



## *The Judiciary, State of Hawai'i*

### Testimony to the Thirty-Second State Legislature, 2024 Regular Session

Senate Committee on Judiciary  
Senator Karl Rhoads, Chair  
Senator Mike Gabbard, Vice Chair

Friday, March 15, 2024 at 9:45 a.m.  
State Capitol, Conference Room 016 & Videoconference

by:  
Jessi L. Hall  
District Family Court Judge  
Family Court of the First Circuit

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**Bill No. and Title:** House Bill No. 2657, H.D. 1, Relating to Abusive Litigation.

**Purpose:** Establishes judicial procedures to prevent and remedy abusive litigation. Effective 1/1/3000.

### **Judiciary's Position:**

The Judiciary takes no position on this bill. The Judiciary proffered 14 recommendations to the House Committee on Judiciary and Hawaiian Affairs in order to assist them to craft a more viable bill. All of our recommendations were adopted (appended to this testimony).

We have one remaining recommendation that was first raised before the House Committee on Finance, which passed the bill out of committee with no changes. We offer that recommendation and respectfully request this Committee to amend the bill's definition of "abusive litigation," at page 4 from line 5, as follows:

(2) The party who is filing, initiating, advancing, or continuing the litigation has been found by a court to have committed intimate partner violence against the other party, including by a temporary restraining order or order for protection that the court found was necessary due to domestic



violence or the parties had agreed to an order for protection in a case of domestic violence and to the facts of that order, pursuant to:

- (A) An order or decree issued pursuant to section 571-46 or 580-74;
- (B) An order for protection issued pursuant to section 586-3;
- (C) A temporary restraining order issued pursuant to section 586-4;
- (D) A protective order issued pursuant to section 586-5.5;
- (E) A foreign protective order credited pursuant to section 586-21;
- (F) A no contact order issued pursuant to section 709-906(4); or
- (G) A criminal conviction or a plea of no contest [~~contendere~~], in this State or any other jurisdiction for any of the crimes identified in section 709-906, 711-1106.4, or 711-1106.5; or a filing for any offense related to domestic violence [~~;~~].  
~~[(H) A pending criminal charge, in this State or any other jurisdiction, of domestic violence, as a result of which a court has imposed criminal conditions of release pertaining to the safety of the victim; or~~
- ~~(I) A signed affidavit from a domestic violence or sexual assault agency that assists victims of domestic violence and sexual assault;]~~

The bill's definition provides important due process protections by including, within the ambit of this bill, only those cases where "the litigation has been found by a court to have committed intimate partner violence against the other party." The problem is that the current bill includes cases without this finding. Here are the reasons for our recommended amendment.

1. The phrase "and to the facts of that order" is required because many parties agree to an order for protection without agreeing to the factual basis of that order. If the parties do agree to the factual basis, the court's "finding" is made upon approval of and signature by the judge.
2. The insertion of "no contest" simply corrects a typographical error.
3. "(H)" must be deleted. There are no dispositive factual findings in a "pending criminal charge" and the resulting conditions of release are in effect only while the charge is pending.
4. "(I)" must be deleted. An affidavit from a third party would be insufficient for the court to base findings of abuse.

Lastly, we respectfully request an effective date of January 1, 2025. In order to accommodate the filings and the hearings provided for in this bill, the Judiciary must make certain operational changes. These will include changes to the Judiciary Electronic Filing and Service System (JEFS) and Judiciary Information Management System (JIMS). In addition, it



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will take some time to develop the required forms. An effective date of January 1, 2025, will allow the Judiciary sufficient time to address these operational issues.

Thank you for the opportunity to testify on this matter.



ADDENDUM TO TESTIMONY FROM THE JUDICIARY TO  
THE SENATE COMMITTEE ON JUDICIARY

Judiciary Recommendations adopted by  
the House Committee on Judiciary and Hawaiian Affairs

Recommendation #1 (page 3 from line 7):

**§ -2 Definitions.** As used in this chapter:

"Intimate partner" means:

- (1) Current or former spouses or reciprocal beneficiaries;
- (2) Persons who have a child in common regardless of whether they have been married or have lived together at any time [~~-, unless the child was conceived through sexual assault~~]; or
- (3) Persons who have or have had a dating relationship [~~where both persons are at least thirteen years of age or older.~~];
- (4) The term "intimate" has no romantic connotations.

Reasons: Sexual assault is an unfortunate occurrence domestic violence and it is not limited to strangers. Carving out an exception based on sexual assault is not necessary and will have the unintended consequence of excluding persons who would otherwise "fit" the population this bill seeks to protect. Similarly, limiting dating relationships to those thirteen years or older is not necessary and will exclude persons who would otherwise "fit" the population this bill seeks to protect. The new sub-section (4) makes it clear that abuse is not limited to those with romantic relationships.

Recommendation #2 (page 3, lines 17-18):

"Litigation" [~~has the same meaning as defined in section 634J-1.~~] means any civil action or proceeding, commenced, maintained, or pending in any state or federal court of record.

Reason: The suggested language is taken from section 634J-1. It is clearer to include the language and there does not appear to be any reason to refer to 634J, even though it is a statute with similar purposes ("Vexatious Litigants").

Recommendation #3 (page 4, from line 1):

**§ -3 Abusive litigation; defined.**

(a) Abusive litigation occurs where the following apply:

- (1) The opposing parties have a current or former intimate



partner relationship or have filed on behalf of a minor or incapacitated person who has a current or former intimate partner relationship;

Reason: A significant number of cases are filed on behalf of minors and incapacitated persons including allegations of dating abuse and elder abuse.

Recommendation #4 (page 4, from line 5):

(2) The party who is filing, initiating, advancing, or continuing the litigation has been found by a court to have committed domestic violence against the other party including by a temporary restraining order or order for protection that the court found was necessary due to domestic violence or ~~has~~ the parties had agreed to an order for protection in a case of domestic abuse;

Reason: We believe this change corrects a typographical error.

Recommendation #5 (page 5, from line 10):

(b) Litigation is harassing, intimidating, or maintaining contact with the other party when the litigation is filed with the intent or is primarily designed to, among other actions:

(1) Exhaust, deplete, impair, or adversely impact the other party's financial resources ~~[unless punitive damages are requested and appropriate or a change in the circumstances of the parties provides a good faith basis to seek a change to a financial award, support, or distribution of resources];~~

Reason: The deleted phrase may be confusing and it is not necessary. The factual allegations would be incorporated in the petition or motion.

Recommendation #6 (page 5, from line 19, to page 6, line 3):

(2) Prevent or interfere with the ability of the other party to raise a child or children for whom the other party has sole or joint legal custody ~~[in the manner the other party deems appropriate unless the party filing the litigation has a lawful right to interfere and a good faith basis for doing so];~~



Reasons: The deleted language “in the manner the other party deems appropriate” is redundant and not necessary. There’s no need to require proof of what the other party deems “appropriate.” The crux of problem in the prevention or interference with parenting. Similarly, the phrase “unless the party filing the litigation has a lawful right to interfere” is unnecessary. If a party has no standing or no legal connection with the child, the problem is much more fundamental than being “abusive.” The phrase “a good faith basis for doing so” is a determination to be made by the court as a basic finding throughout this bill.

Recommendation #7 (page 6, from line 10):

(4) Force, coerce, or attempt to force or coerce the other party to alter, engage in, or refrain from engaging in conduct when the conduct is lawful [~~and is conduct in which the other party has the right to engage~~];

Reason: The deleted language is redundant and not necessary.

Recommendation #8 (page 6, from line 16):

(6) Prevent, interfere, or adversely impact the ability of the other party to pursue or maintain a livelihood or lifestyle at the same or better standard as the other party enjoyed prior to the filing of the action [~~primarily for the purpose of harassing or maliciously injuring the civil action defendant~~];

Reason: The deleted language is redundant and not necessary.

Recommendation #9 (page 7, from line 8):

(8) Impair, diminish, or tarnish the other party's reputation in the community or alienate the other party's friends, colleagues, attorneys, or professional associates by, including but not limited to, subjecting parties without knowledge of or not reasonably relevant to the litigation to unreasonably or unnecessarily complex, lengthy, or intrusive interrogatories or depositions.

Reason: The added language recognizes that there are many ways to cause reputational damage (e.g., dissemination of AI generated false compromising images).

Recommendation #10 (page 9, from line 9):



§ -6 Presumptions. At the hearing conducted pursuant to this chapter, evidence of any of the following creates a rebuttable presumption that litigation is being initiated, advanced, or continued primarily for the purpose of harassing, intimidating, or maintaining contact with the other party:

(1) ~~[The same or substantially similar issues between the same or substantially similar parties were litigated within the past five years in the same court or any other court of competent jurisdiction;]~~

Proffered legal claims are not based on existing law or by a reasonable argument for the extension, modification, or reversal of existing law, or the establishment of new law;

(2) ~~The same or substantially similar issues between the same or substantially similar parties have been raised, pled, or alleged in the past five years and were dismissed on the merits or with prejudice;~~

Allegations and other factual contentions are made without adequate evidentiary support or are unlikely to have evidentiary support after a reasonable opportunity for further investigation;

(3) An issue or issues that are the basis of the litigation have previously been filed in one or more other courts or jurisdictions and the actions have been litigated and disposed of unfavorably to the party filing, initiating, advancing, or continuing the litigation;

(~~[3]~~ 4) Within the last ten years, the party allegedly engaging in abusive litigation has been sanctioned by a court of law for filing one or more cases, petitions, motions, or other filings, that were found to have been frivolous, vexatious, intransigent, or brought in bad faith involving the same opposing party; or

(~~[4]~~ 5) A court of record in another judicial ~~[district]~~ circuit or jurisdiction has determined that the party allegedly engaging in abusive litigation has previously engaged in abusive litigation or similar conduct and has been subject to



a court order imposing prefiling restrictions.

Reasons: The new language recommended for sub-sections (1), (2), and (3), are found in SB 2604, page 11, from line 16. We suggest this language because it more clearly delineates unsubstantiated legal issues, unsubstantiated factual allegations, and previous litigations. The change recommended in the new sub-section (5) makes a clearer distinction between the various judicial circuits of this state (we do not have judicial “districts”) and other jurisdictions.

Recommendation #11 (page 11, from line 11):

(3) Identify the party protected by the order restricting abusive litigation and impose prefiling restrictions upon the party found to have engaged in abusive litigation for a period of [~~not less than forty-eight months and~~] not more than seventy-two months. The time period can be extended beyond the maximum if the party found to have engaged in abusive litigation, since the effective date of the order, has engaged in further abusive litigation and/or caused further abuse as defined by H.R.S. 586-1, including, "Coercive control", "Domestic abuse", "Extreme psychological abuse", and "Malicious property damage."

Reasons: While statutes cannot allow court orders of unlimited time periods, setting a minimum time period does not appear to be necessary. Therefore, the protected party should be able to ask for an order under 4 years of duration and a court should be able to make such an order if warranted by its findings. A maximum time period of 6 years is reasonable but the protected party should be able to seek an extension in the event that the original order has not deterred continuing abuses.

Recommendation #12 (page 12, from line 4):

§ -8 Filing of new case or motion by person subject to an order restricting abusive litigation.  
(a) A person subject to an order restricting abusive litigation who wishes to initiate a new case or file a motion in an existing case during the time the person is under filing restrictions shall first file an application or motion [~~appear~~] before the court that imposed the order restricting abusive litigation to make a request to file. The court may examine witnesses, court records, and any other available evidence to determine if the proposed litigation is abusive litigation or if there are reasonable and legitimate grounds





upon which the litigation is based.

Reason: The added language simply clarifies that a filing is needed rather than an appearance.

Recommendation #13 (page 12, lines 15 to 19):

(b) Based on reviewing the records as well as any evidence submitted as sworn statements from the person who is subject to the order restricting abusive litigation, if the court determines the proposed litigation is abusive litigation, then it is not necessary for the person protected by the order to appear or participate in any way.

Reason: The added language provides specific parameters for the type of “evidence” that should be presented to the court at this stage of proceedings.

Recommendation #14 (page 16, lines 7 to 9):

SECTION 3. By ~~September 1, 2024~~, January 1, 2025, the courts shall create new forms for the motion for order restricting abusive litigation and develop relevant instructions.

Reason: Based on our experience, developing appropriate forms and clear and specific instructions for the motion may take more time than the bill currently allows.



**Parents And  
Children Together**

**BUILDING THE RELATIONSHIPS  
THAT MATTER MOST**

ParentsAndChildrenTogether.org

## **TESTIMONY IN SUPPORT OF HB 2657 HD1 RELATING TO ABUSIVE LITIGATION**

**TO:** Chair Rhoads, Vice-Chair Gabbard, & Members,  
Senate Committee on Judiciary  
**FROM:** Ryan Kusumoto, President & CEO  
**DATE:** March 15, 2024 at 9:45 AM

**Parents and Children Together (PACT) supports HB 2657 HD1 Relating to abusive litigation**, which establishes judicial procedures to prevent and remedy abusive litigation. *We support the position of the Hawaii State Coalition Against Domestic Violence, of which we are a member.*

Founded in 1968, PACT is a statewide community-based organization providing a wide array of innovative and educational social services to families in need. Assisting more than 15,000 people across the state annually, we help identify, address, and successfully resolve challenges through our 20 programs. Among our services are early education programs, domestic violence programs, child abuse prevention and intervention programs, childhood sexual abuse supportive group services, child and adolescent behavioral health programs, sex trafficking intervention, poverty prevention and community building programs.

In relation to this bill, PACT's Family Peace Center has been providing domestic violence counseling for over 25 years and offers a comprehensive community-based program that includes prevention and intervention services. Services on Oahu and Maui strive to bring peace to Hawaii families through a service array that promotes safety, support and accountability to offenders, survivors, and their children. We also operate three domestic violence shelters and have extensive experience with keeping survivors safe.

Litigation abuse is a malicious form of abuse where a former abusive partner retaliates, intimidates, and maintains control of a survivor by repeatedly forcing them back to court with baseless claims. Examples of litigation abuse include suing survivors for reporting abuse and suing or threatening to sue anyone who helps the survivor. Survivors are not the only victims of abusive litigation. Prolonged abusive litigation wastes court resources, public funds, and the time of judges and court personnel. This bill is a deterrent against the filing party from weaponizing the courts to harass survivors while wasting the scarce resources of the judiciary.

This legislation provides a critical new protective tool for survivor safety, empowerment, financial independence, economic justice, and peace after surviving domestic or sexual violence.

Thank you for the opportunity to testify. Please contact me at (808) 847-3285 or [rkusumoto@pacthawaii.org](mailto:rkusumoto@pacthawaii.org) if you have any questions.

March 13, 2024

Re: HB2657 HD1 Abusive Litigation

Aloha kākou,

I am writing to express YWCA Kaua'i's strong support for House Bill 2657 HD1, which addresses the pervasive problem of abusive litigation, especially in cases involving survivors of domestic or sexual violence. Abusive litigation has the potential to retraumatize victims and functions as a form of abuse in itself. That said, the impacts of abusive litigation also extend beyond survivors, burdening court resources and consuming the time of judges and court personnel. HB2657 would act as a deterrent against the misuse of legal procedures to harass survivors while also protecting the judiciary's resources.

Abuse within the legal system is deeply troubling, with abusers exploiting courts to drain the time, finances, and emotional resilience of survivors. These cases often compel survivors to appear in court and bear the financial burden of litigation, regardless of its validity or outcome. As the primary provider of domestic violence and sexual assault services in Kaua'i County, we regularly witness how abusive litigation compounds survivors' trauma, adding financial and emotional strain and impeding their path to recovery.

The proposed legislation empowers survivors by enabling them to assert claims of abusive litigation - particularly if the filing party has a history of intimate partner violence, stalking, or sexual assault against them. In response to these claims, courts are equipped with the tools to address and mitigate the harm of abusive litigation tactics while preserving litigants' constitutional right to access the court system. The bill would allow courts to assess the validity of abusive litigation claims through various means, including motions, petitions, or at the court's discretion. If abusive litigation is confirmed, courts may choose to deny the offender's action and issue orders restricting further litigation.

In essence, this legislation serves as a crucial protective measure for survivor safety, empowerment, and economic justice following the trauma of domestic or sexual violence. Similar legislation has been enacted in five states – Washington, Rhode Island, Vermont, Tennessee, and California. With your consideration, HB2657 HD1 would make Hawai'i the next state to take a stance and make a difference in the lives of survivors by addressing abuse in all of its forms. Thank you for your consideration of this important matter.

Sincerely,



Renaé Hamilton-Cambeilh  
Executive Director

To: Senate Committee on Judiciary  
Re: **HB 2657 HD1 – Relating to Abusive Litigation**  
Hawai'i State Capitol & Via Videoconference  
March 15, 2024, 9:45 AM

Dear Chair Rhoads, Vice Chair Gabbard, and Committee Members,

On behalf of Hawai'i Children's Action Network Speaks!, I am writing in **SUPPORT of HB 2657 HD1**. This bill establishes judicial procedures to prevent and remedy abusive litigation.

The intention of this bill is to stop abusive and controlling litigation -- where an abuser will take a person, their friends and family to court over and over again, in order to control, harass, intimidate, coerce, and impoverish the survivor.

Domestic violence survivors with children are particularly susceptible to this practice, as abusive litigation often occurs in child custody cases when former partners have children together. Not surprisingly, abusive litigation re-victimizes and re-traumatizes survivors and their children.

This bill would give the courts options to recognize and respond to controlling abusive litigation for domestic violence survivors. If found to be an abusive litigant, the courts would be able to order financial compensation to survivors for the costs of abusive litigation, including court and attorney fees. Additionally, abusive litigants would be subject to future prefiling requirements.

Survivors and their children are not the only ones impacted by abusive litigation. The practice also wastes court resources, public funds, and the time of judges and court personnel. If enacted, this bill would be a deterrent against wasteful and harmful misuse of our judiciary system.

Currently, five states have enacted legislation to address abusive litigation: Washington, Rhode Island, Vermont, Tennessee, and California. Hawai'i should join them in providing this important protection for domestic violence survivors.

Mahalo for the opportunity to provide this testimony. Please pass this bill.

Thank you,

Nicole Woo  
Director of Research and Economic Policy

**HB-2657-HD-1**

Submitted on: 3/14/2024 1:14:02 AM

Testimony for JDC on 3/15/2024 9:45:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Ann S Freed	Testifying for Democratic Party of Hawaii Women's Caucus	Support	Written Testimony Only

Comments:



Aloha Chair Rhodes, Vice Chair Gabbard and members,

The Democratic Party of Hawaii Women's Caucus is in strong support of this measure which would protect victims of domestic violence from a devious and destructive form of abuse.

Litigation abuse is a particularly malicious form of abuse where a former abusive partner keeps dragging a survivor back to court with baseless claims to maintain control and contact, retaliate, coerce, and intimidate a survivor. By forcing a survivor to appear at a specific courthouse, at a specific time and place, they are compelled to be together in the same room and close proximity to their former abuser. This occurs often in child custody cases when former partners have children together. Other examples of litigation abuse include suing survivors for reporting abuse and suing or threatening to sue anyone who helps the survivor. This re-victimizes and re-traumatizes them, bringing back the same fear and anxiety that existed for the survivor during the controlling abusive relationship.

Mahalo for hearing this bill and allowing us to testify

Ann S. Freed for Women's Caucus, Democratic Party of Hawaii



March 14, 2024

Senator Karl Rhodes, Chair  
Senator Mike Gabbard, Vice Chair  
Senate Committee on Judiciary

**Re: H.B. 2657 H.D.1, Relating to Abusive Litigation**

**Hearing: Friday, March 15, 2024, 9:45 a.m., Room 016**

Dear Chair Rhodes, Vice-Chair Gabbard and Members of the Committee on Judiciary:

Hawaii Women Lawyers (“HWL”) submits testimony in **support** of 2657 H.D.1, which proposes to protect individuals who make claims of sexual misconduct from defamation lawsuits unless the claims were proven to be made with malice.

The mission of Hawaii Women Lawyers is to improve the lives and careers of women in all aspects of the legal profession, influence the future of the legal profession, and enhance the status of women and promote equal opportunities for all.

HWL supports this bill because it is a deterrent against the filing party from weaponizing the courts to harass survivors while wasting the scarce resources of the judiciary. This bill will empower judges and the courts with the discretion to enter an order restricting abusive litigation. **Basically, it will prevent perpetrators of violence against women from using yet again another avenue of abuse.**

It is well known that litigation abuse is a particularly malicious form of abuse where a former abusive partner keeps dragging a survivor back to court with baseless claims to maintain control and contact, retaliate, coerce, and intimidate a survivor. By forcing a survivor to appear at a specific courthouse, at a specific time and place, they are compelled to be together in the same room as well as in close proximity to their former abuser. This occurs often in child custody cases when former partners have children together. Other examples of litigation abuse include suing survivors for reporting abuse and suing or threatening to sue anyone who helps the survivor. This re-victimizes and re-traumatizes them, bringing back the same fear and anxiety that existed for the survivor during the controlling abusive relationship.

For all of the above reasons, we respectfully request that the Committee pass **H.B. 2657 H.D.1**. Thank you for the opportunity to submit testimony on this measure.





March 15, 2024

Members of the Senate Committee on Judiciary:

Chair Karl Rhoads  
Vice Chair Mike Gabbard  
Sen. Brandon J.C. Elefante  
Sen. Joy A. San Buenaventura  
Sen. Brenton Awa

Re: HB2657 HD1 Relating to Abusive Litigation

Dear Chair Rhoads, Vice Chair Gabbard, and Members of the Senate Committee on Judiciary:

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 **strong support of HB2657 HD1**. Currently, five states have enacted legislation to address abusive litigation: Washington, Rhode Island, Vermont, Tennessee, and California. As proposed, this statute would not affect a person's right to access the courts. Instead, it would allow the courts additional discretion to terminate, mitigate, and address abusive litigation practices.

HB2657 HD1 allows a domestic survivor to assert a claim of abusive litigation if the party filing or advancing the litigation was previously an intimate partner. Survivors of domestic violence, sexual assault, and stalking seek relief through civil and family courts in Hawai'i and other jurisdictions that should be recognized in abusive litigation.

Litigation abuse is a particularly malicious form of abuse where a former abusive partner keeps dragging a survivor back to court with baseless claims to maintain control and contact, retaliate, coerce, and intimidate a survivor. By forcing a survivor to appear at a specific courthouse, at a specific time and place, they are compelled to be together in the same room and close proximity to their former abuser. This occurs often in child custody cases when former partners have children together. Other examples of litigation abuse include suing survivors for reporting abuse and suing or threatening to sue anyone who helps the survivor. This re-victimizes and re-traumatizes them, bringing back the same fear and anxiety that existed for the survivor during the controlling abusive relationship.





**Survivors are not the only ones impacted by abusive litigation. Prolonged abusive litigation wastes court resources, public funds, and the time of judges and court personnel.** This bill is a deterrent against the filing party from weaponizing the courts to harass survivors while wasting the scarce resources of the judiciary.

This bill will empower judges and the courts with the discretion to enter an order restricting abusive litigation. Upon request, the court would set a motion hearing to determine whether the litigation meets the statutory definition of *abusive litigation*. If the court finds that a party is engaging in abusive litigation, the action would be denied. In addition, the court would enter an “order restricting abusive litigation,” which may impose all costs and reasonable attorney fees incurred and may impose a pre-filing restriction upon the party found to have engaged in the abusive litigation. The abusive litigator will be required to seek permission from the court before proceeding with future litigation against the other protected party.

This legislation would provide a critical new protective tool for survivor safety, empowerment, financial independence, economic justice, and peace after surviving domestic or sexual violence.

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

Sincerely,  
Angelina Mercado, Executive Director



## Hawaii Women's Coalition

March 15, 2024

Members of the Senate Committee on Judiciary:

Chair Karl Rhoads

Vice Chair Mike Gabbard

Sen. Brandon J.C. Elefante

Sen. Joy A. San Buenaventura

Sen. Brenton Awa

Re: HB2657 HD1 Relating to Abusive Litigation

Dear Chair Rhoads, Vice Chair Gabbard, and Members of the Senate Committee on Judiciary:

The Hawai'i Women's Coalition is a catalyst for progressive, social, economic, and political change through action on critical issues facing Hawai'i's women and girls. Members include 29 organizations and agencies (private, public, membership) as well as individuals.

The Hawai'i Women's Coalition respectfully submits testimony in **strong support of HB2657 HD1**. Currently, five states have enacted legislation to address abusive litigation: Washington, Rhode Island, Vermont, Tennessee, and California. As proposed, this statute would not affect a person's right to access the courts. Instead, it would allow the courts additional discretion to terminate, mitigate, and address abusive litigation practices.

HB2657 HD1 allows a domestic survivor to assert a claim of abusive litigation if the party filing or advancing the litigation was previously an intimate partner. Survivors of domestic violence, sexual assault, and stalking seek relief through civil and family courts in Hawai'i and other jurisdictions that should be recognized in abusive litigation.

Litigation abuse is a particularly malicious form of abuse where a former abusive partner keeps dragging a survivor back to court with baseless claims to maintain control and contact, retaliate, coerce, and intimidate a survivor. By forcing a survivor to appear at a specific courthouse, at a specific time and place, they are compelled to be together in the same room and close proximity to their former abuser. This occurs often in child custody cases when former partners have children together. Other examples of litigation abuse include suing survivors for reporting abuse and suing or threatening to sue anyone who helps the survivor. This re-victimizes and re-traumatizes them, bringing back the same fear and anxiety that existed for the survivor during the controlling abusive relationship.

**Survivors are not the only ones impacted by abusive litigation. Prolonged abusive litigation wastes court resources, public funds, and the time of judges and court personnel.**



## Hawaii Women's Coalition

This bill is a deterrent against the filing party from weaponizing the courts to harass survivors while wasting the scarce resources of the judiciary.

This bill will empower judges and the courts with the discretion to enter an order restricting abusive litigation. Upon request, the court would set a motion hearing to determine whether the litigation meets the statutory definition of *abusive litigation*. If the court finds that a party is engaging in abusive litigation, the action would be denied. In addition, the court would enter an “order restricting abusive litigation,” which may impose all costs and reasonable attorney fees incurred and may impose a pre-filing restriction upon the party found to have engaged in the abusive litigation. The abusive litigator will be required to seek permission from the court before proceeding with future litigation against the other protected party.

This legislation would provide a critical new protective tool for survivor safety, empowerment, financial independence, economic justice, and peace after surviving domestic or sexual violence.

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

**HB-2657-HD-1**

Submitted on: 3/12/2024 2:43:13 PM

Testimony for JDC on 3/15/2024 9:45:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Lindsey A Drayer	Individual	Support	Written Testimony Only

Comments:

I support this

Thank you

**HB-2657-HD-1**

Submitted on: 3/14/2024 9:05:07 AM

Testimony for JDC on 3/15/2024 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Rachel	Individual	Support	Written Testimony Only

Comments:

**I respectfully submit testimony in support of HB2657 HD1. Currently, five states have enacted legislation to address abusive litigation: Washington, Rhode Island, Vermont, Tennessee, and California. As proposed, this statute would not affect a person’s right to access the courts. Instead, it would allow the courts additional discretion to terminate, mitigate, and address abusive litigation practices.**

**HB2657 HD1 allows a domestic survivor to assert a claim of abusive litigation if the party filing or advancing the litigation was previously an intimate partner. Survivors of domestic violence, sexual assault, and stalking seek relief through civil and family courts in Hawai‘i and other jurisdictions that should be recognized in abusive litigation.**

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**Survivors are not the only ones impacted by abusive litigation. Prolonged abusive litigation wastes court resources, public funds, and the time of judges and court personnel. This bill is a deterrent against the filing party from weaponizing the courts to harass survivors while wasting the scarce resources of the judiciary.**

**This bill will empower judges and the courts with the discretion to enter an order restricting abusive litigation. Upon request, the court would set a motion hearing to determine whether the litigation meets the statutory definition of abusive litigation. If the court finds that a party is engaging in abusive litigation, the action would be denied. In addition, the court would enter an “order restricting abusive litigation,” which may impose all costs and reasonable attorney fees incurred and may impose a pre-filing restriction upon the party found to have engaged in the abusive litigation. The abusive litigator will be required to seek permission from the court before proceeding with future litigation against the other protected party.**

**This legislation would provide a critical new protective tool for survivor safety, empowerment, financial independence, economic justice, and peace after surviving domestic or sexual violence.**

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

**Rachel Savereux, LCSW**