



*The Judiciary, State of Hawai‘i*

**Testimony to the Senate Committee on Judiciary**

Senator Karl Rhoads, Chair  
Senator Glenn Wakai, Vice Chair

Friday, February 22, 2019, 9:00 am  
State Capitol, Conference Room 016

By

Christine E. Kuriyama  
Deputy Chief Judge, Senior Family Judge  
Family Court of the First Circuit

**WRITTEN TESTIMONY ONLY**

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**Bill No. and Title:** Senate Bill No. 1466, S.D.1, Relating to Gun Violence Protective Orders Act

**Purpose:** Establishes a process by which a law enforcement officer or family or household member may obtain a court order to prevent a person from accessing firearms and ammunition when the person poses a danger of causing bodily injury to oneself or another. Takes effect 7/1/2050. (SD1)

**Judiciary's Position:**

The Judiciary thanks the Committee on Public Safety, Intergovernmental and Military Affairs for its efforts with respect to this bill and appreciates the revisions included in SD1. Notwithstanding said revisions, the Judiciary respectfully suggests that the Legislature request an analysis of this bill by the Legislative Reference Bureau (“LRB”) so that a workable strategy can be developed. The Judiciary offers the following comments to address efficiency and cost concerns:

1. The Judiciary will incur significant additional costs in order to process and adjudicate Gun Violence Protective Order (“GVPO”) cases. These costs would be over and above our current budget.



2. The increase will be caused by: (1) providing Petitioners help with filing the petition (§134-C(a)); (2) researching and verifying any existing order(s) (§134-C(b) and §134-E(1)&(2)); (3) reviewing and processing of petitions; (4) holding a hearing at the ex parte stage (§134-D(c)) in lieu of allowing the court to issue a decision based upon the written petition/motion (as currently allowed in Domestic Abuse Protective Orders (“DAPOs”), HRS Chapter 586 cases); (5) holding a further hearing within fourteen days on the issue of the one-year GVPO and hearing any subsequent motions to extend or dissolve the GVPO ( §134-F); and (6) mandatory reporting to the Hawaii Criminal Justice Data Center (§134-I).
3. Subsection 134-D(c) requires the court to hold an oral hearing when a temporary restraining order (“TRO”) is requested. This Committee should consider whether such a requirement is necessary based upon the following reasons: (1) all facts and circumstances would be contained in the petition and the petitioner is attesting to said facts under the penalty of perjury; (2) the inconvenience to the petitioner, i.e., waiting for a courtroom and a judge to become available to hear the same facts and circumstances orally; (3) there is no requirement for an oral hearing at the ex parte TRO stage DAPOs; and (4) the additional costs that would be incurred as a result of this requirement.
4. Subsection 134-E(b)(1) and (2) requires that the court conduct research regarding the respondent. With regard to determining whether the respondent owns any firearms, the court does not have access to such information. In light of this constraint, the court would be proceeding on the petitioner’s sworn statement that the respondent owns or is in possession of firearms. With regard to §134-E(b)(2), the court does not have access to mental health records of a respondent and as the neutral third-party decision maker, it may not be prudent or fair to the parties for the court to conduct its own research prior to a hearing.
5. As stated above, please consider whether this bill should be submitted to the LRB for further study. It should be noted that HB 1543 which is very similar to the instant bill, was deferred on February 13, 2019. It may be the case where the GVPO requirements and procedures are modeled after the DAPO statutes. This would promote public accessibility and reduce financial costs to the State.

Thank you for the opportunity to testify on this measure.