

**TESTIMONY OF THE  
COMMISSION TO PROMOTE UNIFORM LEGISLATION**

**ON H.B. No. 2250, H.D. 1  
RELATING TO THE UNIFORM CHILD ABDUCTION PREVENTION ACT.**

**BEFORE THE HOUSE COMMITTEE ON JUDICIARY**

**DATE:** Tuesday, February 9, 2010, at 2:30 p.m.  
Conference Room 325, State Capitol

**PERSON(S) TESTIFYING:** ELIZABETH KENT or PETER HAMASAKI  
Commission to Promote Uniform Legislation

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WEB Address: <http://www.capitol.hawaii.gov/emailtestimony>

Chair Karamatsu and Members of the Committee:

Hawaii's Uniform Law Commissioners support passage of H.B. No. 2250, the Uniform Child Abduction Prevention Act (UCAPA). The act provides a valuable tool for deterring both domestic and international child abductions by parents and any persons acting on behalf of the parents. The act anticipates the need for cooperation and communication among the courts of different states. Because abduction situations will likely involve more than one state, it is vital that courts have the ability to communicate effectively. The act accomplishes this goal by building on the interstate jurisdiction and enforcement mechanisms of the UCCJEA, including provisions on temporary emergency jurisdiction.

UCAPA sets out a wide variety of factors that should be considered in determining whether there is a credible risk that a child will be abducted. These factors include overt signs such as previous abductions, attempts to abduct the child, or threats of abduction, as well as signs of general abuse including domestic violence, negligence, or refusal to obey a child-custody determination. The act also includes a wide range of activities that may indicate a planned abduction, including abandoning employment and liquidating assets,

The UCAPA is endorsed by the Family Law Section of the American Bar Association. It has been adopted by eight states and the District of Columbia. Thank you for the opportunity to testify in support of the UCAPA. A summary sheet is attached for further information.



# Uniform Law Commissioners

The National Conference of Commissioners on Uniform State Laws

## SUMMARY

### Uniform Child Abduction Prevention Act

Child abduction is one of the most frightening and heartbreaking crimes faced by parents and families today. According to the Office of Juvenile Justice and Delinquency Prevention, an estimated 262,100 children were abducted in 1999 alone. Despite the familiar image in the news of children abducted by predatory strangers, the majority of child abductions are perpetrated by family members. Indeed, of the 262,100 children abducted in 1999, approximately 203,900 (78%) were abducted by a family member. While current State laws address initial child-custody determinations and the criminal repercussions of child abductions, they generally provide inadequate prevention mechanisms.

In 2006, the Uniform Law Commission (ULC) promulgated the Uniform Child Abduction Prevention Act (UCAPA). The act provides States with a valuable tool for deterring both domestic and international child abductions by parents and any persons acting on behalf of the parents. Recognizing that most States have already developed substantial bodies of law regarding child custody determinations and enforcement, including specifically the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), the Uniform Law Commission drafted UCAPA to be compatible with and to augment existing state law.

The act anticipates the need for cooperation and communication among the courts of different states. Because abduction situations will likely involve more than one state, it is vital that courts have the ability to communicate effectively. The act accomplishes this goal by building on the interstate jurisdiction and enforcement mechanisms of the UCCJEA, including provisions on temporary emergency jurisdiction.

An action for abduction prevention measures may be brought either by a court on its own motion, by a party to a child-custody determination or an individual with a right to seek such a determination, or by a prosecutor or public attorney. The party seeking the abduction prevention measures must file a petition with the court specifying the risk factors for abduction as well as other biographical information including the name, age and gender of the child, the current address of the child and the person against whom the measures are sought, a statement regarding any prior actions related to abduction or domestic violence, a statement addressing any prior arrests for domestic violence or child abuse by either party, and finally any additional information required by existing State child custody law including the UCCJEA.

UCAPA sets out a wide variety of factors that should be considered in determining whether there is a credible risk that a child will be abducted. These factors include overt signs such as previous abductions, attempts to abduct the child, or threats of abduction, as well as signs of general abuse including domestic violence, negligence, or refusal to obey a child-custody determination. The act also includes a wide range of activities that may indicate a planned abduction including abandoning employment, liquidating assets, obtaining travel documents or travel tickets, or requesting the child's school or medical records.

The act also addresses the special problems involved with international child abduction by

including several risk factors specifically related to international abduction. In particular, the act requires courts to consider whether the party in question is likely to take a child to a country that isn't a party to the Hague Convention on the Civil Aspects of International Child Abduction, or to a country that places the child at risk, has laws that would restrict access to the child, that is on the current list of state sponsors of terrorism, or is engaged in an active military action or war. In addition, a court will consider issues related to citizenship such as a recent change in citizenship status or a denial of United States Citizenship.

If a court determines that a credible risk exists that the child will be abducted, it may then enter an order containing provisions and measures meant to prevent abduction. The act lists a number of specific measures that a court may order. These include imposing travel restrictions, prohibiting the individual from removing the child from the State or other set geographic area, placing the child's name in the United States Department of State's Child Passport Issuance Alert Program, or requiring the individual to obtain an order from a foreign country containing identical terms to the child-custody determination. An abduction prevention order is effective until the earliest of the order's expiration, the child's emancipation, the child's 18th birthday, or until the order is modified, revoked, or vacated.

If abduction appears imminent, a court may issue a warrant to take physical custody of the child, direct law enforcement officers to take steps to locate and return the child, or exercise other appropriate powers under existing state laws. A warrant to take physical custody is enforceable in the enacting state even if issued by different state. The court may authorize law enforcement officers to enter private property, or even to make a forcible entry at any hour, if the circumstances so warrant. Nevertheless, the person on whom the warrant is being executed must be served with the warrant when or immediately after the child is taken into custody and the person must be afforded a hearing no later than the next judicial day or the next possible judicial day if the next day is impossible.

By giving courts a means to identify risk factors for child abduction and a system for imposing appropriate abduction prevention measures, the **Uniform Child Abduction Prevention Act** will provide States with a powerful tool to combat the threat of abduction that faces tens of thousands of children every year. The States should consider its enactment as expeditiously as possible.

© Uniform Law Commission  
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Chicago, Illinois 60602

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## karamatsu1-Kenji

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**From:** Dara Carlin, M.A. [breaking-the-silence@hotmail.com]  
**Sent:** Saturday, February 06, 2010 12:34 PM  
**To:** JUDtestimony  
**Subject:** HB2250 HD1 to be heard Tuesday, 02/09/10 at 2:30pm in Room 325

TO: Representative Karamatsu, Chair  
Representative Ito, Vice Chair  
Members of the Committee on the Judiciary

FROM: May Lee  
PO Box 180326  
Hawaii National Park, HI 96718  
808-769-8188  
fax 801-457-5327

DATE: 02/08/10

RE: Strong Opposition to HB2250 HD1

Dear Representatives,

These measures do not address the true issues of domestic violence and will make it yet harder for women to get away and be able to protect their children. Domestic Violence shelters tell women to get out, and yet when we do, we are charged with kidnapping and parental alienation. The perpetrator simply says "I never said I would kill her" so then she gets labeled with unstable, crazy, paranoid, unsuitable mother and a liar.

Interestingly, if the man saying "I'm going to kill you and take your child" is not married to you, it is called "terroristic threatening". Any mother who does not leave with her child would be considered a bad mother. Yet, when we leave because the man saying it is our husband, we are charged with kidnapping???

How do I know all this? Because I stayed married to an abusive man for 10 years to protect my daughter because I knew this is how the courts handle DV. I have been in court in a divorce (because he filed for divorce) for 2 1/2 years defending myself against all of the above charges. He has used the court to assist him in his goal of bankrupting me to make me and my daughter homeless. I have spent over \$80,000 in attorneys fees, had 7 judges in 2 states, and at least 7 attorneys including attempting to represent myself. He pays no child support or medical, has not been accountable for the damage he has done, and is not being held accountable for threatening my life and the well being of our child. The courts still say he has rights as a father when he never wanted a relationship with our daughter when we were living together.

Any law making it harder for women to protect their children, start over and give these precious little souls a chance to have a peaceful loving home, is reprehensible.

--

May Lee  
PO Box 180326  
Hawaii National Park, HI 96718  
808-769-8188  
fax 801-457-5327

## karamatsu1-Kenji

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**From:** guy yatsushiro [gyats1@yahoo.com]  
**Sent:** Saturday, February 06, 2010 12:47 PM  
**To:** JUDtestimony  
**Subject:** HB2250 HD1 to be heard on TUESDAY, February 9th at 2:30pm in Room 325

TO: Representative Jon Riki Karamatsu, Chair  
Representative Ken Ito, Vice Chair  
Judiciary Committee Members

FROM: Guy Yatsushiro, M.D.  
1914 South King Street, #201  
Honolulu, HI 96826  
(808) 946-7159

RE: OPPOSITION to HB2250 HD1

Like everybody else, I heard all about the dad from NJ trying to get his kid back from Brazil and the guy who was apprehended after he scooped up his kids and ran to the American Embassy in Japan, but these wrongs don't make this bill right!

For almost 10 years I've watched my wife, who left an abusive marriage back in 2000 struggle *even now* to keep the kids and herself safe from her obsessed ex-husband. These guys are all the same and this "answer" to "the problem" is no answer.

I'll tell you *exactly* what's going to happen if you allow this to go through. You'll see a bunch of wife beaters and child abusers asking for this petition to "prevent abduction". They'll have sad and convincing stories and their wives will *all* be mentally ill, a danger to their children and a flight risk. This is just another way for the wife beaters to mess with their wives who left them for good reason. But the judges aren't going to look at that - they'll focus on the petitioner because "*he* has rights" and he'll be there filing this petition. Then they're going to *issue a warrant* to take physical custody of the child and be allowed to make *a forcible entry at any hour* to do this? Grabbing kids from their beds in the middle of the night isn't going to "adversely effect" them but a parent keeping the kids safe from abuse *is*?

The wife beaters *are going to love this* cause it's not about the kids, they don't care about the kids, all they care about is getting their ex-wife back for leaving them and this "abduction prevention petition" will help them do it.

I understand the intention of what's trying to be done here, but this is no solution for domestic violence cases like my wife's. If you pass this *guaranteed* my wife's ex will be first in line to say my wife's going to abduct the kids and then what, the police are going to come to our house and take the kids away just because *he* says so? I'm sorry, this is a mistake - a *BIG* mistake. I also thought this was 2010 *not* 1984.

Sincerely,

Guy Yatsushiro, M.D.

## karamatsu1-Kenji

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**From:** Dara Carlin, M.A. [breaking-the-silence@hotmail.com]  
**Sent:** Saturday, February 06, 2010 1:03 PM  
**To:** JUDtestimony  
**Subject:** TUESDAY, 02/09/10 Judiciary Hearing at 2:30pm in Room 325 re: HB2250 HD1

TO: Represenative Jon Riki Karamatsu, Chair  
Representative Ken Ito, Vice Chair  
Members of the Committee on the Judiciary

FROM: Jonea Schillachi-Lavernge (by proxy through Dara Carlin, M.A.)  
6737 Puu Pilo Place  
Kapaa, HI 96746

DATE: February 9, 2010

I vehemently oppose this "Uniform Child Abduction Prevention Act" because it will turn protective parents into felons just on an abuser's say so!

I was married to my ex for only 2 MONTHS before I left while pregnant with our daughter. The night he got up in my face yelling and threatening, he scared me so badly that I immediately left (which is what I thought everyone wants you to do right? If you're being abused leave? I DIDN'T stick around for Round 2 or 3, once was enough for me.)

Beginning at 6 months of age, my daughter began showing signs of abuse but I didn't recognize it as that - it just never occurred to me that he would hurt his own daughter. By the time she was 20 MONTHS-OLD she was showing signs of sexual abuse that were medically documented but again, I couldn't fathom something of that nature happening to my daughter, let alone by her father and her grandfather, who never leaves my ex's side. To this day, they still live together on Kauai.

By the time my daughter was 26 months-old, there was no mistaking the physical and sexual abuse so I reported it to CPS where we lived on the mainland. The police become involved and when my ex and his father deny everything and my daughter does not disclose being abused in a 20-minute "interview" (remember, she's only 2 years-old!) the sheriff simply believed them. My ex then asks the court for an evaluation of me for reporting the abuse! The more the witnesses and documentation of my daughter's sexual abuse increased, the less authorities and the court were willing to do ANYTHING about it. Seeing no other choice, I took my daughter and fled the country to keep her safe from further harm and sexual abuse.

In 2004, when my daughter was 7 years-old, I was found by authorities and put in jail for a little over 5 months while my daughter was returned to her father and grandfather's care by the DA. Considering the allegations you'd think she'd be placed in foster care for safety's sake, but no, she was returned to the two men who were abusing her!

At my criminal trial in 2006, **I WON A HISTORICAL ACQUITTAL** and was completely cleared of any wrongdoing in taking my daughter and hiding her based upon the evidence of my daughter's abuse presented to the jury. A custody trial was pending the outcome of the criminal trial, but I have YET to get my day in court on that matter.

In this "Child Abduction Prevention Act" the consequences for falsely using this in bad faith would be an award of attorney's fees, costs and expenses? I've spent approximately **\$1,600,000.00** cumulatively on court-related

costs and fees and I was found INNOCENT of child abduction in a jury trial so does that mean I'll be reimbursed for the past 13 years or will the court make my ex pay me for protecting our daughter from his sexual abuse?

This Act even says something about "human rights violations committed against children" which I thought "Oh good, they recognize what's happening here" until I realized the concern was in reference to human rights violations in the OTHER country! My daughter's human rights were and are being violated in THIS country, but this act is concerned about another country's potential human rights violations?

This "Child Abduction Prevention Act" will only bring further harm to children who are already being harmed and will provide abusers with yet another legality to hide behind as they continue to abuse, molest and rape their own children. Please DO NOT promote this measure any further!

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## karamatsu1-Kenji

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**From:** Dara Carlin, M.A. [breaking-the-silence@hotmail.com]  
**Sent:** Saturday, February 06, 2010 1:38 PM  
**To:** JUDtestimony  
**Subject:** HB2250 HD1 to be heard February 9, 2010 in Room 325 at 2:30pm

TO: Represenative Jon Riki Karamatsu, Chair  
Representative Ken Ito, Vice Chair  
Members of the Committee on the Judiciary

FROM: Woman In Hiding (by proxy through Dara Carlin, M.A.)  
881 Akiu Place  
Kailua, HI 96746

DATE: February 9, 2010

RE: OPPOSITION to HB2250 HD1

In cases of extreme domestic violence, the government has acknowledged that some perpetrators simply cannot be thwarted. In response to these extreme cases, the Social Security Administration developed a program known as "New Numbers for Victims of Domestic Violence" (NNVDV).

Registrants who are accepted into this program are given very specific instructions to follow, but these instructions are provided through verbal advisement - they are not written down nor are they provided to registrants through instruction manual or guidebook form.

The "risk factors" identified in this legislation are coincidentally the very instructions program registrants are given in this program! What has happened in my case (and in many others) is that following the program's instruction has led us into compromised legal situations that the SSA will not step up to acknowledge, thus leaving us "hanging out to dry". In other words, there are problems within this program that have not been ironed out that paradoxically can put the very people they're trying to protect at further risk!

In my opinion, what's relevant about this legislation for SSA Program assessment purposes is that it provides yet another concrete example of how the SSA Program executes nothing by way of inter-governmental coordination and sets registrants up for situations that look odd, aren't documented, and have a high likelihood in culminating in criminal allegations. **The "factors to determine risks of abduction" are essentially a point by point list of everything registrants in this program are advised to do and, indeed, must do by virtue of having a second name and SSN.**

So this is another case of legislation moving ahead without consideration of registrants in this program. If passed, it would essentially render compliant participation in this federal program grounds for being deemed a child abductor at the state level in Hawaii. And herein lies the problem. The SSA Program says X but states and indeed the federal legislature pass statutes blind to this and people like MOM X and me end up being called non-compliant with laws for having followed the guidelines of a federal program! What a compelling and concrete example of system failure.

For obvious reasons the details of the NNVDV program are not well-known to the general public, but you must know that passing this legislation WILL RESULT in innocent victims of domestic violence being re-victimized by not only their abusers but by the well-meaning professionals who would seek to protect them.

Thank you for this ability to provide testimony.

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Testimony via email to: [JUDtestimony@Capitol.hawaii.gov](mailto:JUDtestimony@Capitol.hawaii.gov)

HOUSE OF REPRESENTATIVES  
THE TWENTY-FIFTH LEGISLATURE  
REGULAR SESSION OF 2010

COMMITTEE ON JUDICIARY  
Rep. Jon Riki Karamatsu, Chair  
Rep. Ken Ito, Vice Chair  
MEETING

DATE: Tuesday, February 9, 2010  
TIME: 2:30 p.m.  
PLACE: Conference Room 325  
State Capitol  
415 South Beretania Street

**AGENDA:** RELATING TO THE UNIFORM CHILD ABDUCTION PREVENTION ACT.  
Establishes comprehensive child abduction prevention law. Lists factors to determine risk of abduction, and establishes measures courts may include in order to prevent abduction both before and after issuance of child custody decrees.

TESTIMONY FROM: Melinda (Chee) Franklin Affiliation: Hawaii Children's Rights Council and Angel Group, email: [cheem@umich.edu](mailto:cheem@umich.edu)



**I strongly support HB 2250, HD1, HSCR 75-10.** It establishes measures courts may include in order to **prevent abduction both before and after issuance of child custody decrees.** I offer Testimony because my 9 year old daughter was heinously abducted by family court officer, Kim Towler, Esq., a Guardian ad Litem. Details follow below:



I am a mother who has been involved in protracted custody litigation. By profession, I am a nurse practitioner. I care for patients with cancer. I have been recognized by my alma mater, the University of Michigan, for humanitarianism and scholarly excellence. Following my divorce from my ex-husband, Kevin Chee (a Honolulu attorney with Chee and Markham), our custody arrangement was Joint physical and legal. After our divorce our 4 children resided primarily with me on the mainland. Their father had liberal visitation. This "Joint" custody arrangement was really a sham, contrived by him so that he could pay minimal child support. The court allowed for this, which showed prejudice. After 4 years, on the final day of his summer visitation, Kevin Chee did not send our children back to their primary residence with me on the mainland. In November, 2000, he maneuvered an Ex-Parte change of custody to Sole for himself, and attached a Temporary Restraining Order (TRO) blocking me from all contact with our 4 children. The TRO persisted for 7 years! Ongoing custody litigation left me with insurmountable debt.

**CASE NUMBERS:** Chee v Chee: Plaintiff: Melinda Chee (Mother),

Defendant: Kevin S.W. Chee (Father)

**HAWAII FAMILY COURT CASE NO: FC-DIVORCE NO. 95-1599**

**HAWAII INTERMEDIATE COURT OF APPEALS CASE NUMBER: 28843**

Last year, as a Pro-Se litigant, I finally won my Appeal # 28843 in the Hawai'i Intermediate Court of Appeals (ICA). In their Memorandum Opinion pertinent to my Appeal # 28843, the ICA states:

*"Before the children's relocation to Hawai'i pursuant to the 1999 stipulated custody order, Mother had been the primary caretaker for the children. Even after the children's relocation, Mother enjoyed liberal time-sharing rights. By prohibiting all contact between Mother and her children, the November 2000 Ex Parte Orders effected a draconian change in the custodial arrangements. Yet, the family court permitted the November 2000 Ex Parte Orders to stand without ruling on the validity of the allegations on which the orders were based or the continued necessity for the orders."*

As a loving Mother and primary caretaker for our 4 children, I was in a state of shock after being blindsided by the Ex Parte change of custody and accompanying TRO which persisted for 7 years.

**HB 2250, HD1, HSCR 75-10** establishes measures courts may include in order to prevent abduction both before and after issuance of child custody decrees. As many of you are aware, the Hawaii Family Court has been scrutinized for years for unethical, unconstitutional abuses of judicial discretion. Court officers blatantly disregard evidentiary procedures, parental rights and best interests of children. A group of family court insiders refer to themselves as **"Players"** and include the following: family law attorneys (Durrell Douthit, Sara Harvey, Everett Cuskaden) "therapists", such as Marvin Acklin, PhD, Sue Lehrke, PhD, and Custody Guardian ad Litem (CGAL's), like Kim Towler and Sara Harvey, as well as attorneys practicing outside of their specialty to maneuver the Court. My ex-husband's cousin, Darwin Ching, Esq. (Director of the Hawaii Dept. of Labor) was directly involved in the Court's draconian ex-parte change of custody in our case. I sought legal counsel in Honolulu attorney Durell Douthit. He did not zealously represent me. Rather, he lapsed into adjudicative lassitude to maximize his monetary gain. While represented by him, my case never came to trial. No hearing was held pertinent to the Ex Parte change of custody. Justice delayed is justice denied. In their Memorandum Opinion pertinent to my Appeal # 28843, the ICA emphasizes:

***"Mother's counsel (Douthit) apparently did not challenge or seek a ruling on the merits on the November 2000 Ex Parte Orders."***

The **"Players"** work like this: When one parent has more money/power/special relationships, that parent recruits the **"Players"** to label the other parent as guilty of "Parental Alienation Syndrome" (PAS). They have a court **Player/"therapist"** write a letter to the Court attesting the other parent is "guilty" of the PAS label (it is not a diagnosis). In my case, Sue Lehrke, PhD labeled me a Parental Alienator without ever laying eyes on me! Then the court awards custody to the accusing parent without a hearing, and children are removed, sometimes violently from the

innocent parent. In our case, CGAL Kim Towler did not reveal her conflict of interest. (She was involved in a business partnership with my ex-husband's therapist and counsel, and had been sleeping with my ex-husband's legal secretary, Cyd Ignacio!) Towler solicited Court Orders changing custody without a hearing. Not only was custody changed without a hearing, the judge's *Orders* also prohibited notice to me that our daughter was to be secretly removed from her school by Towler, and her lover, Cyd Ignacio. They flew to Michigan, dragged our 9 year old daughter out of her elementary school and forced her into their rental car. Our daughter was so traumatized, she tried to jump out of the care as it sped down the Interstate. Upon arrival in Hawaii, Towler, and "**Players**" Marvin Aklin, PhD and Sue Lehrke, PhD had our daughter admitted into the locked ward of the Kahi Mohala mental institution.

My point is: Children are being tormented by these family court "**Players**". Family rights are blatantly ignored by the "**Players**" *because of their financial motivations, relationships and toxic need for power*. Our daughter was blocked from contact with her mother for years and suffered physically, emotionally and academically.

**1. DOMESTIC ABUSE ISSUES:** While married, police were summoned by Mother when father hit her with his fist while Mother was holding our infant son. Honolulu Police came to home, had Father removed from home.

**2. ABUSES THAT OCCURRED IN MY CASE:**

- **No Due Process:** Custody was changed from Joint Physical and Legal to "Temporary" Sole for Defendant by Ex Parte order which was allowed to persist for 9 years. Requests for hearings were repeatedly postponed. Mother's request for a Summary Judgment was refused by Judge Browning.
- **Long-term "Temporary Restraining Orders":** A TRO accompanied the Ex Parte change of custody and remained in effect for 7 years, blocking Mother from all contact with our children, their schools, medical providers and friends.
- **Conflicts of Interest:** Daisy chain collusion between Defendant's Counsel Everett Cuskaden, his therapist, Craig Robinson and the Custody Guardian ad Litem Kim Towler. All three were involved in a business partnership, dba: *Mediate Hawaii*.

- **Retaliation by Judge for my Legislative Testimony:** Judge Karen Radius retaliated against me because of my constructive Hawaii Legislative Testimony in strong support of Family Court reform. Defendant Kevin Chee focused on my Testimony during the custody hearing of July 10, 2007. Judge Radius took the gambit and gave Defendant Sole custody without substantiating any grounds for her decision. (Her decision was ultimately reversed by the ICA on June 19, 2009).

Unless the family court system is reformed, the horrors my children and I have suffered will continue and be for naught. Custody determinations have become a cottage industry, driven by monetary greed and a daisy chain of relationships fueled by power and corruption.

Respectfully submitted,

Melinda (Chee) Franklin

***"Injustice anywhere is a threat to justice everywhere" Dr. Martin Luther King Jr.***

## karamatsu1-Kenji

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**From:** Dara Carlin, M.A. [breaking-the-silence@hotmail.com]  
**Sent:** Monday, February 08, 2010 4:01 PM  
**To:** JUDtestimony  
**Subject:** HB2250 HD1 to be heard February 9, 2010 in Room 325 at 2:30pm  
**Importance:** High

TO: Representative Jon Riki Karamatsu, Chair  
Representative Ken Ito, Vice Chair  
Members of the Committee on the Judiciary

FROM: Dara Carlin, M.A.  
881 Akiu Place  
Kailua, HI 96746

DATE: February 9, 2010

RE: STRONG OPPOSITION to HB2250 HD1

As much as I hate to do this (because I can see what the intent of this bill is) this act is riddled with many problematic, safety-compromising and dangerous consequences for victim-survivors of domestic violence (DV) and their children. I can explain further in my verbal testimony, but for brevity's sake, I'm just going to list the problems I see in this act as it would pertain to domestic violence cases:

The UCCJEA and Hague Convention already cover this issue at the national and international level as-is and are clear; additional measures at the state level are unnecessary.

"A party to a child-custody determination or another individual... may file a petition"

"A credible risk of abduction"

"A statement of whether a prior action to prevent abduction or DV has been filed by a party"

"A statement of whether a party to the proceeding has been arrested for a crime related to DV, stalking, child abuse or neglect"

"Factors to determine risk of abduction" are all relevant to the immediate and long-term experience of DV survivors

"Has previously abducted or attempted to abduct the child"

"Has threatened to abduct the child"

"Abandoned employment"

"Selling primary residence"

"Terminating a lease"

"Closing bank or other financial accounts"

"Destroying financial documents"

"Applying for a passport, travel documents"

"Seeking to obtain the child's birth certificate or medical records"

"Has engaged in DV, stalking, child abuse or neglect"

"Has refused to follow a child custody determination"

"Lacks strong familial, financial, emotional or cultural ties to the state, US or country"

"Human rights violations committed against children"

"Forged or presented misleading or false evidence on government forms"

"Has multiple names to attempt to mislead or defraud"

"The court shall consider... the potential harm to the child from an abduction..."

"... the legal and practical difficulties of returning the child to the jurisdiction if abducted"

"A list of physical addresses and telephone numbers at which the child can be reached at specified times"

"Copies of all travel documents"

"Removing the child... without permission of the court or the petitioner's written consent"

"Require the respondent to post a bond... to serve as a financial deterrent to abduction"

"The court may issue an ex parte warrant to take physical custody of the child"

"Recite the facts upon which a determination of a credible risk of imminent wrongful removal of the child is based"

"Direct law enforcement officers to take physical custody of the child immediately"

"Provide for the safe interim placement of the child pending further order of the court"

"... authorize law enforcement officers to enter private property to take physical custody of the child"

"... make a forcible entry at any hour"

"If the court finds... that a petitioner sought an ex parte warrant ... for the purpose of harassment or in bad faith, the court may award the respondent reasonable attorney's fees, costs and expenses"

As you can see from just the problems I identified with this act, providing written testimony would be overwhelming, but I'll be happy to address any and/or all of them at the hearing.

Thank you once again for this opportunity to provide testimony.

**Dara Carlin, M.A.**

Domestic Violence Survivor Advocate

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## karamatsu1-Kenji

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**From:** Dara Carlin, M.A. [breaking-the-silence@hotmail.com]  
**Sent:** Monday, February 08, 2010 4:14 PM  
**To:** JUDtestimony  
**Subject:** Testimony for HB2250 HD1 to be heard at 2:30PM on Tuesday, February 9 in Room 325

TO: Representative Jon Riki Karamatsu, Chair  
Representative Ken Ito, Vice Chair  
Members of the Committee on the Judiciary

FROM: Oahu Survivor Mom #1 (by proxy through Dara Carlin, M.A.)  
881 Akiu Place  
Kailua, HI 96734

DATE: February 9, 2010

RE: Opposition to The Uniform Child Abduction Prevent Act, HB2550 HD1

I am a Domestic Violence (DV) survivor. I was married to my abusive husband for 2 and a half years. When I realized what was happening to me and my then 2 year-old son was abuse, I contacted 3 lawyers about leaving my husband they told me to go to a safe place or leave the state with my child. I asked "Can I do that legally?" and ALL 3 lawyers said YES. So in March 2009 I took my son and fled out-of-state.

When I got back home (where my family is) I filed for a Temporary Restraining Order (TRO) and an emergency custody order for my son as advised to do by ALL 3 lawyers. I was assured that what I was doing were the correct steps to be SAFE with my child, so I did everything on good faith. I never reported the abuse because in doing that, I felt embarrassed - like who is going to protect me or beleive me? He has all the power and I was embarrassed and scared - what if he killed me? He HAD THREATEND with his guns before (he owns SIX guns and makes his own bullets) and can be REALLY scary. I never turned to anyone for help. I knew people and agencies were out there, but I was too scared to draw any attention - what if he found out?

In May of 2009 there was a trial where my abuser got TEMPORARY CUSTODY because I had left the state of Hawaii - even though I had been instructed and given permission to do so! My abuser had a prior TRO from his first ex-wife which involved DV too. The Judge then ordered a Custody Evaluator, whose report was in total support of my abuser and so very biased, he didn't even try to hide it. In November 2009, my leaving the abusive marriage with my son cost me my son: the abuser has now been granted SOLE PHYSICAL AND LEGAL CUSTODY of my son with "daytime only" visitations to me: Mon, Wed, Fri from 2:30 to 3:30pm at his daycare, on Tuesdays I'm allowed a Pact visit from 4:45 to 6:15pm then on Sundays, I'm allowed to see him from 12noon - 7:00pm. I am not allowed ANY holidays or overnights and my baby's only 2 1/2 years-old!

How I was treated is no different then how all the other victims of domestic violence are being treated in Hawaii. We're hunted down when we leave and having our children taken away from us for trying to escape the abuse and then the court puts our children with the person we were trying to keep our children safe from! This Uniform Child Abduction Prevention Act is only going to make things worse for women who are trying to get away from their abusers.



## karamatsu1-Kenji

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**From:** Dara Carlin, M.A. [breaking-the-silence@hotmail.com]  
**Sent:** Monday, February 08, 2010 4:15 PM  
**To:** JUDtestimony  
**Subject:** HB2250 HD1 to be heard on Tuesday, February 9, 2010 at 2:30pm in Room 325 by the House Judiciary Committee

TO: Represenative Jon R. Karamatsu, Chair  
Representative Ken Ito, Vice Chair  
House Judiciary Members

FROM: Oahu Survivor Mom #3 (by proxy through Dara Carlin, M.A.)  
881 Akiu Place  
Kailua, HI 96734

DATE: February 9, 2010

STRONG OPPOSITION TO HB2250 HD1

This bill would be terrible for domestic violence survivors!

Because my abuser is essentially unstoppable, I went through a government approved and sanctioned Identity Change program for domestic violence victims that has some very specific terms and conditions when you're going from one identity to another. Some of those are named as potential child abduction "flags" in this act that would make a survivor with children whose gone through this Identity Change program "guilty" of abduction. In this program we are given new names and new Social Security Numbers, but no instruction manual or case manager. Once our identity has been changed, we're basically on our own especially if something goes wrong.

In my case, my "multiple names" were used as evidence against me. CPS accused me of fraud and in misleading them when I was telling them the truth and as much as I could talk about my situation. In other program registrant's cases, they've also been accused of fraud and making misrepresentations to the US government. Like I said, there is no instruction manual provided and you can call to ask about how to go about something, but that's not in writing and if you're challenged on it they won't back you up so it looks like you have forged or presented misleading information on government forms!

The point in fleeing your abuser is to leave him because they won't let you go. You can't flee an abusive situation and leave your child behind with the abuser! In this act, they're saying you'd have to list physical addresses and telephone numbers of where the child can be reached and provide copies of all travel documents -

what happens if your child is with you in a domestic violence shelter? You can't give out the number and address! And how do you flee to begin with if you want to avoid being named as a "child abductor"? If you provide your abuser with your travel documents you won't make it out alive and if you do, then you'll be considered a "child abductor" for leaving and then the police can take our children away from us? This will not help survivors survive, it's only going to make things worse (and believe me, it's bad enough as it is!) Please don't pass this!

Thank you.

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