



THE JUDICIARY, STATE OF HAWAII

Testimony to the Twenty-Fourth State Legislature, 2008 Session

Senate Committee on Judiciary and Labor

The Honorable Brian T. Taniguchi, Chair

The Honorable Clayton Hee, Vice Chair

Wednesday, March 12, 2008, 9:00 a.m.

State Capitol, Conference Room 016

by

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Senior Judge / Deputy Chief Judge

Family Court, First Circuit

Bill No. and Title: House Bill No. 2698, H. D. 3, Relating to Court-Appointed Counsel and Guardians Ad Litem in Family Court.

Purpose: To substitute “in-court” and “out-of-court” for “legal” and “non-legal” services regarding the payment of fees to court-appointed counsel and guardians ad litem in Family Court cases. Also, provides that only an attorney, licensed to practice law in the State of Hawaii, will be paid \$90/hour for “in-court” services.

Judiciary's Position:

The Judiciary strongly supports the passage of this bill, which is part of the Judiciary’s 2008 legislative package.

Last year, the Judiciary submitted legislation to increase the fee schedule for court-appointed counsel and guardians ad litem in Family Court cases. The fee schedule at that time had not been changed for 20 years and was \$60/hour for “in-court” time and \$40/hour for “out-of-court” time. Per the Judiciary’s policies, “in-court” time was defined as “time spent on the record.” All other time was to be billed at \$40/hour. These rates applied equally to attorneys and to non-attorneys. In the past, a handful of social workers were appointed as guardians ad litem from time to time.



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The purpose of the 2007 bill was to raise the fees paid to attorneys who serve as court-appointed counsel or as guardians ad litem. The 2007 amendments, enacted in Act 218 of 2007 provides for \$90/hour for “legal services” and \$60/hour for “non-legal services.” The Judiciary wishes to clarify that the \$90/hour rate apply to “in court” time which is readily confirmed through the Court’s minutes of the hearing or another source of verification. The \$60/hour rate (“non-legal services”) would apply to out-of-court services provided by an attorney and all services provided by a non-attorney (i.e., research, writing, transport of the minor, etc.). This bill also clarifies that the attorney must be licensed to practice law in the State of Hawaii.

The Judiciary has and will continue to work with the legislative committees to explain and examine the various current and also alternative possible payment methods under contracting systems.

Furthermore, in order to avoid any ambiguity regarding the Judiciary’s authority to contract for these services, we support the amendments included by the House Committee on Judiciary to House Draft 3 of House Bill No. 2698, which reads, as follows:

- (d) Nothing in this section shall preclude the judiciary from contracting for court-appointed counsel and guardian ad litem services pursuant to chapter 103D and based on contract amounts guided by the rates in subsection (b).

Thank you for the opportunity to testify on House Bill No. 2698, H.D. 3.