

The Judiciary, State of Hawai‘i

Testimony to the Thirty-Third Legislature, 2025 Regular Session

Senate Committee on Judiciary

Senator Karl Rhoads, Chair

Senator Mike Gabbard, Vice Chair

Thursday, February 20, 2025 at 9:45 a.m.

State Capitol, Conference Room 016

by

Dyan M. Medeiros

Senior Judge, Family Court of the First Circuit

WRITTEN TESTIMONY ONLY

Bill No. and Title: Senate Bill No. 295, Relating to Domestic Abuse Protective Orders.

Purpose: Increases the penalties imposed on individuals convicted for violation of a temporary restraining order and order for protection. Clarifies 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. Specifies that the court may suspend certain jail sentence 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.

Judiciary's Position:

The Judiciary takes no position on this bill but offers the following comment regarding the bill's current language that the court "shall not sentence a defendant to pay a fine [unless] if, after conducting a financial review, the court determines that the defendant is or will be [able] unable to pay the fine."

As written, this language 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. Typically, in cases involving Violations of Temporary Restraining Orders or Domestic Abuse Protective Orders, the Family Court determines and imposes sentence



Senate Bill No. 295, Relating to Domestic Abuse Protective Orders
Senate Committee on Judiciary
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immediately. As proposed, this bill may limit the court's ability to proceed to sentencing immediately following a change of plea or guilty verdict.

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. In addition, if court staff are undertaking ability to pay studies for each of these cases, their ability to provide timely service and supervision to other defendants may suffer.

The Judiciary requests that this Committee consider amending page 4, lines 4-6 and page 8, lines 1-3 to read as follows:

provided that the court shall not sentence a defendant to pay a fine if
the court makes an on the record determination that the defendant is or
will be unable to pay the fine.

We believe this modification can satisfy the purpose and intent of this bill.

Thank you for the opportunity to testify on this matter.

JON N. IKENAGA
STATE PUBLIC DEFENDER

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**Testimony of the Office of the Public Defender,
State of Hawai'i to the Senate Committee on Judiciary**

February 20, 2025

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

Chair Rhoads, Vice-Chair Gabbard and Members of the Committee:

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

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 fifteen 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 of 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. 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. This would allow the trial judge to look at 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, 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 jury trials take months or even years to resolve and will contribute to the state's continued issues of pretrial overcrowding in correctional centers.

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, 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 – there by using the criminal justice system to further abuse. 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. 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 histories when these parties end up in the criminal justice system.

With the recent nationwide review of criminal justice policies, it is concerning that the trend in the state is to increase penalties while removing judicial discretion. Restraining order hearings often involve a complicated dynamic of family or household members, trauma, mental illness, and rehabilitation. Many defendants are themselves victims of violence and trauma and could benefit from treatment. 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.

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. Discussions about changing circumstances, finances, housing options, child care options, employment, etc. 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 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. We believe back end mandatory jail terms without improving front end supports will do little to improve compliance in the long run.

Thank you for the opportunity to comment on this measure.

DEPARTMENT OF THE PROSECUTING ATTORNEY
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THE HONORABLE KARL RHOADS, CHAIR
SENATE COMMITTEE ON JUDICIARY
Thirty-Third State Legislature
Regular Session of 2025
State of Hawai'i

February 19, 2025

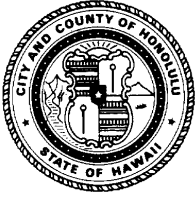
RE: S.B. 295; RELATING TO DOMESTIC ABUSE PROTECTIVE ORDERS.

Chair Rhoads, Vice Chair Gabbard, and members of the Senate Committee on Judiciary, 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 significantly increases the minimum penalties for violations of temporary restraining orders and violations of protective orders. The Department's legislative package only conformed the 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.

Thank you for the opportunity to testify.



HONOLULU CITY COUNCIL

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February 18, 2025

RE: TESTIMONY IN STRONG SUPPORT OF SB295

Aloha Chair, Vice Chair, and Members of the Committee,

I strongly support SB295, which strengthens penalties for violations of temporary restraining orders (TROs) and orders for protection. This bill is a necessary step toward ensuring that victims of domestic violence are truly protected and that abusers face real consequences for their actions.

On December 22, 2023, my dear friend Theresa Cachuela was tragically murdered in a parking garage at Pearlridge Center by her estranged husband, despite having a TRO against him. In the weeks leading up to her death, she called 911 multiple times, pleading for help.

I knew Theresa personally. She was a dedicated mother, a vibrant community member, and a passionate advocate for young women. We worked together on the Young Women Prom Event, a cause close to her heart, ensuring that every girl felt valued and empowered. The 10th anniversary of this event was dedicated to her memory—a painful reminder that we must do more to protect those in danger.

SB295 is about accountability. It increases mandatory jail time for those who violate restraining orders, reinforcing that these orders are not just pieces of paper but legal protections meant to save lives. It ensures that individuals with a history of violent offenses face even stricter penalties when they violate a TRO, recognizing the heightened risk they pose to their victims. And it mandates intervention programs, addressing the root causes of abuse.

Theresa did everything she was supposed to do. She sought legal protection. She asked for help. Yet, she was still taken from us. We cannot allow another family to endure this pain. We must act now.

I urge you to pass SB295 to honor Theresa's memory and protect those still fighting to break free from abuse. Their lives depend on it.

Mahalo,

A handwritten signature in black ink, reading "A. Tupola", is positioned below the word "Mahalo".

Andria Tupola, Ph.D.
Honolulu City Councilmember, District 1
'Ēwa Beach, Kapolei, Nānākuli, Wai'anae

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OFFICE OF THE PROSECUTING ATTORNEY

TESTIMONY IN SUPPORT OF SENATE BILL NO. 295

A BILL FOR AN ACT RELATING TO DOMESTIC ABUSE PROTECTIVE ORDERS

COMMITTEE ON JUDICIARY

Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair

Thursday, February 20, 2025 at 9:45 a.m.
Via Videoconference and
State Capitol Conference Room 016
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.

Senate Bill No. 295 would apply clear mandatory minimum jail sentences and monetary fines for first and subsequent violations of orders for protection issued by the Family Court under Section 586-11 of the Hawai'i Revised Statutes. S.B. 295 also increases the mandatory minimum jail sentences and monetary fines for violations of temporary restraining orders issued by the Family Court under Section 586-4, HRS. The bill further clarifies that a violation of a temporary restraining order counts as a prior offense for the purposes of charging a second or subsequent violation of an order for protection, requires courts to conduct a financial review and make a finding of inability to pay before waiving an otherwise-mandatory fine, and removes confusing and unnecessary language from Section 586-11.

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 Office of the Prosecuting Attorney, County of Hawai‘i, further adds the following comment as to a possible way to strengthen and clarify this bill:

- S.B. 295 could be strengthened by adding an enhancement applicable to violators who do not yet have a prior conviction, but who can be alleged and proven to have repeatedly violated an order for protection or temporary restraining order issued under the same judicial case number on multiple occasions. It can take time for prosecutors to obtain a final judgment of conviction against an offender. Repeated violations of an order for protection are equally disruptive to victims’ lives when the violator has multiple cases or police reports at an earlier stage of the criminal process than conviction. Where it can be alleged and proven that an individual has repeatedly violated a protective order on multiple occasions, the availability of an enhanced charge could help stop ongoing violations.

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



LATE

February 20, 2025

Members of the Senate Committee on Judiciary:

Chair Karl Rhoads
Vice Chair Mike Gabbard
Sen. Stanley Chang
Sen. Joy A. San Buenaventura
Sen. Brenton Awa

Re: SB295 Relating to Domestic Abuse Protective Orders

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

The Hawai'i State Coalition Against Domestic Violence (HSCADV) addresses the social, political, and economic impacts of domestic violence on individuals, families, and communities. We are a statewide partnership of domestic violence programs and shelters.

On behalf of HSCADV and our 25 member programs statewide, I respectfully submit testimony in support of SB295 and request the following amendments that we hope address community concerns about violations of protective orders:

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.

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.¹

¹ Klein, A., Centerbar, D., Keller, S., & Klein, J. (2014). *Impact of differential sentencing severity for domestic violence offenses and all other offenses over abusers' life spans* (Document No. 244757). U.S. Department of Justice, National Institute of Justice. <https://www.ojp.gov/pdffiles1/nij/grants/244757.pdf>

The study suggests that treating domestic violence more severely than other offenses may reduce the risk of repeat offenses.

Therefore, we recommend the following amendments:

Section 1(1), Page 1, line 15, change the minimum jail sentence from fifteen days to five days.

Section 2(1), Page 5, line 21, change the minimum jail sentence from fifteen days to five days.

Section 2(1), Page 6, line 2, add:

“provided that a conviction of a temporary restraining order under section 586-4(e), issued under the same judicial case number as the order for protection, will be treated as a second or subsequent violation of an order for protection”.

Rationale: If the respondent violates the ex-parte emergency Temporary Restraining Order, it demonstrates a pattern of disregard for the consequences of the violation and an escalation on behalf of the abusive partner. The consequences under the first violation of a protection order under section 586-11 do not adequately address the severity of the situation or safety concerns for the survivor (petitioner) nor provide time for additional safety planning and remedies such as relocation

Section 2(2), Page 6, line 3, amend to read:

“For a second conviction for violation of the order of protection:”

Delete lines 14-16:

“or conviction for a violation of the temporary restraining order as defined in section 586-4(e),”

Rationale:

The changes requested in Section 2(1), Page 6, line 2 adequately address the concern of violations of TROs and POs with the same judicial case number.

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

Sincerely,
Angelina Mercado, Executive Director



LATE

February 20, 2025

Members of the Senate Committee on Judiciary:

Chair Karl Rhoads
Vice Chair Mike Gabbard
Sen. Stanley Chang
Sen. Joy A. San Buenaventura
Sen. Brenton Awa

Re: SB295 Relating to Domestic Abuse Protective Orders - Support

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

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 orders of protection for survivors of domestic violence. As you know, 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 tools available to survivors is the order of protection, which can provide immediate relief by restricting the abuser's access to the victim and their family. However, 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 an order of protection, fearing that the legal system will not take their safety seriously or that the abuser will face no real consequences.

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 an order of protection gives survivors the courage to seek justice and the peace of mind that they are no longer alone in their fight for safety.

In solidarity, I respectfully submit testimony in **support of SB295** and request the following amendments that aligns with the HSCADV of which DVAC is a member, and we hope these changes address community concerns about violations of protective orders:

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.



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.¹

The study suggests that treating domestic violence more severely than other offenses may reduce the risk of repeat offenses.

Therefore, we recommend the following amendments:

Section 1(1), Page 1, line 15, change the minimum jail sentence from fifteen days to five days.

Section 2(1), Page 5, line 21, change the minimum jail sentence from fifteen days to five days.

Section 2(1), Page 6, line 2, add:

“provided that a conviction of a temporary restraining order under section 586-4(e), issued under the same judicial case number as the order for protection, will be treated as a second or subsequent violation of an order for protection”.

Rationale: If the respondent violates the ex-parte emergency Temporary Restraining Order, it demonstrates a pattern of disregard for the consequences of the violation and an escalation on behalf of the abusive partner. The consequences under the first violation of a protection order under section 586-11 do not adequately address the severity of the situation or safety concerns for the survivor (petitioner) nor provide time for additional safety planning and remedies such as relocation

Section 2(2), Page 6, line 3, amend to read:

“For a second conviction for violation of the order of protection:”

Delete lines 14-16:

“or conviction for a violation of the temporary restraining order as defined in section 586-4(e),”

Rationale:

The changes requested in Section 2(1), Page 6, line 2 adequately address the concern of violations of TROs and POs with the same judicial case number.

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.

Mahalo,

Monique R. Ibarra, MSW
Chief Executive Officer

¹ Klein, A., Centerbar, D., Keller, S., & Klein, J. (2014). *Impact of differential sentencing severity for domestic violence offenses and all other offenses over abusers' life spans* (Document No. 244757). U.S. Department of Justice, National Institute of Justice. <https://www.ojp.gov/pdffiles1/nij/grants/244757.pdf>

LATE

SB-295

Submitted on: 2/19/2025 6:46:03 PM

Testimony for JDC on 2/20/2025 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Ilima DeCosta	Testifying for Hui Malama Pono Hawai'i	Support	Remotely Via Zoom

Comments:

Mahalo for the opportunity to testify in strong support of SB295, which would allow the courts the authority to suspend sentencing to allow perpetrators to comply with court orders.

Domestic violence is a complicated issue and one which requires more support to both offender and targets of violence.

Allowing the court to exercise appropriate discretion and work with offenders in compliance would help to reduce the numbers of persons who are incarcerated. The measure would also help offenders to improve their interpersonal relationships and reduce rates of interpersonal violence.

I recently experienced a situation which required the court to consider the needs of the offender and I appreciate knowing that rehabilitation - not punishment - is being utilized as an initial method of decreasing the rates of violence. I support efforts to aid in offender recovery and appreciate knowing that incarceration will only be utilized in instances where an offender continues to be a violent threat to themselves or others.

Please pass SB295 out of committee and on to a full floor vote. Mahalo piha.



HCANSpeaks!

Hawai'i Children's Action Network

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.

LATE

To: Senate Committee on Judiciary

Re: SB 295 Relating to Domestic Abuse Protective Orders

Hawai'i State Capitol, Conference Room 211 & Via Videoconference

February 20, 2025, 9:45AM

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

On behalf of HCANSpeaks!, I am writing in support of SB 295. This bill increases penalties for violating restraining orders and allows courts to suspend certain jail sentences if offenders comply with conditions like sobriety and intervention programs.

Strengthening penalties serves as a deterrent against breaches of protective orders, emphasizing the seriousness of such offenses and reinforcing the state's commitment to safeguarding survivors. Senate Bill 295 represents a significant step forward in protecting survivors of domestic violence by reinforcing the consequences for violating protective orders. I urge the committee to pass this bill, demonstrating Hawai'i's unwavering commitment to the safety and well-being of its residents.

Mahalo for the opportunity to submit testimony in **support of SB 295.**

Sincerely,

Noreen Kohl, Ph.D.

Policy Researcher and Advocate

Theresa's Pu'uwai Legacy



February 20, 2025

Members of the Senate Committee on Judiciary:

Chair Karl Rhoads
Vice Chair Mike Gabbard
Sen. Stanley Chang
Sen. Joy A. San Buenaventura
Sen. Brenton Awa

LATE

Re: SB295 Relating to Domestic Abuse Protective Orders - Support

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

My name is Lucita, and I am the mother of Theresa Cachuela, who was shot and killed by her husband on December 22, 2023 by her husband.

I strongly support this bill because with the increased time from 48 hrs. to 5 days, it'll give the victim time to find the right resources that align with their needs. There isn't really a program that would meet everyone with their specific need. Theresa was discouraged from applying for state financial assistance by employees at the Department of Human Services, she also had a hard time finding a therapist, waiting months for an appointment only for the therapist to say he couldn't help her.

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 wasn't physical but psychological, which I strongly support court-ordered counseling.

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 cops asking her if she really wanted to file a police report against her husband. She was, like I said, discouraged at every corner. Someone should be held accountable for what I see as a lack of action.

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 failed her.

In solidarity, I respectfully submit testimony in **support of SB295** and request the following amendments that align with the HSCADV and also with DVAC and we hope these changes address community concerns about violations of protective orders:

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
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Theresa's Pu'uwai Legacy



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Therefore, we recommend the following amendments:

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Section 2(1), Page 6, line 2, add:

“provided that a conviction of a temporary restraining order under section 586-4(e), issued under the same judicial case number as the order for protection, will be treated as a second or subsequent violation of an order for protection”.

Rationale: If the respondent violates the ex-parte emergency Temporary Restraining Order, it demonstrates a pattern of disregard for the consequences of the violation and an escalation on behalf of the abusive partner. The consequences under the first violation of a protection order under section 586-11 do not adequately address the severity of the situation or safety concerns for the survivor (petitioner) nor provide time for additional safety planning and remedies such as relocation

Section 2(2), Page 6, line 3, amend to read:

“For a second conviction for violation of the order of protection:”

Delete lines 14-16:

“or conviction for a violation of the temporary restraining order as defined in section 586-4(e),”

Rationale:

The changes requested in Section 2(1), Page 6, line 2 adequately address the concern of violations of TROs and POs with the same judicial case number.

Please ensure the safety of the current and future victims. This rests upon our lawmakers like yourselves to improve on our justice system.

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

Lucita Ani-Nihoa

LATE

SB-295

Submitted on: 2/20/2025 6:33:46 AM

Testimony for JDC on 2/20/2025 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Coach David Tautofi	Testifying for Aloha 1st Athletics	Oppose	Written Testimony Only

Comments:

Testimony in Opposition to SB295

Coach David Tautofi

Educator | Coach | Proud Father | Community & Family Advocate | Athletic Ambassador for the State of Hawaii

Aloha Chair, Vice Chair, and Members of the Committee,

My name is Coach David Tautofi, and I am submitting this testimony in strong opposition to SB295. While I fully support efforts to protect victims of domestic violence, I have serious concerns about the flaws in the Temporary Restraining Order (TRO) process, the potential for weaponization of restraining orders, and the lack of accountability for misuse. Increasing penalties for TRO violations without first addressing these issues only worsens an already broken system and could lead to severe unintended consequences.

1. TROs Are Often Weaponized in Personal Disputes

Temporary Restraining Orders were designed to protect real victims of abuse, but in many cases, they are misused as a legal weapon in divorce proceedings, child custody battles, or personal conflicts.

- TROs can be granted with little to no evidence, making them an easy tool for manipulation.
- False or exaggerated claims can cause irreversible damage to the accused, affecting their jobs, housing, reputation, and parental rights.
- There is no accountability for those who abuse the system by filing baseless TROs.

2. No Built-In Safeguards Against False or Misused TROs

- This bill increases penalties for TRO violations but fails to address the lack of oversight in how TROs are issued.
- There are no consequences for individuals who file false or malicious TROs to gain an advantage in personal disputes.
- The current system automatically punishes the accused before they even have a chance to defend themselves in court.

3. Immediate & Unfair Consequences for the Accused

- TROs are granted ex parte (meaning without the accused being present), allowing someone's rights to be restricted before they can even respond.
- Many innocent individuals lose their homes, jobs, and even access to their children based on unverified allegations.
- Even if a TRO is later proven unjustified, the damage is already done—financially, emotionally, and socially.

4. No True Prevention of Domestic Violence

While this bill punishes violations of TROs more harshly, it does nothing to actually prevent domestic violence.

- True prevention requires education, intervention, and support for both victims and offenders.
- Simply increasing jail time and fines does not stop an abuser from violating a TRO—it only punishes them after the fact.
- Real solutions involve better enforcement of existing protections, law enforcement training, and resources for victims and families.

Potential Ramifications of SB295

If SB295 becomes law without fixing the flaws in the TRO system, it could have serious unintended consequences, including:

Increase in False Allegations & Legal Misuse

- More individuals may be wrongfully accused and unfairly penalized due to the ease of obtaining a TRO.
- Without stronger safeguards, TROs will continue to be used as a tool for revenge or leverage in personal disputes, rather than as a means of true protection.

Overburdening the Legal System & Law Enforcement

- Courts will spend more time handling cases of false or exaggerated TROs, taking away resources from actual victims in need.
- Law enforcement will be forced to respond to more cases, many of which could be manipulated for personal gain, creating distrust in the system.

Financial & Emotional Harm to Innocent Individuals


- Wrongfully accused individuals will face legal fees, potential job loss, and social stigma, even if they did nothing wrong.
- The bill ignores the devastating impact on families and children who may be separated due to false claims, further disrupting lives.

Failure to Address Domestic Violence at Its Root

- By only increasing penalties rather than investing in prevention, education, and rehabilitation, the bill does not actually reduce domestic violence.
- Many abusers will still ignore TROs, and without proactive intervention, victims may remain at risk.

Proposed Solutions Instead of SB295

Rather than rushing to increase penalties in a flawed system, Hawaii should first fix the issues within the TRO process:

-  Stricter requirements for issuing TROs – Judges should require more substantial evidence before granting a TRO, rather than issuing them automatically.

✅ Accountability for false accusations – There should be legal consequences for individuals who file false or malicious TROs, just as there are penalties for violating a legitimate one.

✅ Due process protections for the accused – The accused should have a fair opportunity to defend themselves before life-altering restrictions are imposed.

✅ Stronger prevention programs – More resources should go into early intervention, counseling, and domestic violence education, rather than just relying on punishment.

While the intent of SB295 is commendable, the execution is deeply flawed because it fails to address the broken TRO process. Increasing penalties without fixing the system only leads to more injustice. Instead of moving this bill forward, I urge lawmakers to reform the restraining order system, enforce due process, and focus on real solutions that prevent domestic violence rather than just punishing it after the fact.

If the goal is to truly protect victims and prevent abuse, then lawmakers must ensure fairness, accountability, and effectiveness in the TRO system before considering harsher penalties. Until those issues are addressed, this bill should not move forward.

Mahalo for your time and consideration.

Coach David Tautofi

Educator | Coach | Proud Father | Community & Family Advocate | Athletic Ambassador for the State of Hawaii

LATE

SB-295

Submitted on: 2/19/2025 7:51:07 PM

Testimony for JDC on 2/20/2025 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Ha'eHa'e Ani	Individual	Support	Remotely Via Zoom

Comments:

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, a niece and a friend – 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 her 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 for your time

LATE

SB-295

Submitted on: 2/19/2025 7:58:23 PM

Testimony for JDC on 2/20/2025 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Jesse Nihoa	Individual	Support	Remotely Via Zoom

Comments:

Aloha,

I'm in support of bill SB295 enough is enough. We need to have stricter penalties and protect the victims and their families from domestic violence. The law that is in place now needs to be updated. These victims need voices a lot of them aren't able to say anything because of fear or some are no longer with us anymore. We need changes!

Mahalo

Jesse Nihoa

LATE

SB-295

Submitted on: 2/20/2025 4:51:04 AM

Testimony for JDC on 2/20/2025 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
April Bautista	Individual	Support	Remotely Via Zoom

Comments:

Thank you for hearing SB295 as this bill is necessary for public safety. I am a Kalihi-Palama resident, 4th generation Filipina-American raised in Hawaii and lastly, a survivor of domestic violence. I experienced my first DV relationship last year and it has cost me my job, my livelihood, confidence, and money. However, as bittersweet as this is. As legislators, I kindly ask that you consider the community benefit of SB295 -- it gives DV survivors hope. And when you are in a DV relationship, hope is all you have to survive the day to day.

Mahalo for the work y'all do.

Take care,

April

April Kamilah Bagasao Bautista

Orange County x CCHNL

(714) 657-6152

AprilkamilahB@gmail.com

SB-295

Submitted on: 2/14/2025 8:43:09 PM

Testimony for JDC on 2/20/2025 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Michael Olderr	Individual	Oppose	Written Testimony Only

Comments:

I support this bill

SB-295

Submitted on: 2/19/2025 8:56:26 AM

Testimony for JDC on 2/20/2025 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Jan K Baldado	Individual	Support	Written Testimony Only

Comments:

Aloha,

I SUPPORT SB 295.

Mahalo nui.

LATE

SB-295

Submitted on: 2/19/2025 10:10:01 AM

Testimony for JDC on 2/20/2025 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Erica Reed	Individual	Support	Written Testimony Only

Comments:

I am domestic violence advocate. I support increased jail time and fines. Even the proposed sentencing and fines seem low. I object to the following excpetion: "the court may suspend any jail sentence . . . upon condition that the defendant remain alcohol and drug free, conviction-free, and complete court-ordered assessments or intervention." Our nation's top expert on perpetrators, Lundy Bancroft, is on record stating that diversion minus jail time was attempted in past decades and failed miserably. He recommends a minimum of sixty days of jail in a training entitled "Two Informative Sessions: Session #1 The Profile and Tactics of Men Who Abuse Women" (Domestic Shelters.org or YouTube). Also, are judges requiring batterer intervention programs versus anger management and private counsleing? Counselors have no training or education on domestic violence, and they are ill-equipped to work with perpetrators. Thank you for your consideration.

LATE

SB-295

Submitted on: 2/19/2025 5:33:09 PM

Testimony for JDC on 2/20/2025 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Tanya Baker	Individual	Support	Written Testimony Only

Comments:

Hello legislators,

I am submitting testimony in support of this bill. Domestic Violence is a very serious issue and this bill seeks to strengthen protections for domestic violence victims and seeks to address the root causes behind domestic violence. This is a step in the right direction.

Thank you,

Tanya Baker

LATE

SB-295

Submitted on: 2/19/2025 5:42:41 PM

Testimony for JDC on 2/20/2025 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Ginger-Lei Lagat	Individual	Support	Written Testimony Only

Comments:

I'm in support of this bill, not just due to the fact that my actual sister is Theresa Cachuela, but also due to the fact that I, too, am currently going through court against my abuser. More education needs to be taught about how domestic violence is almost like a spectrum. Many in my community don't even realize the severity of what they're experiencing. For those who find the strength to get help, this is for them. To give them time to make a more stable escape plan and their abuser can get the help they need in regards to their mental health. For me, I didn't realize how much manipulation, narcissistic abuse, and grooming I was undergoing by someone who is 36 years older than me, which is morally appalling. I wish I had the education and guidance to get the help I needed when we argued and he would threaten me by saying "I just wanna die and kill myself" or if we argued in the car, he would say "If you leave me, we all going die." My daughter, who is 9yrs old, witnessed all this toxicity unfortunately. My hope is that more people will have a right to trust in the resources that we have, to take the first step to peace. Right now, most of us don't have that trust. Many are willing to give up because we know what to expect. However, I believe that everything we're asking for in this bill, will make many victims realize that this bill offers support for both victim and the abuser to get the help they need in a way that's both beneficial and healthy.

LATE

SB-295

Submitted on: 2/19/2025 6:07:51 PM

Testimony for JDC on 2/20/2025 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Yvonne Alvarado	Individual	Support	Written Testimony Only

Comments:

I Yvonne Alvarado is in Support of Bill SB295

LATE

SB-295

Submitted on: 2/19/2025 6:29:31 PM

Testimony for JDC on 2/20/2025 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Kylie Manaku-Kalili	Individual	Support	Written Testimony Only

Comments:

Hello my name is Kylie Manaku-Kalili. I am writing this testimony in support of SB295. I myself am a survivor of Domestic Violence and received a TRO. The system failed me and my 'Ohana by not prosecuting the offender, who continued to violate the TRO. I feel if we had SB295 at that time the offender could of got the help they needed or prosecuted for their actions. Unfortunately this is something that is normal in the state of Hawai'i. On December 22, 2023 my dear friend/family member Theresa Numera Ani's life was taken by her estranged husband, who she had a TRO against. That day changed our lives forever. As brokenhearted as we were we knew something had to change. The change that needs to happen starts with bill SB295 and HB176. Thank you for taking the time to read my testimony and hope we all can make the change for a better future.

LATE

SB-295

Submitted on: 2/19/2025 6:32:10 PM

Testimony for JDC on 2/20/2025 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Ruben Ongos	Individual	Support	Written Testimony Only

Comments:

I STRONGLY SUPPORT THIS BILL!! PROTECT ALL VICTIMS AT ALL COST!!!

LATE

SB-295

Submitted on: 2/19/2025 7:06:51 PM

Testimony for JDC on 2/20/2025 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
devie tavares	Individual	Support	Written Testimony Only

Comments:

My dear friend has suffered for 40 years of abuse.one year a go she finally made the decision to leave.She got a TRO it took so long that we had yo send her off island so she won't get killed.He texted her about fifty pages about how he was going to kill her.She call HPD and showed them and they said couldn't do anything.The safe house is full no room.Finally this year she is in a safe house but gor how long before he finds her.Please pass the law snd help save lifes,not only for women but also for thr children.And there are also men too that gets abused by others.Mahalo Devie

SB-295

Submitted on: 2/19/2025 7:07:09 PM

Testimony for JDC on 2/20/2025 9:45:00 AM

LATE

Submitted By	Organization	Testifier Position	Testify
Serena Harris	Individual	Support	Written Testimony Only

Comments:

I support this bill and urge you to pass it to give women and victims of domestic abuse some hope that their abusers will be punished and face repercussions for the crimes they commit. Even when victims are able to secure a restraining order, there is not much peace of mind when the only thing defended you have is a piece of paper.

While the community works to remove domestic violence from our culture through other means, SB295 is a step in the right direction to reduce violence by providing actual consequences and enforcement. We have seen too many extreme cases of violence on our island for the legislature to take no action in addressing it.

Mahalo for standing up for victims by passing this bill.

LATE

SB-295

Submitted on: 2/19/2025 7:37:13 PM

Testimony for JDC on 2/20/2025 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Keikilani Ho	Individual	Support	Written Testimony Only

Comments:

I am writing to support SB295. With the amount of domestic violence cases that have been on the rise, we need to increase our efforts to protect men and women from becoming a victim of domestic violence. All of the domestic violence cases that we see, we also should learn from. Each victim left a story behind, and their families are not only grieving but advocating for change so that no other family has to suffer a similar strategy.

We should be taking these lessons, and applying it to the laws to hopefully prevent domestic violence from happening. These experiences should not be forgotten, they should be used as a tool to teach us how we can support those who are suffering in silence.

In memory of sweet Theresa Cachuela, and the memories of all those who lost their lives to domestic violence, Hawai'i should implement SB295.

LATE

SB-295

Submitted on: 2/19/2025 8:23:19 PM

Testimony for JDC on 2/20/2025 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Kylyn Kalili	Individual	Support	Written Testimony Only

Comments:

Hi, my name is Kylyn Kalili and I myself is one of the lucky ones that survive being a victim of domestic violence. The system has failed in protecting me & my family against our abuser along with many other victims who have suffered after us from the same abuser. With this bill it will ensure that the abuser gets the help they need to understand that what they're doing has consequences. It's sad that people lives had to be lost for this bill to be pushed. I am thankful that I was able to get away from my abuser but I still have that person breaking the restraining order by stalking me and my family member. I hope and pray that with this bill we will have a chance to get the justice we deserve and give the abuser a chance to redeem themselves. Thank you for listening to my testimony and take into consideration in approving this bill.

LATE

SB-295

Submitted on: 2/19/2025 9:57:33 PM

Testimony for JDC on 2/20/2025 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Gioia	Individual	Oppose	Written Testimony Only

Comments:

The Bill needs to be made to help people that have restraining orders that protect the person from dangers not letting the person that violates the restraining order free that makes no sense buckle down on what Bills you policticans make keep people safe not let the dangers of others that want to hurt people be freed that's dumb. A lot of women that put Restraining orders on the person is because they are getting abused and hurt a call for help us what they are doing there's been a lot of people dying because of violators.

The systems needs to also abide by what a restraining order is and make rules stricter for the person violating and being an abuser domestic violence is serious and needs to be taken seriously. Law makers need to think about what they are putting down in these bills or put them selves in other peoples shoes if they don't understand what the domestic violence victims go through. Make stricter rules for the violators so they can't be freed women beaters should not ever be freed.

LATE

SB-295

Submitted on: 2/20/2025 6:41:12 AM

Testimony for JDC on 2/20/2025 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Esther Gonzales	Individual	Support	Written Testimony Only

Comments:

It is only when we take matters seriously and inflict harsher penalties upon those who perform domestic abuse will it help to prevent harm upon those inflicted and going through abuse.