HD-1

Submitted on: 3/30/2021 1:12:42 PM

Testimony for FIN on 4/1/2021 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
John D. Smith	Individual	Support	No

Comments:

I support this to be passed through legislature.

SB-828-HD-1

Submitted on: 3/31/2021 12:11:24 PM

Testimony for FIN on 4/1/2021 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Nikki-Ann Yee	Individual	Support	No

Comments:

I strongly support this measure because this bill removes the six-months residency requirement to file for a divorce in the State of Hawai'i resulting in the potential for increased safety for victims of domestic violence who are married. Mahalo!