



*The Judiciary, State of Hawai'i*

**Testimony to the Thirty-Second State Legislature  
2024 Regular Session**

**Committee on Judiciary & Hawaiian Affairs**  
Representative David A. Tarnas, Chair  
Representative Gregg Takayama, Vice Chair

Wednesday, March 20, 2024 at 2:00 p.m.  
State Capitol, Conference Room 325 & Videoconference

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

---

**Bill No. and Title:** Senate Bill No. 2685, SD1, 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 Senate Committee on Judiciary 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. We offer that recommendation and respectfully request this Committee to amend the bill's definition of "abusive litigation", at page 4 from line 7, 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



Senate Bill No. 2685, SD1, Relating to Abusive Litigation

Committee on Judiciary & Hawaiian Affairs

Wednesday, March 20, 2024 at 2:00 p.m.

Page 2

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) A criminal conviction or a plea of no contest [~~contendere~~], in the State or any other jurisdiction for any of the crimes identified in sections 709-906, 711-1106.4, or 711-1106.5; or a filing for any offense related to domestic violence offense;

~~[(B) A pending criminal charge, in the 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;~~

~~[(C)]~~ (B) A temporary restraining order issued pursuant to section 586-4;

~~[(D)]~~ (C) An order for protection issued pursuant to section 586-3;

~~[(E)]~~ (D) A protective order issued pursuant to section 586-5.5;

~~[(F)]~~ (E) A no contact order issued pursuant to section 709-906(4);

~~[(G)]~~ (F) A foreign protective order credited pursuant to section 586-21; or

~~[(H)]~~ (G) An order or decree issued pursuant to section 571-46 or 580-74~~;~~ 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 a party "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. “(B)” 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 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 HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Judiciary Recommendations adopted by the Senate Committee on Judiciary

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.



March 20, 2024

Members of the House Committee on Judiciary & Hawaiian Affairs:

Chair David A. Tarnas

Rep. Linda Ichiyama

Vice Chair Gregg Takayama

Rep. Greggor Ilagan

Rep. Luke A. Evslin

Rep. Sam Satoru Kong

Rep. Sonny Ganaden

Rep. Tyson K. Miyake

Rep. Daniel Holt

Rep. Kanani Souza

Re: SB2685 SD1 Relating to Abusive Litigation

Dear Chair Tarnas, Vice Chair Takayama, and Members of the House Committee on Judiciary & Hawaiian Affairs:

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 SB2685 SD1 and ask that you consider the following amendment.**

§ -3(a)(2)(B):

~~(B) 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~~ A court determination of probable cause for a charge of domestic assault and the court imposed criminal conditions of release pertaining to the safety of the victim, which include distance restrictions or restrictions on contact with the victim; or

Rationale:

This would address the court's concern about denying a person due process when they have only been charged with a crime of domestic violence, but not convicted.

Currently, five states have enacted legislation to address abusive litigation: Washington, Rhode Island, Vermont, Tennessee, and California. This statute would not affect a

person's right to access the courts as proposed. Instead, it would allow the courts additional discretion to terminate, mitigate, and address abusive litigation practices.

SB2685 SD1 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

To: House Committee on Judiciary & Hawaiian Affairs  
Re: **SB 2685 SD1 – Relating to Abusive Litigation**  
Hawai'i State Capitol & Via Videoconference  
March 20, 2024, 2:00 PM

Dear Chair Tarnas, Vice Chair Takayama, and Committee Members,

On behalf of Hawai'i Children's Action Network Speaks!, I am writing in **SUPPORT of SB 2685 SD1**. 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



# Parents And Children Together

BUILDING THE RELATIONSHIPS  
THAT MATTER MOST

ParentsAndChildrenTogether.org

## TESTIMONY IN SUPPORT OF SB 2685 SD1 RELATING TO ABUSIVE LITIGATION

**TO:** Chair Tarnas, Vice-Chair Takayama, & Members,  
House Committee on Judiciary & Hawaiian Affairs  
**FROM:** Ryan Kusumoto, President & CEO  
**DATE:** March 20, 2024 at 2:00 PM

**Parents and Children Together (PACT) supports SB 2685 SD1 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.

**SB-2685-SD-1**

Submitted on: 3/19/2024 12:11:57 PM

Testimony for JHA on 3/20/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Monique R. Ibarra	Domestic Violence Action Center	Support	Written Testimony Only

Comments:

I respectfully submit my testimony in **strong support SB 2685 SD1**, recognizing its vital role in curbing abusive litigation.

Abusive litigation not only threatens our legal system's integrity but also inflicts unwarranted and repeated harm for survivors. SB 2685 is a pivotal step in addressing this issue by ensuring the legal process serves its intended purpose of resolving disputes in a fair and efficient manner.

As the CEO of the Domestic Violence Action Center, (DVAC), I have verified data that the staff work closely with numerous survivors who have grappled with the financial and emotional toll of abusive litigation. The staff have stories where survivors have done such things as deplete their retirement funds and accumulate significant debt simply to defend themselves in court, to keep their children safe, and to fight for what is rightfully theirs. There are stories of survivors struggling to balance the demands of the legal system with their employment responsibilities, where numerous court proceedings have led to job losses. Abusive litigation is a threatening form of post-separation abuse employed to exert coercive control over victims through the judicial system. I appreciate steps being taken to empower survivors and provide judges with the tools necessary to curb this detrimental behavior.

This bill discourages abusive litigation by imposing reasonable restrictions and penalties on abusive litigants and is imperative for shielding survivors and innocent parties from unnecessary legal battles. Your support for SB2685 SD1 acknowledges the urgency of addressing this issue by fostering an environment that upholds fair and responsible litigation and hindering the misuse and weaponization of legal proceedings for the purpose of harassment, intimidation, or coercion.

HB 2685 SD1 regarding Abusive Litigation is pivotal for justice, fairness, and the protection of survivors. Please support SB 2685 for a legal environment that prioritizes survivors' health and safety and ensures the fair administration of justice. Thank you for your time and consideration.



**SB2685 SD1**

**Hearing Date: 3/20/24, 2:00pm**

**Committee: JHA**

**I firmly support SB2685 SD1 and endorse the amendments recommended by the Hawaii State Coalition Against Domestic Violence.** As the Advocacy Manager at the Domestic Violence Action Center, I work closely with survivors of abusive litigation. I am also a survivor of abuse who has directly experienced abusive litigation, and I wish to share the devastating impact it had on my life.

After leaving my abusive husband, I found myself a single mother to three young children, with the youngest being just 6 months old. Along with stalking me, my abuser refused to provide any financial support for our children, leaving me to juggle three jobs. Over a span of 2 and a half years, I faced relentless abusive litigation while trying to secure a divorce. My abuser continuously dragged me back to court on frivolous grounds, only to have these accusations dismissed later. He would even follow me home from court hearings, adding to the stress. His actions included attempting to modify established court orders, falsely claiming I was in contempt of court, and purposefully delaying hearings. This type of behavior through civil court was not only demanding, illogical, and unreasonable but also deeply traumatic for me, especially concerning the division of property, assets, and custody.

The toll of this abusive litigation was immense. It caused a severe financial crisis, leading me to deplete my \$100,000 retirement account and exhaust my paid leave hours. The psychological stress made it incredibly challenging to focus on my work and care for my children, leaving me feeling utterly powerless and drained. Moreover, it shattered my trust in the court system, as I felt helpless in stopping this man from wreaking havoc on my life.

SB2685 SD1 is a critical measure for survivor safety, empowerment, financial independence, economic justice, and peace after surviving domestic or sexual violence. This legislation provides a crucial protective tool to prevent others from enduring the same traumatic abusive litigation that I and so many others faced. Thank you for the opportunity to testify on this important matter.

*Genia Stith, M.A.*

Advocacy Manager

**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](http://WWW.DOMESTICVIOLENCEACTIONCENTER.ORG)

EMAIL: [DVAC@STOPTHEVIOLENCE.ORG](mailto:DVAC@STOPTHEVIOLENCE.ORG)



**SB-2685-SD-1**

Submitted on: 3/19/2024 5:33:52 PM

Testimony for JHA on 3/20/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Shana Wailana Kukila	Individual	Support	Remotely Via Zoom

Comments:

RE: SB2685 Relating to abusive litigation

POSITION: Support

Aloha Chair and Members of the House Judiciary and Hawaiian Affairs Committee,

My testimony is in support of SB2685, with the amendments made by the Hawai'i State Coalition Against Domestic Violence. My hope is that our State's judiciary (all judges, court-appointed attorneys, guardian ad-litem, court staff) actually adheres to this kind of law along with the array of previous laws specifically meant to protect victims and survivors of intimate partner violence and our children.

Although many laws like this are currently on the books, they are not always followed in the courts and victims are re-victimized all over again by judges and court officials who do not follow the law and in turn, further endanger victim seeking justice in the courts. Many victims suffer at the whims of their abusers who weaponize the family court system, particularly the child welfare system, where children are taken from victims, further dehumanizing them at the whims of their abusers and turning entire systems against victims. This seriously harms children, especially when social workers and court staff do not know how to properly identify and address cases where psychological abuse and coercive control are at play in the family dynamic.

This is a serious abuse of the system and wastes valuable resources that should be spent on protective victims and not further revictimize them in the courts.

We need safer courts that allow victims to attend court via zoom when necessary, allow them to have advocates in every county and on every island, and the judiciary should pay for this from their budget. The price of a life is worth it, and the courts are where the buck stops when it comes to protecting vulnerable populations such as intimate partner violence and family violence victims. The court needs to do more than just push paper and make snap judgements that rubberstamp the accusations of abusive partners who seek to harass and intimidate their victims.

This law is about power and control and how the courts can curtail and stop this kind of abuse upon victims who seek the protections of the court they deserve. We, as a community, cannot continue to experience the ongoing grief of the loss of the women and children in our families at the hands of violent abusers. The courts need to be better trained to address this when these cases



come to their courtrooms. With this bill, they can be better prepared and more aware of the sophisticated ways abusers use the courts to control and harm their victims.

Mahalo nui to the Women's Legislative Caucus, the HSCADV and the legislature for considering this bill and for recognizing the real and present danger posed by the weaponization of the legal system against domestic violence and intimate partner violence victims.

Mahalo for allowing me to testify on this important issue.

Shana W. Kukila

Hilo, Hawaii

**SB-2685-SD-1**

Submitted on: 3/18/2024 2:19:07 PM

Testimony for JHA on 3/20/2024 2:00:00 PM

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

Comments:

Stand in Support.

**SB-2685-SD-1**

Submitted on: 3/18/2024 9:28:34 PM

Testimony for JHA on 3/20/2024 2:00:00 PM

<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

**SB-2685-SD-1**

Submitted on: 3/19/2024 9:30:35 AM

Testimony for JHA on 3/20/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Eric Keli'i Beyer	Individual	Support	Written Testimony Only

Comments:

Aloha my name is Eric Keli'i Beyer, from Volcano, Hawaii island.

I respectfully submit testimony in **strong support SB2685 SD1 and support the amendments recommended by the Hawai'i State Coalition Against Domestic Violence**. 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.

SB2685 SD1 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.

**SB-2685-SD-1**

Submitted on: 3/19/2024 1:07:15 PM

Testimony for JHA on 3/20/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Evelyn "Kahea" Lee	Individual	Support	Written Testimony Only

Comments:

Aloha mai kākou to ALL Representatives whom introduced and support this bill...Litigation Abuse.

Personal Experience: My son (age: 38 now) and I survived domestic abuse from 1988 to 1998. Relationship was good until "power and control" based on jealousy due to substance use...altered the mind of a person who once said, "I love you would never hurt you".

On or about year 1991, I was forced to take a crime, Theft II. To date, I am labeled with that mark.

During 16 years of this relationship, my son, age 12 at the time, was taken from me by my abuser. I found child on Maui. My child was returned...not by authorities.

I was in a same sex relationship and that is when I witnessed and experienced how power and control worked in favor of the abuser.

This Bill has to pass for those victims who are stuck in the cracks and has no voice or no one to help because of fear of the perpetrator. Our children are innocently at risk because they become...weapons or fear tools used by the abuser. Then...we as women...struggle to not only fight to stay alive...but also to fight for their child(ren)!

Please hear my plea...for those that are in a situation pf power and control...and to pass this Bill of Litigation Abuse to lift the restraints off of the innocent parent...that is rolled over and over by their abuser and then...by the government.

Mahalo nui for your time to read my testimony. Have a great and blessed day ahead with God's grace that is always amazing 🙏🤝💖

**SB-2685-SD-1**

Submitted on: 3/19/2024 1:09:55 PM

Testimony for JHA on 3/20/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Gwen Rodrigues	Individual	Support	Written Testimony Only

Comments:

[SB2685 SD1](#)

Hearing Date: 3/20/24, 2:00 pm

Committee: JHA

I respectfully submit testimony in strong support SB2685 SD1 and support the amendments recommended by the Hawai‘i State Coalition Against Domestic Violence. 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.

SB2685 SD1 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.

Gwen Rodrigues