



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTIETH LEGISLATURE, 2020**

ON THE FOLLOWING MEASURE:

S.B. NO. 2305, RELATING TO DOMESTIC ABUSE.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY

DATE: Thursday, January 30, 2020 **TIME:** 10:00 a.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): Clare E. Connors, Attorney General, or
Erin L.S. Yamashiro, Deputy Attorney General

Chair Rhoads and Members of the Committee:

The Department of the Attorney General (Department) offers the following comments.

The purpose of this bill is to alleviate the emotional and financial hardship endured by domestic abuse victims caused by the continuance of show cause hearings. The number of continuances delays any resolution in domestic abuse matters. This bill limits the number of continuances of the show cause hearing to two when a party has not been served, unless there is a finding of exigent circumstances.

“Exigent circumstances” is not defined in chapter 586, Hawaii Revised Statutes (HRS), and is not a term commonly used in family court. To avoid confusion, we suggest replacing “exigent circumstances” with “good cause” in section 2, page 2, line 7. “Good cause” is a term more commonly used in family court. The term “good cause” is used numerous times in the Hawaii Family Court Rules (HFCR), and it is also used in chapter 560, HRS, which pertains to guardianship matters, and chapter 571, HRS, which pertains to family court. Amending the bill to replace “exigent circumstances” with “good cause” will provide clarity and guidance for the family court, as well as the parties.

Thank you for the opportunity to provide comments.

LATE



The Judiciary, State of Hawai‘i

Testimony to the Senate Committee on Judiciary

Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair

Thursday, January 30, 2020 at 10:00 a.m.
State Capitol, Conference Room 016

by

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

Bill No. and Title: Senate Bill No. 2305, Relating to Domestic Abuse.

Purpose: Provides that a court may not grant more than 2 continuances of an order to show cause hearing in domestic abuse cases, absent a finding of exigent circumstances.

Judiciary’s Position:

Senate Bill No. 2305 provides that a court may not grant more than 2 continuances of an order to show cause hearing in domestic abuse cases, absent a finding of exigent circumstances.

At this time, the Judiciary takes no position on this bill. We are acutely aware of the strains experienced by all parties in these cases, and we are still analyzing its possible effects on the overall calendar of domestic abuse cases.

There are instances where the court has no choice but to continue a case. It is important to understand the process involved in obtaining a temporary restraining order (“TRO”). When the court grants a Petition for an Order for Protection (“Petition”), a TRO is issued at the same time and is attached to the Petition. All TROs are served by the Honolulu Police Department (“HPD”). HRS § 586-5(b) requires the court to hold a hearing within 15 days of a TRO being granted. Sometimes, HPD is not able to serve the TRO by the date of that hearing. As a result, the hearing is continued and an Amended Notice of Hearing is issued. The statute requires that TROs be served within 90 days of being filed. For this reason, the Amended Notice of Hearing continues the initial hearing to a date that is close to the 90 day deadline, which maximizes the time allowed for service and results in only one continuance “for service”.



Senate Bill No. 2305, Relating to Domestic Abuse
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As another example, there are situations where a respondent is served, appears at court for the noticed hearing, and requests a continuance to seek legal advice or to retain counsel. Based upon due process considerations, the court will grant one continuance to accommodate this request.

The court also is faced with situations where a respondent contests the allegations in the TRO and the petitioner's request for an Order for Protection, and the judge starts the trial, but is unable to complete the trial in one setting. Out of necessity, the hearing is continued for further trial to another date, and further trial dates are set as necessary in order to complete the trial.

As the foregoing situations demonstrate, a bill such as this that proposes a mandatory approach across the board may be counterproductive, for certain specific cases as well as negatively affecting the calendar (and, therefore, other parties) across the board.

Thank you for the opportunity to testify on this measure.

SB-2305

Submitted on: 1/26/2020 11:32:39 AM

Testimony for JDC on 1/30/2020 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Younghi Overly	Testifying for aaaw of hawaii	Support	No

Comments:



To: Chair Karl Rhoads
Vice Chair Jared Keohokalole
Fr: Nanci Kreidman, MA,
CEO, Domestic Violence Action Center
Re: SB 2305; Support

Aloha. And thank you for placing this Bill on your agenda for consideration. This challenge our community faces can be adjusted with a clear timeframe, and support for the Judiciary to initiate a standard approach to support survivors who seek the Court's protection.

When survivors obtain an ex parte order from the Court, they are required to return to court, in a 14 day period. The respondent must appear as well. It is an enormous step for a victim to seek this kind of protection. It is very frightening and embarrassing. Not knowing how the abuser might react, and sharing the intimate details of their victimization creates shame.

The fear is the greatest threat to taking the initial step. Once that is overcome it is not too much to ask for the system to *support* her or him if they have been harmed, and need help.

It is not uncommon, however, for multiple continuances to be granted when a survivor is seeking protection through the restraining and protective order process



The continuances are very disturbing for survivors. It drags the process on, requires multiple appearances, and generates more fear, great inconvenience and re-traumatization. Taking time off from work, arranging child care, facing the abuser and the lack of resolution is stressful, costly and unnerving.

This Bill will limit the number of continuances permitted (certain circumstances warrant a continuance; if the abuser comes to court the first time without an attorney and would like to obtain one, for example. (A continuance gives him –her- time to get an attorney).

Multiple continuances, though, can be used as a tactic by abusers to continue their power and control; it can be a way to see their ex-partner, it can provide an opportunity to communicate to their ex-partner. The change will save resources for survivors, the courts and community agencies serving survivors, while certainly eliminating the re-victimization of victims.

If the court does not find exigent circumstances, there would not be a need for more than 2 continuances. We ask your favorable action on SB 2305.

Thank you.

SB-2305

Submitted on: 1/26/2020 6:29:21 PM

Testimony for JDC on 1/30/2020 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Eileen M Gawrys	Testifying for Dr.Eileen Gawrys	Support	No

Comments:

Aloha. And mahalo for the support of SB 2305. This challenge our community faces can be adjusted with a clear timeframe, and support for the Judiciary to initiate a standard approach to support survivors who seek the Court's protection.

When survivors obtain an ex parte order from the Court, they are required to return to court, in a 14 day period. The respondent must appear as well. It is an enormous step for a victim to seek this kind of protection. It is very frightening and embarrassing. Not knowing how the abuser might react, and sharing the intimate details of their victimization creates shame.

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If the court does not find exigent circumstances, there would not be a need for more than 2 continuances. We ask your favorable action on SB 2305.

Mahalo nui loa,

Eileen Gawrys

Board Member, Domestic Violence Action Center



Hawaii Women's Coalition

To: Hawaii State Senate Committee on Judiciary
Hearing Date/Time: Thurs., Jan. 30, 2020, 10:00 a.m.
Place: Hawaii State Capitol, Rm. 016
Re: Testimony of Hawaii Women's Coalition in support of S.B. 2305

Dear Chair Rhoads and Members of the Committee,

The Hawaii Women's Coalition writes in support of S.B. 2305, as It is not uncommon for multiple continuances to be granted when a survivor is seeking protection through the restraining and protective order process.

The continuances are very disturbing for survivors. It drags the process on, requires multiple appearances and generates fear, inconvenience and re-traumatization. Taking time off from work, arranging child care, facing the abuser and the lack of resolution is stressful, costly and unnerving.

This bill will limit the number of continuances permitted. Certain circumstances warrant a continuance, e.g. if the abuser comes to court the first time without an attorney and would like to obtain one, a continuance gives them time to get an attorney. However, this can be used as a tactic by abusers to continue their power and control, e.g. it can be a way to see their ex-partner and/or provide an opportunity to communicate to their ex-partner.

If the court does not find exigent circumstances, no more than two continuances of the hearing shall be granted through the passage of this bill. This will save resources for survivors, courts and for community agencies serving survivors. Coming to court multiple times takes time and eliminates available time for other survivors.

Thank you for your support for this important measure.

Sincerely,
Hawaii Women's Coalition

To: Hawaii State Senate Committee on Judiciary
Hearing Date/Time: Thurs., Jan. 30, 2020, 10:00 a.m.
Place: Hawaii State Capitol, Rm. 016
Re: Testimony of Planned Parenthood Votes Northwest and Hawaii in support of S.B. 2305

Dear Chair Rhoads and Members of the Committee,

Planned Parenthood Votes Northwest and Hawaii writes in support of S.B. 2305, as it is not uncommon for multiple continuances to be granted when a survivor is seeking protection through the restraining and protective order process.

The continuances are very disturbing for survivors. It drags the process on, requires multiple appearances and generates fear, inconvenience and re-traumatization. Taking time off from work, arranging child care, facing the abuser and the lack of resolution is stressful, costly and unnerving.

This bill will limit the number of continuances permitted. Certain circumstances warrant a continuance, e.g. if the abuser comes to court the first time without an attorney and would like to obtain one, a continuance gives them time to get an attorney. However, this can be used as a tactic by abusers to continue their power and control, e.g. it can be a way to see their ex-partner and/or provide an opportunity to communicate to their ex-partner.

If the court does not find exigent circumstances, no more than two continuances of the hearing shall be granted through the passage of this bill. This will save resources for survivors, courts and for community agencies serving survivors. Coming to court multiple times takes time and eliminates available time for other survivors.

Thank you for your support for this important measure.

Sincerely,

Laurie Field
Hawaii State Director

SB-2305

Submitted on: 1/28/2020 5:39:55 PM

Testimony for JDC on 1/30/2020 10:00:00 AM

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

Comments:

STRONG SUPPORT for SB2305. Attended court with a domestic violence survivor once a month for a calendar year because each month the abuser had a new excuse as to why he could not proceed; was absolutely stunned that each continuance was granted - the only one who benefited from this was the abuser.

SB-2305

Submitted on: 1/27/2020 11:02:31 AM

Testimony for JDC on 1/30/2020 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Carmen Golay	Individual	Support	No

Comments:

LATE

SB-2305

Submitted on: 1/29/2020 9:32:35 PM

Testimony for JDC on 1/30/2020 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
MARSHA H BOLSON	Individual	Support	No

Comments:

LATE

SB-2305

Submitted on: 1/29/2020 8:29:15 PM

Testimony for JDC on 1/30/2020 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
kara england	Individual	Support	No

Comments:

Thank you for your support !

Kara England

SB-2305

Submitted on: 1/29/2020 11:39:53 PM

Testimony for JDC on 1/30/2020 10:00:00 AM

LATE

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

Comments:

Aloha Chair Rhoads and members,

Multiple continuances can be used as a tactic by abusers to continue their power and control; it can be a way to see their ex-partner, it can provide an opportunity to communicate to their ex-partner. The change will save resources for survivors, the courts and community agencies serving survivors, while certainly eliminating the re-victimization of victims.

Mahalo so much for hearing this bill, please pass out of committee.

Ann S. Freed,

Co-Chair Emeritus, Hawaii Women's Coalition

LATE

SB-2305

Submitted on: 1/30/2020 11:00:38 PM

Testimony for JDC on 1/30/2020 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Caroline Kunitake	Individual	Support	No

Comments:

Please support SB2305.

Mahalo,

Caroline Kunitake