



## *The Judiciary, State of Hawai‘i*

### **Testimony to the House Committee on Judiciary**

Representative Scott Y. Nishimoto, Chair

Representative Joy A. San Buenaventura, Vice Chair

Thursday, February 1, 2018 2:00 PM

State Capitol, Conference Room 325

By

Catherine H. Remigio

Senior Judge, Deputy Chief Judge

Family Court of the First Circuit

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**Bill No. and Title:** House Bill No. 2024, Relating to Gun Violence Protective Orders

**Purpose:** Establishes a detailed process allowing law enforcement officers and family or household members to obtain a court order to prevent a person from accessing firearms and ammunition where the person poses a danger of causing bodily injury to oneself or another.

### **Judiciary's Position:**

The Judiciary has serious concerns about this bill and respectfully suggests that the concept may benefit from further input and analysis. We offer the following comments:

1. Under HRS Chapters 586, 604 and 134, Respondents who are found to pose a threat of imminent bodily injury to others are already prohibited from owning or possessing firearms.
2. Whether a Petitioner law enforcement officer has standing to file an action on behalf of third parties may be challenged in court.
3. At page 4, from line 9, the bill requires the Family Court to “designate an employee or appropriate nonjudicial agency to assist the petitioner in completing the petition.” Meeting this requirement will require a significant influx of funds in addition to our currently proposed budget. We make this comment based on our experience from our



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responsibilities in HRS Chapter 586 (temporary and protective orders) informing us of the complexity of such applications and the time and human resources needed to assist pro se petitioners.

4. At page 5, from line 6, the judiciary is required to “verify the terms of any existing order governing the parties.” Parties could have several “existing orders,” including divorce, paternity, civil claims, and TROs/Protective orders. If the existing order issued from another circuit within the state, or from outside the state, the information may be difficult and time consuming to obtain. Also, federal law requires all states to give full faith and credit to protective orders from every other state. In the latter case, we would be unable to independently verify terms of an existing order on a timely basis.
5. We are uncertain about the application, at page 6, from line 14, that aggregate statistical data “shall be made available to the public upon request.” Our aggregate statistical data report is published annually to the Legislature and accessible to the public. We do not have the resources to make data “available to the public upon request” without diverting resources already engaged in data related responsibilities to other agencies and entities of the state.
6. Unlike the ex parte procedure in Chapter 586, at page 7, from line 14, this bill requires a hearing on the ex parte petition, and further requires the court to “examine under oath the petitioner and any witnesses the petitioner may produce.” This will require even more judicial resources in addition to the increased staff needed to assist petitioners as noted above in paragraph #3. Judges and staff are already constrained by Chapter 586 ex parte requests, which are reviewed and completed by judges without a hearing - in addition to their regularly assigned court calendars. It is reasonable to require an additional judge with the attendant staff members before this bill can be implemented.

Thank you for the opportunity to testify on this measure.