

Honolulu, Hawaii

FEB 18 2022

RE: S.B. No. 2395  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-First State Legislature  
Regular Session of 2022  
State of Hawaii

Sir:

Your Committee on Human Services, to which was referred S.B. No. 2395 entitled:

"A BILL FOR AN ACT RELATING TO COERCIVE CONTROL,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Amend section 586-1, Hawaii Revised Statutes, which governs domestic abuse protective orders by:
  - (A) Adding a definition of the term "litigation abuse"; and
  - (B) Amending the term "coercive control" to include litigation abuse as one of the behaviors that constitute the term; and
- (2) Add coercive control, as defined in section 586-1, Hawaii Revised Statutes, to the list of factors to be considered by the court in determining what constitutes the best interest of the child under section 571-46, Hawaii Revised Statutes, which governs the awarding of custody and visitation rights to individuals in actions for divorce, separation, annulment, separate maintenance, or any other proceeding where there is at issue, a dispute as to the custody of a minor child.



Your Committee received testimony in support of this measure from the Domestic Violence Action Center, Parents and Children Together, Women's Caucus of the Democratic Party of Hawai'i, American Association of University Women of Hawaii, Hawai'i State Coalition Against Domestic Violence, and three individuals. Your Committee received comments on this measure from the Judiciary, Department of the Attorney General, and City and County of Honolulu Department of the Prosecuting Attorney.

Your Committee finds that individuals who abuse their intimate partners have been known to misuse court proceedings to control, harass, intimidate, coerce, or impoverish the abused partner. Your Committee believes that courts should be aware that coercive control and litigation abuse are tactics that have been used by perpetrators to continue abusive patterns, especially when custody of a child custody is at issue. Accordingly, this measure requires the court to consider histories of coercive control and litigation abuse when awarding custody and visitation rights to individuals in proceedings where the custody of a minor child is at dispute.

Your Committee notes the testimony of the City and County of Honolulu Department of the Prosecuting Attorney, raising concerns over including litigation abuse as one of the behaviors that constitute coercive control under section 586-1, Hawaii Revised Statutes, which constitutes a petty misdemeanor under section 709-906(6), Hawaii Revised Statutes. Section 709-906(6) was created by Act 19, Session Laws of Hawaii 2020, as part of a five-year pilot project aimed at strengthening state and county responses to domestic violence. Your Committee acknowledges the Department's concern that section 586-1, Hawaii Revised Statutes, should not be amended while data is being collected on the effect of this five-year pilot program.

Accordingly, your Committee has amended this measure by:

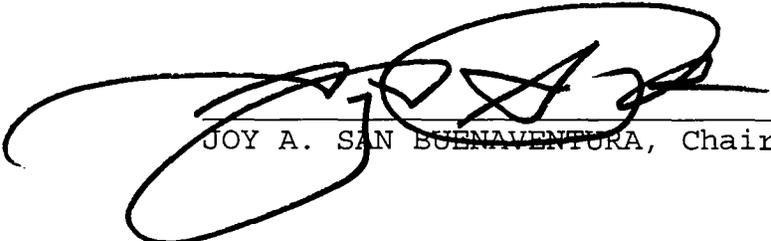
- (1) Deleting section 2 that amends section 586-1, Hawaii Revised Statutes;
- (2) Amending section 3 by adding to section 571-46, Hawaii Revised Statutes:



- (A) The history of litigation abuse as a stand-alone factor to be considered by the court in determining what constitutes the best interest of the child; and
- (B) A definition of "litigation abuse"; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2395, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2395, S.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on  
behalf of the members of the  
Committee on Human Services,



JOY A. SAN BUENAVENTURA, Chair



