



The Judiciary, State of Hawai‘i

Testimony to the House Committee on Human Services

Representative Dee Morikawa, Chair

Representative Chris Todd, Vice Chair

Friday, February 3, 2017, 9:00 AM

State Capitol, Conference Room 329

By

Judge R. Mark Browning

Senior Judge, Deputy Chief Judge

Family Court of the First Circuit

Bill No. and Title: House Bill No. 669, Relating to Domestic Violence

Purpose: Repeals HRS Section 586-10.5

Judiciary's Position:

The Judiciary opposes the complete repeal of HRS §586-10.5 and we respectfully strongly suggest the following language regarding reports requested by judges in HRS Chapter 586 cases.

The Judiciary staff will continue to report appropriate cases as mandated by HRS Chapter 350. However, we are concerned that, in some cases, we will not be able to adequately assess the safety of the children involved in domestic violence cases without timely input from the Department of Human Services (DHS). Therefore, we respectfully request this language that we believe balances the need of providing safety to children, the court's need for information independent of the parties, and avoiding unnecessary work by the DHS.

§586-10.5 Reports by the department of human services. If directed by the court, the department of human services shall provide the family court with an oral or written report regarding the safety of a minor child of the parties on or prior to the next regularly scheduled court hearing. If the department chooses



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to provide a written report, the department need not appear at the hearing unless ordered by the court. The court shall provide copies of all written reports to the parties.

Our suggested language addresses the bill's concerns regarding redundancy of reporting requirements.

The Judiciary notes that, except with minor amendments, this section has been part of HRS Chapter 586 since 1987 and we have always been deemed a "mandatory reporter" under HRS Chapter 350. Despite this, the number of cases has drastically increased rather than decreased. National "best practices" are based on the diverse practices across the nation. Focusing just on our own state, it does not appear that fear of automatic referral to child welfare or adult protective services has dampened the flow of these cases.

Victims, their children, and perpetrators need case management and access to a panoply of services needed to address this multi-faceted problem and to provide safety. The Family Court is not a service provider; our role is to hear cases and apply the law. Unlike child and incapacitated adult/elder abuse cases, there is no state agency that is a party to the HRS Chapter 586 proceedings that will investigate or find, or refer the parties and children to, appropriate resources. Lacking such an agency, the court must be able to get the help of the DHS through oral/written reports.

Furthermore, it is not enough to simply rely on the mandatory reporting procedures because there is no mechanism that will ensure the court's receiving the needed information within the time frames established by HRS Chapter 586. A complete repeal of HRS §586-10.5 will sever the necessary information flow from the DHS to the court and vice versa. These cases are among the toughest faced by Family Court. Alone, we can provide the required protective order but such an order may not address the needs and safety of the children.

For all these reasons, the Family Court respectfully opposes repealing HRS Section 586-10.5 and respectfully suggests alternative language to replace the current language.

Thank you for the opportunity to provide testimony on this bill.