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CATHY BETTS
DIRECTOR
KA LUNA HO'OKELE

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KA HOPE LUNA HO'OKELE

STATE OF HAWAII
KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF HUMAN SERVICES
KA 'OIHANA MĀLAMA LAWELAWE KANAKA
Office of the Director
P. O. Box 339
Honolulu, Hawaii 96809-0339

February 7, 2023

TO: The Honorable Representative John M. Mizuno, Chair
House Committee on Human Services

FROM: Cathy Betts, Director

SUBJECT: **HB 841 – RELATING TO DOMESTIC ABUSE PROTECTIVE ORDERS.**

Hearing: Thursday, February 9, 2023, 9:00 a.m.
Conference Room 329 & Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) supports this bill, provides comments, and defers to the Judiciary.

PURPOSE: The measure amends the automatic referral requirements to apply when there are allegations of child abuse and a domestic abuse restraining order is sought.

Child Welfare Services (CWS) works closely with the Family Court to ensure children's safety, permanency (stability), and well-being. Section 586-10.5, Hawaii Revised Statutes, requires the Family Courts to report all temporary restraining orders to the CWS involving a family or household member who is a minor in cases of alleged domestic abuse. Many referrals do not indicate safety concerns for the children.

The current mandate to refer to Child Welfare Services (CWS) may deter parents from seeking a temporary restraining order (TRO), as petitioners fear DHS will take their children from their care as they seek protection from abuse. Perpetrators often use the threat of child custody or the potential for a child's removal against their victims of abuse. Filing a petition for a TRO is a proactive step toward creating safety for oneself and one's children; individuals

experiencing domestic violence should not be "punished" with unnecessary CWS involvement for taking this protective step.

Additionally, the current statute that mandates an automatic referral to CWS puts more demands on CWS staff investigating reports of abuse or neglect. With the TRO referral, CWS workers have 2-5 days to screen the referrals, investigate the cases, submit written reports to the court, and appear for the hearing.

The proposed amendment limits referrals to CWS to petitions for restraining orders that include allegations of child abuse as defined in section 350-1, HRS. The amendments will:

- Reduce reporting families where harm or a threat of harm to a child does not exist,
- Increase and strengthen support for domestic violence survivors,
- Reduce some fears of TRO petitioners that seeking protection will generate a CWS investigation and report, and
- Reserve CWS resources to investigations of reports of child abuse.

Thank you for the opportunity to testify.



The Judiciary, State of Hawai‘i

Testimony to the Thirty-Second State Legislature, 2023 Regular Session

House Committee on Human Services
Representative John M. Mizuno, Chair
Representative Terez Amato, Vice Chair

Thursday, February 9, 2023 at 9:00 a.m.
State Capitol, Conference Room 329 & Videoconference

by:

Matthew J. Viola
Senior Judge, Deputy Chief Judge
Family Court of the First Circuit

WRITTEN TESTIMONY ONLY

Bill No. and Title: House Bill No. 841 – Relating to Domestic Abuse Protective Orders.

Purpose: Amends the automatic referral requirements to apply when there are allegations of child abuse and a domestic abuse restraining order is sought.

Judiciary’s Position:

The Judiciary supports House Bill No. 841.

This bill amends Hawai‘i Revised Statutes Section 586-10.5, which is entitled: “Reports by the department of human services [“DHS”].” This section outlines responsibilities of the court and the DHS related to HRS Chapter 350, and aligns the chapter 586 definition to the definition of chapter 350. This will provide greater consistency between chapters 350 and 586.

Thank you for the opportunity to testify on this measure.



TO: Chair John Mizuno
Vice Chair Terez Amato
FR: Nanci Kreidman, M.A.
Chief Executive Officer
RE: H.B. 841

HB 841 Support

Aloha. And thank you for scheduling this Bill for hearing early in the Session. This is an issue of great importance, and necessitates review.

The requirement for Family Court to make an automatic report to child welfare when a temporary restraining order is sought by a survivor places an unnecessary burden on the child welfare system and creates an unfortunate impact on survivors. Seeking court protection and taking the affirmative step to secure a restraining order is a proactive step that is aimed at providing protection for a family. Involving child welfare, if necessary, could still be done if circumstances warrant such a report.

Judges are given discretion in many ways, and have maintained consistently they function best with discretion. It appears in these kinds of cases, such discretion is well founded.

Additionally, if a person reaches out for help it is an affirmative action and the community should not be forcing other system interventions that may be harmful or threatening in nature. It would be an unintended, and deleterious effect for survivors to avoid working with available resources, like Family Court restraining orders for fear that they would be investigated for potential child abuse. It is not uncommon or unfamiliar that child welfare services is over-extended and cannot conduct an investigation in a timely fashion, requiring multiple appearances by survivors. This burdens the Court and the community's families.

Thank you for your favorable action to amend the current statute and focus on child abuse rather than domestic violence.

DOMESTIC VIOLENCE ACTION CENTER
ADDRESS: P.O. BOX 3198, HONOLULU, HI 96801-3198
LEGAL HELPLINE: (808) 531-3771
TOLL-FREE NEIGHBOR ISLAND HELPLINE: (800) 690-6200
WEBSITE: WWW.DOMESTICVIOLENCEACTIONCENTER.ORG
EMAIL: DVAC@STOPTHEVIOLENCE.ORG



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February 9, 2023

Members of the House Committee on Human Services:

Chair John M. Mizuno
Vice Chair Terez Amato
Rep. Della Au Belatti
Rep. Greggor Ilagan
Rep. Bertrand Kobayashi
Rep. Scott Y. Nishimoto
Rep. Jenna Takenouchi
Rep. Diamond Garcia

Re: HB841 Relating to Domestic Abuse Protective Orders

Dear Chair Mizuno, Vice Chair Amato, and Members of the House Committee on Human Services:

The Hawai'i State Coalition Against Domestic Violence (HSCADV) addresses the social, political, and economic impacts of domestic violence on individuals, families, and communities. We are a statewide partnership of domestic violence programs and shelters.

On behalf of HSCADV and our 28 member programs statewide, I respectfully submit testimony **in support of HB841**. This bill amends HRS 586-10.5, Domestic Abuse Protective Orders to require reports by the Department of Human Services Child Welfare Services when there are allegations of child abuse as defined in HRS 350-1 instead of allegations of domestic abuse.

Without this amendment, survivors of domestic violence would continue to face the potential of a Child Welfare Services (CWS) investigation when they include their children in a domestic violence protective order. Too often, survivors are subjected to more traumatization and victimization during a CWS investigation - instead of receiving trauma-informed help and resources, they are subjected to victim blaming and are held accountable for the abuse, not their partner. Survivor safety is not addressed, and yet we know, when a survivor is safe, their children are more likely to be safe as well.

Domestic violence protective orders are the only survivor-led legal remedy to which they have access and we must balance strengthening the intent of domestic violence protective orders and ensuring that allegations of child abuse are investigated and children are protected.

Thank you for the opportunity to testify on this important matter.

Sincerely,
Angelina Mercado, Executive Director

HB-841

Submitted on: 2/8/2023 7:43:37 AM

Testimony for HUS on 2/9/2023 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Russell	Lokahi Treatment Centers	Support	Written Testimony Only

Comments:

HB841 Relating to Domestic Abuse Protective Orders

This bill amends HRS 586-10.5, Domestic Abuse Protective Orders to require reports by the Department of Human Services Child Welfare Services when there are allegations of child abuse as defined in HRS 350-1 instead of allegations of domestic abuse.

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Domestic violence protective orders are the only survivor-led legal remedy to which they have access and we must balance strengthening the intent of domestic violence protective orders and ensuring that allegations of child abuse are investigated and children are protected.

HB-841

Submitted on: 2/7/2023 6:11:41 PM

Testimony for HUS on 2/9/2023 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Marilyn Yamamoto	Individual	Support	Written Testimony Only

Comments:

Committee members,

I am in full **SUPPORT** of this bill.

HB-841

Submitted on: 2/8/2023 8:21:26 AM

Testimony for HUS on 2/9/2023 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Dr. Faith Joyner	Individual	Support	Written Testimony Only

Comments:

Aloha, I support this bill. Mahalo for your consideration.

HB-841

Submitted on: 2/8/2023 9:38:30 AM

Testimony for HUS on 2/9/2023 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Dara Carlin, M.A.	Individual	Support	Written Testimony Only

Comments:

Stand in SUPPORT

HB-841

Submitted on: 2/8/2023 1:38:25 PM

Testimony for HUS on 2/9/2023 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Mara Garcia	Individual	Support	Written Testimony Only

Comments:

Aloha,

Thank you for your consideration of this bill. I am in support of this bill. The requirement for Family Court to make an automatic report to child welfare when a temporary restraining order is sought by a survivor places an unnecessary burden on the child welfare system and creates an unfortunate impact on survivors. Seeking court protection and taking the affirmative step to secure a restraining order is a proactive step that is aimed at providing protection for a family. Involving child welfare, if necessary, could still be done if circumstances warrant such a report. Judges are given discretion in many ways, and have maintained consistently they function best with discretion. It appears in these kinds of cases, such discretion is well founded.

Additionally, if a person reaches out for help it is an affirmative action and the community should not be forcing other system interventions that may be harmful or threatening in nature. It would be an unintended, and deleterious effect for survivors to avoid working with available resources, like Family Court restraining orders for fear that they would be investigated for potential child abuse. It is not uncommon or unfamiliar that child welfare services is over-extended and cannot conduct an investigation in a timely fashion, requiring multiple appearances by survivors. This burdens the Court and the community's families.

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