

Honolulu, Hawaii

FEB 28 2025

RE: S.B. No. 295
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Third State Legislature
Regular Session of 2025
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B.
No. 295 entitled:

"A BILL FOR AN ACT RELATING TO DOMESTIC ABUSE PROTECTIVE
ORDERS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Increase the penalties imposed on individuals convicted for violation of a temporary restraining order and order for protection;
- (2) Clarify that the court shall not sentence a defendant to pay a fine for violating a temporary restraining order or order for protection if, after conducting a financial review, the court determines the defendant is or will be unable to pay the fine; and
- (3) Specify that the court may suspend certain jail sentences for violation of a temporary restraining order or order for protection upon condition that the defendant remain alcohol- and drug-free, conviction-free, and complete court-ordered assessments or intervention.



Your Committee received testimony in support of this measure from the Department of the Prosecuting Attorney of the City and County of Honolulu, Office of the Prosecuting Attorney of the County of Hawai'i, one member of the Honolulu City Council, Hawai'i State Coalition Against Domestic Violence, Domestic Violence Action Center, Hui Malama Pono Hawai'i, Hawai'i Children's Action Network Speaks!, Theresa's Pu'uwai Legacy, and sixteen individuals.

Your Committee received testimony in opposition to this measure from the Office of the Public Defender, Aloha 1st Athletics, and one individual.

Your Committee received comments on this measure from the Judiciary.

Your Committee finds that domestic violence protective orders are issued where the family court finds that a past act or acts of abuse may have occurred, threats of abuse make it probable that acts of abuse may be imminent, or extreme psychological abuse or malicious property damage is imminent. However, the lack of clarity, consistency, and severity of existing law for temporary restraining orders does not reflect the State's commitment to guarding individuals protected under temporary restraining orders. Your Committee further finds that a 2014 study examined the effects of sentencing severity on recidivism among domestic violence offenders and concluded that stricter sentencing for domestic violence offenses, compared to non-domestic violence crimes, was linked to a lower likelihood of reoffending. This measure will deter potential violators, assure victims, create clarity for the courts, and reduce recidivism of domestic violence offenders by updating the penalties and restrictive court procedures for individuals convicted for violation of a temporary restraining order and order for protection.

Your Committee notes that this measure, as written, may necessitate that the courts order an ability to pay study to be undertaken by the Judiciary's Adult Client Services Branch, which would result in a delay in sentencing. Your Committee further notes that postponing sentencing could lead to adverse outcomes for court users, such as delayed provision of services for defendants and a more "drawn-out" process for survivors of domestic abuse. Additionally, if court staff are undertaking



ability to pay studies for each case, their ability to provide timely service and supervision to other defendants may suffer.

Accordingly, your Committee has amended this measure by:

- (1) Decreasing the increased mandatory minimum jail sentence for a first conviction for a violation of a temporary restraining order or order for protection to five days;
- (2) Clarifying that the court shall not sentence a defendant to pay a fine for violating a temporary restraining order or order for protection if the court makes an on the record determination that the defendant is or will be unable to pay the fine;
- (3) Specifying that a conviction for violation of a temporary restraining order issued under the same judicial case number as an order for protection shall be treated as a second or subsequent violation of an order for protection; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 295, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 295, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary,



KARL RHOADS, Chair



