



STATE OF HAWAII  
KA MOKU'ĀINA O HAWAII  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS  
KA 'OIHANA PONO LIMAHANA

February 27, 2023

To: The Honorable Kyle T. Yamashita, Chair,  
The Honorable Lisa Kitagawa, Vice Chair, and  
Members of the House Committee on Finance

Date: Monday, February 27, 2023  
Time: 1:30 p.m.  
Place: Conference Room 308, State Capitol and Via Video Conference

From: Jade T. Butay, Director  
Department of Labor and Industrial Relations (DLIR)

**Re: H.B. 1409 H.D.2 RELATING TO EMPLOYEE BENEFITS**

**I. OVERVIEW OF PROPOSED LEGISLATION**

The **DLIR supports** this proposal that amends the Hawaii Family Leave Law (HFLL), Chapter 398, Hawaii Revised Statutes, by providing up to eight weeks of additional family leave for the birth of a child who is required to stay in a neonatal intensive care unit (NICU). The additional family leave (up to 8 weeks after discharge from the NICU) shall be equivalent to the duration the child is in a NICU if during the additional period of family leave the employee provides kangaroo care or expresses breast milk for the child. The measure defines "kangaroo care."

**II. CURRENT LAW**

Chapter 398, HRS, requires employers with one hundred or more employees to provide eligible employees with four weeks of unpaid, job-protected leave for the birth or adoption of a child or to care for a child, spouse, reciprocal beneficiary, sibling, grandchild, or parent with a serious health condition. The employee may elect to substitute any of the employee's accrued paid leaves for any part of the four-week period.

**III. COMMENTS ON THE HOUSE BILL**

For the birth of a child who is required to stay in a NICU, this measure provides additional family leave of up to eight weeks that starts from the date that the child is discharged from the NICU so long as the employee provides the child kangaroo care or expresses breast milk. The additional family leave is equivalent to the duration the child is in a NICU up to a maximum of eight weeks. For example, if the child stays in the NICU for two weeks, the employee would be entitled to an

additional two weeks of family leave, or a total of 6 weeks of family leave. If the child stays in the NICU for ten weeks, the employee would be entitled to an additional eight weeks of family leave, or a total of twelve weeks of Hawaii family leave.



Hawai'i Children's Action Network Speaks! is a nonpartisan 501c4 nonprofit committed to advocating for children and their families. Our core issues are safety, health, and education.

To: House Committee on Finance  
Re: **HB 1409, HD2 - Relating to Employee Benefits**  
Hawai'i State Capitol and via videoconference  
February 27, 2023, 1:30 PM

Dear Chair Yamashita, Vice Chair Kitagawa, and Committee Members,

On behalf of Hawai'i Children's Action Network Speaks!, I am writing in **SUPPORT with suggested amendments to HB 1409, HD2**. This bill extends the family leave period for up to eight weeks for employees who are unable to perform their employment duties due to the birth of a child who is required to stay in a neonatal intensive care unit (NICU) and requires the department of health to amend its rules to include neonatal care as a related medical condition wherever the phrase "pregnancy, childbirth, or other related condition" is used.

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Neonatal intensive care is for infants who are born so prematurely or have such serious health issues that they require intensive medical attention. In Hawai'i, the only high-risk NICU is on O'ahu, which means that parents from other islands often must relocate to O'ahu, away from their employment, for the period of time that their babies need NICU care. Even parents on O'ahu often are unable to fulfill their work duties because they need to care for their babies while they are in the NICU.

This version of the bill would allow parents to receive additional **unpaid** leave when their infants are in the NICU. Currently, only one in four private sector workers has access to paid family care leave.<sup>1</sup> Lower-income workers in Hawai'i – who are more likely to be Native Hawaiian or Pacific Islander – are the least likely to have paid family leave, while they need that financial support the most.

While most working mothers who give birth can get partial pay through Temporary Disability Insurance (TDI) to recover from childbirth, TDI doesn't extend beyond her own physical recovery time, and TDI can't be used by parents who didn't give birth. This coverage simply isn't adequate for parents of seriously ill or preterm babies.

**We respectfully suggest restoring the paid leave provided in the original version of this bill** to ensure that parents in Hawai'i are no longer put in the impossible position of having to choose between caring for their infants in the NICU and making ends meet.

Mahalo for the opportunity to provide this testimony. Please pass this bill with our suggested amendment.

Thank you,

Nicole Woo  
Director of Research and Economic Policy

<sup>1</sup> <https://www.nationalpartnership.org/our-work/resources/economic-justice/paid-leave/paid-leave-means-a-stronger-Hawaii%E2%80%98i.pdf>

**HB-1409-HD-2**

Submitted on: 2/26/2023 1:18:53 PM

Testimony for FIN on 2/27/2023 1:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Todd Taniguchi	Individual	Support	Remotely Via Zoom

Comments:

Dear Chair Yamashita, Vice Chair Kitagawa and Committee members of the FIN,

My wife and I are writing in strong support of this bill as parents of two children who were born prematurely and had extended hospital stays of weeks and months in the neonatal intensive care unit (NICU).

We agree with the entirety of Section 1 of the legislation. This bill would provide more robust job protection and financial relief to families during a time of need. If we can make this work, families would feel less pressure to choose between their livelihood and supporting the development of their infant hospitalized in the NICU.

Please note, as amended, this bill pushes through the job protection elements of this proposal but appears to be in search of a funding mechanism for paid leave. Specifically, if TDI can't be implemented, please consider creating a bridge between the bill as proposed and a long-term solution of providing paid leave through an appropriate funding mechanism (direct funding of Paid Family Leave by the State or leave an option of modifying the TDI program to fund this marginal cost change. for a relatively small group of beneficiaries likely to be in the range of hundreds or perhaps about 1500 families in a year). 10% of live births are premature in Hawaii.

Why we think this bill is important:

- It helps parents support the long-term health of their children
- It may help more women remain in the workforce with job continuity instead of dropping out or burning out during this period
- This bill effectively recognizes the added work that ONLY a mother is being asked to perform in support of their child: 6-8 hours per day, every 2-3 hours, expressing breast milk through a pump along with cleaning/sanitization/storage of the equipment and milk, for weeks on end without more than 3 hours of sleep per night.
- Neighbor island families especially need the added financial support and job security. Oahu is the only island in the state with NICUs and breastmilk and kangaroo care require them to be on island daily and in person.
- This has a financial return: Higher rates and consistency of kangaroo care and breast milk expression will lead to better health outcomes and shorter hospital stays.

Mahalo sincerely for your consideration of this bill.

Todd Taniguchi and Vivien Ong