

JON N. IKENAGA
STATE PUBLIC DEFENDER

DEFENDER COUNCIL
1130 NORTH NIMITZ HIGHWAY
SUITE A-254
HONOLULU, HAWAII 96817

HONOLULU OFFICE
1130 NORTH NIMITZ HIGHWAY
SUITE A-254
HONOLULU, HAWAII 96817

APPELLATE DIVISION
TEL. No. (808) 586-2080

DISTRICT COURT DIVISION
TEL. No. (808) 586-2100

FAMILY COURT DIVISION
TEL. No. (808) 586-2300

FELONY DIVISION
TEL. No. (808) 586-2200

FACSIMILE
(808) 586-2222



STATE OF HAWAII
OFFICE OF THE PUBLIC DEFENDER

HAYLEY Y.C. CHENG
ASSISTANT PUBLIC DEFENDER

HILO OFFICE
275 PONAHAHAWI STREET
SUITE 201
HILO, HAWAII 96720
TEL. No. (808) 974-4571
FAX No. (808) 974-4574

KONA OFFICE
75-1000 HENRY STREET
SUITE #209
KAILUA-KONA HI 96740
TEL. No. (808) 327-4650
FAX No. (808) 327-4651

KAUAI OFFICE
3060 EIIWA STREET
SUITE 206
LIHUE, HAWAII 96766
TEL. No. (808) 241-7128
FAX No. (808) 274-3422

MAUI OFFICE
81 N. MARKET STREET
WAILUKU, HAWAII 96793
TEL. No. (808) 984-5018
FAX No. (808) 984-5022

**Testimony of the Office of the Public Defender,
State of Hawai'i to the House Committee on Human Services & Homelessness**

March 20, 2025

S.B. No. 295 SD1 HD1: RELATING TO DOMESTIC ABUSE PROTECTIVE ORDERS.

Chair Tarnas, Vice-Chair Poepoe and Members of the Committee:

The Office of the Public Defender **opposes S.B. 295 SD1 HD1.**

This measure increases the mandatory minimum jail sentence for violation of a Temporary Restraining Order and for violation of an Order for Protection.

There is a penalty structure currently built into HRS Sections 586-4 and 586-11 that functions effectively and has been amended numerous times. Many violations of HRS Sections 586-4 and 586-11 are non-violent and do not include a threat of violence. We oppose the increase in mandatory sentencing for a first offense for a minor violation that does not involve violence or the threat of violence (i.e. an unwelcome single text message) to require a mandatory minimum of incarceration of five days and a mandatory fine of \$300 for a first offense.

This measure would restrict the abilities of trial court judges to sentence based on the individual needs of defendants and a review of all the circumstances, including the lack of violence or threats of violence, a defendant's employment, childcare needs, and other mitigating circumstances – including behaviors by a complaining witness or petitioner to invite or encourage contact. It is not uncommon for a

complaining witness to seek out contact after a cooling off period despite having obtained a Temporary Restraining Order or an Order for Protection.

This measure would restrict the abilities of a trial court judge to look at medical and mental health needs and would prevent a trial court judge from looking at relevant factors that directly impact whether incarceration of this length is necessary, appropriate, or even just. When a defendant experiences a medical crisis, it is often the complaining witness who will contact our office to let us know.

This measure would restrict the abilities of a trial court judge to review the unique phenomenon in Family Court of dueling restraining orders when parties are involved in acrimonious divorce or child custody proceedings as a means to weaponize a restraining order or an order for protection.

We oppose any measure that takes individualized sentencing out of the hands of the trial judges who are in the best position to fashion an appropriate sentence in each case. A trial judge becomes intimately familiar with defendants who are found guilty of these types of offense(s) after a comprehensive review of that individual's social, family, and criminal history. This review includes the defendant's criminal record or lack thereof. The review also includes details about past trauma (including physical abuse, psychological abuse, and sexual abuse), the need for mental health treatment, and the socio-economic impacts on an individual. Passage of this measure will prevent a judge from deciding the most appropriate sanction for the individual offender who is currently before them rather than to have their "hands tied" by mandatory sentencing.

A consequence of this measure will be the increase in defendants demanding jury trials to avoid an unduly harsh sentence. This will lead to foreseeable issues: increased trial backlogs and court congestion, loss of critical employment, increased homelessness due to loss of housing or inability to pay for housing, health impacts due to lack of appropriate medical care and mental health care while incarcerated, etc. Some cases can take months or even years to resolve and will contribute to the state's continued issues of pretrial overcrowding in correctional centers.

We submit that there is a big difference between non-domestic abuse violations and domestic abuse violations. Lumping these two categories together and treating them the same fails to acknowledge the serious differences and the individualized needs of families in distress. Our office is supportive of more intensive supervision, improved access to mental health treatment and counseling, substance abuse intervention and treatment, and domestic violence intervention programming. We

are deeply concerned that the harsh nature of these amendments can create the unintended circumstance of encouraging parties to obtain restraining orders to use as a means to emotionally and financially abuse partners. We have already seen instances where a true abuser obtains and uses an order for protection as a means to further harm a true victim – thereby using the criminal justice system to further cause harm. We respect the work of domestic violence prevention agencies, and it is not unusual for a defendant to have a counselor or service provider affiliated with these agencies. We have also seen siblings fighting over property weaponize restraining orders and orders for protection to force siblings with claims on property to vacate their homes with serious negative impacts – homelessness, financial instability, mental health crisis, substance abuse, etc. We handle cases involving intimate partners with or without shared children, parent and child relationships, grandparent and grandchild relationships, domestic partners, and siblings. Family Court orders are not one size fits all. We need the flexibility to be able to navigate all the different types of relationships, motivations, and backgrounds when these parties end up in the criminal justice system to resolve conflicts.

With the recent nationwide review of criminal justice policies, it is concerning that the trend in the State of Hawaii is to increase mandatory penalties while removing judicial discretion. We submit that the courts should retain the ability to acknowledge and support defendants who are already in treatment or counseling and who have a strong support system to prevent new offenses without requiring lengthy mandatory incarceration that could derail progress or further derail the road to stability. A defendant who may have violated an order but who subsequently finds new housing, obtains employment, and is involved in counseling or treatment prior to trial or during the pretrial process does not need to risk losing progress or employment if they have achieved the ability to get help, obtain stable housing, and are able to respect the existing order post arrest. If a defendant in distress has moved forward positively and in a healthy manner and is able to conform their conduct to the requirements of the law, requiring mandatory jail may only cause relapse, financial stress, and increase the risk of a return to negative behaviors and resentment with the justice system.

It is the position of the Office of the Public Defender that the issuing courts can and should do a better job of reviewing circumstances, having conversations with parties, providing support and services, and being open to modifications of these types of orders to meet the changing needs of parties and families in distress who are moving toward peaceful reconciliation. Discussions about changing circumstances, finances, housing options, childcare options, and employment should be planned for or discussed when determining the parameters of long term orders or orders that

impact the living status of children in the home. Follow up hearings on the needs of the parties who share children or who may need to make adjustments to existing orders should be required. Front end supports will go far to help parties understand the parameters, the limits, and the impact these types of orders have on families' long term. A petitioner who has a change of heart or perspective or who has new priorities should be able to have these issues addressed and not ignored – thus resulting in petitioners making contact with defendants to make “side agreements” to have contact despite the existence of an Order for Protection that has yet to expire. We believe back end mandatory jail terms without improving front end supports will do little to improve compliance in the long run.

It is the position of the Office of the Public Defender that the current penalty structure in HRS Section 586-4 and 586-11 are effective and appropriate. We therefore oppose the proposed increases in the mandatory minimum penalties as unwarranted and unnecessary.

Thank you for the opportunity to comment on this measure.

KELDEN B.A. WALTJEN
PROSECUTING ATTORNEY

STEPHEN L. FRYE
FIRST DEPUTY
PROSECUTING ATTORNEY



655 KĪLAUEA AVENUE
HILO, HAWAII 96720
PH: (808) 961-0466
FAX: (808) 961-8908

64-1067 MAMALAHOA HWY
KAMUELA, HAWAII 96743
PH: (808) 887-3017
FAX: (808) 887-3016

74-675 KEALAKEHE PARKWAY
KAILUA-KONA, HAWAII 96740
PH: (808) 322-2552
FAX: (808) 322-6584

OFFICE OF THE PROSECUTING ATTORNEY

TESTIMONY IN SUPPORT OF SENATE BILL NO. 295 SD1 HD1

A BILL FOR AN ACT RELATING TO DOMESTIC ABUSE PROTECTIVE ORDERS

COMMITTEE ON JUDICIARY
Representative David Tarnas, Chair
Representative Mahina Poepoe, Vice Chair

Thursday, March 20, 2025 at 2:00 p.m.
Via Videoconference and
State Capitol Conference Room 325
415 South Beretania Street

Honorable Chair Rhoads, Vice-Chair Gabbard, and Members of the Committee on Judiciary, The County of Hawai'i, Office of the Prosecuting Attorney submits the following testimony in support of Senate Bill No. 295 SD1 HD1.

Senate Bill No. 295 SD1 HD1 increases the penalties imposed on individuals convicted for violations of temporary restraining orders and orders for protection. Clarifies that the court shall not sentence a defendant to pay a fine for violating a domestic abuse protective order if the court makes an on-the-record determination that the defendant is or will be unable to pay the fine. Specifies 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. Authorizes the court to suspend certain jail sentences for violations of domestic abuse protective orders if the defendant meets certain conditions.

This bill reflects the need for increased accountability for individuals who violate temporary restraining orders or protective orders issued by the Family Courts of our state. The County of Hawai'i, Office of the Prosecuting Attorney, supports this measure to increase accountability for violators.

Domestic violence protective orders are issued where the family court finds that a past act or acts of abuse may have occurred, that threats of abuse make it probable that acts of abuse may be imminent, or that extreme psychological abuse or malicious property damage is imminent. Such orders may require the subject to not contact the protected party, to not threaten, harm, or harass the protected party, to stay away from the protected party's residence or place of employment, and other measures aimed at protecting victims from ongoing threats of abuse,

coercive control, or property damage. An ex-parte temporary restraining order is issued by a judge on an emergency basis for the same purposes.

Violations of an order for protection or of a temporary restraining order can have the malicious effect of making victims feel powerless. This bill makes clear that there will be mandatory jail time as well as a monetary fine for a violation, which increases for subsequent violations. The certainty of jail time and a fine as a consequence for violations could have a deterrent effect on potential violators and help assure victims.

This bill changes the procedure that a court must follow before declining to impose a fine that would otherwise be mandatory as part of a sentence upon conviction, requiring the court to first conduct “a financial review” and to make a finding that the defendant is or will be unable to pay the fine. In addition, this bill takes the commendable step of eliminating the language in Section 586-11 that distinguishes between violations “in the nature of domestic abuse” and those “in the nature of non domestic abuse.” In practice, a violation of a protective order that is assaultive in nature is usually chargeable as an enhanced felony offense of Assault in the Second Degree. The Office of the Prosecuting Attorney, County of Hawai‘i, supports the intent of this bill to make the text of these statutes clear, and their penalties unambiguous.

The County of Hawai‘i, Office of the Prosecuting Attorney remains committed to pursuing justice with integrity and commitment. For the foregoing reasons, the County of Hawai‘i, Office of the Prosecuting Attorney supports the passage of Senate Bill No. 295 SD1 HD1. Thank you for the opportunity to testify on this matter.

DEPARTMENT OF THE PROSECUTING ATTORNEY
KA 'OIHANA O KA LOIO HO'OPI'I
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
PHONE: (808) 768-7400 • FAX: (808) 768-7515 • WEBSITE: www.honoluluprosecutor.org

STEVEN S. ALM
PROSECUTING ATTORNEY
LOIO HO'OPI'I



THOMAS J. BRADY
FIRST DEPUTY PROSECUTING ATTORNEY
HOPE MUA LOIO HO'OPI'I

THE HONORABLE DAVID A. TARNAS, CHAIR
HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS
Thirty-Third State Legislature
Regular Session of 2025
State of Hawai'i

March 19, 2025

RE: S.B. 295 S.D. 1 H.D. 1; RELATING TO DOMESTIC ABUSE PROTECTIVE ORDERS.

Chair Tarnas, Vice Chair Poepoe, and members of the House Committee on Judiciary and Hawaiian Affairs, the Department of the Prosecuting Attorney for the City and County of Honolulu submits the following testimony in support of S.B. 295.

S.B. 295 eliminates the distinction between violations in the nature of domestic abuse and violations in the nature of non-domestic abuse for protective-order violations. In most cases, a violation in the nature of domestic abuse can be charged as a separate crime. The current distinction creates needless confusion about the nature of the offense. It also implicitly minimizes violations that only appear trivial when isolated from the abusive context.

S.B. 295 increases the minimum penalties for violations of temporary restraining orders and violations of protective orders. The Department's legislative package had only provided uniform penalties for temporary restraining orders and protective orders. S.B. 295 does this as well. In principle, we have no objection to increasing the minimum penalties for these offenses. Criminal violations of direct court orders must be evaluated within the context of volatile abusive relationships. We support strong and effective deterrents that might give greater safety and hope for victims of domestic violence.

The chart on the next page illustrates a common scenario where repeated violations of court orders do not result in any meaningful penalty. S.B. 295 counts violations of the predicate temporary restraining order in determining whether a subsequent violation has occurred. This is a sensible and meaningful deterrent against those who deliberately disobey protective orders.

Thank you for the opportunity to testify.

| | |
|--|---|
| January 1 | Jane Doe seeks and receives a TRO against John Doe. Her petition describes prior acts of physical abuse and stalking during their marriage. The Family Court sets a hearing for January 15. |
| January 2 | Officer Roe serves John with the TRO and notifies him of the hearing date. |
| January 5 | John shows up to Jane's workplace with fresh flowers and a brochure from a funeral home. Jane calls the police. John is arrested at the workplace. |
| January 6 | The prosecution charges John with Violation of a TRO as a first offense. John is released at arraignment and given a trial date of February 3. The court orders him to stay away from Jane. |
| January 10 | John shows up to Jane's house at three in morning and knocks on the door. Jane calls the police. John is arrested at her home. |
| January 11 | The prosecution charges John with Violation of a TRO as a first offense (because he has not yet been convicted of the prior violation). John's bail is increased at arraignment. He is given a trial date of February 10 with an intermediate status conference. He posts bail the same day. |
| January 13 | John bails out. |
| January 15 | The Family Court holds a hearing on the protective order. It issues a three-year protective order. |
| August 4 | After several continuances, John is convicted for both Violation of a TRO cases. He receives credit for time served (the two days spent in jail between January 11 and January 13). |
| August 5 | John shows up to Jane's workplace with dead flowers. Jane call the police. |
| August 6 | The prosecution charges John with Violation of a Protective Order as a first offense. John bails out the same day. |
| April 15 (of the following year) | John is convicted for violating the protective order. Because the violation was not in the nature of domestic abuse, he receives no jail time. The Court orders him to stay away from Jane. |
| April 16 | John shows up to Jane's house at three in the morning and knocks on the door. |



March 20, 2025

Members of the House Committee on Judiciary & Hawaiian Affairs:

Chair David A. Tarnas

Rep. Amy A. Perruso

Vice Chair Mahina Poepoe

Rep. Gregg Takayama

Rep. Della Au Belatti

Rep. Chris Todd

Rep. Elle Cochran

Rep. Diamond Garcia

Rep. Mark J. Hashem

Rep. Garner M. Shimizu

Rep. Kirstin Kahaloa

Re: HB 301 Relating to Domestic Abuse Protective Orders

Dear Chair Tarnas, Vice Chair Poepoe, 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 25 member programs statewide, I respectfully submit testimony in **strong support of SB295**. The changes to the Temporary Restraining Order (TRO), HRS 586-4 and Protection Order (PO), HRS 586-11 statutes included in this measure are intended to meet the needs of those who must seek these actions to protect themselves and their families, by:

- Instilling survivors' faith in the judicial process and protection orders – that they are more than “just a piece of paper”;
- Holding abusers accountable for the harm they cause to their victims, families, and communities at large;
- Allowing flexibility in the statute to address abuse amongst family members and intimate partner violence;
- Preventing the weaponization of this statute against victims of domestic violence; and
- Ensuring a smooth and expeditious judicial process.

One significant change proposed in this measure is increasing the minimum penalty for a violation of a Temporary Restraining Order (TRO) or Protection Order (PO) from 48 hours to 5 days. However, in practice, individuals convicted for the first offense of a violation are often credited with time served, resulting in a sentence shorter than the 48-hour minimum.

Additionally, this measure introduces a key provision: if a respondent violates a protection order after previously violating a temporary restraining order under the same case number, it will count as a second or subsequent violation. A violation of an ex-parte emergency TRO demonstrates a pattern of disregard for legal consequences and an escalation of abusive behavior. Under current law, the consequences for the first violation of a protection order under section 586-11 do not adequately address the gravity of the situation or provide sufficient time for survivors (petitioners) to implement critical safety measures, such as relocation.

This measure also removes the distinction between “non-domestic abuse” and “domestic abuse” in HRS 586-11. In practice, this distinction is often tied to the type of abuse—physical versus non-physical. By codifying coercive control in HRS 586-1, we elevate the seriousness of non-physical violence and recognize its devastating impact on survivors. HSCADV’s report, “[SCARS ON THE HEART: Barriers to Safety for Survivors of Domestic Violence](#),” found that 1-in-5 surveyed in Hawai‘i have experienced coercive control or isolation. The Centers for Disease Control’s “The National Intimate Partner and Sexual Violence Survey: 2016/2017 State Report” estimates the lifetime prevalence of coercion and entrapment to be 38.2% of Hawai‘i residents have experienced coercion and entrapment.¹

We support this measure as a step toward addressing the more severe cases of domestic violence and filling critical gaps in the accountability and protection system. A 2014 study examining the effects of sentencing severity on recidivism among domestic violence offenders found that stricter sentencing for domestic violence offenses—compared to non-domestic crimes—was linked to a lower likelihood of reoffending.² This reinforces the importance of treating domestic violence with the gravity it deserves, which in turn may reduce the risk of repeat offenses and increase safety for survivors.

We urge you to support SB295 SD1 as a vital step toward improving safety, accountability, and justice for survivors of domestic violence.

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

Sincerely,
Angelina Mercado, Executive Director

¹ Smith SG, Khatiwada S, Richardson L, Basile KC, Friar NW, Chen J, Zhang Kudon H, & Leemis RW. The National Intimate Partner and Sexual Violence Survey: 2016/2017 State Report. Atlanta (GA): Centers for Disease Control and Prevention, National Center for Injury Prevention and Control; 2023.

² “Impact of Differential Sentencing Severity for Domestic Violence Offenses and All Other Offenses Over Abusers’ Life Spans”, available at https://www.ojp.gov/pdffiles1/nij/grants/244757.pdf?utm_source=chatgpt.com.



March 19, 2025

Position: Support of SB295, SD1, HD1

To: Representative David A. Tarnas, Chair
Representative Mahina Poepoe, Vice Chair
Members of the House Committee on Judiciary & Hawaiian Affairs

From: Llasmin Chaîne, LSW, Executive Director, Hawai'i State Commission on the Status of Women

Re: Testimony in Support of SB295, SD1, HD1, Relating to Domestic Abuse Protective Orders

Hearing: Thursday, March 20, 2025, 2:00 p.m.
Conference Room 325, State Capitol

On behalf of the Hawai'i State Commission on the Status of Women, I would like to thank the Committee for hearing this important bill. I would like to express **my support of SB295, SD1, HD1**, Relating to Domestic Abuse Protective Orders.

The changes to the Temporary Restraining Order (TRO), HRS 586-4 and Protection Order (PO), HRS 586-11 statutes included in this measure are intended to **assist domestic violence survivors in protecting themselves and their families, by:**

1. Instilling faith in the judicial process and protection orders – that they are more than “just a piece of paper”;
2. Holding abusers accountable for the harm they cause to their victims, families, and communities at-large;
3. Allowing flexibility in the statute to address abuse amongst family members and intimate partners;
4. Preventing the weaponization of this statute against victims of domestic violence; and
5. Ensuring a smooth and expeditious judicial process.

One significant change proposed in this measure is increasing the minimum penalty for a violation of a Temporary Restraining Order (TRO) or Protection Order (PO) from 48 hours to 5 days.

Additionally, this measure introduces a key provision: if a respondent violates a protection order after previously violating a temporary restraining order under the same case number, it will count as a second or subsequent violation. A **violation of an ex-parte emergency TRO demonstrates a pattern of disregard for legal consequences and an escalation of abusive behavior.** Under current law, the consequences for the first

violation of a protection order under section 586-11 do not adequately address the gravity of the situation or provide sufficient time for survivors (petitioners) to implement critical safety measures, such as relocation.

Hawai'i State Coalition Against Domestic Violence's report "[SCARS ON THE HEART: Barriers to Safety for Survivors of Domestic Violence](#)," found that **1-in-5 surveyed in Hawai'i have experienced coercive control or isolation**. The Centers for Disease Control's "The National Intimate Partner and Sexual Violence Survey: 2016/2017 State Report" estimates the lifetime **prevalence of coercion and entrapment to be 38.2% of Hawai'i residents** who have experienced such abuse.¹

This measure is a step toward addressing the more severe cases of domestic violence and filling critical gaps in the accountability and protection system. A 2014 study found that *stricter sentencing for domestic violence offenses*—compared to non-domestic crimes—**was linked to a lower likelihood of reoffending**.²

I respectfully urge this Committee to **pass SB295, SD1, HD1, as a vital step toward improving safety, accountability, and justice for survivors of domestic violence**. Thank you for this opportunity to submit testimony.

¹ Smith SG, Khatiwada S, Richardson L, Basile KC, Friar NW, Chen J, Zhang Kudon H, & Leemis RW. The National Intimate Partner and Sexual Violence Survey: 2016/2017 State Report. Atlanta (GA): Centers for Disease Control and Prevention, National Center for Injury Prevention and Control; 2023.

² "Impact of Differential Sentencing Severity for Domestic Violence Offenses and All Other Offenses Over Abusers' Life Spans", available at https://www.ojp.gov/pdffiles1/nij/grants/244757.pdf?utm_source=chatgpt.com.



March 19, 2025

TO: Members of the Committee on JUDICIARY & HAWAIIAN AFFAIRS

Rep. David A. Tarnas, Chair

Rep. Mahina Poepoe, Vice Chair

Rep. Della Au Belatti

Rep. Gregg Takayama

Rep. Elle Cochran

Rep. Chris Todd

Rep. Mark J. Hashem

Rep. Diamond Garcia

Rep. Kirstin Kahaloa

Rep. Garner M. Shimizu

Rep. Amy A. Perruso

Re: SB295, SD1, HD1 Relating to Domestic Abuse Protective Orders – **Support**

From: Monique R. Ibarra, MSW, CEO

Dear Chair Tarnas, Vice Chair Poepoe, and Members of the Committee:

For over 30 years, DVAC has offered services to assist survivors of domestic violence as they navigate the legal and social service systems to establish freedom, safety, and self-sufficiency. We are the only agency in Hawaii for which 100% of the focus is helping survivors of domestic violence or those affected by it.

I am writing to express my strong support for policies and legislation that ensure the effectiveness and reliability of protective orders for survivors of domestic violence. Domestic violence is a pervasive issue that affects individuals, families, and communities, and it is crucial that survivors are provided with the tools and resources they need to feel safe and supported in rebuilding their lives.

One of the most important safety plan tools available to survivors is a Protective Order against domestic violence, which can provide immediate relief by restricting the abusers' access to the victim and their family. It is essential that we create an environment where survivors feel confident that these orders will be enforced and that they will be supported by the legal system. Without this trust, many survivors may hesitate to pursue a protective order, fearing that the legal system will not take their safety seriously or that the abuser will face no real consequences if they violate the order.

For these orders to be effective, survivors must have confidence that law enforcement will respond appropriately to violations, that courts will take these matters seriously, and that there will be real accountability for those who violate these orders. Trusting in a protective order gives survivors the courage to seek justice and the peace of mind that they are no longer alone in their fight for safety.

I ask for your **support of SB295** as it will increase survivors' faith in the judicial process and protection orders and will demonstrate that it is more than "just a piece of paper", as well as hold abusers accountable for the harm they cause to their victims, families, and communities at large.

Thank you for allowing me to testify to this matter. I appreciate the legislators who continue to commit to the protection of survivors and the promotion of safer communities.



To: House Committee on Judiciary and Hawaiian Affairs
Re: SB 295 SD1 HD1 Relating to Domestic Abuse Protective Orders

Hawai'i State Capitol, Conference Room 325 & Via Videoconference
Thursday March 20, 2025

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

On behalf of HCANSpeaks!, I am writing in support of SB 295 SD 1 HD1. This bill increases the penalties imposed on individuals convicted for violation of a temporary restraining order and order for protection. This measure updates the Temporary Restraining Order (HRS 586-4) and Protection Order (HRS 586-11) statutes to better support those seeking protection by reinforcing survivors' trust that protection orders are more than just "a piece of paper." This bill would help hold abusers accountable for the harm they inflict on victims, families, and communities; provide flexibility to address abuse within families and intimate partner violence; prevent the misuse of this statute against domestic violence victims; and ensure a more efficient and effective judicial process.

This measure proposes increasing the minimum penalty for violating a Temporary Restraining Order (TRO) or Protection Order (PO) from 48 hours to 5 days, though in practice, first-time offenders are often credited with time served, leading to sentences shorter than the current 48-hour minimum. It ensures that if a respondent violates a protection order after previously violating a temporary restraining order in the same case, it is treated as a second or subsequent offense. Recognizing that violating an ex-parte emergency TRO signals escalating abuse, the change addresses the inadequacy of current penalties, which fail to reflect the severity of the situation or give survivors enough time to implement safety measures like relocation. This change eliminates the distinction between "non-domestic abuse" and "domestic abuse" in HRS 586-11, recognizing the seriousness of non-physical violence by codifying coercive control in HRS 586-1 and acknowledging its devastating impact on survivors.

HCAN Speaks! supports this measure as a step toward addressing the most serious domestic violence cases and strengthening accountability and protection. Mahalo for the opportunity to submit testimony in **strong support of SB 295 SD 1 HD1.**

Sincerely,
Noreen Kohl, Ph.D.
Policy Researcher and Advocate



Theresa's Pu'uwai Legacy

March 18, 2025

Re: SB295 Relating to Domestic Abuse Protective Orders - Support

Dear Members of the House of Representatives,

My name is Lucita, and I am the mother of Theresa Cachuela, who was shot and killed by her husband 2 days after a protection order was granted.

I respectfully submit testimony in **strong support of SB295**. The changes to the Temporary Restraining Order will give the victim time to find the right resources that align with their needs. There is not really a program that would meet everyone with their specific need. For example, housing, childcare, financial stability, and mental health counseling.

Theresa was discouraged from applying for state financial assistance by employees at the Department of Human Services, which is why she depended on her husband for financial support. She mentioned that a worker at the Welfare office told her that if they find out she is lying and still with her husband, she could be penalized. She got scared and did not accept the funds, for which she was approved. She also had a challenging time finding a therapist, waiting months for an appointment only for the therapist to say he could not help her after her first session with him. I was and am angry with how they dismissed her cry for help. She needed help and they shut her down with the comments that were made.

My daughter did not deserve to die as with so many others who sought help. I humbly ask that we step up penalties for violating temporary restraining orders with increased fines, minimum sentences, and court-ordered counseling after a first-time violation. I support increased fines to hopefully assist with more funding and other support for survivors struggling to leave their abusers. The abuse Theresa suffered at the hands of her husband was not physical but psychological, which I strongly support in court-ordered counseling and mental health assessments.

I also think there should be more training for officers to take these types of Police calls seriously. Theresa did call 911 for help but was turned away, including police officers asking her if she really wanted to file a police report against her husband. She was, like I said, discouraged at every corner. Just like the welfare office workers and the mental health counselors. Someone should be held accountable for what I see as a lack of action.

The changes to the Temporary Restraining Order (TRO), HRS 586-4 and Protection Order (PO), HRS 586-11 statutes included in this measure are intended to meet the needs of those who must seek these actions to protect themselves and their families, by:

1. Instilling survivors' faith in the judicial process and protection orders – that they are more than “just a piece of paper.”
2. Holding abusers accountable for the harm they cause to their victims, families, and communities at large.
3. Allowing flexibility in the statute to address abuse amongst family members and intimate partner violence.
4. Preventing the weaponization of this statute against victims of domestic violence; and
5. Ensuring a smooth and expeditious judicial process.

One meaningful change proposed in this measure is to increase the minimum penalty for violation of a Temporary Restraining Order (TRO) or Protection Order (PO) for [-48 hours to 5 days. However, in practice, individuals convicted of the first offense of a violation are often credited with time served, resulting in a sentence shorter than the 48-hour minimum.



Theresa's Pu'uwai Legacy

Additionally, this measure introduces a key provision: if a respondent violates a protection order after previously violating a temporary restraining order under the same case number, it will count as a second or subsequent violation. A violation of an ex-parte emergency TRO demonstrates a pattern of disregard for legal consequences and an escalation of abusive behavior. Under current law, the consequences for the first violation of a protection order under section 586-11 do not adequately address the gravity of the situation or provide sufficient time for survivors (petitioners) to implement critical safety measures, such as relocation.

This measure also removes the distinction between “non-domestic abuse” and “domestic abuse” in HRS 586-11. In practice, this distinction is often tied to the type of abuse—physical versus non-physical. By codifying coercive control in HRS 586-1, we elevate the seriousness of non-physical violence and recognize its devastating impact on survivors. HSCADV’s report [“SCARS ON THE HEART: Barriers to Safety for Survivors of Domestic Violence,”](#) found that 1-in-5 surveyed in Hawai‘i have experienced coercive control or isolation. The Centers for Disease Control’s “The National Intimate Partner and Sexual Violence Survey: 2016/2017 State Report” estimates the lifetime prevalence of coercion and entrapment to be 38.2% of Hawai‘i residents have experienced coercion and entrapment.

We support this measure as a step toward addressing the more severe cases of domestic violence and filling critical gaps in the accountability and protection system. A 2014 study examining the effects of sentencing severity on recidivism among domestic violence offenders found that stricter sentencing for domestic violence offenses—compared to non-domestic crimes—was linked to a lower likelihood of reoffending. This reinforces the importance of treating domestic violence with the gravity it deserves, which in turn may reduce the risk of repeat offenses and increase safety for survivors.

We urge you to support SB295 SD1 HD1 as a vital step toward improving safety, accountability, and justice for survivors of domestic violence.

We want everybody to remember her legacy. How Theresa was there for so many people. How she fought for her own life. How the resources and Law Enforcement failed her.

Please ensure the safety of the current and future victims of any type of violence. This rests upon our lawmakers like yourselves to improve on our justice system. Let us encourage hope and healing in our communities and eventually in our state.

Mahalo and thank you for allowing me to submit my testimony.

Lucita Ani-Nihoa

SB-295-HD-1

Submitted on: 3/19/2025 8:48:42 AM

Testimony for JHA on 3/20/2025 2:00:00 PM

| Submitted By | Organization | Testifier Position | Testify |
|---------------|--------------|--------------------|------------------------|
| Rylie Waldron | Individual | Support | Written Testimony Only |

Comments:

Aloha!

My name is Rylie. I'm a student, journalist, sociologist, teacher, and domestic abuse survivor. My case isn't as severe as others, but that doesn't make it any less important. I constantly keep my head on a swivel to ensure that my abuser isn't around. Some people don't understand that feeling, and possibly never will.

With that understanding, I also had the opportunity to learn from Theresa Cachuela's mom, Lucita.

Lucita told me Theresa's story. It's one that both of us shared the opportunity to cry together over. It was a touching moment that came from an incident that never should have happened.

TRO's need and deserve to be taken seriously. You're signing legal documents. You're legally ordered to stay away from someone. Stronger penalties should be put in place. Considered the safety of citizens!

Thank you,

Rylie Waldron

SB-295-HD-1

Submitted on: 3/19/2025 11:48:13 AM

Testimony for JHA on 3/20/2025 2:00:00 PM

| Submitted By | Organization | Testifier Position | Testify |
|--------------|--------------|--------------------|------------------------|
| Ha'eHa'e Ani | Individual | Support | Written Testimony Only |

Comments:

Aloha kākou. 'O Ha'eha'e ani ko'u inoa. Eia au i kēia lā e hō'ike i ke kāko'o no ka bila SB295.

I'm here today to urge you to support and pass SB295, a bill that will strengthen protections against domestic violence. Domestic violence has a devastating impact, leaving scars that run deep and affecting not only the direct victims but also their families and communities. The loss of my cousin, Theresa, to this senseless violence is a pain I carry every day. It's a pain compounded by my own experience with domestic abuse. Theresa had so much ahead of her. She was a mother, a daughter, a granddaughter, a sister, a cousin, and a niece – a vibrant, loved individual whose life was tragically cut short. She was granted a Temporary Restraining Order (TRO), a supposed shield of protection, yet not long after, her husband murdered her in front of their own daughter. This horrific act followed weeks of stalking, mental, and emotional abuse directed at Theresa and her children. Her cries for help were ignored; despite her repeated pleas, law enforcement failed to intervene, silencing and dismissing her concerns. The TRO, meant to protect Theresa, ultimately failed her. This highlights a critical flaw in the system that SB295 can help address. It's been one year and almost two months since she was taken from us, a stark reminder of the urgent need for change. No one should have to endure the fear, manipulation, and physical harm that comes with domestic abuse, and no one should be turned away when they desperately seek help. That's why I'm so passionate about supporting and passing this bill.

This bill represents a crucial step towards creating a safer environment for victims of domestic violence. By implementing harsher punishments for offenders, SB295 aims to deter these crimes and hold abusers accountable for their actions. We can't afford to lose any more loved ones to domestic violence, especially when it intersects with gun violence, as it so often does. This bill offers a chance to prevent such tragedies. SB295's increased penalties will send a strong message that our community will not tolerate this behavior.

Beyond punishment, SB295 is about creating a safe space for victims. It's about giving them a voice when they feel they have none. My own experience with the legal system highlighted the urgent need for change. Despite presenting ample evidence – photos, text messages, emails – documenting the abuse I suffered, my ex-husband continued to stalk me, harass me, and mentally and emotionally abuse me even after I was denied a TRO. And even with this evidence, I was not granted a restraining order. The judge dismissed my claims, seemingly swayed by his lawyer's unfounded accusations of mental illness. This is unacceptable. We need judges who practice discernment and officers who uphold and enforce the laws designed to protect victims,

like the TRO that failed Theresa. SB295 can help ensure that justice is served and that victims are heard. SB295's provisions for victim support services are crucial for this.

Passing SB295 will send a powerful message: our community does not condone domestic violence. It will send a message that every violator will be held accountable and punished to the full extent of the law. This bill isn't just about legislation; it's about creating a culture where domestic violence is no longer tolerated and where victims are supported and empowered. It's a step towards healing, justice, and preventing further loss. I implore you, for Theresa, for myself, and for all victims of domestic violence, please support and pass SB295. Lives depend on it. Mahalo nui iā 'oukou no ko 'oukou manawa i hā'awi 'ia mai ai iā mākou e 'ōlelo a e ho'olohe 'ia.

SB-295-HD-1

Submitted on: 3/19/2025 11:59:15 AM

Testimony for JHA on 3/20/2025 2:00:00 PM

| Submitted By | Organization | Testifier Position | Testify |
|----------------|--------------|--------------------|---------------------------|
| Deanna Espinas | Individual | Support | Written Testimony Only |

Comments:

Testimony in strong support. Thank you!

SB-295-HD-1

Submitted on: 3/19/2025 12:13:05 PM

Testimony for JHA on 3/20/2025 2:00:00 PM

| Submitted By | Organization | Testifier Position | Testify |
|--------------|--------------|--------------------|---------------------------|
| Kalae Correa | Individual | Support | Written Testimony Only |

Comments:

Domestic abuse cases require stricter regulations to prevent repeat offenses. This bill would equip the courts with additional tools to better protect victims.

Mahalo nui loa i ka 'aha ho'olohe

SB-295-HD-1

Submitted on: 3/19/2025 12:17:10 PM

Testimony for JHA on 3/20/2025 2:00:00 PM

| Submitted By | Organization | Testifier Position | Testify |
|---------------|--------------|--------------------|---------------------------|
| Ivanelle Kila | Individual | Support | Written Testimony Only |

Comments:

I am in full support of bill SB295

SB-295-HD-1

Submitted on: 3/19/2025 12:47:38 PM

Testimony for JHA on 3/20/2025 2:00:00 PM

| Submitted By | Organization | Testifier Position | Testify |
|----------------|--------------|--------------------|---------------------------|
| Mariah Gouveia | Individual | Support | Written Testimony Only |

Comments:

I support this bill, bill SB295

SB-295-HD-1

Submitted on: 3/19/2025 1:09:52 PM

Testimony for JHA on 3/20/2025 2:00:00 PM

| Submitted By | Organization | Testifier Position | Testify |
|--------------------|--------------|--------------------|---------------------------|
| Michael EKM Olderr | Individual | Support | Written Testimony Only |

Comments:

I support this bill. Domestic Abusers are given to much reign and are more likely then other offenders to repeat their actions. And each time they do, they get better and better at hiding and pretending to be anything other than monsters.

SB-295-HD-1

Submitted on: 3/19/2025 8:16:02 PM

Testimony for JHA on 3/20/2025 2:00:00 PM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|--------------|--------------------|---------------------------|
| Chelslynn Matagiolo | Individual | Support | Written Testimony Only |

Comments:

Aloha,

I am submitting my testimony in support of Bill SB295.

Mahalo

SB-295-HD-1

Submitted on: 3/19/2025 9:10:30 PM

Testimony for JHA on 3/20/2025 2:00:00 PM

| Submitted By | Organization | Testifier Position | Testify |
|--------------|--------------|--------------------|---------------------------|
| Nikki | Individual | Support | Written Testimony Only |

Comments:

I support this bill for all victims of domestic violence ☐

SB-295-HD-1

Submitted on: 3/20/2025 8:01:01 AM

Testimony for JHA on 3/20/2025 2:00:00 PM

| Submitted By | Organization | Testifier Position | Testify |
|------------------|--------------|--------------------|-------------------|
| Joseph Alpuro Jr | Individual | Oppose | Remotely Via Zoom |

Comments:

I strongly believe that there should be significant consequences for individuals who file Temporary Restraining Orders (TROs) and exploit the TRO system as a means to unjustly keep a child away from their other parent. In my opinion, this misuse of the system is a contributing factor to the prevalence of domestic violence disputes. Far too many people are wielding the TRO system as an offensive weapon, rather than utilizing it as a defensive shield, which is its intended purpose.

In my personal experience, my child's mother has filed an astounding nine TROs against me within a mere three-year period, falsely alleging that I have abused our daughter. As a result of these baseless accusations, Child Protective Services (CPS) has been forced to intervene on multiple occasions. However, after thorough investigations, CPS has consistently closed each case, as they could not find any credible evidence to substantiate the claims of abuse. This pattern of behavior makes it abundantly clear that some individuals, like my child's mother, are exploiting the TRO system as a manipulative tool to weaponize children against the other parent.

If this bill is passed, I strongly advocate for the inclusion of severe consequences for those who file TROs and subsequently engage in harassing behavior towards the very person they have filed against. There must be a deterrent to prevent the abuse of this system, which is designed to protect genuine victims, not to enable false accusers. The emotional toll on the accused, not to mention the potential harm to the children caught in the middle of these disputes, is immeasurable. It is high time that we address this critical issue and ensure that the TRO system serves its rightful purpose, rather than being a means for vindictive individuals to inflict pain and suffering on others."

SB-295-HD-1

Submitted on: 3/20/2025 9:04:48 AM

Testimony for JHA on 3/20/2025 2:00:00 PM

| Submitted By | Organization | Testifier Position | Testify |
|---------------|--------------|--------------------|------------------------|
| Chelsie Smith | Individual | Support | Written Testimony Only |

Comments:

I wholeheartedly support this bill. I currently have a TRO on my ex who refuses to leave me alone. He has numerously violated these terms and is walking freely amongst these streets. We need to hold these people accountable for thier actions as we live in fear for our safety as well as our family. Please please please hear our cries. My ex came to my home and was arrested and released the same day, retaliated and came back to my home to try and hurt me. This should've not happened. Where is the PROTECTION for this restraining order? How are you protecting the people and the community when the perpetrators are let go from custody? How can we feel safe again? Please, I humbly ask that we pass this bill

SB-295-HD-1

Submitted on: 3/20/2025 9:48:05 AM

Testimony for JHA on 3/20/2025 2:00:00 PM

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

Comments:

Stand in Support