

Honolulu, Hawaii

FEB 26 2010

RE: S.B. No. 2369  
S.D. 2

Honorable Colleen Hanabusa  
President of the Senate  
Twenty-Fifth State Legislature  
Regular Session of 2010  
State of Hawaii

Madam:

Your Committee on Judiciary and Government Operations, to  
which was referred S.B. No. 2369, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO DOMESTIC VIOLENCE,"

begs leave to report as follows:

The purpose of this measure is to:

- (1) Provide emergency, nonrecurring, benefits for victims of domestic or sexual violence; and
- (2) Expand current provisions for unemployment insurance, emergency leaves of absence, and insurance protections.

Written comments in support of this measure with suggested amendments were submitted by the Department of the Attorney General, the Hawai'i Civil Rights Commission, and the American Council of Life Insurers. Written comments in support of this measure were submitted by the Hawaii State Coalition Against Domestic Violence. Written comments in opposition to this measure were submitted by the Hawaii Bar Owners Association and the Hawaii Insurers Council. Written comments presented to the Committee may be reviewed on the Legislature's website.

Your Committee finds that domestic violence is a growing and ever-present problem in our communities and that victims of domestic violence come from varying socio-economic backgrounds and educational levels. At times these victims are required to miss work for court hearings, doctor's appointments, counseling, and



other issues relating to the abuse. As a matter of public policy, victims of domestic abuse should be afforded safeguards so that they may deal appropriately with the violence they have suffered. The comprehensive manner in which solutions to these problems are sought in this measure has resulted in a complex framework of new and amended statutory provisions. Your Committee believes that the measure must be examined further to determine how all of its components work together as well as how its provisions work with other statutes.

Concerns raised in written comments submitted to your Committee regarding this measure are multiple and complex. The Department of the Attorney General submitted comments expressing concern regarding section 15 requiring their office to monitor the actions of public agencies for discrimination towards those receiving public assistance. The Department of the Attorney General also objects to sections 4 and 5 of the measure (discrimination on the basis of domestic or sexual abuse, and employer violations of victims leave, respectively) because they may expose the State to additional liability and suggests that these sections be amended to conform with existing statutes. The Hawai'i Civil Rights Commission has expressed concerns about the need for clarification of what employer's obligations are with reference to the newly protected class established under section 6 (unlawful discriminatory practices; defined), unnecessary inclusions, overlapping statutes and the potential need for additional funding and staffing. The American Council of Life Insurers has concerns over sections that jeopardize their ability to underwrite and to responsibly disclose information that overlap new statutory language with existing statutory language, and that provide a private right of action contrary to national models. Organizations in opposition to this measure express concerns over businesses being liable for not protecting their other employees if forced to retain a domestic abuse victim and the significant unreasonable restrictions placed on insurance underwriting and claims handling procedures.

Accordingly, your Committee has made the following amendments:

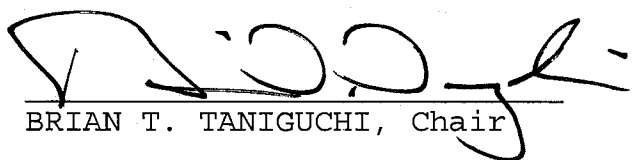
- (1) Deleted all of section 15, as suggested by the Department of the Attorney General;
- (2) Clarified the State's liability exposure, as suggested by the Department of the Attorney General;



- (3) Established that it shall be an unlawful discriminatory practice for any employer to refuse to provide a reasonable safety accommodation requested by a victim of domestic violence and defining what a reasonable safety accommodation is;
- (4) Added a provision requiring employees to certify that they are a victim of domestic violence, as suggested by the Civil Rights Commission;
- (5) Conformed insurance provisions to the National Association of Insurance Commissioners (NAIC) model and revised the Health Maintenance Organization section to conform to other amendments, as suggested by the American Council of Life Insurers; and
- (6) Made technical, nonsubstantive stylistic changes for purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2369, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2369, S.D. 2.

Respectfully submitted on  
behalf of the members of the  
Committee on Judiciary and  
Government Operations,



BRIAN T. TANIGUCHI, Chair



**Record of Votes**  
**Committee on Judiciary and Government Operations**  
**JGO**

\*Only one measure per Record of Votes