



The Judiciary, State of Hawai'i

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

Senate Committee on Health and Human Services

Senator Joy A. San Buenaventura, Chair

Senator Henry J.C. Aquino, Vice Chair

Friday, March 17, 2023 at 1:00 p.m.
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. 581, H.D. 2, Relating to Child Custody.

Purpose: Requires certain individuals attempting to serve as child custody evaluators to complete a training course on the dynamics of domestic violence every three years. Requires individuals to submit a letter or certificate of completion to the family court. Effective 7/30/3000 (HD2)

Judiciary's Position:

The Judiciary supports House Bill No. 581, H.D. 2.

We agree that custody evaluators and fact finders should be knowledgeable about the dynamics of domestic violence and its impact on children. We believe, therefore, that this bill is in the best interest of children who are the subject of child custody proceedings.

Thank you for the opportunity to testify on this measure.



HAWAI'I STATE
COALITION AGAINST
DOMESTIC VIOLENCE

March 17, 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: HB581 HD2 Relating to Child Custody

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 **strong support of HB581 HD2**. This bill requires custody evaluators and fact finders to receive a minimum of five hours of training in the dynamics of domestic violence, once every three years.

We recognize that the lack of domestic violence training for custody evaluators and fact finders too often results in inconsistent outcomes for survivors of domestic violence and their children. Survivors report feeling re-victimized by their interactions with custody evaluators and fact finders and some choose not to proceed with the custody process at all.

Survivors and their children are not justly served when custody evaluators and fact finders are not trained to recognize the dynamics of domestic violence and how the abusive parent could be using tactics of power and control in a custody case.

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. 581 HD2

HB 581 HD 2 Support

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

Thank you for giving this idea consideration. The Courts rely on the work done by professionals in the community who assume responsibility for certain duties in particular roles. Custody evaluators are crucial in the decision making that occurs when families separate and children are placed with one parent or the other, and visitation must be awarded according to facts related to experiences in the family household.

All parties want to put on their "best face". And the conflict that defines the current breakdown can be hard to fully grasp. It is a good thing that custody evaluators participate in training to prepare them adequately for the task at hand. We believe that custody evaluators, indeed island families, would benefit from training about domestic violence—which would not be evident in a controlled setting. It is not personal information that is easily shared or offered voluntarily. An inquiry can be shaped by the custody evaluator to capture information and contribute to an assessment that secures the best and safest outcome.

Including training about domestic violence would be of great benefit and support families who need all systems to understand the priority for safety, well-being and healing. Thank you for your favorable action on this Bill.

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-581-HD-2

Submitted on: 3/14/2023 9:01:49 PM

Testimony for HHS on 3/17/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Laurie Tochiki	Testifying for EPIC Ohana	Support	Written Testimony Only

Comments:

We strongly support training about domestic violence for custody evaluators and fact finders. The best interests of the children requires that evaluators and fact finders understand the complexities of domestic violence, power and control in relationships and their effects on children. Education will help all of us work together better for the welfare of the children.



Hawaii Women's Coalition

March 17, 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: HB581 HD2 Relating to Child Custody

Dear Chair San Buenaventura, Vice Chair Aquino and Members of the Senate Committee on Health and Human Services:

The Hawai'i Women's Coalition is a catalyst for progressive, social, economic and political change through action on critical issues facing Hawaii's women and girls. Members currently include 29 organizations and agencies (private, public, membership) as well as individuals. The coalition encourages the inclusion of interested parties and in achieving equitable representation.

On behalf of our 29 members, we respectfully submit testimony in **strong support of HB581 HD2**. This bill requires custody evaluators and fact finders to receive a minimum of five hours of training in the dynamics of domestic violence, once every three years.

We recognize that the lack of domestic violence training for custody evaluators and fact finders too often results in inconsistent outcomes for survivors of domestic violence and their children. Survivors report feeling re-victimized by their interactions with custody evaluators and fact finders and some choose not to proceed with the custody process at all.

Survivors and their children are not justly served when custody evaluators and fact finders are not trained to recognize the dynamics of domestic violence and how the abusive parent could be using tactics of power and control in a custody case.

Thank you for the opportunity to testify on this important matter.



Date: March 15th, 2023

To: Committee on Health and Human Services
Senator Joy a. San Buenaventura, Chair
Senator Henry J.C. Aquino, Vice Chair

From: Early Childhood Action Strategy

Re: Testimony in Support of **HB581 HD2** with comments– Relating to Child Custody Evaluators

Aloha and thank you for hearing **HB581 HD2**. Early Childhood Action Strategy (ECAS) is a statewide cross-sector collaborative designed to improve the system of care for Hawai'i's youngest children and their families. ECAS partners work to align priorities for children prenatal to age eight, streamline services, maximize resources, and improve programs to support our youngest keiki.

ECAS supports HB581 HD2, requiring certain individuals attempting to serve as child custody evaluators to complete a 5-hour training course on domestic violence every three years. Although we support the passage of this bill, we feel the requirements are insufficient if the goal is for evaluators is to effectively apply their knowledge to best support keiki and families. Best practices in adult learning and training include ongoing learning opportunities both as refreshers and to deepen skill sets. We hope future legislation will mandate more frequent trainings. **Additionally, please remove the subsection (d) to §571-46.4 that would require evaluators "to begin with the presumption ... that joint custody and equally shared parenting is in the best interests of the child" or adopt the recommended changes from the Hawaii State Coalition Against Domestic Violence.**

Family violence undermines the health and wellbeing of everyone in the home. Preventing violence in families is a key to healthy early childhood development. When community professionals are called upon to intervene, engage, support, and consider best interests/best outcomes for keiki, they must be trained on family violence, so that they can provide informed decision making on child custody cases.

Custody challenges are difficult enough for our keiki. We want to make sure that we are doing everything we can to ensure they are placed in safe and nurturing homes. Required training will contribute to strengthening the quality of our system.

Mahalo for your continued support to improve the health, safety and learning of our youngest keiki's. We appreciate you supporting **HB581 HD2**.

HB-581-HD-2

Submitted on: 3/15/2023 8:49:54 PM

Testimony for HHS on 3/17/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Amanda Pump	Testifying for Child and Family Service	Support	Written Testimony Only

Comments:

Child and Family Service supports this bill.



March 17, 2023

To: Senator Joy A. San Buenaventura, Chair
Senator Henry Aquino, Vice Chair and
Members of the Committee on Health and Human Services

From: Jeanne Ohta, Hawai'i State Democratic Women's Caucus

RE: HB 581 HD 2 Relating to Child Custody

Position: SUPPORT

Chair San Buenaventura, Vice Chair Aquino, and members of the committee, the Hawai'i State Democratic Women's Caucus writes in support of HB 581 HD2 Relating to Child Custody which requires custody evaluators and fact finders to be trained in the dynamics of domestic violence so that their recommendations on custody matters serve the best interest of survivors and their children.

The lack of domestic violence training for custody evaluators and fact finders too often result in inconsistent outcomes for survivors of domestic violence and their children. Survivors often feel re-victimized by their interactions with custody evaluators and fact finders and because of that some choose not to proceed with the custody process.

This measure is a priority of the Hawai'i State Democratic Women's Caucus. The Hawai'i State Democratic Women's Caucus is a catalyst for progressive, social, economic, and political change through action on critical issues facing Hawaii's women and girls.

We respectfully request that the Committees pass this measure and we thank you for the opportunity to submit our testimony in support.



Hawai'i Children's Action Network Speaks! is a nonpartisan 501c4 nonprofit committed to advocating for children and their families. Our core issues are safety, health, and education.

To: Senator San Buenaventura, Chair
Senator Aquino, Vice Chair
Senate Committee on Health and Human Services

Re: HB581 HD2, relating to early child care
1:00 p.m., Mar. 17, 2023

Aloha Chair San Buenaventura, Vice Chair Aquino and committee members:

On behalf of Hawai'i Children's Action Network (HCAN) Speaks!, mahalo for the opportunity to testify in **STRONG SUPPORT** of House Bill 581 HD2, relating to child custody.

Survivors and their children deserve a system that does not re-victimize them. This is a both a matter of justice and practicality. Feelings of re-victimization can persuade survivors to halt necessary legal proceedings. Additionally, even when they proceed, a lack of domestic violence training for custody evaluators and fact finders too often results in inconsistent outcomes for survivors of domestic violence and their children.

HB581 requires custody evaluators and fact finders to receive a minimum of five hours of training in the dynamics of domestic violence, once every three years. This is an important step forward. Survivors and their children are not justly served when custody evaluators and fact finders are not trained to recognize the dynamics of domestic violence and how the abusive parent could be using tactics of power and control in a custody case.

Please advance HB581 HD2.

Mahalo,

Ke'ōpū Reelitz
Director of Early Learning and Health Policy

HB-581-HD-2

Submitted on: 3/14/2023 8:26:57 PM

Testimony for HHS on 3/17/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ryan Samonte	Individual	Support	Written Testimony Only

Comments:

I support this bill

HB-581-HD-2

Submitted on: 3/14/2023 9:43:17 PM

Testimony for HHS on 3/17/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Caroline Kunitake	Individual	Support	Written Testimony Only

Comments:

Please support HB581 HD2.

HB-581-HD-2

Submitted on: 3/14/2023 9:59:35 PM

Testimony for HHS on 3/17/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Deanna Espinas	Individual	Support	Written Testimony Only

Comments:

I support this bill.

HB-581-HD-2

Submitted on: 3/15/2023 6:17:44 AM

Testimony for HHS on 3/17/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Heidi Allencastre	Individual	Support	Written Testimony Only

Comments:

I support this bill and feel that it is extremely important. Appropriate training is needed when there is any interaction with a family who has experienced trauma, especially in cases of intimate partner or domestic violence. The surviving parent and children should not be subjected to revictimization due to a custody evaluator or fact finder being undertrained. Please support this bill and make the changes needed to ensure that our children and families receive the service that they deserve and need so that they can take those necessary steps in moving forward in their healing journey by feeling respect, trust, and aloha.

HB-581-HD-2

Submitted on: 3/15/2023 3:26:42 PM

Testimony for HHS on 3/17/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kyle Shelly	Individual	Support	Written Testimony Only

Comments:

I am testifying in support of H.B. 581 as an individual citizen. The Family Court system uses Custody Evaluators and/or Best Interest Fact Finders to render opinions regarding physical and/or legal custody of children. It is imperative that these individuals be regularly trained on the dynamics of domestic violence, especially its impact on children, or they should not be appointed by the Court in such circumstances.

The current list of eligible of child custody evaluators approved by the Hawai'i State Judiciary is insufficient in that most are not experienced and/or qualified to opine on cases involving children as they aren't qualified or do not regularly practice treating children who are survivors of domestic violence nor have relevant trauma experience.

Through personal experience, I believe this Bill will help to reduce inconsistent outcomes for families and produce safer custody decisions for Children.

Thank you for hearing this Bill and for your service to the State of Hawaii.

Kyle J Shelly

HB-581-HD-2

Submitted on: 3/15/2023 3:49:17 PM

Testimony for HHS on 3/17/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
aimee chung	Individual	Support	Written Testimony Only

Comments:

Aloha, and thank you for hearing this Bill. At the Domestic Violence Action Center skilled and specifically trained attorneys work with Hawai'i families, in the hopes that the Family Court system will offer resolution, remedy and protection on various calendars. In a substantial number of cases, custody is an issue of great contention. Often, those who have abused their families will use the fight over custody to further control and manipulate their partner and the system, creating new pathways of abuse and victimization for survivors and their children. When community professionals are called upon as custody evaluators to intervene, engage, support, and assess, it is vital that they are thoroughly trained and appropriately equipped, especially when working with families who are experiencing intimate partner violence.

This Bill makes it a requirement for custody evaluators to participate in training on the dynamics of domestic violence. This makes complete sense. Without specific and relevant training, they are likely to make recommendations that are dangerous and traumatic. Thank you for giving this your greatest consideration. We look forward to favorable action.

Thank you for hearing and for your support of this bill. As a social worker and educator, I see the impact of trauma on our communities and the people of Hawai'i. This bill would provide for much needed attention for our systems of care.

Aimee Chung, MSW, LSW

Executive Board Member, Domestic Violence Action Center

Faculty, University of Hawai'i at Mānoa

HB-581-HD-2

Submitted on: 3/14/2023 7:51:41 PM

Testimony for HHS on 3/17/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Carolyn Lee	Individual	Support	Written Testimony Only

Comments:

I support HB581 HD2

Aloha,

I am writing today to vehemently OPPOSE this bill for the following reasons:

-It will re-victimize domestic violence survivors, including children

-The secret "working group" that created the bill did not follow the sunshine laws and was not formed via a bill nor a resolution. This bill may have been written illegally (in violation of sunshine laws)

-The secret "working group" who created this bill consisted of problematic for-profit Custody Evaluators who have a financial conflict of Interest and contributed to the bill being poorly written and having zero accountability.

-The secret "working work" who created this bill consisted of members of the Hawaii State Coalition Against Domestic Violence and the Domestic Violence Action Center, who has a financial incentive to pass this bill as they want for profit Custody Evaluators to pay their organization to give the training mentioned in the bill

-The bill is vague when it comes to what organization will issue the training, what the training will consist of, what the punishment will be if a for profit CE does not get the certificate (if any).

-Who will give the trainings? The bill doesn't say. Are the same people who wrote the bill also going to charge CEs money to give the trainings (i.e. DVAC and HSCADV)? If so, more weight should be given to testimonies to people who are *not* financially incentivized to pass the bill.

-The bill gives a false sense of validation to for profit Custody Evaluators to determine whether or not a CRIME was committed. This bill strongly undermines the importance of domestic abuse and domestic violence. This takes away the power of guilt from the police, judges, CWS, and filters all of the power to for profit Custody Evaluators with these vague "trainings."

As a paralegal, parent, and domestic violence survivor, I strongly urge you NOT TO PASS this highly problematic bill. We believe this bill is riddled with Conflicts of Interests and the secret committee that wrote it violated Hawaii's sunshine laws.

Not only should this bill not advance, but its conception should be investigated by the State's Ethics Office. Mahalo for your Consideration

HB-581-HD-2

Submitted on: 3/16/2023 12:59:46 PM

Testimony for HHS on 3/17/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Nonohe Botelho	Testifying for Hawaii Coalition for Child Protective Reform	Oppose	Written Testimony Only

Comments:

Committee on Health and Humans Services.

Hawaii Coalition for Child Protective Reform OPPOSES HB581. Please refer to Rep. Kobayashi's comments on the February 9, 2023, Committee on House of Human Services. Rep. Kobayashi was correct to question the qualifications outline on page 3, Section 2 (b) (1), which says "The individual has obtained education and training that meet *Nationally Recognized Competencies and Standards of Practice in child custody evaluations*.

Currently, Custody Evaluators (CE's) do NOT have to prove they meet *Nationally Recognized Competencies and Standards of Practice* in child custody evaluations. In addition, we feel that CE's are a duplication of services that DHS/CWS already provide via their own clinical social workers and others already contracted by the State.

Finally, CE's should provide independent reports that are fair and unbiased. As contracted providers, they defer to CWS, resulting in reports that are in the light most favorable to CWS.

The HB581 does not specify what kind of training is to be acceptable. Therefore we OPPOSE HB581.

TO: Senator Joy A. San Buenaventura, Chair
Senator Henry J.C. Aquino, Vice Chair
Senate Health & Human Services Committee Members

FROM: Dara Carlin, M.A.
Domestic Violence Survivor Advocate

DATE: March 17, 2023

RE: Opposition & Comments on HB581 HD2

Good Morning Chair SanBuenaventura, Vice Chair Aquino & Senate Health & Human Services Committee Members,

While it seems that I should be in support of HB581 HB2 the main reason why I must OPPOSE it is because of:

“Certain individuals attempting to serve as child custody evaluators”.

My concerns, not about domestic violence training, which I am all for, but the legitimizing, empowering, authorizing and giving credibility to “certain individuals” **who may not be fit to serve** as Child Custody Evaluators.

Letters and/or certificates of completion are absolutely worthless if *proficiency* in the subject matter cannot be proven.

Because former legislative sessions have all UNSUCCESSFULLY tried to establish CCE core criteria & training standards as well as provide safeguards for parents and place those into law, which has not yet been achieved, asking for “*certain individuals attempting to serve* as child custody evaluators” (are they even CCEs?) to complete a training course on the dynamics of domestic violence every three years is validating their “legitimate standing” as a CCE that they may not even have to begin with.

Many professions must prove subject matter proficiency in order to continue practicing or face fine, sanction, suspension or be delicensed for malpractice – considering the critically important nature of work involving children & families, where one wrong decision or judgment call could cost a life or lives, all individuals “attempting to serve” in the lives of children & families in Hawaii should be subject to proof of proficiency before they’re permitted to serve.

Please establish CCE core criteria & training standards as well as provide safeguards for parents and place those into law to incorporate mandatory domestic violence training with proof of proficiency and then we’ll be on the right track.

Thank you most sincerely for your time and consideration.

Respectfully,

Dara Carlin, M.A.

Domestic Violence Survivor Advocate

HB-581-HD-2

Submitted on: 3/14/2023 3:15:13 PM

Testimony for HHS on 3/17/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Marilyn Yamamoto	Individual	Oppose	Written Testimony Only

Comments:

Committee members,

Years ago, I attended a long-term support group for victims of domestic abuse. The sessions were weekly for 2 hours. There is no way that a custody evaluator who is not a victim of DV could learn enough about the dynamics of spousal abuse in a 5-hour course every 3 years.

At this rate, it will take another decade to increase the training to a minimum of effectiveness to accurately produce a court report on custody. I am disappointed that the penner of this bill didn't have the foresight to propose a training that would come closer to a reasonable understanding of the topic, since it has such an impact upon the lives of minor children.

Marilyn Yamamoto