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## HOUSE CONCURRENT RESOLUTION

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REQUESTING THE JUDICIARY TO CONVENE A WORKING GROUP TO DEVELOP  
AND IMPLEMENT A PLAN FOR IMPROVING THE FAMILY COURT  
RESTRAINING ORDER PETITION PROCESS, LAW ENFORCEMENT'S  
RESPONSE TO VIOLATIONS OF RESTRAINING ORDERS, AND THE  
JUDICIAL RESPONSE TO ALLEGED VIOLATIONS OF RESTRAINING  
ORDERS.

1 WHEREAS, the State of Hawaii has enacted a number of laws  
2 aimed at protecting victims of domestic violence; and  
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4 WHEREAS, the Judiciary, county police departments, and  
5 county prosecutors' offices each have systems in place to  
6 address the personal safety of victims of domestic violence; and  
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8 WHEREAS, often the only recourse for victims of domestic  
9 violence who fear for the safety of themselves and their  
10 children is to initiate a civil legal action, known as a  
11 "petition for an order for protection" under section 586-3,  
12 Hawaii Revised Statutes, to seek an ex parte temporary  
13 restraining order (TRO) that is valid for up to one hundred  
14 eighty days, at the family court's discretion, or in cases where  
15 an ex parte temporary restraining order is already in effect, a  
16 "protective order" that is valid for "a further fixed reasonable  
17 period of time", as determined by the family court; and  
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19 WHEREAS, even when victims of domestic violence are aware  
20 of their rights under the law and take the appropriate steps to  
21 petition the court for a temporary restraining order or pursue a  
22 longer term protective order, the judicial process is often full  
23 of delays and redundancies that disproportionately harm victims;  
24 typical examples include cases in which:  
25



(1) A victim petitions the family court for an ex parte temporary restraining order; the family court grants the temporary restraining order and schedules a hearing within fifteen days for the purpose of determining whether a protective order that is valid for a further fixed reasonable period of time is necessary to prevent domestic abuse or a recurrence of abuse; the victim arrives at court for the hearing, only to discover that the hearing must be postponed because the perpetrator was not served with notice of the hearing and is therefore not present for the hearing; and

(2) A victim is granted a temporary restraining order and the order and notice of hearing with respect to a protective order are served on the perpetrator; at the hearing, the perpetrator indicates that more time is needed to hire an attorney, and the court postpones the hearing for one month; at the next hearing, the perpetrator again requests more time to hire an attorney, and the court postpones the hearing for another month; by the time of the next hearing, roughly two and a half months have elapsed, the victim has gone to court at least four times, and yet, no progress has been made toward obtaining a court order that is designed to protect the victim for a longer period of time; and

WHEREAS, even when temporary restraining orders or protective orders are issued without undue delay, law enforcement agencies' response to violations of these orders is frequently insufficient, even bewildering, as in the case of victims with a valid order who, in compliance with the terms of the order, report a violation (or multiple violations) of the order to law enforcement authorities, but are told that no enforcement action will be taken, which leaves victims vulnerable and exposed to continued acts of violence; and



1  
2 WHEREAS, for years, victims of domestic violence, victim  
3 advocates, and other concerned stakeholders have informed the  
4 Judiciary, county police departments, and county prosecutors'  
5 offices that the present system is extremely cumbersome and  
6 slow, and often fails to adequately penalize perpetrators of  
7 domestic violence who commit further temporary restraining order  
8 or protective order violations; and  
9

10 WHEREAS, it is clear that victims of domestic violence  
11 encounter obstacles at every stage of the process of seeking and  
12 enforcing a temporary restraining order or longer term  
13 protective order, hereinafter referred to as the "restraining  
14 order petition and enforcement processes", including:  
15

- 16 (1) Inadequate information on or assistance with the  
17 mechanics of filing a petition for an ex parte  
18 temporary restraining order;  
19  
20 (2) Delays in the scheduling of court hearings due to bad  
21 faith by perpetrators of domestic violence seeking to  
22 prolong the petition process or make it more  
23 difficult;  
24  
25 (3) Lack of cooperation by law enforcement authorities  
26 when asked to enforce a valid temporary restraining  
27 order or protective order after a violation has  
28 occurred; and  
29  
30 (4) Long delays in scheduling a case for trial after a  
31 temporary restraining order or protective order  
32 violation has been investigated by law enforcement  
33 authorities and a criminal prosecution for violation  
34 of the order has commenced; and  
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36 WHEREAS, even when well-meaning public servants do their  
37 best to assist victims of domestic violence, systemic problems



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1 often result in victims becoming disenchanted with the  
2 restraining order petition and enforcement processes and losing  
3 faith in the overall ability of the legal system to protect  
4 them; and  
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6 WHEREAS, a June 2016 report titled "Mapping a Pathway to  
7 Safety: A Community Safety Assessment of the City and County of  
8 Honolulu Protective Order Process" examined each stage of the  
9 restraining order petition process, identified strengths and  
10 weaknesses at each stage, and provided detailed recommendations  
11 for improving the process using a more victim-centered approach;  
12 and  
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14 WHEREAS, although the report's findings and recommendations  
15 focused on the characteristics of the process encountered by  
16 victims of domestic violence in the City and County of Honolulu,  
17 it is well known that similar problems exist within the other  
18 counties of the State; and  
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20 WHEREAS, it is in the interest of public safety and the  
21 overall health of the State that action be taken to improve the  
22 family court restraining order petition process, law  
23 enforcement's response to violations of restraining orders, and  
24 the judicial response to alleged violations of restraining  
25 orders; now, therefore,  
26

27 BE IT RESOLVED by the House of Representatives of the  
28 Twenty-ninth Legislature of the State of Hawaii, Regular Session  
29 of 2018, the Senate concurring, that the Judiciary is requested  
30 to convene a working group to develop and implement a plan for  
31 improving the family court restraining order petition process,  
32 law enforcement's response to violations of restraining orders,  
33 and the judicial response to alleged violations of restraining  
34 orders; and  
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36 BE IT FURTHER RESOLVED that the working group is requested  
37 to comprise members that represent the various perspectives of



1 public officials and other stakeholders with significant  
2 involvement in the restraining order petition and enforcement  
3 processes, and include:

- 4
- 5 (1) The Chief Justice or the Chief Justice's designee, who  
6 shall serve as the chairperson of the working group;  
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- 8 (2) A judge from the family court division of each circuit  
9 court, to be appointed by the Chief Justice;  
10
- 11 (3) A representative of the Department of the Attorney  
12 General;  
13
- 14 (4) A representative of each county police department;  
15
- 16 (5) A member of each house of the Legislature, to be  
17 designated by the President of the Senate and the  
18 Speaker of the House of Representatives, respectively;  
19
- 20 (6) A representative from the Hawaii State Coalition  
21 Against Domestic Violence or other similar victim  
22 advocacy organization selected by the Chief Justice;  
23 and  
24
- 25 (7) A representative from a domestic violence advocacy  
26 organization from each county selected by the Chief  
27 Justice; and  
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29 BE IT FURTHER RESOLVED that no member be made subject to  
30 chapter 84, Hawaii Revised Statutes, solely because of the  
31 member's participation in the working group; and  
32

33 BE IT FURTHER RESOLVED that the Judiciary is requested to  
34 provide administrative support to the working group; and  
35

36 BE IT FURTHER RESOLVED that the working group is requested  
37 to consider the recommendations made in the June 2016 report



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1 referenced above, as well as any other appropriate materials;  
 2 and  
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4 BE IT FURTHER RESOLVED that the working group is requested  
 5 to submit a report of its findings and recommendations,  
 6 including any proposed legislation, to the Legislature no later  
 7 than twenty days prior to the convening of the Regular Session  
 8 of 2019; and  
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10 BE IT FURTHER RESOLVED that certified copies of this  
 11 Concurrent Resolution be transmitted to the Chief Justice, the  
 12 Senior Family Court Judge of each circuit, the Attorney General,  
 13 the respective Police Chiefs of the City and County of Honolulu  
 14 and the counties of Maui, Hawaii, and Kauai, the President of  
 15 the Senate, the Speaker of the House of Representatives, and the  
 16 Executive Director of the Hawaii State Coalition Against  
 17 Domestic Violence.  
 18  
 19  
 20

OFFERED BY:

Debra A. Kuntz

Rebecca O. C.  
Curly Evans

Jordan King Yoshi Huetten

John M. Matus

Nicole E. Lowe

Richard M. Matus

Nadine K. Matus

Mark L. Matus

Lynne A. Matus

K. Matus

L. Matus

Forry M. Matus

M. Matus

G. Matus

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