

SCR 91



The Judiciary, State of Hawaii

Testimony to the
Senate Committee on Human Services
The Honorable John M. Mizuno, Chair
The Honorable Tom Brower, Vice Chair
and
Senate Committee on Judiciary and Government Operations
The Honorable Brian T. Taniguchi, Chair
The Honorable Dwight Y. Takamine, Vice Chair

Tuesday, March 30, 2010, 10:05 a.m.
State Capitol, Conference Room 016

by
Thomas R. Keller
Administrative Director of the Courts

WRITTEN TESTIMONY ONLY

Bill No. and Title: Senate Concurrent Resolution No. 91, Requesting an Audit of Child Custody Proceedings Involving the Commission of Family Violence by a Parent, To Assess the Use and Application of Section 571-46, Hawaii Revised Statutes

Judiciary's Position:

The Judiciary takes no position on this resolution which requests a statewide audit of child custody proceedings in which family violence has been alleged to have been committed by a parent in the Family Courts, statewide, from January 1, 2004 through December 31, 2009, to assess the use and application of HRS Section 571-46(a)((9)-(14).

However, the Judiciary respectfully suggests that this statewide audit be limited to contested cases (and not cases in which the parties agreed to the terms of the divorce decree) and exclude cases where parties return to court after they have already been divorced.

Thank you for the opportunity to provide testimony on this matter.



CENTER FOR JUDICIAL EXCELLENCE

The Honorable State Senators of the Committees on Human Services and The Judiciary
Honolulu, HI 96813

March 29, 2010

Re: SCR91, Problems Faced by Victims of Domestic Violence in Family Court.
Tuesday, March 30th at 10:05am in Room 016

Dear Senator Chun-Oakland, Senator Taniguchi and Committee Members:

On behalf of the Center for Judicial Excellence (CJE), we want to thank the Committees on Human Services and the Judiciary for convening today's hearing regarding problems faced by victims of domestic violence while navigating through the continuum of services, particularly the family courts.

The Center for Judicial Excellence is a community-based organization established to improve the judiciary's public accountability and strengthen and maintain the integrity of the courts. **CJE represents over 1,000 Californians** who are concerned that child victims of violence and sexual abuse are not sufficiently protected in family courts. For the past three years, CJE has advocated for reforms that would help protect victims of domestic violence and sexual abuse in family court.

Some of our recent accomplishments include:

- Leading the successful effort to secure passage of **State Senator Mark Leno's** request to audit the Marin and Sacramento County Family Courts. The 14-member JLAC Committee approved the audit request with a unanimous 12-0 bipartisan vote, and the **California State Auditor** is currently investigating the use of court appointees in California's family courts.
- Helping mobilize 41 battered mothers to testify at **Assemblywoman Fiona Ma's** historic Select Committee on Domestic Violence Hearing on the "Interests of the Child in the Courts." We are also working closely with Assemblywoman Ma's office as a co-sponsor of first-in-the-nation legislation (AB 1050) that will grant children the right to testify in family court.
- Working with **Assemblyman Jim Beall** on AB 612, which would outlaw the rampant misuse of a disproven and controversial theory in family courts (Parental

1206 Third Street, Suite 206 San Rafael, CA 94901
info@centerforjudicialexcellence.org

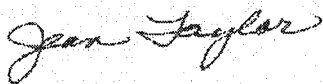
Alienation Syndrome) that routinely denies children a relationship with their loving and protective mothers.

- Ongoing work with allies to coordinate public testimony from family court advocates and mothers to the **Statewide Elkins Family Law Task Force**, which is making recommendations to the California Chief Justice for improving the state's family courts.

The Leadership Council on Child Abuse & Interpersonal Violence (www.leadershipcouncil.org) estimates that U.S. family courts mistakenly place about 58,000 children per year into the custody of their abusers. Furthermore, the Center for Judicial Excellence has received hundreds of emails and phone calls from protective parents across the nation whose children have been placed with their abusers through the family courts. The state of Hawaii has an opportunity to join California in becoming a national leader in halting this disturbing trend.

The Center for Judicial Excellence fully supports today's hearing with the hopes that this discussion will serve as the catalyst to bring about the reforms necessary to protect children, and victims of domestic violence, throughout the state of Hawaii.

Sincerely,

A handwritten signature in cursive script that reads "Jean Taylor".

Jean Taylor
Board President
Center for Judicial Excellence

HAWAII STATE COALITION AGAINST DOMESTIC VIOLENCE

TO: Chair Chun Oakland, Chair Taniguchi and Committee Members

FR: Jane Seymour, Hawaii State Coalition Against Domestic Violence

Hearing date and time: Tuesday, March 30, 2010 @ 10:05am

RE: Support for SCR91: Family Violence Audit in Family Court

Aloha, my name is Jane Seymour and I am representing the HSCADV, a private non-profit agency which serves as a touchstone agency for the majority of domestic violence programs throughout the state. For many years HSCADV has worked with the Hawaii Legislature by serving as an educational resource and representing the many voices of domestic violence programs and survivors of domestic violence.

HSCADV supports SCR91.

Family court cases that involve domestic violence present specific challenges. Growing trends in family court include joint or shared custody and the use of parenting plans. While these may be appropriate for non-violent families, it is essential that child custody cases involving domestic violence be treated differently.

Several studies suggest that about half of men who batterer their partner also abuse their children. Additionally, perpetrators of domestic violence often use the family court system, including custody and visitation orders to continue to abuse the victim. In child custody cases involving domestic violence, the primary concern should be the safety and well-being of the victim and the children.

It is essential that those involved with family court, including judges, evaluators, lawyers, and service providers have as much information as possible in order to minimize the safety risks to women and children from abusive fathers. This audit will provide crucial data on child custody proceedings and domestic violence.

We encourage you to pass SCR 91. Thank you for the opportunity to testify.



March 28, 2010,

RE: In STRONG SUPPORT of S.C.R. 91

Dear Legislators:

Thank you for continuing support of S.C.R. 91, a very important piece of legislation.

Divorce, Custody and Domestic Violence (DV) are tricky waters to navigate, not to mention full of emotional turmoil. As best you can, you introduce and implement legislation that gives informed statutory guidelines to the judiciary and the public. If these laws are knowingly ignored, it is a travesty of justice. In relation to DV, this undertaking is complicated and can be dangerous. Accordingly, accountability of the judiciary is a sensitive issue and must be handled with respect; nonetheless, a firm hand. S.C.R. 91 is respectful and specific. It deals with matters of life and death and should be given due weight and unequivocal process.

We must remember that DV and Intimate Partner Violence is a crime, not a family problem. In any other court, assault, rape, inappropriate touching, failure to care for a child, harassment, stalking, perjury, etc. would be considered very serious criminal offenses. Disallowance of the rebuttable presumption in Family Court has catastrophic and generation consequences. It is also illegal.

Over the past few years, you have heard many stories and read many letters from your constituents that include allegations of severe abuse of judicial discretion. Even numerous and recent 2009 appellate findings have revealed this same trend. It's obvious there is a serious problem of judges legislating from the bench. While they retain wide discretion, violation and disregard of law is not inclusive.

Family Court operates on the weakest standard of proof, "preponderance of evidence". This means as little as 51% of the evidence supports the decision. Even with this weak standard of proof, it appears rebuttable presumption is being ignored to the harm and disadvantage of the Victim. AngelGroup is seeing a disturbing pattern evolve. Included in this pattern is the illustration that even if the judge, operating in "good faith" at the beginning of case finds no DV, his/her refusal to seriously consider new evidence presented by the Victim is a blatant violation of Canons. The Abuser uses the Family Court as a sophisticated weapon, and when a judge refuses to acknowledge that prior decisions were issued in error, no correction is forthcoming; the abuse continues. This is an unnecessary choice.

It is logically argued that if litigants feel they've been wronged by the court, they have the option of Appellate Court. What is being conveniently left out of this thought process is 'Reality'. A simple timeline serves to edify:

- Victim leaves abuser with child(ren), hides from abuser and often leaves with no money, assets; only what they can carry
- Abuser, who has issues of "control", often controls assets
- Victim files TRO and court begins



- Victim is accused of alienating child
- Victim is taken to court and asked for evidence of abuse. If no abuse can be proven, Victim is accused of lying, TROs dissolved, rebuttable presumption denied, and Abuser is given joint custody
- All statements of DV are considered 'irrelevant'; discrediting Victim further
- Assets and Child(ren) given to Abuser because they have the "ability to provide", as stated in a recent hearing by CWS, calling this "best interest".
- Victim is left child-less and penny-less as the reward for the desire and related action to be free of physical, mental and psychological harm
- Victim is forced to watch child(ren) growing up in care of Abuser, in fear for their safety and often left with little or no contact with child(ren); further "control" by the Abuser

Bottom line, Victims have no resources to pursue correction at the appellate level. This gives a 'false read' and could be partial motive for the running theme of unequal distribution of assets by specific renegade judges.

In essence, by disregarding rebuttable presumption, the court is a willing participant in continuing the chain of abuse. Without protection and accountability, victims of DV will never come forward. As it is, there is an INCREASE in request for services and state aid, but a DECREASE in complaints filed. This is a telling indicator that spells disaster for citizens as well as the State's budget.

Presently, I am aware of MANY DV victims that have trusted Family Court to deliver justice. Instead they've received more abuse in the courtroom; abandoned to financial and emotional devastation. They've become dependant on state aid such as Med-Quest and Food Stamps, burdening tax-payers. Though destitute, they are saddled with unrealistic child support payments by renegade judges who on one day distribute "property" to the Abuser, the shift positions and falsify or allow falsification of state and federal mandated "Guidelines"; driving the Victim further below the poverty line and criminalizing their poverty. It is common knowledge among CSEA, Food Stamps, Med-Quest, etc. but the fraud against court clients and taxpayers continues. No doubt, this oppression is partially responsible for the \$515 million in overdue child support, as reported by The Honolulu Advertiser, March 14, 2010.

Attorneys have shared with AngelGroup their great concern about the corruption they're seeing in the Family Court. They ascertain is that it is either "politically motivated" or there is a financial benefit. Either way, this undermines the public's confidence and the rule of law. Additionally, many are aware of "payoffs" for custody evaluator and Guardian ad Litem. Hawaii's children are literally for sale.

We have before us a brilliant opportunity to work towards correction. The Legislature has authority to provide oversight if the Judicial branch is not applying the law. We respectfully request that you apply this oversight. We respectfully request the Judiciary cooperate to the fullest extent in order to preserve life, liberty, the public's trust, and invested tax dollars.

AngelGroup

www.angelgroup.org

ChunOakland3 - Serena

From: Dara Carlin, M.A. [breaking-the-silence@hotmail.com]
Sent: Monday, March 29, 2010 10:41 AM
To: HMS Testimony
Subject: SCR91 to be heard Tuesday, march 30, 2010 at 10:05am in Room 016

Categories: Blue Category

TO: Senator Chun-Oakland, Chair
Senator Ihara, Vice-Chair

Senator Taniguchi, Chair

Senator Takamine, Vice Chair

Members of the Committees on Human Services, the Judiciary and Government Operations

FROM: Big Island Survivor Mom #1 (by proxy through Dara Carlin, M.A.)

881 Akiu Place

Kailua, HI 96734

DATE: March 30, 2010

RE: STRONG SUPPORT for SCR91!

My case is EXACTLY why domestic violence custody cases need to be looked into. We were married since 2000 and I had to file my first TRO against my ex in 2001. When I realized I was a victim of domestic violence, I got restraining orders, met with attorneys (who told me I would share custody guaranteed), but decided to stay so my daughter would not have to left alone with him. I finally left when my daughter was 8 because he threatened to kill me. My daughter was relieved and thought it meant she would never have to see her father again. Though it took me a long time, I finally documented the details of my abuse only to have the psych evaluator say she didn't want to see it because it was too long.

I turned to MANY domestic violence shelters for help, none of which could provide legal advice (which is mostly what is needed to get away AND protect my child) and the TRO offices were very helpful. I turned to many attorneys (but it's a very expensive process and there's not much help in consultations). What is needed most is LEGAL HELP!!!

The worst mistakes professionals made on my case and the consequences were:

- 1) Judge XXX in Hilo Family Court had to decide if the proper jurisdiction was Hawaii or Nevada to hear my case. I had a 3 year restraining order granted in Hawaii which gave me temporary sole custody, and my daughter was here in Hawaii living with me. I had not been a resident for 1 year, BUT I did request an emergency change of jurisdiction based upon domestic violence. He denied the change of jurisdiction, dismissed my restraining order and fined me to pay his attorneys fees based on my filing a divorce case as an unnecessary action! This has been disastrous as now all court proceedings are in Nevada, which costs me a lot of money. My ex continues to abuse me by saying he will use the court system to bankrupt me and he is succeeding at this by forcing me to attend court hearings, demanding I pay for visitation, which so far the court has granted. He makes 4x what I make, but I have had to bear all the expenses for child care, visitation, travel costs in addition to my attorneys fees. I have used all my savings, and had to use my retirement money at a 40% penalty to keep my attorney. Meanwhile, he is only required to pay \$300 a month in child support, which he hasn't been paying.
- 2) My first attorney in Hawaii filed the wrong paperwork which contributed to the fine being ordered upon me.
- 3) The current judge in Nevada agreed with his attorney and ordered another psychologist get involved in evaluating my daughter because the one my daughter already had had "only had the best interests of the child in mind", therefore "making her biased". (They want a counselor that has the best interests of the father in mind as well.)

My custody/visitation status remains in limbo: As ordered from each settlement conference in which my ex refuses to state what he is asking for in order to settle. HRS 571-46, the rebuttable presumption against custody to a perpetrator, was not used or even considered in my case. So far, I've had 6 judges, 8 attorneys, 3 therapists (waiting on the 4th), I've been in family court for 2 ½ years and have spent over \$80,000 on legal fees, counseling fees, evaluation fees, visitation center fees, etc.

What I do now is wait for the end of each "settlement conference" for new "custody orders" based on his allegations that I have brainwashed my daughter into not wanting to see him - my daughter is now 10. I have a great relationship with her, but I have been labeled as "the bad one" for "making" her talk to him on the phone. (How do you figure?) My abuser continues his abuse of me and my daughter financially primarily – he says he will use the court to bankrupt me and make me homeless. He continues to intimidate me and my daughter, forcing my daughter to talk on the phone when she is not comfortable with it, complains in court or files papers to cost me more money if she will not talk to him.

The family court system is not protecting the children when we leave a violent and abusive marriage. It is making it impossible for moms to get away from the abuser because they love and protect their children. They are creating financial distress to the moms and the children by allowing abusers to abuse the legal system. My suggestions for change and improvement would be:

- DV survivors moms should get a free “public defender” (then we’ll see how much abusers want to create unnecessary legal costs). Also, the default should be the very worst case scenario.
- Let the kids have a say what they want at a much younger age (I think a 5 year old can make that decision). I have been told my daughter has no input until she is 18 (in Nevada – it’s 14 in Hawaii, but even then, the children’s voices are rarely heard in court).
- Make abusers who drag out and prolong court proceedings pay the legal fees.
- There should be no cap on child support but based on the actual income earned and a percentage of that.
- Stricter laws on requiring abusers to share medical and child care costs that are garnished from the abuser’s wages directly.

Domestic Violence is a CRIME but family court does not treat it that way. A rapist is a rapist whether the victim is a stranger or a family member – the crime is THE SAME – treat DV as the crime that it is!

Hotmail: Trusted email with Microsoft’s powerful SPAM protection. [Sign up now.](#)

ChunOakland3 - Serena

From: Dara Carlin, M.A. [breaking-the-silence@hotmail.com]
Sent: Monday, March 29, 2010 12:05 PM
To: HMS Testimony
Subject: SCR91 to be heard Tuesday, March 30, 2010 at 10:05am in Room 016

Categories: Blue Category

TO: Senator Chun-Oakland, Chair
Senator Ihara, Vice Chair
Members of the Committee on Human Services

Senator Taniguchi, Chair
Senator Takamine, Vice Chair
Members of the Committee on the Judiciary and Government Operations

FROM: Oahu Survivor Mom #8 (submitted by proxy through Dara Carlin, M.A.)
881 Akiu Place
Kailua, HI 96734

DATE: March 30, 2010

RE: Strong Support for SCR91

My case was primarily about ending a relationship with a spouse who was found by the judge at a DV hearing to be extremely abusive. Subsequently my ex successfully used the Family Court to further his abuse in an extreme manner, with the full cooperation and blessing of the Family Court, who became co-perpetrators with my ex-husband. I often pointed this out to the judge(s), but they turned a deaf ear and chose to be complicit with the abuse. It was alarming! They punished the DV victim. The Family Court absolutely does handle such cases wrongfully.

I was married for 30 YEARS with 3 children when Domestic Violence destroyed my and my children's lives.

In June 2001, I was given a TRO that determined findings of extreme and severe abuse committed against me by my husband. Although prohibited from direct contact with me, he then successfully used litigation as a weapon through abusing the process that kept me in family court for OVER 6 YEARS. My abuser's goal was to financially disable me and destroy my business/livelihood and not only did Family Court not put a stop to this, but they actually enabled and supported my abuser's ongoing economical, emotional and psychological abuse of me!

At the outset, this was not a complex divorce situation. There largest issue was property division as our 3 children were no longer minors; there was no debt and we initially agreed to a 50/50 split.

The Divorce Decree issued in July 2003 stated that each party was to pay their own attorney fees and costs but my ex's attorney litigated for another 3 AND A HALF YEARS over his attorney fees, which I was ultimately forced to pay as ordered by the Senior FC Judge, who unilaterally changed the terms of the divorce decree *more than three years after the divorce decree was filed*, in direct contradiction to the law. The judge claimed she had "broad discretion" which has become the recurring theme of Family Court's response to allegations of wrongdoing on their part.

On the eve of trial, after significant legal fees in preparation for trial had already been spent, the presiding Senior Family Court Judge arbitrarily canceled the trial thereby denying the parties their Constitutional right to a trial. My ex's attorney billed \$77,935.91 in preparation for the trial on April 2006 alone! I also have an invoice for April, 2006 indicating a balance of **\$283,821.99** and note that this was not the last month of my ex's billings, so the total would rise still higher.

On many occasions, my attorney appealed to my ex's attorney to settle the case, which, but for my ex's attorney fees, was very doable. Repeatedly my ex's attorney stated that he would not allow the case to settle because the marital assets were significant saying "*there was too much money to be made*". Through the billable hour, my ex's attorney was able to transfer a substantial portion of the marital assets into his own account! This was the reason a simple divorce case turned into a nightmare of interminable litigation enabled by the Family Court judges. They allowed frivolous motions, vexatious litigation, malicious prosecution and abuse of process to run unchecked, thereby enriching my ex's attorney to bill for post-divorce fees in excess of \$300,000! The total cost for all the legal fees is astronomical: in excess of six figures (closer to seven figures) which was the lion's share of the marital assets.

There was a total of 12 judges who had their hands in my case and please note that this took place under a "unified family court" program, that says there will be just one judge per case for "the sake of continuity" – curiously (and clearly) my case was excluded from this purview.

Another issue: Family Court has no jurisdiction over a C corporation

At the outset of the divorce and without proper notice, Judge XXX granted an ex parte motion filed by my ex to freeze a C corporation's accounts. This freeze on a C corporation (which is a separate legal entity and is not "married", divorced nor otherwise under the jurisdiction of the Family Court) continued for 6 YEARS. (An Intermediate Court of Appeals judge told me off the record that the Family Court has NO jurisdiction over a C corporation in a divorce case.) The freeze on the C corporation prevented federal and state income taxes from being paid which triggered the IRS opening a criminal investigation on the Judge.

I asked for this judge's recusal in this case due to the criminal investigation by the IRS and an obvious conflict of interest, but the recusal was denied and this became the beginning of what would turn out to be indisputable, extreme, retaliatory and punitive tactics by the Family Court against me.

Other abuses by the Family Court judges: When it was proven in court that one of the attorneys committed perjury and lied under oath, the presiding judge took no disciplinary measures, which are mandated by law.

A certain motion was based upon a document my ex's attorney testified that he had in his possession. When ordered by the court to produce this document, his attorney had no choice but to admit that he misrepresented to the court that he had such a document. The existence of the document was a complete fabrication, yet when squarely faced with *undeniable fraud* the judge did absolutely nothing AND my ex's attorney added all of this to his billable hours that I was charged for!

Family Court judges enable the looting of the marital estate by plundering attorneys. Churning is encouraged by the lack of restraint. The conduct of the Family Court in this case bears a remarkable resemblance to racketeering.

Proposed Solutions:

1.The Office of Disciplinary Counsel is ineffective. It is a conflict of interest for lawyers to hold lawyers accountable, obviously! The fox cannot be trusted to guard the hen house! Lawyers need to be accountable to Regulated Industries Complaints Office like every other licensed professional in the State of Hawaii.

2. Judges need to be held accountable. Currently there is no effective accountability, which just enables abuse of power.

POWER CORRUPTS AND ABSOLUTE POWER CORRUPTS ABSOLUTELY.

Hotmail: Trusted email with Microsoft's powerful SPAM protection. [Sign up now.](#)

ChunOakland3 - Serena

From: Dara Carlin, M.A. [breaking-the-silence@hotmail.com]
Sent: Monday, March 29, 2010 10:25 AM
To: HMS Testimony
Subject: SCR91 to be heard Tuesday, March 30, 2010 at 10:05am in Room 016

Categories: Blue Category

TO: Senator Chun-Oakland, Chair
Senator Ihara, Vice Chair
Members of the Committee on Human Services

Senator Taniguchi, Chair
Senator Takamine, Vice Chair
Members of the Committee on the Judiciary & Government Operations

FROM: Oahu Survivor Mom #7 (by proxy through Dara Carlin, M.A.)
881 Akiu Place
Kailua, HI 96734

DATE: March 30, 2010

RE: Strong Support for SCR91

When my husband began sexually abusing our four children, I knew that was wrong and how he was treating me was wrong so I did what they tell you to do: I got help and I got out. I left Hawaii with the kids and was staying in a Domestic Violence shelter when state police came with an Ex Parte Hawaii order saying that he had been given full custody of our kids! They actually took my kids from me in 2 squad cars while we were in a shelter for domestic violence! Did I tell you my oldest is only in the third grade?

When I started telling people (the court professionals) what it was like being married to him and how he acted, no one would believe me - instead they believed him and all the crazy things he'd say about me that weren't true. After they took the kids, I didn't know what else to do but go home to my parents so I could work to make a new life for my kids and save enough money to go back to court to get them back.

I came back to Hawaii for the custody trial but when we got to court, the judge said he "didn't want a trial, he wanted a settlement" and said that "things *could* get worse for me" if I didn't settle and

chose to go to trial. We were at court by 8:00am and by 4:45pm, nothing had changed - we waited all day for a trial that never happened (my witnesses for the trial missed an entire day of work because they waited with me all day) and worse was the Custody Evaluator submitted a report that documented evidence of my children's ongoing sexual abuse by their father (the therapist was an intern student) but no one blinked an eye or even looked at him strangely - the report was supposed to be evidence IN SUPPORT of my ex!

My Domestic Violence Survivor Advocate asked the Custody Evaluator if she had considered the Rebuttable Presumption against custody to a family violence perpetrator in my case and the Custody Evaluator asked "What's that?" The Custody Evaluator didn't even know what the law was yet she was recommending full physical and legal custody to an abuser with evidence of his abuse that SHE brought to the court herself!

This is all wrong - I wouldn't have left him if I had known they'd take the kids from me and give them to him and he lied to the court ALL DAY! Up until 4:30pm that day, he was saying that he was going to leave Hawaii and move back to the mainland by a specific day in December, but at 4:30pm he all of a sudden announces that the move was just a POSSIBILITY not an actuality and the judge saw absolutely nothing wrong with my ex-husband lying to him and misrepresenting himself to the judge ALL DAY LONG!

Nothing was decided that day besides maintaining the status quo: he keeps full physical/legal custody of the kids and "problem solved" so far as the court's concerned because I had to return back home to the mainland without the kids who don't understand how I can just leave them like this. They don't understand or know about the restrictions that have been placed on me and telling them about it would be considered bad parenting, so I have to keep quiet and strong for my kids while they cry for me and continue to be molested by their father.

Please expose what is happening in family court for victims of domestic violence that try to escape their batterers. The "happily ever after" we're led to believe is there "if we have the courage to leave him" is really only a decent down Alice's rabbit hole from which there is no going back.

Hotmail: Trusted email with Microsoft's powerful SPAM protection. [Sign up now.](#)

ChunOakland3 - Serena

From: Dara Carlin, M.A. [breaking-the-silence@hotmail.com]
Sent: Monday, March 29, 2010 1:06 PM
To: HMS Testimony
Subject: SCR91 to be heard Tuesday, March 30, 2010 at 10:05am in Room 016

Categories: Blue Category

TO: Senator Chun-Oakland, Chair
Senator Ihara, Vice Chair
Human Services Committee Members

Senator Taniguchi, Chair
Senator Takamine, Vice Chair
Judiciary & Government Operations Committee Members

FROM: Maui Survivor Mom's Sister (submitted by proxy through Dara Carlin, M.A.)
881 Akiu Place
Kailua, HI 96734

DATE: March 28, 2010

RE: In STRONG SUPPORT of S.C.R. 91

Dear Hawaii State Legislators,

I am writing on behalf of a family member who was a victim of Domestic Violence.

At the time of her abuse she never shared the horrible things that were happening to her like being shoved into walls, raped repeatedly, punched, choked, etc.

She finally gathered enough strength to leave her abuser for good. One of the main reasons she stayed in the relationship was that he told her all the time that he would take her son away from her and that he'd take everything from her. This man is a prescription drug addict.

When she finally left, she took her son and fled to a relative's rental house. When she ran, he had started to push her around and had knocked her to the floor. She knocked things off tables and shelves and screamed at him to slow him down while she grabbed her child. The abuser would stalk them in public places, pound on the walls of their home in the middle of the night, leave her threatening "messages" like dead animals, break into the residence, and leave surveillance devices, etc. He had all the money and was always one step ahead because of the surveillance.

When they went into court for divorce and custody, the judge completely ignored her statements of Domestic Violence. He dissolved the restraining order. She didn't have proof of all the things he'd done to her. She hadn't been keeping track during her marriage. She was just trying to work it out. The judge called her a liar and not credible. After the 2nd hearing he disregarded everything she submitted or presented based on the fact that he said she wasn't credible. This case has been going on for years.

During the court proceedings, her son starting having nightmares, began sleepwalking, and eventually revealed disturbing statements about abuse and neglect. She consulted her attorney and he advised her to report on the

child's behalf. The boy made multiple reports and each time, as advised by an attorney, she reported on behalf of the child. For this she was accused of coaching the child, attempting to litigate custody through Child Welfare Services, false reporting, delay, and even child abuse. The child was called a liar and the mother was threatened with jail if she continued submitting reports on behalf of the child. There were open investigations with CWS, the prosecutor's office and the Attorney General. The judge answered the child's cry for help by putting him full-time with his abuser. The prosecutor closed the case because his witness (the boy) would never testify now that he was with his abuser. CWS closed it's case because it was a "court issue".

There have been so many things that have happened that made me outraged, cry and consult experts. So many resources have gone into fighting something that should have taken little time to settle. The one thing I cannot wrap my head around is that the judge is letting this happen!!! The judge KNOWS that the abuser is lying. He has papers and papers of undeniable evidence but he lets this continue. He even has private conversations with the abuser and his family and tells the Mother's attorneys, in short, that they shouldn't be representing the Mother.

All assets were given to the abuser. The child was given to the abuser. The child continues to report abuse and neglect and NO ONE IS HELPING HIM! The Mother is not allowed to see the documents being used against her, she is denied document production for evidentiary hearings, she is denied evidentiary hearings, she is not allowed to see Motions and Orders before the judge signs them. The judge made a predetermination based on fabricated evidence from the abuser and even though this was shown to be false beyond a shadow of a doubt, he refuses to change his position to protect the boy. This means that the judge and CWS are guilty of child abuse, among other things.

Child Welfare Services and Department of Human Services have acted against Mother to cover up their own mistakes. Maui Police Department would call her a "bitch" and tell her that she married the guy so she was getting what she deserved. Even a few legislators were contacted and those that were sympathetic did nothing.

When I hear that Hawaii is committed to stopping Domestic Violence, I doubt it. I doubt it because I've seen and heard and witnessed what they do to the people that are brave enough to make the decision to step away from their abuser for good. It's clear that the courtroom is just another tool that can be used by the abuser to keep control of his "victim", and in my family's case, the judge knowingly helped him out. This judge is still helping him out.

I don't know whether it's because this 2nd circuit judge was an attorney and he's confused in his role as a neutral person instead of a partial, advocating professional. Maybe since the abuser's family is wealthy, there is some "gift" that is being given. Maybe he is a staunch father's right person. Maybe he was abused as a child and has sympathy for the abuser. Whatever the reason, he is acting in a biased way, ignoring evidence, and after all is said and done...he is hurting a child for his own personal reasons. There is NO factual reason to keep this boy away from his mother and with his abuser. This behavior needs to be stopped!

I believe that the audit is a step in the right direction. It will let everyone see what this judge is doing. It will let everyone know that this judge is hurting children and hurting women who have gone through years of hurt and deserve a better life. They don't deserve to have violence delivered again and again by the gavel. All they want is to have their child safe and to be safe themselves. It's not a lot to ask but it seems there is no place for these women to go...even the neutral courtroom.

I would also like to request that if the audit finds that laws are broken by the judge, that corrective steps be taken immediately to protect these victims. It's not an accounting correction or a personnel correction. It's a correction that will stop criminal action that is allowed to continue with the blessing of the court. I'm very scared for the boy.

Please pass S.C.R. 91. Lives depend on it.

Thank you,

A concerned family member

Hotmail: Trusted email with powerful SPAM protection. [Sign up now.](#)

ChunOakland3 - Serena

From: A. Kaai [akaai2674@hotmail.com]
Sent: Monday, March 29, 2010 6:34 PM
To: HMS Testimony
Subject: Custody & Abuse

TESTIMONY OF ANGELA KAAIHUE, CUSTODY AND ABUSE

My twins are raised separate in guardianship. I voluntary placed them there about 8 years ago. The state pays approximately \$2200 a month plus their medical to their guardians. I have learned that the guardians and their other family members have been victims of abuse, drugs, sexual molestation, and other crimes. They have been either victims and their grown children and other family members have been involved with other crimes for example the abuse perpetrator, or even in Assaults, Harassments, and other crimes. My twins live in that environment.

I, the biological mother have been trying to obtain custody from the guardians and the court system. But excuse after excuse is given, "the mother doesn't know them", "the children dont want their mother", "they don't want to see the grandmother, "it's too far for the guardians, an inconvenience for the guardians to drive them to see their mother". These accusations, malice in disguise have made it difficult for my twins to be reunited with their mother. At times, I have seen bruises and scratches on their faces. I fear that they are ill-treated and exposed to drugs and violence by their guardians and family members.

The attorney that has been appointed their guardian ad-litem has not been helpful. She has taken their side and claims it to be in the best interest of the children, despite that they have never proven me to be mentally ill. I have my youngest child in custody and raise him well. He is their sibling, their grandmother wants to be a part of their lives, and we are the parents, Angela Kaaihue and HPD Police Officer Howard Kim, yet we are unable to gain custody. We have to fight an uphill battle, and only to be faced with accusations after accusations making this a long trecherous road for everyone, including my twins. They have had an attorney working probono for 8 years, why can't I have one too? It's me against 5 adults, three guardians and their two attornies. How can I win against 5 people? You would think that our parental rights are being violated but who cares? NO ONE cares if my children are exposed to cigarette smokes, and drugs. What about my children who cant see their biological grandparents and parents? NO ONE!! Is this in the best interest for my children to be raised by non-relatives with criminals or victims of criminals, here on the same island, and on government assistance?

Of course the guardians don't want to give them up and their \$2200 a month paycheck! That is a lot money. We can take care of my twins if only we can get custody.

Signed,

Angela Kaaihue

Hotmail: Trusted email with powerful SPAM protection. [Sign up now.](#)

March 29, 2010

IN STRONG SUPPORT OF S.C.R. 91

Dear Hawaii Legislators,

My son and myself greatly appreciate your support of S.C.R. 91 as the resulting audit will have a life changing effect on our lives and on the families of Hawaii that have been the subject of and endured the abuse of those judges who rule their own biased agenda from the bench.

I personally have a background that does not include abuse, alcohol or drug use. Until I married, I was never been beaten, abused, raped or brought to court. I don't drink, smoke or party. I am much more than the incubator this court is treating me like.

My parents were divorced 24 years into the marriage due to the actions of my father outside the home to which I was not exposed. Until I divorced I had not been exposed to a courtroom or any kind of legal setting and was unfamiliar with lawyers. I walked into this divorce trusting that a neutral judge would fairly rule the proceeding. I was wrong and wrong to the point that my life has been destroyed. I am now on State services and my child's life, his well being, his childhood is forever damaged.

I was married for just over 10 years to a man I later found to be a drug addict, alcoholic and a child, intimate partner and wife abuser. He ran around on me, stalked, misrepresented, lied and then told me what a liar I was almost convincing me that I was insane. I have always considered myself to be a strong intelligent woman who didn't care what others thought of me. What I never considered myself to be was frozen in fear and embarrassment. But for over 10 years I was too afraid to run and I remain that way because I continue to be abused and have been unable to save my child from this monster!

While I was being abused I hid the abuse from embarrassment convincing myself that I should have known better and I was determined not to be a victim. All I ever wanted was a child and I dreamed of this wonderful boy that I was blessed with. Able to run a 3 minute mile before marriage and association with this man, I was fully disabled with rheumatoid arthritis within 6 months of the wedding to the point where I was unable to physically carry my 5# son without great pain. Still I refused extensive medication, enduring pain so I could care properly for my son. I was unaware that stress was debilitating and incorrectly did not link disease to my abuser. Having a healthy child was so important that I did not apply medical treatment until after the birth of my son.

Because my abuser was constantly throwing me up against the walls and terrifying me while I was pregnant I suffered a false labor 2 weeks prior to when my beautiful son was ultimately born. He was born 31 days early and very tiny. My abuser also gave me herpes. He never disclosed that he had the disease. I found out recently that the same thing happened with his first wife. My son is now reporting red spots on his penis and that his abuser will not take him to the doctor for treatment. His wealthy family: a family law attorney father with a whole law firm, a paralegal mother, a drug addict sister, all worked in tandem with my husband to threaten me, threaten to take my son and on numerous occasions talked to me about what would happen if I tried to take this child

away from my abuser. My son was delivered with a security guard at the door because the threats were so extensive.

Still I tried to work it out because this man loved me right? Months of pain followed the birth of my son only being somewhat relieved when my mother or friend would step in and assist me. My abuser didn't help reduce the pain, or do anything except drink, take drugs, ski and run around. His working became optional in his mind and he used all available funds to fight for custody of his 2 kids from his first marriage always claiming abuse and lying by his ex wife. This left myself and my son with very little to live on. As it turns out he had lost custody and unsupervised contact because the children and their therapists alleged sexual abuse against him and his paralegal mother. Unfortunately he wasn't prosecuted; not from lack of evidence but because the court protected the children and that's all the mother wanted. She was not vindictive. These children are still willing to testify against their abuser. I was aware of the supervision but not the reason for it and had through my own naiveté allowed my abuser to prove he was right and she was wrong. I never checked myself instead trusting him and he lied.

After suffering 10 years of repeated rape, choking, physical violence, being shoved into walls, even having hot coffee thrown in my face, (as well as emotional and financial abuse) and I faced my sheer terror of what would happen. I took my son and ran.

I got an attorney, a TRO and then found out the Maui court was corrupt. I was further abused and crushed by Judge Keith Tanaka. My abuser handled this circumstance somewhat differently. He proceeded to an insurance company and took out a \$500,000 life insurance policy on me. He hired a "temporary" attorney until his father could relocate to HI and practice law without a license. I have since learned that money does buy almost everything, possibly including, Keith Tanaka, Barbara Sauer, Margaret Goldberg and CPS. My own credibility was bought and sold by these people and the Family Court abused my son and I, and continue to do so. Even with this testimony I am frightened about retaliation. When asked by my attorney what problem the judge had with me, Tanaka stated openly, "I don't like the way she represents this court". For this 'dislike' my son is forced to live with his abuser. Custody was changed when there were OPEN investigations with CPS, MPD, prosecuting attorney (for child abuse) and the AG, "Best interest" of my son was not considered by this corrupt Judge. He was advocating for the abuser and wanted to make the witness (my son) go away. So far my abuser has not been held accountable for egregious and criminal actions (perjury, forgery, UPL, falsification of official court documents, stalking, violation of court orders, Medicare and Medicaid fraud, other fraud against the state, etc. All accusations against me were and are unsubstantiated.

When I left I fled to my mothers home on the same property expecting the same behavior from my abuser as always. He beats me up, terrifies my son, he rips the house apart, he gets drunk and drugged up and then he apologizes, tells me how much he loves me and begs my forgiveness and asks me to come back promising never to do it again. He did all of this as expected but this time I said no and he called the police stating that I was abusing him. Judge Keith Tanaka agreed with my abuser that I (5'4", 115#) did abuse my abuser (6'4", 240#) additionally stating instead that I was not credible and no domestic or intimate partner violence had occurred. He accepted every excuse my abuser gave, never applying rebuttable presumption, even allowing him to go from love struck misunderstood husband to full all out victim in the course of a month. He then defined my abuser as the parenting parent giving extensive unsupervised

visitation with my son. All of this was done with full knowledge by the Judge that my abuser wrote notes stating he did these things, violated the TRO including the carrying of a handgun and for which he was prosecuted successfully and for which I was further punished in the family court. Under a TRO my abuser tried to grab my son from his school and had access to and was carrying guns threatening my life. He testified he had no weapons but turned in an unregistered handgun on advice of his attorney and had 3 weapons with scopes destroyed by the State in a plea agreement. Only in laying the gun ownership at his own brothers out-of-state feet did he avoid prosecution for 3 felony gun charges.

That's where the stalking harassment and threats escalated. He would stalk us in public places, stop my employees anywhere and question them on where I was and what I was doing, call at work, at home, pound on walls, break in, run his car at us in the dark, jump out of plants and steal personal property, let all the gas out of the propane bottles and flatten the tires of my car. He didn't stop there and he had my son join him in breaking in making him afraid of the Police, installed surveillance and recording devices and was always one step ahead of me. His main problem in doing these things was that the dogs barked when he came near. He was abusive to the animals on the property and they didn't want him near and they barked and growled when he came around. He was able to have Keith Tanaka order the animals removed calling them pets he could not afford to maintain with marital funds. They were given away under threat of death along with my livelihood, job skills and our safety. It got worse from there.

During visits he would bring his family of which one member was always in attendance. My son would wet himself when he had to go with his father and grandmother, be returned with concussion type symptoms, bruising and writing on his body. This escalated to my son stating that his father had sexually abused him, touched him incorrectly and threatened my safety and that of his cats, remaining dogs and grandma. I watched my son scream "No, that hurts, stop" using my abusers name while he was sleep walking and clawing at the doors to get away. He began pooping his pants and developed a severe case of athlete's foot on his penis and anal areas. My son begged not to go with his father. I contacted my attorney who advised me to report this which I did. In total my son reported sexual abuse and negligence approx. 12 times and the reports continue. He alleged his father putting his penis up his butt on more than a single occasion but did not define what this meant to him at this time just 8 years old. Counselors removed contact with the father to and from sessions and stated "Grave concern" should he have unsupervised contact. All supervisors have reported abuse to CWS and nothing happens to stop all this!. The GAL in the case Barbara Sauer is negligent and biased informing the court while working and representing my husband's interests that I coerced my son to make the statements, that I was lying and attempting to legislate custody through CPS. She went further to state that my son was lying as well. Disregarding open CPS, MPD, AG and prosecuting investigations Keith Tanaka gave my son to his abuser, with GAL Sauer stating immediate removal because he loves his Mom too much.

My son was removed from my custody same day without a true evidentiary hearing. I was not allowed to present evidence or witnesses before my son was removed from my care and I was disallowed contact. The reason: the abuser didn't like the school I enrolled my son in, the top public school on Maui. I was not allowed to see evidence that was used against me, and this is still the case. All allegations used against me were unsubstantiated. I was placed on supervised visitation with heavy restrictions, restrained

from his school and the home he was living in. On this same night my son panicked, called 911 and made a false report to get away from his abuser. This resulted in my abuser medicating my son into compliance and to keep him from running away and with him bringing my son into MPD to be charged with a felony for false reporting. MPD documented a false report and MPD treated my son badly picking and poking at him verbally until he burst into tears and began to throw up. Barbara Sauer and my Abuser were present and reported this falsely to the court thereafter using it against my son to control him with fear. Keith Tanaka penalized me even more deferring 100% confidence and decision power to his employee over me. The GAL never let up; everything was used against me, courthouse gossip, random statements, and things I "might" do in the future.

At the sole request of my abuser the court placed me under a vexatious Litigant order without hearing effectively terminating my right to appeal and deal with the bifurcated property issues. I was pro se when this was ordered and it included a pre-filing requirement. The GAL, also appointed as property master, spent 6 hours deciding that my abuser should have everything(over 1 million in real property and personal assets) and he didn't come to the hearing defaulting but still I lost. The court and my abuser are not done with me yet now going straight for child support and all future earnings. After refusing to update his guidelines 3 times, the court researched and falsified a guideline on his behalf awarding child support and back child support against guidelines. Not bothering to notice my attorney with all the orders, garnishments followed, with CSEA now attempting to collect anything I earn, anywhere.

My son still cries and begs to come home. He no longer has the glow of a happy child instead a lost and distant little boy more than aware that no one will help. The love I feel for my son and that which he feels for me is unequaled, as he knows where our hearts are and even the abuser cannot destroy the love however hard he has tried. He can destroy my sons body and with each "bad touch, each bruise, each fight" he shines less brightly and hates his father more. My son is almost 11 and he is scared and trapped and angry. This is the legacy of Keith Tanaka, Barbara Sauer and Margaret Goldberg. May they all go to hell. Your passing of this bill and the audit and corrections that may result have given my son and I hope. Hope again for the future, hope again for now.

In STRONG SUPPORT of SCR 91.

A desperate Mother of a very lost little light.

***"How far that little candle shows his beams!
So shines a good deed in a naughty world."***

~ William Shakespeare

ChunOakland3 - Serena

From: Chris Lethem [crslethem@hotmail.com]
Sent: Tuesday, March 30, 2010 7:06 AM
To: HMS Testimony
Subject: Testimony in **STRONG SUPPORT** of SCR91 audit of child custody proceedings with Amendments

To: Senator Suzanne Chun Oakland, Chair
Senator Les Ihara, Jr., Vice Chair
Committee on Human Services

Senator Brian T. Taniguchi, Chair
Senator Dwight Y. Takamine, Vice Chair
Committee on Judiciary and Government Operations

From: Chris Lethem

Subj: Testimony in **STRONG SUPPORT** of SCR91 audit of child custody proceedings **with Amendments**

Hearing: Tuesday, March 30, 2010; 10:05 a.m.; Room 016, State Capitol

As a father my ex-wife took my children overseas under false pretenses and spent nearly two years working to get my children back to the U.S. only to be falsely accused of domestic violence as a means to gain a tactical advantage just prior to a custody trial. The personal cost to successfully defend myself against these allegations has now taken **over five years** of my life, hurt my reputation, cost me incredible sums of money. It also means I've lost precious time with my children I can never get back. My case exemplifies the need to reform the processes the family court implements to more effectively address allegations of domestic violence. To have the State Auditor submit findings and recommendations related to how this process works, for a broad number of cases, would be quite helpful. Please amend the following section to read as follows:

Please amend the following section to read as follows:

BE IT RESOLVED by the House of Representatives of the Twenty-fifth Legislature of the State of Hawaii, Regular Session of 2010, the Senate concurring, that the Auditor is requested to conduct an audit of all child custody proceedings where family violence has been alleged to have been committed by a parent, that were heard by the Family Courts from January 1, 2004, through December 31, 2009, to assess whether the allegations were proven, unsubstantiated or found to be false, the consequences of these categories of allegations, and for the allegations where findings of family violence were made by the court the use and application of section 571-46(a)(9)-(14), Hawaii Revised Statutes; and

Hotmail: Trusted email with powerful SPAM protection. [Sign up now.](#)

ChunOakland3 - Serena

From: Dara Carlin, M.A. [breaking-the-silence@hotmail.com]
Sent: Tuesday, March 30, 2010 7:07 AM
To: HMS Testimony
Subject: SCR91 to be heard TODAY, MARCH 30th at 10:05am in Room 016

Importance: High

TO: Senator Suzanne Chun-Oakland, Chair
Senator Les Ihara, Vice Chair
Members of the Committee on Human Services

Senator Brian Taniguchi, Chair
Senator Dwight Takamine, Vice Chair
Members of the Committee on the Judiciary and Government Operations

FROM: Oahu Survivor Mom #10 (by proxy through Dara Carlin)
881 Akiu Place
Kailua, HI 96734

DATE: March 30, 2010

RE: SUPPORT for SCR91

I would like to share my story but I'd also like to remain anonymous (which is prob ridiculous b/cause of the unusual end result of my daughter) but anyway, here it goes.

In 1998 I filed for divorce from my abusive husband based on full physical and joint legal custody of our then 8 year-old daughter. During the divorce process we had set a visitation schedule (which my ex hardly took advantage of) and started the worksheet for child support (which he hardly paid)... When the final date to show up at my attorney's office came (about 1-2 years later), my ex didn't show. He moved the signing date to "next week" then again to "next week" then again to "next week" which eventually made us miss our court appearance & without signed agreements. So that process ended cause I didn't have the funds to continue fighting him. Keep in mind, he was paying me minimal child support, whatever he could give me at that time, he did, sometimes it was \$60.00 or \$100.00 then the checks would bounce and I had to pay the bounced check fees again, etc....

By 2001 his back child support payments were in excess of \$3,400.00 and I finally was able to convince HIM to file for the divorce and he did. We kept the papers at status quo for visitation and child support but this time around I asked CSEA to handle the collection of child support payments.

In 2004 my ex still didn't pay off the child support balance that was due me and was still ignoring his responsibility from 1998...

In August of 2004 my daughter didn't come home one night and she was diciplined (physically and by taking away her priviledges, etc), which by now, she had already been in almost 6 years of visitation every other weekend with Dad: no structure, no curfews, minimal supervision, unlimited phone usage, etc. Basically every trick Dad could pull to get her to like him. INCLUDING going against my various deciplinary actions such as "no phone for 4 days" and Dad would go out and buy her a new phone if she was with him on that weekend.

Anyway, a month later my ex found out that she was physically diciplined and assisted her in making an abuse

case against me (he is a Police Officer). After reading her statements in the report, it was very clear that a 14 year-old didn't write the report. The report used many police jargons and the diagram of the bedroom was way too perfect for a 14 year-old to draw, yet it was drawn with police precision and notations.

I got arrested and my daughter got thrown into the foster home program b/cause of my full physical custody. My next step was to get her out of the foster home through Social Services (Winnie Quiocho). My 1st meeting w/ Winnie was for me to give temp physical custody to someone I trusted, which wasn't her dad. So Winnie had a meeting with my ex right after I left her office. About an hour later, she called me back for a 2nd meeting and no matter what I said to her at that 2nd meeting, it seemed it didn't matter to her. She had already decided and placed her favor on my ex, the law-enforcing Police Officer who told me repeatedly that no matter what, it was HIS word against mine and he'd win b/cause of his job. Next thing I get is a TRO from him "on behalf of" my daughter against me (I was 3 months pregnant at that time) and by doing so, he was awarded temp physical custody.

At this point the custody battle began b/cause the CSEA balance for old CS payments did not go away and I feel that my ex used this time to get out of the old payments he owed me. After all day in court, I gave into giving him full physical and full legal custody and he in turn asked me to pay him child support (I hadn't worked since 2001 by choice). He still owed me back pay and now after calculating the change in custody he doesn't owe me anything, but I start paying him "x" amount starting a few months later?

Nobody at the court or Social Services would listen to me, my ex was psycho and was using and dealing drugs. **He didn't have a relationship with our daughter, he just used her to get back at me for leaving him.** He wasn't trying to take her away from me b/cause he had a "better" life to offer her, he was just using her in his sick little games. I tape recorded some of our phone conversations and I played it for the court lady and STILL, I was looked upon as an unjust mother going up against "the honorable police officer" (who never even paid his child support obligations)!

Prior to my daughter moving in with her dad, she was an honor roll student. After residing with my ex, she almost failed the 9th grade, started drinking and smoking marijuana, cut school, stopped going to church with me, etc.

My daughter was stealing her dad's prescription drugs (an anti-depressant) and HE KNEW ABOUT IT. Mixing it with alcohol and other street drugs, she died at 19 years-old from accidental overdose. The fact that she was taking the prescription drug (that was prescribed to her dad) was on her autopsy report, which is the last legal document I have for her. I am waiting for her death certificate to come in the mail ...

Did the court system do their job? No. Did Winnie Quiocho conduct a thorough investigation? Absolutely NOT.

Hotmail: Trusted email with powerful SPAM protection. [Sign up now.](#)

ChunOakland3 - Serena

From: Tom Marzec [adamtm@lava.net]
Sent: Tuesday, March 30, 2010 5:24 AM
To: HMS Testimony
Subject: Testimony in **STRONG SUPPORT** of SCR91 audit of child custody proceedings

March 30, 2010

To: Senator Suzanne Chun Oakland, Chair
Senator Les Ihara, Jr., Vice Chair
Committee on Human Services
Via email to: HMSTestimony@Capitol.hawaii.gov

Senator Brian T. Taniguchi, Chair
Senator Dwight Y. Takamine, Vice Chair
Committee on Judiciary and Government Operations

From: Tom Marzec

Subj: Testimony in **STRONG SUPPORT** of **SCR91** audit of child custody proceedings

Hearing: Tuesday, March 30, 2010; 10:05 a.m.; Room 016, State Capitol

As an advocate for family court reform, I support this type of an audit. Any neutral investigation and compilation of how the family court handles domestic violence allegations, determines if a finding of domestic violence or of family violence is proven or not, and the associated impacts on custody during this process, is desirable. The State Auditor submitting findings and recommendations related to how this process works, for a broad number of cases, would be enlightening.

Your continuing support of these family court initiatives is very appreciated!
Thank you for the opportunity to testify.

ChunOakland3 - Serena

From: Dara Carlin, M.A. [breaking-the-silence@hotmail.com]
Sent: Monday, March 29, 2010 3:56 PM
To: HMS Testimony
Subject: SCR91 to be heard Tuesday, March 30, 2010 at 10:05am in Room 016

TO: Senator Suzanne Chun-Oakland, Chair
Senator Les Ihara, Vice Chair
Members of the Committee on Human Services

Senator Brian Taniguchi, Chair
Senator Dwight Takamine, Vice Chair
Members of the Committee on the Judiciary and Government Operations

FROM: Dara Carlin, M.A.
Domestic Violence Survivor Advocate
881 Akiu Place
Kailua, HI 96734

DATE: March 30, 2010

RE: STRONG SUPPORT for SCR91

Domestic Violence (DV) - one individual's use of coercive tactics against another individual to maintain power and control - is a CRIME against God and humanity. It is not a personal problem, a mental health disorder or the fault of anyone else's beyond the very individual who chooses to use it to get their needs met. The use of violence against another in any form is unequivocally **wrong**, regardless of age, gender, nationality or religion.

The singular message we give DV victims across the board, LEAVE, actually has two meanings:

- LEAVE, as in leave the dangerous situation and
- LEAVE, as in leave/end the dangerous relationship

In a card given to DV victims distributed by the Department of the Prosecuting Attorney's Victim/Witness Kokua Services under the heading **SAFETY FIRST** the very first line reads: "FIRST, YOU MUST PROTECT YOUR-SELF AND YOUR CHILDREN FROM IMMEDIATE DANGER" (I'm copying directly and it's all in caps).

Approximately two decades ago, Hawaii State Statute 571-46 was adopted to prevent and curtail the further occurrence of family violence once a DV victim had successfully fled her abuser. Today, if a DV victim follows these two directives, **leave and keep you and your children safe**, she's already well on her way to losing custody of her children to her abuser in any one of our Hawaii family courts. The survivor testimony before you today - much of which has been funneled through me due to the survivors fear of their ex-spouses and retaliation in their ongoing child custody cases - is just the tip of the iceberg of a national problem.

How big is the problem? Big enough to fill books like:

"If I Killed You, I'd Get the Kids" □: Women's Survival and Protection Work with Child Custody and Access in the Context of Woman Abuse
Journal Qualitative Sociology

Publisher Springer Netherlands
ISSN 0162-0436 (Print) 1573-7837 (Online)
Issue Volume 27, Number 1 / March, 2004
DOI 10.1023/B:QUAS.0000015545.82803.90
Pages 77-99
Subject Collection Humanities, Social Sciences and Law
SpringerLink Date Wednesday, November 03, 2004

PDF (4.9 KB)Free Preview

If I Killed You, I'd Get the Kids: Women's Survival and Protection Work with Child Custody and Access in the Context of Woman Abuse
Colleen Varcoe¹ and Lori G. Irwin

Abstract Public interest in child custody and access has intensified under the guise of gender neutrality and without adequate attention to gender based violence. A study of formal systems' responses to abuse by intimate partners identified child custody and access as a central issue. ***Interviews with women revealed that upon leaving abusive partners, women's work involved the **contradictory requirements** of preserving the children's relationships with, yet protecting them from, their fathers***. Interviews with service providers and document analysis illustrated how **certain practices, policies and ideologies create and sustain these requirements**. Findings illustrate that gender analysis and accounting for violence in custody and access practice are necessary to the safety of women and children.

child custody - woman abuse - violence against women - participatory action research

And big enough to be on "The Dr. Phil Show" scheduled to be aired on Thursday, April 8, 2010.

How bad is it in Hawaii? That's what we're urging you to take a look at: to see for yourselves how the law is being broken in the very place where it's supposed to be upheld. For several years now, Senator Chun-Oakland has tried to find a diplomatic way to bring Sunshine & Accountability to the family court system in Hawaii, but it is very clear that the Judiciary does not want to show you what they don't want you to see. What would you see? Court orders like this one from a domestic violence victim's divorce decree:

"Mother should not participate in any domestic violence support groups for abused women at the Family Peace Center or elsewhere regarding the facts and circumstances of this case".

This particular DV survivor lost custody of both her two young daughters to her abuser after "successfully fleeing" the marriage.

Losing your children in a protracted child custody case after escaping a dangerous relationship and following all the instructions given to you by the "professionals" is NOT what DV victims risk their lives for. As guardians of our laws, we are telling you that the law designed to keep DV survivors and their children safe from harm is being blatantly broken every day in courtrooms across the state and we are urging you to do something about it.

Hawaii has the potential distinction to set the example for the rest of the nation by taking the first step in correcting this crime. On Mother's Day - Sunday, May 8, 2010 - domestic violence survivors from across the country will be at The White House demanding an investigation into these cases specifically naming Hawaii as one of the starting points since this is the President's home state. SCR91 would show that Hawaii is taking proactive measures to address what we know will be uncovered in the other states as well.

Thank you for the opportunity to provide testimony on this matter.

Most respectfully,

Dara Carlin, M.A.
Domestic Violence Survivor Advocate

Hotmail is redefining busy with tools for the New Busy. Get more from your inbox. [Sign up now.](#)

ChunOakland3 - Serena

From: Dara Carlin, M.A. [breaking-the-silence@hotmail.com]
Sent: Monday, March 29, 2010 3:56 PM
To: HMS Testimony
Subject: SCR91 to be heard Tuesday, March 30, 2010 at 10:05am in Room 016

TO: Senator Suzanne Chun-Oakland, Chair
Senator Les Ihara, Vice Chair
Members of the Committee on Human Services

Senator Brian Taniguchi, Chair
Senator Dwight Takamine, Vice Chair
Members of the Committee on the Judiciary and Government Operations

FROM: Dara Carlin, M.A.
Domestic Violence Survivor Advocate
881 Akiu Place
Kailua, HI 96734

DATE: March 30, 2010

RE: STRONG SUPPORT for SCR91

Domestic Violence (DV) - one individual's use of coercive tactics against another individual to maintain power and control - is a CRIME against God and humanity. It is not a personal problem, a mental health disorder or the fault of anyone else's beyond the very individual who chooses to use it to get their needs met. The use of violence against another in any form is unequivocally **wrong**, regardless of age, gender, nationality or religion.

The singular message we give DV victims across the board, LEAVE, actually has two meanings:

- LEAVE, as in leave the dangerous situation and
- LEAVE, as in leave/end the dangerous relationship

In a card given to DV victims distributed by the Department of the Prosecuting Attorney's Victim/Witness Kokua Services under the heading **SAFETY FIRST** the very first line reads: "FIRST, YOU MUST PROTECT YOUR-SELF AND YOUR CHILDREN FROM IMMEDIATE DANGER" (I'm copying directly and it's all in caps).

Approximately two decades ago, Hawaii State Statute 571-46 was adopted to prevent and curtail the further occurrence of family violence once a DV victim had successfully fled her abuser. Today, if a DV victim follows these two directives, **leave and keep you and your children safe**, she's already well on her way to losing custody of her children to her abuser in any one of our Hawaii family courts. The survivor testimony before you today - much of which has been funneled through me due to the survivors fear of their ex-spouses and retaliation in their ongoing child custody cases - is just the tip of the iceberg of a national problem.

How big is the problem? Big enough to fill books like:

"If I Killed You, I'd Get the Kids" □: Women's Survival and Protection Work with Child Custody and Access in the Context of Woman Abuse
Journal Qualitative Sociology

Publisher Springer Netherlands
ISSN 0162-0436 (Print) 1573-7837 (Online)
Issue Volume 27, Number 1 / March, 2004
DOI 10.1023/B:QUAS.0000015545.82803.90
Pages 77-99
Subject Collection Humanities, Social Sciences and Law
SpringerLink Date Wednesday, November 03, 2004

PDF (4.9 KB)Free Preview

If I Killed You, I'd Get the Kids: Women's Survival and Protection Work with Child Custody and Access in the Context of Woman Abuse
Colleen Varcoe¹ and Lori G. Irwin

Abstract Public interest in child custody and access has intensified under the guise of gender neutrality and without adequate attention to gender based violence. A study of formal systems' responses to abuse by intimate partners identified child custody and access as a central issue. ***Interviews with women revealed that upon leaving abusive partners, women's work involved the **contradictory requirements** of preserving the children's relationships with, yet protecting them from, their fathers***. Interviews with service providers and document analysis illustrated how **certain practices, policies and ideologies create and sustain these requirements**. Findings illustrate that gender analysis and accounting for violence in custody and access practice are necessary to the safety of women and children.

child custody - woman abuse - violence against women - participatory action research

And big enough to be on "The Dr. Phil Show" scheduled to be aired on Thursday, April 8, 2010.

How bad is it in Hawaii? That's what we're urging you to take a look at: to see for yourselves how the law is being broken in the very place where it's supposed to be upheld. For several years now, Senator Chun-Oakland has tried to find a diplomatic way to bring Sunshine & Accountability to the family court system in Hawaii, but it is very clear that the Judiciary does not want to show you what they don't want you to see. What would you see? Court orders like this one from a domestic violence victim's divorce decree:

"Mother should not participate in any domestic violence support groups for abused women at the Family Peace Center or elsewhere regarding the facts and circumstances of this case".

This particular DV survivor lost custody of both her two young daughters to her abuser after "successfully fleeing" the marriage.

Losing your children in a protracted child custody case after escaping a dangerous relationship and following all the instructions given to you by the "professionals" is NOT what DV victims risk their lives for. As guardians of our laws, we are telling you that the law designed to keep DV survivors and their children safe from harm is being blatantly broken every day in courtrooms across the state and we are urging you to do something about it.

Hawaii has the potential distinction to set the example for the rest of the nation by taking the first step in correcting this crime. On Mother's Day - Sunday, May 8, 2010 - domestic violence survivors from across the country will be at The White House demanding an investigation into these cases specifically naming Hawaii as one of the starting points since this is the President's home state. SCR91 would show that Hawaii is taking proactive measures to address what we know will be uncovered in the other states as well.

Thank you for the opportunity to provide testimony on this matter.

Most respectfully,

Dara Carlin, M.A.

Domestic Violence Survivor Advocate

Hotmail is redefining busy with tools for the New Busy. Get more from your inbox. [Sign up now.](#)

ChunOakland3 - Serena

From: Dara Carlin, M.A. [breaking-the-silence@hotmail.com]
Sent: Monday, March 29, 2010 3:56 PM
To: HMS Testimony
Subject: SCR91 to be heard Tuesday, March 30, 2010 at 10:05am in Room 016

TO: Senator Suzanne Chun-Oakland, Chair
Senator Les Ihara, Vice Chair
Members of the Committee on Human Services

Senator Brian Taniguchi, Chair
Senator Dwight Takamine, Vice Chair
Members of the Committee on the Judiciary and Government Operations

FROM: Dara Carlin, M.A.
Domestic Violence Survivor Advocate
881 Akiu Place
Kailua, HI 96734

DATE: March 30, 2010

RE: STRONG SUPPORT for SCR91

Domestic Violence (DV) - one individual's use of coercive tactics against another individual to maintain power and control - is a CRIME against God and humanity. It is not a personal problem, a mental health disorder or the fault of anyone else's beyond the very individual who chooses to use it to get their needs met. The use of violence against another in any form is unequivocally **wrong**, regardless of age, gender, nationality or religion.

The singular message we give DV victims across the board, LEAVE, actually has two meanings:

- LEAVE, as in leave the dangerous situation and
- LEAVE, as in leave/end the dangerous relationship

In a card given to DV victims distributed by the Department of the Prosecuting Attorney's Victim/Witness Kokua Services under the heading **SAFETY FIRST** the very first line reads: "FIRST, YOU MUST PROTECT YOUR-SELF AND YOUR CHILDREN FROM IMMEDIATE DANGER" (I'm copying directly and it's all in caps).

Approximately two decades ago, Hawaii State Statute 571-46 was adopted to prevent and curtail the further occurrence of family violence once a DV victim had successfully fled her abuser. Today, if a DV victim follows these two directives, **leave and keep you and your children safe**, she's already well on her way to losing custody of her children to her abuser in any one of our Hawaii family courts. The survivor testimony before you today - much of which has been funneled through me due to the survivors fear of their ex-spouses and retaliation in their ongoing child custody cases - is just the tip of the iceberg of a national problem.

How big is the problem? Big enough to fill books like:

"If I Killed You, I'd Get the Kids" □: Women's Survival and Protection Work with Child Custody and Access in the Context of Woman Abuse
Journal Qualitative Sociology

Publisher Springer Netherlands
ISSN 0162-0436 (Print) 1573-7837 (Online)
Issue Volume 27, Number 1 / March, 2004
DOI 10.1023/B:QUAS.0000015545.82803.90
Pages 77-99
Subject Collection Humanities, Social Sciences and Law
SpringerLink Date Wednesday, November 03, 2004

PDF (4.9 KB)Free Preview

If I Killed You, I'd Get the Kids: Women's Survival and Protection Work with Child Custody and Access in the Context of Woman Abuse
Colleen Varcoe¹ and Lori G. Irwin

Abstract Public interest in child custody and access has intensified under the guise of gender neutrality and without adequate attention to gender based violence. A study of formal systems' responses to abuse by intimate partners identified child custody and access as a central issue. *****Interviews with women revealed that upon leaving abusive partners, women's work involved the contradictory requirements of preserving the children's relationships with, yet protecting them from, their fathers***.** Interviews with service providers and document analysis illustrated how **certain practices, policies and ideologies create and sustain these requirements.** Findings illustrate that gender analysis and accounting for violence in custody and access practice are necessary to the safety of women and children.

child custody - woman abuse - violence against women - participatory action research

And big enough to be on "The Dr. Phil Show" scheduled to be aired on Thursday, April 8, 2010.

How bad is it in Hawaii? That's what we're urging you to take a look at: to see for yourselves how the law is being broken in the very place where it's supposed to be upheld. For several years now, Senator Chun-Oakland has tried to find a diplomatic way to bring Sunshine & Accountability to the family court system in Hawaii, but it is very clear that the Judiciary does not want to show you what they don't want you to see. What would you see? Court orders like this one from a domestic violence victim's divorce decree:

"Mother should not participate in any domestic violence support groups for abused women at the Family Peace Center or elsewhere regarding the facts and circumstances of this case".

This particular DV survivor lost custody of both her two young daughters to her abuser after "successfully fleeing" the marriage.

Losing your children in a protracted child custody case after escaping a dangerous relationship and following all the instructions given to you by the "professionals" is NOT what DV victims risk their lives for. As guardians of our laws, we are telling you that the law designed to keep DV survivors and their children safe from harm is being blatantly broken every day in courtrooms across the state and we are urging you to do something about it.

Hawaii has the potential distinction to set the example for the rest of the nation by taking the first step in correcting this crime. On Mother's Day - Sunday, May 8, 2010 - domestic violence survivors from across the country will be at The White House demanding an investigation into these cases specifically naming Hawaii as one of the starting points since this is the President's home state. SCR91 would show that Hawaii is taking proactive measures to address what we know will be uncovered in the other states as well.

Thank you for the opportunity to provide testimony on this matter.

Most respectfully,

Dara Carlin, M.A.

Domestic Violence Survivor Advocate

Hotmail is redefining busy with tools for the New Busy. Get more from your inbox. [Sign up now.](#)

ChunOakland3 - Serena

From: Dara Carlin, M.A. [breaking-the-silence@hotmail.com]
Sent: Monday, March 29, 2010 1:16 PM
To: HMS Testimony
Subject: SCR91 to be heard Tuesday, March 30, 2010 at 10:05am in Room 016

From: barryg78@aol.com
To: HMSTestimony@hawaii.capitol.gov
Sent: 3/30/2010
Re: SCR91

My name is Barry Goldstein. I had the privilege of addressing the legislature this past March when I was in Hawaii to speak at the IVAT domestic violence conference. I am glad that you are looking into the crisis in the custody court system and I hope you will create reforms and resources so that Hawaii can truly be a paradise for its children.

This is a particularly opportune time to consider the issue of domestic violence custody cases because a new book, **DOMESTIC VIOLENCE, ABUSE and CHILD CUSTODY: Legal Strategies and Policy Issues**, co-edited by Dr. Mo Hannah and myself is about to be published. The book contains chapters by over 25 of the leading experts in the US and Canada including judges, lawyers, psychiatrists, psychologists, sociologists, journalists and domestic violence advocates. This is a book by professionals and for professionals, carefully footnotes all information and contains the most up-to-date research available. Although the experts come from different disciplines and backgrounds there is complete agreement that the research shows widespread mistakes in the custody court system that have resulted in thousands of children being sent to live with abusers.

Here is the link:

<http://www.civicresearchinstitute.com/dvac.html>

Thirty years ago when domestic violence first became a public issue there was no research available. The courts like other institutions developed practices to respond to domestic violence. At the time, many believed domestic violence was caused by mental illness, substance abuse and the victim's behavior. We thought domestic violence only involved physical abuse and children were not affected unless they were directly assaulted. All this and many other beliefs have turned out to be wrong. Nevertheless, thirty years later most of the outdated or discredited practices adopted by the courts are still being used. One mistake was to rely on mental health professionals in cases that do not involve mental health issues even though they have little training on domestic violence issues and generally are not familiar with up-to-date research. This is one of the reasons why the courts tend not to look for the specialized body of research that is now available and could help avoid many common mistakes. Instead the inadequately trained professionals have repeated misinformation so frequently that it is deeply ingrained in the judges and other professionals so much so that they often are not open to newer, more accurate information.

Let me give you a few common examples to demonstrate what I mean. In his chapter, Judge Brigner writes about training other judges about domestic violence. They often ask him what to do about the women who are lying. When asked what they mean they speak about women who go back to their abuser, withdraw petitions for orders of protection, fail to file criminal charges and don't have medical records. In reality all of these are normal reactions of women who do these things for safety and other reasons. None of this supports the belief the women were lying, but courts routinely discredit valid claims of abuse with this type of mistaken reasoning. Similarly there is a widespread belief women frequently make false allegations of abuse when in fact it is very rare (one-two percent). Another common example is judges, lawyers and mental health professionals observe children interacting with their father and conclude there was no abuse because the children showed no fear. What the children understand, but the inadequately trained professionals don't is that their father won't hurt them when there is a witness particularly someone the father wants to impress. In fact they could be punished if they showed fear. If the courts judging domestic violence allegations regularly discredit the claims based on information that is not probative, they have little chance of getting the cases right. At the same time, the courts often limit the evidence they look at to proof of physical assaults. Experts understand you need to look for a pattern of controlling and coercive behavior, but much of this evidence is ignored by professionals who don't understand its significance.

The professionals now relied on by the courts also fail to recognize gender bias and the frequent double standards employed against women. This generally is not done deliberately, but rather is often unconscious because it is easy for well-meaning professionals to engage in gender bias because they don't have any training. There is also substantial

research about the long-term harm of domestic violence to children, but we have seen professionals ignore this harm because they are unaware of the research or don't know how to apply it. The professionals are well aware that children do better with both parents in their lives, but are not aware this is not true if one of the parents is abusive. There are many other areas of research the courts don't use that make it harder to understand the cases and protect children.

What is really going on is that for many years Hawaii like every other state made it a policy to stop domestic violence and provide support and assistance to battered women. As support and resources became more available, the domestic violence homicide rate went down for many years and interestingly men's lives were saved in greater numbers than women's lives. This is because men kill women for different reasons than women kill men. Women more often kill men in self-defense (although the definition of self-defense is based on a reasonable man and thus favors men) and to stop his abuse. Therefore when she had help in getting away she didn't have to kill him to be safe. The abusers and the "fathers rights" groups that support them were not happy with the protections provided women. They believe they have a right to control their partners and she has no right to leave. They developed an unspeakably cruel tactic to maintain control. We constantly see abusive fathers who had little involvement with the children during the relationship suddenly seek custody as a way to pressure his partner to return or punish her for leaving. The courts are so pleased to have fathers who seem to want to be involved with their children that they fail to recognize the motive or recognize the tactic. The frequent failure of custody courts has resulted in women staying with her abuser. She would rather stay and take the beatings in order to be near her children to try and protect them. Recently the domestic violence homicide rate has started to increase again. Some have suggested this was caused by the recession, but I believe when the research is available we will see the connection between the failure of the custody courts and the increased murder rate. Some of the mothers who stay to protect their children don't survive this decision.

Courts often refer to the less than five percent of the cases that cannot be settled as high conflict cases. Literally they are, but the research shows 90% of these cases involve fathers who are abusers, but for the reasons described above and others the courts don't recognize this. As a result, between 70-83% of these cases result in custody or joint custody for the mostly abusive fathers in this category. Mothers are trying to limit the time the children spend with the abusive fathers in order to protect the children. The courts fail to recognize the abuse and instead treat the mothers as if they are harmful to the children in trying to interfere with the relationship between children and fathers. Ironically in trying to keep both parents in children's lives the courts give custody to the abusive father and immediately or shortly thereafter the mother is taken out of the child's life because the father seeks to punish the mother. Although the courts cruelly punish mothers for trying to protect their children, there is a double standard and the courts often help the father take the mother out of the children's life. Thus the children are deprived of their primary attachment figure and superior parent while having to live with their father's abuse.

We are hoping to use the up-to-date research in the book to reform the system. We plan to work with the courts and others to better protect children. We believe the first priority should be the safety of the children and the second priority to give them the best chance to reach their potential. I don't think that should be controversial, but it is not what is done in courts today. We are hopeful that the research in the book will cause courts and policy makers to take a fresh look at how the courts respond to domestic violence custody cases. We would like the courts to use the research to train or perhaps retrain judges and other professionals in the court system and to change some of the practices that work badly for children. If I can be of any assistance, please let me know.

Barry Goldstein

Domestic Violence speaker, author, consultant and advocate
831 Queen Anne Road
Teaneck, N.J. 07666
914-643-3142
Barrygoldstein.net website

The New Busy is not the old busy. Search, chat and e-mail from your inbox. [Get started.](#)

ChunOakland3 - Serena

From: Dara Carlin, M.A. [breaking-the-silence@hotmail.com]
Sent: Monday, March 29, 2010 12:52 PM
To: HMS Testimony
Subject: SCR91 to be heard Tuesday, March 30, 2010 at 10:05am in Room 016

*TO: Senator Chun-Oakland, Chair
Senator Ihara, Vice Chair
House Human Services Committee Members*

*Senator Taniguchi, Chair
Senator Takamine, Vice Chair
House Judiciary & Government Operations Committee Members*

*FROM: Oahu Survivor Mom #9 (by proxy through Dara Carlin)
881 Akiu Place
Kailua, HI 96734*

DATE: March 30, 2010

RE: SUPPORT for SCR91

Please vote for SCR91 so that what happened to me and my kids don't happen to any other domestic violence victim and her keiki. I had 3 kids - the oldest was 8 and my baby was just 2. He was always cheating on me with other women. He didn't even try to hide it. The violence was so bad and my kids started seeing it. That's when I was like No, no more, that's WRONG! The last time I said NO MORE you know what he wen do? He choked me and I thought Ok, now I'm going die so I fought back and I fought back hard with everything I had. He raped me and left but I got his face good. You know where he wen go next? The police station to take one restraining order out ON ME! Then they come and take my kids away from ME!!!! We go court and I swear to tell the whole truth and nothing but the truth so help me God and the judge asks me "Did you do this to him?" he was holding one picture of what I wen do to his face (I scratched his face) and I said "Yes, your honor, I did do that" but he never ask what he do to my neck or about the rape or about none of it! He took custody away from me and wen give all 3 kids to HIM!!!! And then he wen order ME into Anger Management and Parenting Classes. But it doesn't end there. Because his temper's so bad, he start taking it out on the kids. My whole family, ALL of us saw it and we called the police and the CPS but they never do nothing. The more we call to report what he doing to the kids, they get mad at US!!!! And the restraining order he wen get against me? He violate his own restraining order ALL THE TIME but still yet he says he's afraid of me!!!! My kids don't understand and I no more money already for fight him in family court. This ain't right. You gotta do something to make this right cause it's not just me and my kids.

Mahalo and Aloha.

Hotmail is redefining busy with tools for the New Busy. Get more from your inbox. [Sign up now.](#)

ChunOakland3 - Serena

From: Dara Carlin, M.A. [breaking-the-silence@hotmail.com]
Sent: Monday, March 29, 2010 10:16 AM
To: HMS Testimony
Subject: SCR91 to be heard Tuesday, March 30, 2010 at 10:05am in Room 016

Dear Committee Members,

I've been aware of battered mothers losing custody for several years now. I wrote several articles on the subject and wrote a chapter in a book on interpersonal violence about the fathers' rights movement, which has had a profound effect on women, especially those going through family court. I can send you this chapter for further information on this topic.

When battered women go to family court, they face many obstacles. To begin with, they may not have adequate legal representation. Then, when they allege abuse, either to themselves or to their children, they may not be believed. For one, judges may believe the woman is being vindictive, especially if this is the first time an allegation of abuse has arisen. Indeed, the discovery of abuse may lead to the divorce. Two, in courts with "friendly parent policies," the battered woman may look hostile and vindictive. Naturally, a battered woman is not going to look "friendly" so these policies are more harmful than helpful to abused women. Three, if the woman alleges child sexual abuse, she's often countered with claims of parental alienation syndrome (PAS). Despite the fact that major medical and psychological organizations do not support PAS, it is still used in family courts across the country. Its greatest harm is that it masks child abuse. How does one distinguish between an "alienated" child and an abused one? The symptoms are identical. This 'syndrome' simply scapegoats women and overlooks various reasons for hostility towards a parent (divorce, witnessing violence, child abuse...).

Battered mothers have always had problems with custody because they tend to look unfit in court - they're nervous, anxious, depressed or hostile. These are symptoms of being battered and should not be what defines the women. And, nowadays, making matters worse, are the rise of fathers rights groups. While positive parenting groups exist that help fathers spend more time with children, other fathers rights groups do more to punish women than to help men. Their agenda places fathers rights above women and children's safety.

Family court must protect women and children. The Leadership Council on Child Abuse and Interpersonal Violence estimates 58,000 children a year go into unsupervised visitation or joint/sole custody arrangements. Rarely are abusive parents denied access to their children. Abusive parents are often permitted to commit further abuse and/or to use children as a proxy for abusing ex-partners.

Here are 3 recent cases that involved custody issues and abuse, most of them ended with the mother being killed:

<http://www.thesuburbanite.com/communities/jackson/x664196412/Friends-of-Brandy-Schneider-speak-out-over-double-murder-suicide-investigation>

<http://www.brisbanetimes.com.au/world/young-mother-fled-to-sydney-to-save-her-life-20090501-aq5z.html>

<http://www.mirror.co.uk/most-popular/2009/12/30/jilted-lover-shoots-dead-daughter-and-leaves-mum-fighting-for-life-in-a-crazed-attack-in-aldershot-115875-21930536/>

We come across these cases on a weekly basis. They are commonplace. It's time the courts take these cases into consideration and work towards protecting mothers and children in society.

Thank you for your time and careful consideration.

Sincerely,
Joan Dawson, MPH

Joan Dawson, MPH
Writer/Editor & Advocate

chunOakland5 - Michael

From: Dara Carlin, M.A. [breaking-the-silence@hotmail.com]
Sent: Saturday, March 27, 2010 7:08 PM
To: HMS Testimony
Subject: SCR91 to be heard Tuesday, March 30, 2010 at 10:05am in Room 016

TO: Senator Chun-Oakland, Chair
Senator Ihara, Vice Chair
Members of the Committee on Human Services

Senator Taniguchi, Chair
Senator Takamine, Vice Chair
Members of the Committee on the Judiciary and Government Operations

FROM: Yoshiko Kerkau
(808) 780-7868

DATE: March 30, 2010

RE: Strong Support for SCR91

I wish to submit my request for an audit and full review of my three children's custody case which involves my ex-husband's abusive conducts before it's too late.

In 2008, my ex-husband filed a motion to obtain a full custody of my three children using baseless accusations and untrue stories including his use of fraudulent financial reports which the judge accepted rather than asking for support documents of his claims. During the court proceedings the judge appointed a Guardian Ad Litem to investigate the matters. He conducted his reviews and concluded on April 24, 2008 that I should have the full custody of the children. The report revealed many concerning, abusive behaviors of my ex-husband but the judge listened to my ex-husband's opposition to the report without any evidence. The judge chose to listen to my ex-husband's cries and did not follow the children's GAL report. Therefore, **I was not awarded full custody despite the GAL's recommendation!**

I could not understand the judge's ruling as she was the one who appointed the GAL but in the end ignored his report! I was worried about my children so I took the issue to Child Protective Services but they did not want to interfere with the family court case! I then wrote to Judge Frances Wong requesting for her review but my request was simply denied.

My ex-husband continues to abuse his current spouse (a police report had been filed), continues to abuse the law (a judgment was filed against him by Circuit Court in January 2009 due to his violation of the State Law), ignores the children's needs and continues to lie and mishandle children's welfare in order to support his extravagant life style. **His current wife warned me that my ex-husband is damaging the children. His girlfriend whom he met at the DUI meeting (he was arrested for DUI) during our divorce also ran away from him as she said he was too dangerous.** She may be identified by the police department but she was too afraid to come out to testify.

Recently he closed his contracting business and decided to move to Arizona blaming Hawaii's poor economy and failing education system. **My ex-husband is pressing the children to move with him** but they are too young to understand the truth and "safe" environment for them.

I have a safe home, two jobs and supportive neighbors and friends. They are all willing to testify for me as well. It is my responsibility to raise my children to become adults who can respect others, show compassion and contribute to a community. If we allow our children to become abusers, we will not have a peace and prosperous society.

Thank you for your time reading my letter. I look forward to your assistance and support.

Very Truly Yours,

Yoshiko Kerkau
(808) 780-7868

Hotmail is redefining busy with tools for the New Busy. Get more from your inbox. [Sign up now.](#)

chunOakland5 - Michael

From: Dara Carlin, M.A. [breaking-the-silence@hotmail.com]
Sent: Saturday, March 27, 2010 3:57 PM
To: HMS Testimony
Subject: SCR91 to be heard Tuesday, March 30, 2010 at 10:05am in Room 016

TO: Senator Chun-Oakland, Chair
Senator Ihara, Vice Chair
Members of the Committee on Human Services

Senator Taniguchi, Chair
Senator Takamine, Vice Chair
Members of the Committee on the Judiciary and Government Operations

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

DATE: March 30, 2010

RE: Support for SCR91

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 and 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. Once I realized I was a victim of DV, I was very ashamed – I felt like it was all my fault and I felt completely alone. When I got back home (where my family is) I then 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 threatened me 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 in terms of confiding domestic violence and that was actually used against me in court and cost me my son! Because our marriage was in serious trouble, my then husband and I were in "marriage and family therapy". Because the "therapist" clearly took my husband's side, I never told her what was REALLY happening at home. I didn't trust her and my instinct was right: I came to find out that this therapist is really a children's Sand Play therapist with **NO FORMAL TRAINING, LICENSING or DEGREES in Marriage and Family Therapy!**

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! This "therapist" went out of her way to testify against me saying that I COULDN'T be a victim of domestic violence because I never said anything TO HER about it!!! So what I lived with, day-in and day-out, meant NOTHING against this "therapist's" unqualified judgment? THAT'S how domestic violence is defined? NOT by the facts but on someone else's egotistical opinion?!

This aside, 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! The custody evaluator, whose at bare minimum supposed to prevent my son from harm, became the next "professional" to FAIL my son and me. In my November 2009 custody trial, this evaluator smiled with a "touche" attitude when my attorney pointed out all the flaws, errors, unsubstantiated claims and biased conclusions he came to in his report which also contributed to the loss of my son.

So, due to ignorance of domestic violence, a complete disregard for Hawaii state statute and regardless of all the abuse that my son and I have experienced, the abuser has now been granted SOLE PHYSICAL AND LEGAL CUSTODY of my son with "daytime only" visitations to me. I get **ONE HOUR** on Mondays, Wednesdays and Fridays with him at his daycare, one and a half hours with him on Tuesdays at the Pact Visitation Center and then on Sundays, I'm allowed to see him from 12noon – 7:00pm. I am not allowed ANY holidays or overnights and **my ex' attorney threatened to take away even that amount of visitation if I don't tell my ex - THE STALKER WITH GUNS - where I live!**

So many laws have been broken by the family court judges in my case; here are a few:

- DUE PROCESS: I hired a new lawyer who was willing to fight against my ex's counsel TWO WEEKS before trial so my new lawyer asked for an extension. The judge said NO. It was also asked again at pre-trial a few more times and again, the judge said NO.
- THE REBUTTABLE PRESUMPTION: was NOT even used - it was ignored completely.
- HOUSE BILL 615: the abuser has harassed me and used the Internet to do it, along with stalking me (I have that on video) which was submitted into evidence at trial.

I have been in the legal system since March 2009 and have had 3 judges, 6 lawyers, 2 therapists, 1 psychologist, 1 Custody Evaluator and the services of the PACT Visitation Center. In lawyer fees ALONE I have spent **\$120,000** (so far to date, and I have to put another \$15,000 down so my case can go to the ICA). I have to pay the PACT Center \$175.00 and then because I was diagnosed with PTSD (Post Traumatic Stress Disorder) resulting from my abusive marriage, I have a balance of \$344 with my therapist because my health insurance coverage ran out. The biased Custody Evaluator cost \$1,200.

My abuser has been able to continue his abuse of me and my son with the help of the legal system by:

- Canceling visitations when he wants to (with no reason, explanation or consequences) as he did twice just last week!
- Picking my son up early from daycare on my visitation days, so I cannot see him
- Terrorizing me at the Sunday visitation drop-off pick-ups (thankfully the judge moved the drop-off pick-up location to in front of the police station) but he often brings his other family members so they can walk up to me as a group.

My ex was also recently successful in having me fired from my job. He called my place of employment and hung up at least 3 times a week (caller ID showed his number) and he'd email my bosses saying he was not comfortable with me working for the same company as him. (I worked with the company before I even met him!) He told my boss that he should fire me then slandered me on the NATIONAL computer system talking about the divorce and custody case! This is **public** so anyone in the company could see it - it was so completely humiliating but NO ONE could/would do anything about

it!!! My ex's tactics finally paid off because I was fired two weeks ago over all of this. On leaving, my boss showed me the emails my ex had sent around the company and told me that because of it, I've been "blacklisted" in my career field so not to apply anywhere else.

So in conclusion, I would just like to say that this really needs to be addressed and dealt with. These judges need to be investigated for the abuse they are putting these children through and applying the laws that were put in place to stop DV. Without holding the abusers and family court professionals accountable for their misconduct, it is only getting rapidly getting worse. Please help us correct these problems and finally put the best interests of the child first because THE HAWAII FAMILY COURT DOES NOT PUT THE CHILD FIRST!!!

Thank you for your time and consideration in this VERY important matter.

Hotmail is redefining busy with tools for the New Busy. Get more from your inbox. [Sign up now.](#)

chunOakland5 - Michael

From: Dara Carlin, M.A. [breaking-the-silence@hotmail.com]
Sent: Saturday, March 27, 2010 3:00 PM
To: HMS Testimony
Subject: SCR91 to be heard Tuesday, March 30, 2010 at 10:05am in Room 016

Dear Committee Members,

I've been aware of battered mothers losing custody for several years now. I wrote several articles on the subject and wrote a chapter in a book on interpersonal violence about the fathers' rights movement, which has had a profound effect on women, especially those going through family court. I can send you this chapter for further information on this topic.

When battered women go to family court, they face many obstacles. To begin with, they may not have adequate legal representation. Then, when they allege abuse, either to themselves or to their children, they may not be believed. For one, judges may believe the woman is being vindictive, especially if this is the first time an allegation of abuse has arisen. Indeed, the discovery of abuse may lead to the divorce. Two, in courts with "friendly parent policies," the battered woman may look hostile and vindictive. Naturally, a battered woman is not going to look "friendly" so these policies are more harmful than helpful to abused women. Three, if the woman alleges child sexual abuse, she's often countered with claims of parental alienation syndrome (PAS). Despite the fact that major medical and psychological organizations do not support PAS, it is still used in family courts across the country. Its greatest harm is that it masks child abuse. How does one distinguish between an "alienated" child and an abused one? The symptoms are identical. This 'syndrome' simply scapegoats women and overlooks various reasons for hostility towards a parent (divorce, witnessing violence, child abuse...).

Battered mothers have always had problems with custody because they tend to look unfit in court - they're nervous, anxious, depressed or hostile. These are symptoms of being battered and should not be what defines the women. And, nowadays, making matters worse, are the rise of fathers rights groups. While positive parenting groups exist that help fathers spend more time with children, other fathers rights groups do more to punish women than to help men. Their agenda places fathers rights above women and children's safety.

Family court must protect women and children. The Leadership Council on Child Abuse and Interpersonal Violence estimates 58,000 children a year go into unsupervised visitation or joint/sole custody arrangements. Rarely are abusive parents denied access to their children. Abusive parents are often permitted to commit further abuse and/or to use children as a proxy for abusing ex-partners.

Here are 3 recent cases that involved custody issues and abuse, most of them ended with the mother being killed:

<http://www.thesuburbanite.com/communities/jackson/x664196412/Friends-of-Brandy-Schneider-speak-out-over-double-murder-suicide-investigation>

<http://www.brisbanetimes.com.au/world/young-mother-fled-to-sydney-to-save-her-life-20090501-aq5z.html>

<http://www.mirror.co.uk/most-popular/2009/12/30/jilted-lover-shoots-dead-daughter-and-leaves-mum-fighting-for-life-in-a-crazed-attack-in-aldershot-115875-21930536/>

We come across these cases on a weekly basis. They are commonplace. It's time the courts take these cases into consideration and work towards protecting mothers and children in society.

Thank you for your time and careful consideration.

Sincerely,
Joan Dawson, MPH

Joan Dawson, MPH
Writer/Editor & Advocate
Washington, DC
www.joandawson.com
<http://mediamisses.wordpress.com>

The New Busy is not the old busy. Search, chat and e-mail from your inbox. [Get started.](#)

chunOakland5 - Michael

From: Dara Carlin, M.A. [breaking-the-silence@hotmail.com]
Sent: Saturday, March 27, 2010 2:50 PM
To: HMS Testimony
Subject: SCR91 to be heard Tuesday, March 30, 2010 at 10:05am in Room 016

TO: Senator Suzanne Chun-Oakland, Chair
Senator Les Ihara, Vice Chair
Members of the Committee on Human Services

Senator Brian Taniguchi, Chair
Senator Dwight Takamine, Vice Chair
Members of the Committee on the Judiciary and Government Operations

FROM: Jonea Schillachi-Lavernge
6737 Puu Pilo Place
Kapaa, HI 96746

DATE: March 30, 2010

RE: STRONG SUPPORT for SCR91

I was married to my ex for only 2 MONTHS before I had to leave while pregnant with our daughter. The first time my ex became violent with me was shortly after I announced I was pregnant. He scared me so badly that night I immediately left. Believe it or not, that's when the REAL abuse began.

The day our daughter was born, my ex arrived 5 hours before the start of visiting hours and when the nurse told him the baby and I were sleeping he became angry, loud and frightening saying he had a right to see his baby anytime he wanted to. It only got worse from there. 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.

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.

Against the recommendation made by the court mediator (the ONLY professional on this case who has not been paid by my ex) my ex moved to Kauai with our daughter, his father and his new fiancé, who doesn't speak the English language. About a year later, many incidents of domestic violence of the fiancé were reported to 911 by third parties against my ex and his father. Although police responded to these incidents, CPS was not called.

In May 2007, **my ex's fiancé fled the island with her infant daughter and 4 months later, contacted me to report the ongoing physical, sexual and psychological abuse of my daughter by my ex and his father!** CPS was called to investigate and against the Children's Justice Center's policy, my ex was permitted to pick our daughter up from school to transport her to the CJC and waited for her in the waiting room while she was being asked about her abuse by her father and grandfather!

Unable to get my custody trial because Kauai Judge Murashigue accepted the TEMPORARY out-of-state orders as permanent orders, my daughter and I have spent the past 3 YEARS flying to the island of Oahu for once-a-month supervised PACT Center Visitations. To say this has turned my life and my daughter's life upside down is an understatement! After being **in family court for 14 YEARS now and having spent approximately 1,600,000.00**, I have been financially exhausted and had no choice but to return to the mainland at the start of the year. Last weekend, I flew from CA to Oahu for one last weekend visitation with my daughter. I was going to tell her good-bye but never got the opportunity because **my last visitation with her was cancelled without explanation while I was flying over**. I wasn't even afforded a 24 hour courtesy call so I wouldn't have to spend the money to make the trip over!

My case was **featured in the documentary "Family Court Crisis: Our Children At Risk"** excerpts of which are going to be aired on "The Dr. Phil Show" on April 8, 2010, but like my historical acquittal, it all means nothing. I cannot even count the number of "professionals" who have been in and out of our case. The "reunification therapist", Diane Gerard, assigned to reunify my daughter and me did nothing of the sort – after 2 YEARS of meeting with my daughter and at times with my ex, she finally saw me for a total of 2 hours then declared that visitations should be stopped. Internationally recognized abuse expert, Dr. Robert Geffner, has been barred from testifying in my case (he disputes Diane Gerard's conclusions) while the Minor's Counsel for my daughter from the mainland has unabashedly stood by my ex's side and both this counsel and therapist have been directly paid by my ex for years.

My relationship (if you could even call it that) with my daughter has been strained to the point of destruction and continues to be maliciously harmed with not a single person or professional willing to intervene to help us. My Constitutional Rights have been completely ignored as have my daughter's HUMAN RIGHTS. I can think of nothing more corrupt and broken then the family court in Hawaii. PLEASE DO SOMETHING to correct this!

Jonea Schillachi-Lavergne

Hotmail has tools for the New Busy. Search, chat and e-mail from your inbox. [Learn More.](#)

chunOakland5 - Michael

From: Dara Carlin, M.A. [breaking-the-silence@hotmail.com]
Sent: Saturday, March 27, 2010 2:18 PM
To: HMS Testimony
Subject: SCR91 to be heard Tuesday, March 30, 2010 at 10:05am in Room 016
Attachments: CWSB-Domestic Violence Agreement-1.pdf

TO: Senator Chun-Oakland, Chair
Senator Ihara, Vice Chair
Members of the Committee on Human Services

Senator Taniguchi, Chair
Senator Takamine, Vice Chair
Members of the Committee on the Judiciary and Gov't Operations

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

DATE: March 30, 2010

RE: Strong Support for SCR91!

I met my ex-husband in 1997 and we were married in 1999. I fled for my life and my infant daughter's life in 2007.

Realizing I was a victim of Domestic Violence wasn't too hard for me. Six months into our marriage, he punched me in the mouth so hard I literally had no idea what hit me. One minute, I was in the kitchen talking to him and the next, I was on the floor. I was so shocked and stunned, I couldn't wrap my mind around it. The physical abuse was bad enough but the psychological abuse was worse. People always ask "Why didn't you just leave?" but I DID - 5 or 6 different times! Each time I sought help from authorities, NO ONE would help me so I'd have no choice but go back to him.

One time, I spoke to his commanding officer and was told to "Go home, don't cause any more trouble and make him a nice dinner" and this is looking at him with black eyes and a split lip! I suffered a miscarriage following a particularly bad beating (he didn't want children) so when I became pregnant the second time, I knew the child I was carrying was not going to be safe from him either.

My DV was documented, however, because my ex is considered to be highly dangerous to my daughter and me I went through a program called the "New Numbers For Victims of Domestic Violence", a program that's administered by the Social Security Administration that helps to conceal DV survivor's identities and locations from abusers who relentlessly stalk their victims. You can't just get into this program - you need VOLUMES of verified third party documented abuse to prove your victimization and risk to get into this program so if you're in it, you ARE a "bona fide victim of domestic violence" but a condition of this program is erasing your former identity - you're asked to destroy all evidence tying you to your former identity so the only physical evidence I have left of my abuse are scars, memory loss due to head injuries, a single piece of paper saying my social security number was changed due to extreme violence and abuse against me.

The professionals that helped me the most throughout my experience have been those who really saw the truth (like one of our visitation supervisors) and those who really DO know everything about Domestic Violence: Military Advocate, Lisa Frey; Kona Shelter Director, Angela Kalani; Therapist, Dr. Tyler Ralston; former HSCADV Educators, Esther McDaniel and Sue Green; and my Domestic Violence Survivor Advocate, Dara Carlin, who has been totally rejected by DHS, Family Court and the local DV Community - all people she faithfully worked with before - for attempting to help them correct their mistakes. (Thankfully she's recognized and respected **NATIONALLY** as an expert in Domestic Violence!)

In September 2008, I took my then year and a half-old daughter to an Emergency Room for treatment after she developed a high fever that wouldn't break after receiving 7 immunizations (4 of which were live viruses) at the same time, which I've been told is a potentially **NORMAL** response to that amount of vaccines she was given all at once. Because of a lifelong pre-existing condition I have combined with the stress related to this event, I was also hospitalized then given a drug I'M **ALLERGIC** to. When my husband and sister vehemently objected to my being given a drug I'm allergic to, it was documented that they were "hostile and belligerent" towards hospital staff. My daughter and I were discharged home **TOGETHER** (no CPS intervention) yet 5 nights later when my daughter was sleeping, CPS took my daughter from us with no explanation as to why. **The CPS Investigator and GAL then CONTACTED MY ABUSER** - the man I had successfully escaped from through the help of the Identity & Relocation program - effectively undoing every protective measure that had been put into place to keep my daughter and me safe from him!

The Executive Director of the Hawaii State Coalition Against Domestic Violence, Carol Lee, who was involved in my case from the beginning DID ABSOLUTELY NOTHING to verify my status as a DV survivor, advocate for me, stop the over-zealous efforts of the GAL and CPS from dismantling the very safety precautions she herself helped put into place and never took a stand for me with CPS or the family court, although she signed an agreement between herself and DHS in 2004 to collaborate on DV/CWS cases! (Attached)

By this point, my case was no secret in the "DV community" yet **NONE** of the "DV Professionals" on Oahu who knew the truth of my case came forward to verify their involvement with me!

Because the offer of assistance from my DV Survivor Advocate was **COMPLETELY IGNORED** by CPS and the GAL, not only was my safety compromised, but my daughter was wrongfully removed from our care, my husband almost lost his job several times, pursuing my college education to become a teacher became worthless and we were brought to the brink of bankruptcy.

Personally, the tab for my family court-related expenses in Hawaii totals over **\$68,000**, all of which cumulated over a period of a year and a half! At one point in our case, I had to sell our furniture so we could afford to see our daughter at the PACT visitation center. The amount of money spent by Domestic Violence services to keep me and my daughter safe, all of which was completely compromised by CPS and the GAL and the tab that the state paid for the GAL and CPS's mistake, I can't even fathom. Here is what would be covered by that bill that came at the state **AND** taxpayers' expense:

DV services that were compromised:

- 140 shelter bed days, authorized by Child & Family Service
- 3 Flight To Freedom Fund airfares, authorized by the HSCADV
- 1 car transportation from the Big Island, paid for by the HSCADV

- 3 – 4 Days of round-the-clock security services during my hospitalization following my attack by "an unknown assailant", paid for by the HSCADV
- The time and resources expended by 4 HSCADV staff over the course of a year and a half
- The time and resources expended by a Domestic Violence Action Center (DVAC) Victim Advocate
- Costs involved in changing my identity and social security number through the NNEDV's Identity Change & Relocation Program

Because Ms. Lee failed to take a stand in this case and the GAL and CPS chose to ignore my DV Survivor Advocate, the following services were squandered on me alone:

- The services of a state-appointed attorney
- The services of a state-appointed Guardian Ad Litem
- The time and resources expended by a CPS Investigator, Case Manager and Supervisor whose efforts stripped me of all the protective measures put into place by DV services
- The time and resources required for 12 family court proceedings that included the employment of 2 judges, court officers and 2 attorneys from the AG's office
- 4 psychological evaluations
- Supervised visitation services through the Department of Human Services (2x a week for 6 months) AND The Parents & Children Together program (3x a week for 3 months)
- 3 Ohana Conferences
- 2 multi-disciplinary meeting at the Kapiolani Child Protection Center where the DV service providers and my Survivor Advocate were deliberately excluded from participating (I have since learned that DHS is not allowed to exclude anyone on the case)
- 9 1/2 months of non-relative out-of-home foster care (my suggestions for family placements were all summarily rejected)
- Enhanced Healthy Start services (which are designed to strengthen the parent-child bond) being afforded to the FOSTER PARENTS
- Placing my husband in Catholic Charities foster parent training classes to become a licensed child-specific foster care placement (including paying for FBI and other background checks) only to be told that he would NOT be a placement option for our daughter
- 3 Home Inspection-Evaluations by Catholic Charities, CPS & the GAL with a 4th planned by Parents Inc.
- 1 court-ordered mediation that my Survivor Advocate was not allowed to participate in
- 2 Substance Abuse Evaluations (because my ex accused me of abusing prescription drugs)
- 2 urinalysis proving my sobriety
- 1 hair follicle test to ensure that I was REALLY sober even after 2 clean UAs!

I have full physical/legal custody of my daughter, but am terrified that my ex could show up at any moment and try to challenge that. I am happily remarried with a beautiful new baby and ironically before this all started, we were at family court to file something regarding my husband adopting my daughter and I passed in front of the men and women who had filed for TROs. I saw the expressions on the women's faces and remembered well being there not so long ago myself, but as I passed them thought "Those poor things - I can't imagine what they must be going through".

Several weeks later, I (once again) became one of them. I was right back where I started but this time my abuser was the family court system!

Please look at how the Family Court system in Hawaii treats women who escape abusive situations then try to keep their children safe from their abusers!

Hotmail: Trusted email with Microsoft's powerful SPAM protection. [Sign up now.](#)

chunOakland5 - Michael

From: Dara Carlin, M.A. [breaking-the-silence@hotmail.com]
Sent: Saturday, March 27, 2010 1:39 PM
To: HMS Testimony
Subject: SCR91 to be heard Tuesday, March 30, 2010 at 10:05am in Room 016

TO: Senator Chun-Oakland, Chair
Senator Ihara, Vice Chair
Human Services Committee Members

Senator Taniguchi, Chair
Senator Takamine, Vice Chair
Judiciary & Government Operations Committee Members

FROM: Iva Taylor
300 Wai Nani Way 802
Honolulu, HI 96815

DATE: March 30, 2010

RE: Strong Support of SCR91

I am submitting my testimony, my case of abuse and injustice from family courts for use and proceedings and I am fully in the support of this BILL to PASS!!!!!!!!!!!!

THIS IS MY STORY which is the reason for WHY I AM STANDING BEHIND this

This is my 6th year custody case ongoing and dealing with the Family Law and Courts. I have been made a victim of the USA as a cruelly, mentally-abused woman as has my daughter, a gorgeous 6 year-old girl who was taken away from me because her father "paid" to remove me from her life at the price of \$700,000, using the family court system and a judge who was not ethical to punish me because I said a "MOTHER'S INSTINCT of her sick child OVERRULES A JUDGES RULING".

Yes, THAT was what I SAID to him and that was besides other very similar "reasons" why he took my daughter away from me 100% though for 5 years I was the one mostly with her! He did it to punish me and my daughter even though her abusive father was labeled as "cruel and mentally abusive" by Immigration. But he had money to buy my baby away from me. WHO SUFFERS??? I think you know the answer (if you have children) who suffers most...the one who is the child whose supposed to be protected by the law and by the Hawaiian Family Court.

PLEASE I do give all my hopes in you. This is my 6 year horror story so that you know what is happening in this state. It is a shame on America what is truly going on in Family Courts without any control system.

I am from Europe, living here since 2003 when my daughter was born, and right away she was abducted by her vicious father who is a "civilian worker for Department of Defense" at Pearl Harbor. He did all he could to deport me and take my premature newborn from me. He hid her from me for 2 weeks - no police no one cared! **She was a 19 day-old premature newborn and I did not know where she was!** It was a CRIME but he was treated as a king for being American.

For six years instead of enjoying my baby, my child I adore, I was 6 years till this day through the family courts only to lose her, fighting for 5 years with all my money to have her by me. After 5 years, I was out of money. The first 3 years here I could not even get working permission so could not work. Lucky I had savings and people who helped here!

So I had no money and her father BOUGHT my daughter from the Judge using Dr. Acklin, a proven abuser himself, but a custody evaluator! and Thomas "Crowley and Rezente" law firm - all together. I was Pro SE. Alone. And on top, I DID NOTHING. They took my child away on New Year's Eve 2008 based upon only lies of the rich father told during 23 of December 2008 - and gave me **only 1 hour at PACT per week** under the "highest level" of supervision! Not even a murderer in the USA has such a injustice with his children" which is humiliating and unreal! (FYI, I'm not a drug addict, homeless, not an alcoholic, not a prostitute, never have been any of it!)

I have been an "A" student at American schools and assisting surgeries now after years of studying here, have stable home with a room for my daughter, am happily remarried to a wonderful husband - Robert Ingraham - for 3 years, whom my daughter adores. I have stability and job while my daughter is in place where mean stepmother, who has her own new baby, doesn't want her there. My daughter knows that she is the poor Cinderella, who is forbidden to talk a word about her own mommy and punished for that. Even she does not like her father - but must be with him 24/7 because he had money to take her away from me!

I was taken away my right, the basic human right as a mother and my daughter 6 years-old was taken her right as a child to be with her own mommy whom she cries for and want to be with . And what is the reality? NO ONE CARES! This is no "small injustice" to hurt OUR FUTURE GENERATION - our children and make this world even worse perhaps in the future.

Family court and Judges are GODS here, aren't they? And they not do what is in the best interest of the child as they are ethically sworn to, but instead harm them.

I am waiting with my heart bleeding every day for her. I am not to be able to see her grow or put her sleep. I wait patiently because what else I can do in this system right? Waiting for when she gets old enough to scream at judge "I WANT TO GO TO MY MOM! YOU DESTROYED MY LIFE!" and at the end??? We are in America so I guess I am to sue the system, the Judge and hold them all accountable for damage of my girl? I don't want this, I want my daughter. You say report abuse, you see it for yourself when he takes away a 19 day-old newborn from her mother but you do nothing. THIS is "American justice"?! Shame on Hawaii! Shame on the USA!

Sincerely

Iva Taylor, 43 years-old

European, Czech Republic citizen living in Honolulu 6 years as a prisoner of system - waiting to be here for my daughter who was taken from me cruelly and inhumanly.

300 Wai Nani Way 802

Honolulu, Hawaii 96815

email: ivahawaii007@aol.

cell: 808 990 1185,

work: 808 536 8866 or 18004889855,

fax 8085368867

Hotmail: Trusted email with powerful SPAM protection. [Sign up now.](#)

chunOakland5 - Michael

From: Dara Carlin, M.A. [breaking-the-silence@hotmail.com]
Sent: Saturday, March 27, 2010 1:54 PM
To: HMS Testimony
Subject: SCR91 to be heard Tuesday, March 30, 2010 at 10:05am in Room 016

TO: Senator Chun-Oakland, Chair

Senator Ihara, Vice Chair

Members of the Committee on Human Services

Senator Taniguchi, Chair

Senator Takamine, Vice Chair

Members of the Judiciary & Government Operations Committee

FROM: Donna and Steve LaDuke

210 Dogwood Drive

Warroad, MN 56763

DATE: March 30, 2010

RE: Support for SCR91

Dear Senators,

On October 7, 2005 our daughter was murdered in Hawaii by her son's father, leaving behind a 19½ month-old little boy. Immediately the state of Hawaii CPS department took the only grandchild we'll ever have by our daughter out from the safe home where he was living with his maternal step-aunt and our daughter's best friend and placed him in a non-relative emergency foster care home where he remained for 14½ months, which for his age, was almost 1/2 of his then young life!

During this time CPS initiated visitations between this baby and his "father" (who had only recently been informed that he was the parent by a paternity test) at the Navy Brig on Ford Island for supervised visits that lasted for one hour each Monday morning. **When we asked why the murderer's wishes were being granted regarding custody and visitation, we were told "he didn't do anything to harm the child" so even though he brutally killed the mother of his child, he doesn't pose ANY harm to him?**

In essence, the murderer's rights superceded both our daughter's rights and also the child's rights. We had been informed of an agreement between CPS and HSCADV that said they would work collaboratively on cases involving Domestic Violence and CPS, but that never happened despite the efforts of our Survivor Advocate. Instead we were forced into a very lengthy and costly legal battle with the state of Hawaii in order to make a home for this baby that had lost his mom.

Our family was forced to fight just for visitation to see this little guy, who now was an orphan. There were many horrific events that followed and finally on July 28, 2009 we were able to complete his adoption, but this is NOT "a happy ending" to this tragedy. One of the largest after effects for this young child being placed in foster care is that he was recently diagnosed with PTSD. Besides the loss of his mother, being placed in non-relative foster care was NOT in his best interests, along with those jail visitations with the man who murdered his mother. So, now we begin the long road of therapy to help him understand all that has happened in his young life.

The most egregious thing to be done to this child was to have his mother taken from him, however the act of murder didn't even touch the radar to say that this child had been harmed. How totally unbelievable! Please, we beg of you to **review procedures and policies in the custody process especially where Domestic Violence is involved**. It is truly in the "best interests of the child" that we pay special attention to these cases where a child's birthright and a victim's right for safety and protection from a known abuser must be paramount. Thank you for the opportunity to be heard.

Respectfully submitted,

Donna and Steve LaDuke

Hotmail: Trusted email with powerful SPAM protection. [Sign up now.](#)

chunOakland5 - Michael

From: Dara Carlin, M.A. [breaking-the-silence@hotmail.com]
Sent: Saturday, March 27, 2010 11:30 AM
To: HMS Testimony
Subject: *****SPAM***** SCR91 to be heard Tuesday, March 30, 2010 at 10:05am in Room 016

TO: Senator Suzanne Chun-Oakland, Chair
Senator Les Ihara, Vice-Chair
Members of the Human Services Committee

Senator Brian Taniguchi, Chair
Senator Dwight Takamine, Vice-Chair
Members of the Judiciary & Government Operations Committee

FROM: Melinda (Chee) Franklin (submitted by proxy through Dara Carlin, M.A.)
881 Aliu Place
Kailua, HI 96734

DATE: March 30, 2010

RE: SUPPORT for SCR91

I am a mother who has been involved in protracted custody litigation for 14 YEARS. 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.

Last year, as a Pro-Se litigant, I finally won my Appeal # 28843 in the Hawai'i Intermediate Court of Appeals (ICA). Through my pursuit for justice and family court reform, I have become affiliated with the Hawaii Children's' Rights Council, Angel Group and ongoing SCR legislative initiatives.

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. 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.

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.”

Douthit instructed me to have a psychological evaluation. I did so and was determined to be a competent, loving parent. I later discovered Douthit never submitted the Report into evidence. I believe he was in collusion with the opposing party to prolong the case and expand his billable opportunities. 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.

Following my winning Appeal, I filed a timely Motion on July 7, 2009 for my attorney fees, consistent with the Appellate Court Ruling of June 19, 2009. After twice delaying my hearing, Judge Radius finally heard my case on Dec. 7, 2009. On December 30, 2009, Judge Radius ordered Kevin Chee to pay \$18,000 as a contribution to my attorney fees and costs. Kevin Chee has not complied with the court order.

Judge Radius commented regarding my former counsel, Durell Douthit:

“Mr. Douthit represented Mother from November 9, 2000 through August 1, 2001 with total fees \$24,034.96, including billing for trial preparation time. Mr. Douthit’s billing units include himself and his paralegal and his clerk. Some entries duplicate meetings and reviews and/or contain billings for administrative services and not legal work.”

Douthit would call and harass me for even more money. He instructed me to turn over my Independent Retirement Account (IRA) to him. He would yell at me, shouting: "*I don't work for nothing*". While he represented me, the TRO persisted and contact with my 4 beautiful children was criminalized due to the family court's TRO and unconstitutional orders changing custody without due process. Douthit made almost \$30,000.00. I was left with emotional scars, insurmountable debt and no contact with my children. I am seeking sanctions against Durell Douthit, or his estate, from the Office of Disciplinary Counsel (ODC) for ethics violations and misrepresentation, consistent with Family Court Rule 11 and the ODC's inherent power against all the attorneys who are deemed to have committed ethics violations and misused the *Ex Parte* procedure. A response from the ODC is pending, and so my case continues.

FAMILY COURT ABUSE SUMMARY:

1. CASE NUMBERS: Chee v Chee; Plaintiff: Melinda Chee (Mother), Defendant: Kevin S.W. Chee (Father)

HAWAI'I FAMILY COURT CASE NO: FC-DIVORCE NO. 95-1599

HAWAI'I INTERMEDIATE COURT OF APPEALS CASE NUMBER: 28843

2. LENGTH OF MARRIAGE: 11 years **CHILDREN TOGETHER:** 4

3. DURATION OF CASE IN FAMILY COURT: 14 years, still open

4. CIRCUIT: Hawai'i First Circuit, Honolulu

5. CASE PARTICIPANTS:

- a) **Judges:** Hon. Allene Suemori (1999-May, 2003), Hon. R. Mark Browning (June 2003-Feb., 2007), Hon. Karen Radius (since 2007)
- b) **Custody Guardian ad Litem:** Kimberly S. Towler, Esq.
- c) **Court appointed child therapist:** Sue Lehrke, PhD.
- d) **Psychiatric coordinator for our daughter's hospitalization in locked ward at Kahi Mohala:** Marvin Acklin, PhD
- e) **Court appointed custody evaluator:** Barbara Shintani (an unlicensed social worker)
- f) **Plaintiff's (Mother's) attorneys:** Durell Douthit, Steven J. Kim **Defendant's (Father's) attorneys:** Everett Cuskaden, Sara Harvey, Darwin Ching (Defendant's cousin)
- g) **Defendant's therapists:** Sue Lehrke, PhD, Craig Robinson, PhD

6. 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.

7. 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 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).
- **Attorney ethics violations:** My attorney, Durell Douthit created duplicate billing entries. He instructed me to have a psychological evaluation. I did so and was determined to be a competent, loving parent. Douthit never submitted the Report into evidence. Douthit would call and harass me for even more money. He instructed me to turn over my Independent Retirement Account (IRA) to him.
- **Retaliation by Custody Guardian Litem Kimberly Towler, Esq.:** On August 15, 2000, Mother filed a *pro se* motion for the removal of Ms. Towler as CGAL, citing her dissatisfaction with Ms. Towler’s fees and performance. After Mother filed her motion to remove the CGAL, Ms. Towler responded by:
 1. Filing a motion for CGAL fees on 9/21/00, to be heard on 9/27/00; and
 2. Filing a memorandum in opposition accusing Plaintiff of parental alienation. [Notably, the CGAL’s concerns of parental alienation by Mother did not appear to warrant the being brought to the Court’s attention, or to warrant an interruption of Mother’s visitations with children, until after Mother filed her motion for removal of Ms. Towler as CGAL.]
- **Constitutional Rights Violations:** Hawaii Court Officer, CGAL Kimberly Towler’s violation of First Amendment: Court prohibits Prayer. **Article [I.]** Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances. CGAL Kimberly Towler wrote in a hostile-toned letter to counsel, dated April 4, 2001, “ Ms. Chee...is not to pray

with [our daughter].” She further proclaims: “I have as yet found no reason to recommend a shift from the award of sole legal custody to Mr. Chee. Best wishes”. This prohibition of prayer between Mother and daughter was in effect from April 4, 2001 until March 30, 2007.

- **Custody Guardian ad Litem Kim Towler’s monetary demands:** Kimberly Towler, CGAL ran roughshod over Mother, violating due process rights in efforts to “spend Mother down”. CGAL Towler coerced Mother into signing a retainer letter prepared by her legal office. CGAL Towler did not pass the contract by Mother’s attorney. Instead, Towler dealt with Mother (a naive lay-person) directly, even though she knew Mother was represented in the matter. The financial demands of CGAL Towler alone were \$36,000.00 at the time of a Feb.4, 2004 hearing. Notably, at that time, CGAL’s had fee limitations of \$1500.00 by Hawaii Family Court rules. Astonishingly, the day after the Feb., 2004 court hearing, Towler was nominated for a judicial vacancy in the Maui Family Court by Chief Justice Moon, who by then was very familiar with the Chee v. Chee case.

- **Hearings granted to Defendant upon sixty seconds notice:** On October 8, 2000, there was an incident in which our youngest daughter, then 9 years old, balked at returning to Hawaii from a short visitation with Mother, to the point where the airlines refused to carry her on return flight to Hawaii, because she was crying. Upon Mother’s informing Kevin Chee of the situation, Kevin Chee filed a motion for order requiring Mother to return our daughter to Hawaii, which was filed at 9:29 a.m. on October 13, 2000, and heard at 9:30 a.m. on October 13, 2000.

- **Parental Alienation Label:** The Ex-parte change of custody to “Temporary” Sole for Defendant was based upon a letter GAL Towler solicited from her friend, psychologist Sue Lehrke, PhD. At that time, Kevin Chee was a client of Lehrke’s. Keep in mind, Sue Lehrke has NEVER laid eyes upon Mother, yet she diagnosed Mother as a Parental Alienator. Parental Alienation is a label (not a diagnosis) invented by Dr. Richard Gardner. Gardner’s autopsy report revealed he committed suicide in a gruesome manner by first self-administering his own conscious sedation and then repeatedly stabbing himself in the heart and the neck and finally bled to death. This is the pariah, upon whose self-publications Lehrke bases her irrational recommendations. Parental Alienation is regarded as “junk science”. Childress (2006) reported: *“This year the National Council of Juvenile and Family Court Judges denounced the [Parental Alienation] theory as “junk science,” and at least four states have passed legislation to curtail its use in custody cases involving allegations of domestic violence. “It’s really been a cancer in the family courts,” says Richard Ducote, an attorney in Pittsburgh who has represented abuse victims in custody cases for 22 years.”* Childress, Sarah, (2006). Fighting over the kids. *Newsweek*. Retrieved November 14, 2006 from: <http://www.msnbc.msn.com/id/14870310/site/newsweek/from/ET/>

- **Lack of Due Process:** On November 1, 2000, Kevin Chee filed an *ex parte* motion for temporary sole legal and physical custody of our youngest daughter, and for a temporary restraining order prohibiting Mother from having any further contact with our youngest daughter until further order of the Court. Not only was

Kevin Chee's *ex parte* motion for sole legal and physical custody and for restraining order granted, but the order additionally provided that **"[t]his order shall not be served on Plaintiff or counsel for Plaintiff until after the minor child is in Defendant's custody."**

- **Conflict of Interest/Impropriety:** Defendant arranged for CGAL Kim Towler, Esq. to sleep with Defendant's law office secretary, Cyd Ignacio. CGAL's should be neutral and avoid intimate relationships with associates of the parties.

- **Defendant/father's massive understatement of income to avoid appropriate child support:** Kevin Chee, Esq., a practicing Honolulu attorney, massively understated his income. Our 1995 tax returns show he earned 303,956.00. Yet, his written Child Support Guidelines (filed 02/27/96) show declared monthly income of only 12,259.00 (147, 108.00/year). He represented to the court that we had 2 children, when in fact we have 4 offspring. His lack of veracity was brought to the attention of the court. These issues have been ignored. In fact, the Defendant, a practicing attorney, committed perjury.

- **Child endangerment:** With this *ex parte* order in hand, Kevin Chee, CGAL Kim Towler and Cyd Ignacio traveled from Hawaii to Michigan. Towler seized possession of our daughter by dragging her out of her Ann Arbor elementary school on November 3, 2000. She then chose to travel from Michigan to San Francisco, via Salt Lake City by automobile instead of by airplane. While speeding out of Ann Arbor on Interstate 94, our 9 year old daughter was so traumatized by CGAL Towler that she attempted to jump out of the car. Had she done so, she would have perished. Our daughter struggled so vigorously she caused Towler to be physically injured.

- **Psychological Trauma:** Upon arrival in the West Coast, following a harrowing non-stop 48 hour drive, our exhausted 9 year old was forced onto a plane in San Francisco. As soon as she arrived in Hawaii, our daughter was placed in the locked ward of Kahi Mohala mental institution for de-programming electric shock treatments. She was allowed no contact with her mother.

- **Team Custody Evaluation Process:** On 11/28/01, the Court issued an order appointing a "team" of therapists to begin formulating a team plan for the family involved in this case. The team was to work with the CGAL not just to formulate, but also to implement, a plan for this family. No specific goals were articulated for the team, and the order prevented Mother from making any discovery of the team, its progress, even though the team was, by virtue of the Court's order, Mother's only lifeline to a normalized relationship with her children. The order also improperly penalizes Mother in advance if she complains about any of the team members to state or professional associations and/or regulators. This is an extremely burdensome order, because a review of Dr. Lehrke's written submission in this case reveals evidence that she in particular has been **exceptionally derelict** in her professional responsibilities by making a diagnosis of parental alienation syndrome without: (1) having any substantial conversation with Mother before reaching her conclusion; or (2) advising the Court of the very substantial limitations in her written opinion, in view of her failure to meet with Mother. *See* APA Ethical

Standard 7.02(c). Towler has treated the “team” concept in the same manner she has treated the Ex Parte Custody and Restraining Orders – by simply allowing time to pass with no action taken, which effectively eliminated Melinda Chee as the mother of her children. While this was an acceptable retaliatory outcome for the Towler, it was nightmarish for Mother and unmistakably detrimental to the children whose interest the CGAL was charged with promoting and safeguarding.

- **Damage to our child:** Mother’s 2007 Motion for custody due to change in circumstances (our daughter’s expulsion from Punahou due to use of illicit substances as a 14 year-old, and subsequent failing grades in public school) was denied without a forensic evaluation. Mother believes her Motion was denied because 50% of the July 10, 2007 trial time focused upon Mother’s Testimony (which was constructive) before the Hawaii State Legislature in 2006 regarding bills targeting Hawaii Family Court reform. During the hearings and trial Defendant Kevin Chee goaded Judge Karen Radius into retaliation for Mother’s Legislative testimony. Judge Radius took the gambit. This shows malice.

- **Monetary Greed and the Family Court system:** When Mother was in Hawaii for court hearings in August, 2003, Mother was required to purchase a visit with our daughter from the Hawaii Family Court. A bailiff named Andrea “chaperoned” Mother as she and daughter spent few precious hours together. During lunch, Mother and daughter were not allowed to say grace before eating because the court-imposed ban on prayer was in effect. Mother was required to pay the bailiff hundreds of dollars in cash (likely unreported income) for her “chaperone” and “prayer patrol” time.

- **Family Court shows prejudice toward Pro Se litigants who are not attorneys:** Mother’s Motions disappear from the case file. On July 9, 2007, Mother went to the First District Hawaii Family Court and reviewed the Chee v Chee Case file. Mother was shocked to find a Memorandum authored by Judge Radius’ clerk, S. Maile Souza, indicating Mother’s Motion for Reconsideration, filed May 14, 2007, was **missing from the case file**. **After the July 10, 2007 custody trial, Judge Radius did not write orders granting visitation until after the specified visitation time period had elapsed.** Orders allowing for Mother’s visitation with daughter, from Sept. 29-Oct.3, 2007 were not reduced to writing until October 7, 2007. The precious opportunity for mother-daughter time heartbreakingly vanished. Judge Radius made a point of emphasizing Orders are not effective until written.

8. LAWS THAT WERE BROKEN:

- Doe v. Doe, 120 Hawai’i 149, 202 P. 3d 610 (App. 2009) addresses the due process requirements for a change in primary physical or legal custody in disputes between parents. The Intermediate Court of Appeals stated:

“We hold that, under the Hawai’i Constitution, absent express findings of exigent or emergency circumstances, due process requires that a parent be given notice and an opportunity to be heard prior to a change in primary physical or legal custody in family court matters such as this one. Absent evidence that harm is likely to result from the delay necessary to set a hearing, no parent involved in a custody dispute should have his or her child removed by the police, without notice on grounds for removal and an opportunity to be heard on the charges. As evidenced by this case, custody disputes are particularly susceptible to dueling allegations of misconduct and abuse. Absent a true emergency, ex- parte custody proceedings can provide fertile ground for a misuse of the judicial process.

We further hold that, if a family court determines that an emergency situation requires an immediate change of custody, then the ex parte order changing custody must include notice of: (1) a post-deprivation hearing, promptly set; and (2) the grounds for this extraordinary measure. A parent deprived of custody in this manner must be given a prompt and meaningful opportunity to address the allegations supporting the immediate change of custody.

Here, with respect to the November, 2000 Ex-parte Orders, the family court did not comply with requirements set forth in Doe. The family court did not hold a prompt post-deprivation hearing to address the allegations supporting the change in custody over the children from joint to father’s sole custody or the restraining orders prohibiting mother from any contact with the children. Indeed, despite Father’s only seeking temporary sole custody of the children, and (presumably) temporary restraining orders prohibiting contact by Mother, the November 2000 Ex Parte Orders remained in effect for years without any substantive review by the family court. Thus the November 2000 Ex Parte Orders cannot stand.”

- *Little Tor Auto Center v. Exxon Company USA*, 822 F. Supp. 141, 144 (S.D.N.Y. 1993). “Where state procedures are abused, rectification should be sought in state court in the first instance.” In the foregoing *Exxon* opinion, District Judge Vincent Broderick also observed that:

“Where deliberate abuse of ex parte procedure occurs, resulting in triggering public sector sovereign authority without prior notice where notice is required by due process, the Constitution may be violated”.

822 F. Supp. at 144 (noting also that where state remedies are inadequate, a deliberate abuse of ex parte procedures may give rise to remedies such as a Section 1983 civil rights action).

- Basic, minimum due process requires notice and an opportunity to be heard. Due Process is a flexible concept calling ““for such procedural protections as the particular situation demands.” *Mathews v. Eldridge*, 424 U.S. 319, 334, 96 S.Ct. 893, 902,

47 L.Ed.2d 18 (1976). Due process requires fundamental fairness, which involves consideration of the private interest at stake, the risk of an erroneous deprivation of such interest through the procedures used, the probable value of additional or substitute procedures, and the state or government interest, including the function involved and the fiscal or administrative burdens imposed by substitute procedures. *Mathews, supra*, 424 U.S. p. 335, 96 S.Ct. at 903. *See also, Stanley v Illinois*, 405 U.S. 645, 31 L. Ed. 2d 551, 92 S. Ct. 1208 (1972) (Due Process requires that unwed father be entitled to a hearing before losing custody of his children);

- *Santosky v Kramer*, 455 U.S. 745, 71 L. Ed. 2d 599, 102 S. Ct. 1388 (1982) (Due Process requires that State must prove by “clear and convincing evidence” that parent unfit).
- Hawaii divorce law is also clear that a party has the right to examine and confront authors of reports in custody cases where those reports are relied on by the court. *Daitoku v Daitoku*, 39 Haw. 276. The purpose of this rule is clearly founded in due process: it ensures a fair hearing with regard to the author’s competence and bias. That is particularly important in this case where Custody Guardian Ad Litem (CGAL) Kimberly Towler filed her report of “parental alienation” against the Plaintiff only after the Plaintiff challenged the CGAL’s fees and competence. The CGAL’s distaste for due process can also be seen in her filing a motion for her fees on one week’s notice when the complaining party was in Michigan.
- In a February, 2004 article in the Hawaii Bar Journal, titled “*Divorce Law in Hawaii: An Update*”, eminent Hawaii Family Law attorney, William C. Darrah. emphasizes: “*The situation has become so bad that because of time constraints lawyers have been forced to resort to presentation devices which in fact violate the Hawaii Rules of Evidence.*” [Kie v. McMahel, 91 Haw. 438, 984 P.2d 1264 (App 199).]
- There is no more immunity for court officers. The Beltran Decision is final, as decided by the United States Court of Appeals for the Ninth Circuit on December 12, 2007, case No. 05-16976, D.C. No. CV-03-03767-RMW. Court officers are not entitled to absolute immunity from claims that they fabricated evidence during an investigation or made false statements under penalty of perjury.

9. PROFESSIONALS/AGENCIES I TURNED TO FOR HELP:

- **Chief Family Court Judge Frances Q. F. Wong:** She referred to my case, and those of other abused family court customers, as “*Red Herrings*”
- **Hawaii Legislature:** SCR resolutions supported family court reform. Senator Suzanne Chun Oakland was particularly supportive and has tried for many years to uphold family values and children’s rights.
- **Media:** Hawaii news reporters have maintained interest in my case, but have never published
- **Family Court administrative personnel:** Ms. Stormy Stadlbauer is Barbara Shinatni’s immediate supervisor. She informed me there is no due diligence with regard to Shintani’s performance. No peer review, no oversight pertinent to collaboration with parties, no standards, policies or procedures to assure fairness and honesty. The Family Court blames Hawaii

Government Employees Association for their failure to respond to my Complaint against court officer, Barbara Shintani, an unlicensed social worker/custody evaluator. Court Supervisors said: *"We can't do anything because she is a union member"*.

- **Hon. Chief Justice Moon:** Mother filed an Interlocutory Writ of Mandamus with the Hawaii Supreme Court on April 20, 2004. Mother's Interlocutory Appeal was denied *because "the case was ongoing"*. I wrote often to Chief Justice Moon and received patronizing, indifferent responses from his staff attorney, James Branham.
- **Office of Disciplinary Counsel:** In spite of my numerous detailed letters to them, to date, have not applied sanctions to attorneys involved in my case, or to Defendant. Notably, during most of my case activity, the Chairperson of the ODC was Chuck Kleintop, Esq., a family law attorney.
- **Judicial Selection Commission:** I wrote to protest the nomination of former Hawaii family court Chief Judge, Frances Q.F. Wong to higher courts.
- **Commission on Judicial Conduct:** I submitted countless letters regarding former Judge Allene Suemori's unconstitutional orders in my case. She was not re-appointed when her term on the bench expired.
- **Hawaii Attorney General Mark Bennett:** I wrote letters detailing the injustices of my case. Their response, dated November 5, 2007, showed sympathy, recognizing that as I mother, I had to endure a *"harrowing child custody dispute"*. Deputy Attorney General Robyn B. Chun goes on to say: *"I cannot imagine how heart-wrenching that experience must be"*. Notably, there was no investigation or further reaction.
- **Michigan Child Protective Service (MCPS):** They provided a copy of their Report (Notably CGAL Towler tried to prevent them from releasing it), dated November 15, 2000. MCPS determined: *"It was traumatic, even to [our daughter's] classmates to see her dragged out of her classroom kicking and screaming. There was no evidence presented that exhibited the child would suffer greater trauma by remaining with the other parent"* (her mother).
- **United States Federal Court, Eastern Division:** I filed a Civil Rights suit (Case No. 08-CV-11416) for violations of my First, Fourth and Fourteenth Amendment Constitutional rights. The case was remanded back to Hawai'i under the *Rooker-Feldman* doctrine.

10. THE WORST MISTAKE MADE:

The Ex Parte change of custody and accompanying TRO's. Mother and children have suffered raw, gut-wrenching pain and emotional trauma resulting from blocked contact for years on end. Children need both parents. To sever family ties by corrupt legal means is a most severe form of domestic abuse.

11. MESSAGE FOR LEGISLATORS:

- ***Mahalo nui loa for caring about these issues!***
- Please continue to care. Family Court Abuse affects your constituents. Hawaii's keiki need both parents.
- Please sponsor legislation supporting family court sunshine and transparency.
- Please sponsor legislation requiring licensure (social workers, custody evaluators, CGAL's) for those involved in custody proceedings to protect the public.
- Please sponsor legislation requiring elections, or at a minimum public input regarding judicial appointments and awards. Astonishingly, in the current system, the most heinous judges receive nominations to

higher courts and accolades. Both Judge Frances Q.F. Wong and Judge Karen Radius received *Jurist of the Year* award. In 2004, CGAL Kim Towler, Esq. was nominated to be a Maui family court judge. One thing I know for sure: Family Court customers did not get to vote!

CONCLUSION:

On June 19, 2009, 4 days before our youngest child reached age 18, I won my Appeal # 28843. The Ex Parte change of custody and TRO's were vacated. My case was remanded back to family court and I was granted some of my attorney fees (\$18,000.00) from my ex-husband, Kevin Chee. He is yet to pay, but can easily afford to do so. I have filed a Complaint regarding my previous attorney, Durell Douthit, or his estate, with the Office of Disciplinary Council. Their response is pending.

Worthy of reflection is the Intermediate Court of Appeals Opinion:

As evidenced by this case, custody disputes are particularly susceptible to dueling allegations of misconduct and abuse. Absent a true emergency, ex- parte custody proceedings can provide fertile ground for a misuse of the judicial process.

Family court abuse is ongoing. Unless there is sunshine and transparency, more families will suffer. Children need both parents. When normal family relationships are extinguished, as happened in my case, parents and children suffer physical, emotional, academic, and financial trauma. Family court systems and rulings that do not adhere to guidelines take the slippery path toward profound domestic abuse and violations of our Constitutional Rights. 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. What is the greater good? There cannot be any such thing as civilization unless there is a conscience.

Respectfully submitted,

Melinda (Chee) Franklin

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

Hotmail: Trusted email with powerful SPAM protection. [Sign up now.](#)

chunOakland5 - Michael

From: Dara Carlin, M.A. [breaking-the-silence@hotmail.com]
Sent: Saturday, March 27, 2010 9:04 AM
To: HMS Testimony
Subject: SCR91 to be heard Tuesday, March 30, 2010 at 10:05am in Room 016

TO: Senator Suzanne Chun-Oakland, Chair
Senator Les Ihara, Vice-Chair
Members of the Human Services Committee

Senator Brian Taniguchi, Chair
Senator Dwight Takamine, Vice-Chair
Members of the Judiciary & Government Operations Committee

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

DATE: March 30, 2010

RE: SUPPORT for SCR91

I was attacked by my ex-husband who is black belt in Tai Kwan DO. I had taped him arranging to take one of his girlfriends he continually cheated on me with out on our boat but he angrily denied it. When I presented him with the recording of the conversation proving he was lying he attacked me grabbing my trachea in a move I was told later by teachers of this martial art is only to kill someone, its not a self defense move and is only taught to black belts because of the seriousness of using it. When I showed the Tai Kwan Do instructor what was done to me as a way of asking how to describe it in a report he freaked and told me I had to report it as assault with a deadly weapon.

I went to Women Helping Women and filed a TRO. At the hearing my ex had Guy Haywood and I had a woman, but I can't remember her name. My ex had taken all the money out of our accounts so I had no funds to hire anyone but he did. This hearing was a nightmare. I was put on the stand and grilled for 40 minutes by his attorney until I could no longer speak I was crying so hard. **The judge ruled to drop the TRO without anyone even asking my husband if he did it.** He was never sworn in or asked anything only I was interrogated. The advocate from Women Helping Women told me she had not seen this before. My husband was grinning confidently thru the entire thing. I could see that he knew what was going to happen before the hearing by the way he acted - not even concerned.

I had to leave Maui to flee for fear of my life with no money. I left for 4 months staying around with friends that took me in.

The divorce was just as awful. My husband had gone around and interviewed all the divorce attorneys on Maui so they would not take me as a client. He had all our money so he hired Haywood again who really played dirty and basically got all our marital assets given to my ex. I borrowed money and hired Lee Ohigashi since he was the only choice left. I had been compiling proof that my ex had been embezzling from our equally owned electrical contracting LLC that was doing \$250,000 gross. I had proof of over \$250,000 being stolen and hidden from me over a 5 year period. Ohigashi told me that in the divorce property settlement the embezzlement case did not matter. He convinced me that my husband would be able to force me to sell my house I had before I married to gave him half of

that too if I didn't agree to everything he demanded. My husband got our boat, our rental property our electrical contracting business and all our IRA and savings and checking accounts.

I got the house I owned before I met him. He agreed to help me make the payments on my house for 9 months, but I had to pay to refinance it to get him off title in that time and he wanted to make sure the payments were made until then or I probably would not have gotten that either. I later found out that my husband's attorney lived next door to Ohigashi.

Years later I told another attorney about the embezzlement case and how Ohigashi told me it was not something that would affect the divorce. **I was then told that most of what Ohigashi had told me was not true and that no clean judge would have signed a divorce order giving such unfair terms.** My ex not only got our rental property, which was a house and guest house on a large lot, but then went after the house I owned before we met. At the time we married I owned a business doing \$100,000 a month gross, owned my own home, had savings and a Mercedes. He had a house worth half what mine was worth and owed the \$20,000 equity to his ex. He had a blow up boat and an old van and business doing \$35,000 a year. When we divorce I got the house I owned before we met and my car and had to start over since all our credit was in his name since we were trying to earn miles we put everything on his credit card which our business paid off each month. He got a house with guest house, a 20 foot fishing boat, our electrical contracting business that I had built up to doing 5 x what it was when we met and a new van. He was better off in every way and I had much less than when we met.

One year and one day after the divorce he began building another house on the property he got with all cash. Based on the building plans at the county he put about \$250,000 into to it, none of which was on the financials he turned in and I know he did not work most of that year. It was really hard to visibly see corruption's success. I hope the crooked judges and crooked attorneys can get some wake up calls to prevent any more victims.

Hotmail has tools for the New Busy. Search, chat and e-mail from your inbox. [Learn More.](#)