

LINDA LINGLE
GOVERNOR



LILLIAN B. KOLLER, ESQ.
DIRECTOR

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DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809

February 5, 2008

MEMORANDUM

TO: Honorable Maile S.L. Shimabukuro, Chair
House Committee on Human Services and Housing

FROM: Lillian B. Koller, Director

SUBJECT: H.B. 2708 - RELATING TO CHILD PROTECTION

Hearing: February 5, 2008, Tuesday, 9:00 a.m.
Conference Room 329, State Capitol

PURPOSE: The purpose of this bill is to permit a child's grandparents to participate as a party at certain child protective hearings.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) very strongly supports this bill.

The proposed amendments to section 587, Hawaii Revised Statutes (HRS), will allow grandparents to participate as parties in all hearings subsequent to the section 587-71 dispositional hearing and will ensure that each grandparent who can be located is notified of the hearings. The Department believes that the child's need for safety, permanency and well-being will be served by allowing grandparents the opportunity to attend the hearings to provide information and recommendations to the Court concerning the child who is subject to the Court's jurisdiction.

AN EQUAL OPPORTUNITY AGENCY

The Legislature has already recognized the importance of interested parties' and caregivers' participation in Court review hearings when modifications were made to chapter 587 in 2006 to require that current foster parents be provided with notice of hearings and to allow their participation.

The Department believes that the proposed legislation will help to assure that the child's need for safety, permanency and well-being will be served by encouraging extended family involvement in the Family Court process. Including the grandparents in Court proceedings can increase their capacity to support the family's healing whether the outcome of the Court process is reunification or continued out-of-home care for the children who are the subjects of the proceedings.

The provision of this bill allowing participation in Family Court proceedings in conjunction with the proposed provision of H.B. 2707, Related to Child Protection, specifying grandparents as a preferred placement for a child in need of out-of-care, will help to ensure that children are provided with the opportunity to stay within the larger family system, whenever safe and appropriate.

Grandparents have a very special and vital role in the natural support system for their children and grandchildren. This proposed bill will also help to ensure that grandparents are able to remain involved and able to carry out this capacity.

Grandparents **are** part of our children's family, our 'ohana - let them be so acknowledged. It **is** the right thing to do!

Thank you for the opportunity to testify on this measure.

LINDA LINGLE
GOVERNOR OF HAWAII

CHIYOME L. FUKINO, M.D.
DIRECTOR OF HEALTH



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Committee on Human Services and Housing

HB2708, RELATING TO CHILD PROTECTION

Testimony of Noemi Pendleton
Director of Executive Office on Aging
Attached Agency to Department of Health

Tuesday, February 5, 2008

9:00 a.m.

1 **Department's Position:** The Executive Office on Aging supports this measure as this permits a
2 child's grandparents to participate as a party at certain child protective hearings.

3 **Fiscal Implications:** Unknown

4 **Purpose and Justification:** EOA recognizes that many older adults in Hawaii are caring for their
5 grandchildren. Pursuant to Act 204, SLH 2007, the Executive Office on Aging had contracted
6 with the University of Hawaii Family and Consumer Sciences Department to conduct an
7 assessment of the issues facing, and the needs of grandparents raising grandchildren in Hawaii.
8 According to the report, which was authored by Dr. Lori Yancura, there are over 14,000
9 grandparents that are primary caregivers for over 33,000 grandchildren in the state of Hawaii.
10 These grandparents raising grandchildren (GRG) are playing an important part in ensuring the
11 well-being of Hawaii's children. They are also saving the state approximately 17 million dollars
12 per month by caring for their grandchildren outside of the foster care system.

13 The services most needed by GRG are children's programs, financial assistance, respite,
14 and grandparent rights. Many of these services are already in place, but GRG don't know that

1 they are eligible for them and/or they don't know how to access them. This measure gives the
2 Department of Human Services the opportunity to educate grandparents about eligible services
3 and how to access them during their participation as a party at selected child protective hearings.
4 Therefore, EOA supports this measure.

5 Thank you for the opportunity to testify.



HB 2708 RELATING TO CHILD PROTECTION
House Committee on Human Services & Housing

Date: February 5, 2008

Time: 9:00am

Room: 329

Aloha, Chairperson Shimabukuro and members of the Committee on Human Services and Housing. My name is Oswald "Oz" Stender, Trustee At Large to the Office of Hawaiian Affairs (OHA). OHA **strongly supports HB 2708** to permit a child's grandparent to participate as a party at certain child protective hearings.

Pipili no ka pilali I ke kumu kukui.

The Pilali gum sticks to the kukui tree.

Said of one who remains close to a loved one all the time, as a child may cling to the grandparent he loves ('Olelo No'eau 2662).

There are over 14,000 kupuna raising their grandchildren in the state of Hawai'i. In a recent Department of Human Services report, there were almost 60% of Child Protective Service cases of which the children were of Native Hawaiian descent. The reasons of more grandparents raising their children include, "increase drug abuse among parents, teen pregnancy, divorce, the rapid rise of single-parent households, mental and physical illnesses, AIDS, crime, child abuse and neglect and incarceration" (Bryson and Casper 1998). Alarmingly, 90% of the Child Protective Service cases in which a child needs immediate intervention were drug related. Even more disturbing is the fact that grandparents are not aware or notified of their grandchild's whereabouts when child protective services is called to intervene. Hawai'i's confidentiality laws make it near to impossible to get information regarding the grandchild's whereabouts, or who has physical and legal custody of the child. This promotes emotional stress, a sense of grief and loss in locating a loved one in dire need.

This bill will allow a grandparent to be contacted and have equal opportunity to participate as a family member, particularly at a critical moment of their grandchild's life. Furthermore, the grandparents provide a wealth of vital information that is pertinent in providing services and obtaining resources for the child. In short, a child's kupuna's (grandparent's) participation in these meetings can provide safety, comfort and advocacy for their grandchild's well-being. In short, a grandparent represents the heart and voice of their mo'opuna (grandchild).

OHA supports HB 2708 to permit a child's grandparent to participate as a party at certain child protective hearings. Mahalo nui loa for the opportunity to present testimony.

TESTIMONY OFFERRING COMMENTS ON
HB2708 - RELATING TO CHILD PROTECTION

February 5, 2008 at 9:00 a.m.

The Legal Aid Society of Hawaii hereby provides testimony to the House Committee on Human Services and Housing on HB2708 – Relating to Child Protection.

The Legal Aid Society of Hawaii is the largest non-profit provider for direct civil legal services in the State. Further, since 1996, we have assisted over 2,000 children as guardian ad litem on Oahu, Kauai, Maui, Hawai'i, Moloka'i and Lāna'i. We also represent parents on Kauai, Maui, Hawai'i, Moloka'i and Lāna'i and have represented kinship caregivers, including grandparents, throughout the state.

This bill seeks to confer onto grandparents party status and provide notice to them similar that of foster parents. While we agree that grandparents and other identified kin should be provided notice and allowed in at court hearings, we do not believe that neither grandparents nor foster parents should be parties to child welfare cases until cases are in permanency.

Our biggest concern is that this proposed bill does not get to the true heart of the issue which is the Department of Human Services failure to identify kinship caregivers early in the removal of a child and communicate with those identified caregivers.

Kinship Care vs. Non-Relative Foster Placement – An On-Going Debate

Over the last few years, there has been a fairly vocal debate between the Department of Human Services and others around the issues of kinship care. DHS has been strong in their preference for such care with reported situations of the removal of a child from a non-relative foster placement to kinship caregivers one to two years after child welfare intervention. Previous bills reflected this concern by attempting to codify a preference for the current foster home for a foster child if kinship care was not found within a certain number of days. While this debate has been heated, everyone involved have had the best interest of the foster child in mind.

An Uneven Playing Field

Two years ago, the legislature passed a bill that conferred onto foster parents party status and required notice of hearings to be provided to them. This has now placed foster parents (many times non-relative) in a better position at times than family members, including grandparents who have an interest in the welfare of a child. Due to delays in searching and family estrangement among other factors, grandparents and other kin are sometimes the last to know about the removal of a child and because of a safe foster home has been found for a child, DHS may be reluctant to move a child to that home. If they do not have the support of DHS, grandparents and other kin are left to file motions to intervene which are frequently denied by the court. This imbalance in court leads to increased frustration by both parties and thus the proposal of bills like this one.

The Child Welfare Statute is About Reunification First, Then Permanent Placement

We believe that before the legislature takes another step to confer party status onto another interested person, that it takes a serious step back and review the child welfare statute and the purposes of it.

The policy and purpose of this chapter is to provide children with prompt and ample protection from the harms detailed herein, with an opportunity for timely reconciliation with their families if the families can provide safe family homes, and with timely and appropriate service or permanent plans to ensure the safety of the child so they may develop and mature into responsible, self-sufficient, law-abiding citizens. HRS §587-1.

It seems that the first half of this purpose is many times ignored. It is the purpose to provide **first, an opportunity for timely reconciliation with their families if the families can provide safe family homes** and **second, with timely and appropriate service or permanent plans**. When we begin to confer party status on foster parents, grandparents, and other kin and require notice of hearings as parents are participating in their opportunity for timely reconciliation, we seem to forget that the first thing that we are trying to do is keep families with their parents and not begin talking about permanency and termination of parental rights.

Party Status vs. Notice

Party status under HRS §587-2 is by definition limited to the authorized agency, the child, the child's family member or members, any other member of the child's family or any other person alleged to contribute to the acts bringing the child under the child welfare statute and who has been served with the summons. Parties, as in the case of foster parents, participation can currently be limited by this definition.

Party status conveys the right to bring motions in a court hearing. In a recent case, foster parents have used this party status to file a motion to terminate parental rights within two months of the placement of a child in foster custody. Such status, if granted to grandparents would allow them to file motions for change of foster placement, however such motions are currently inappropriate in Chapter 587 hearings as the court only currently has jurisdiction to make a placement decision with respect to placing the child with DHS and not the home the child is in. Our biggest concern is that an early battle over foster placement in court hearings prior to the termination of parental rights moves the focus away from the goal of reunification.

We do not oppose party status to both foster parents and other kin at the permanency planning stage. There has been an argument that early party status is necessary for concurrent planning, however we disagree. Concurrent planning can be done without party status, notice to foster parents and kin of hearings and the ability for them to be present can provide for such concurrent planning. Further, ohana conference to the extent possible should be used for concurrent planning and involvement of foster parents and identified in. There are currently no restrictions for such participation.

Early Identification of Kin, Notice and Later Party Status Will Appropriately Involve Kin Rather Than Through Initial Party Status

The best solution to this problem, (1) we believe is to require DHS to early identify kin and other potential caregivers, (2) require DHS to report on their progress in identifying caregivers, (3) provide notice of hearings to these interested persons, and (4) allow both foster parents and interested persons party status upon the permanent plan hearing in order to maintain focus of the case on reunification prior to the permanent plan hearing.

We think that to clarify the statute and ensure that the initial purpose of the chapter remains with the goal of reunification and then to permanency, we recommend the following:

Add a new definition to §587-2 of interested persons:

“Interested Persons” means extended family members, friends and other interested persons other than the parents who are important in the child’s life and can provide support to the family. The department and authorized agencies shall identify all interested persons within six months of assuming foster custody of the child.

Revision of §587-25 requiring the department of human services to provide detailed information as to their attempts to locate and identify extended family and/or friends available to the child’s family:

§587-25 Safe family home guidelines. (a) The following guidelines shall be fully considered when determining whether the child's family is willing and able to provide the child with a safe family home:

- 10) Whether there is a support system of extended family and/or friends available to the child's family and what attempts have been made to locate and identify extended family and/or friends;

Revision of §587-51.5 to provide notice of hearings to foster parents and grandparents and other interested persons, but not immediate party status:

§587-51.5 Notice of hearings. (a) Notice of all hearings shall be served upon the parties and upon the parents. Notice of hearings shall be served by the department upon the parties no less than forty-eight hours before the scheduled hearing. No hearing shall be held until the parties are served.

(b) Notice of all hearings subsequent to the section 587-71 disposition hearing shall be served upon the current foster parent or parents and other identified interested persons pursuant to section ~~], each of whom shall be entitled to participate in the proceedings as a party].~~ Notice of hearings shall be served by the department upon the current foster parent or parents and other identified interested persons no less than forty-eight hours before the scheduled hearing, subject to a shortening of time when a hearing is set within a shorter time frame. No hearing shall be held until the current foster parent or parents and other identified interested persons are served. For purposes of this subsection, notice to foster parents may be effected by hand delivery, regular mail, or by facsimile or electronic mail if receipt may be confirmed, and may consist of the last court order, if it includes the date and time of the hearing.

~~[(c) For purposes of this section, "party" or "parties" shall include the current foster parents.]~~

Revise the definition of “party” in §587-2 to include interested persons and foster parents at the time of the permanent plan hearing:

"Party" means an authorized agency, the child, the child's family member or members who are required to be summoned pursuant to section 587-32(a), any other member of the child's family, or any other person who is alleged in the petition filed under this chapter or who is subsequently determined at any child protective proceeding to be encouraging, causing, or contributing to the acts or conditions which bring the child within this chapter, and who has been duly served with a summons and a copy of the petition filed under this chapter; and foster parents and interested parties at the permanent plan hearing and subsequent hearings; provided that the court may limit a party's right to participate in any child protective proceeding if the court deems such limitation of such party's participation to be consistent with the best interests of the child and such party is not a family member who is required to be summoned pursuant to section 587-32(a), except as provided in section 587-73(b)(1)(D).

We recognize that these proposed amendments are quite extensive and we are open to revised languages based on the interest of the other interested agencies and organizations. However, we do believe that our recommendations can provide the starting point for a candid conversation between all those concerned with the best interest of children in the child welfare system.

Thank you for this opportunity to testify.

Sincerely,

Nalani Fujimori
Deputy Director
527-8014

TESTIMONY OF Anuheia Diamond, Kokua 'Ohana Foster Family Liaison
Partners In Development Foundation – Kokua 'Ohana

**IN SUPPORT OF
HB2708 – RELATING TO CHILD PROTECTION**

**House Committee on Human Services and Housing (HSH)
Rep. Maile S.L. Shimabukuro, Chair
Rep. Karl Rhoads, Vice Chair**

Conference Room 329, 9:00 AM
February 5, 2008

Aloha Representative Shimabukuro and esteemed members of the committee:

I am writing to you in full support of HB2708, which is to permit a child's grandparent to participate as a party at certain child protective hearings.

From the standpoint of a Foster Family Liaison, I am well aware of the general occurrences, challenges, as well as blessings that are bestowed upon these children in dire need of protection. In agreement with the legislature which finds that grandparents are part of the natural support system for a family, it is most certain that grandparents can play a most positively effective role when given the opportunity to participate as a supportive party for the safety and well being of a child. Children need all the support they can get. Grandparents provide that necessity of aloha.

With the passage of HB2708, the state of Hawai'i will be opening a great door in the added support and protection of our children. Our grandparents, or kupuna, deserve that chance to help to ensure the safety and well being of a child. Children need all the support they can get. Children deserve all the support they can get. As reiterated in the Kokua 'Ohana program, *Hanai i ka la'akea*, we need to *Foster the sacred light*. Our children are our light that we should encourage in any way possible.

I sincerely thank you for this opportunity to testify in support of HB2708 and politely urge the passage of the Act. For further information, please contact me at ediamond@pidfoundation.org.

February 4, 2008

To: Rep. Maile S. L. Shimabukuro, Chair
FROM: Linda Santos, President & CEO, Foster Family Programs of Hawai'i
RE: HB 2708

Hearing: February 5, Tuesday, at 9 AM, Capitol Conference Rm. 328

Purpose: House Bill 2708 – Permits a child's grandparent to participate as a party at certain child protective hearings.

Introduction: I am Linda Santos, President and CEO of Foster Family Programs of Hawaii. We provide services to prevent foster care placement; support children and families involved in out of home placement; and assist young adults emancipating from the foster care system.

Agency Position: Foster Family Programs of Hawai'i supports the intent of this bill, which gives a child's grandparent an opportunity to participate as a party at certain child protective hearings, thereby helping to ensure the safety and well-being of the child.

We believe that permitting grandparents to participate as a party at their grandchild's protective hearings is beneficial to the child, as grandparents are part of the natural support system of the family. Grandparents play an increasing more visible role in the lives of their grandchildren in today's communities and provide strength, resources, and family values to their lives. The stability, wisdom, and knowledge of grandparents are vital to the development of children, especially during times of turmoil and instability. Grandparents also have the ability to maintain the continuity of family relationships and connections that support the children's safety, well-being, and identity.

Research shows that grandparents affect grandchildren even when they do not live under the same roof. When children face high risk situations such as poverty and parental mental illness, grandparents can make a difference by positively affecting a child's development. Recent findings support how grandparents can buffer the negative effects of high risk on children. High risk settings include poverty, parental mental illness, and stressful family events and changes.

We feel it would most beneficial to children to receive the support of their grandparents by their participation as a party at certain child protective hearings.

Thank you for the opportunity to testify.

From: Jacqueline T, Chong [mailto:chongj001@hawaii.rr.com]
Sent: Monday, February 04, 2008 4:28 PM
To: HSHtestimony
Subject: Fw: HSH Testimony for Feb 5, 9:00 am Conf Rm 329

FAVOR

House Committee on Human Services and Housing

Committee Hearing

February 5, 2008

9:00 a.m.

Representative Maile Shimabukuro, Chair

Representative Karl Rhoades, Vice Chair

And Members of the Committee

RE: HB 2708

Aloha,

The Na Tutu supports the intent and purpose of HB 2708 to give a grandparent the opportunity to participate at certain child protective hearings. Culturally, minor children have always been cared for by grandparents and/or family members; a grandparent would be able to provide the knowledge and wisdom to ensure the safety and well-being of the child. This is of great concern for grandparents and family members in Hawaii. Ohana, hanai, and aloha, are slowly disappearing from our society.

We ask for your support.

Thank you,

Jacqueline T. Chong, Chair

Na Tutu, Grandparents Raising Grandchildren

February 4, 2008

TO: Honorable Maile S. L. Shimabukuro, Chair
Committee on Human Services and Public Housing

FROM: Carol Morimoto, LSW
1011 Prospect St. # 806
Honolulu, HI 96822

SUBJECT: H.B. 2708 Relating to Child Protection

Hearing: Tuesday, February 5, 2008, 9:00 am
Conference Room 329, State Capitol

PURPOSE: The purpose of H.B.2708 is to permit a child's grandparent to participate as a party at certain child protective hearings.

POSITION: I strongly support House Bill 2708 to permit a child's grandparents to participate as a party at certain child protective hearings.

I am a licensed social worker in Hawai'i and have been working in the field for 15 years. Throughout my career, I have had the opportunity to witness the integral role that grandparents can play in the lives of children. Grandparents are often at the core of families, passing on their wisdom, culture, and traditions. It is oftentimes the grandparents who assist in the caregiving of their grandchild, providing them with a greater understanding of the child and his/her needs. By allowing a child's grandparent(s) to participate as a party at certain child protective hearings, their knowledge and experiences surrounding their children and grandchildren's needs can be taken into account for the wellbeing of all involved. I strongly urge the committee to pass H.B. 2708.

Thank you for this opportunity to testify.

February 4, 2008

TO: Honorable Maile S. L. Shimabukuro, Chair
Committee on Human Services and Public Housing

FROM: Cynthia Shimabukuro, LSW, ACSW
46-441 D Kahuhipa Street
Kaneohe, HI 96744

SUBJECT: H.B. 2708 Relating to Child Protection

Hearing: Tuesday, February 5, 2008, 9:00 am
Conference Room 329, State Capitol

PURPOSE: The purpose of H.B. 2708 is to permit a child's grandparent to participate as a party at certain child protective hearings.

POSITION: I strongly support House Bill 2708 to permit a child's grandparents to participate as a party at certain child protective hearings.

As a community based social worker for the past 20 years in Hawai'i working with children and families, I understand and support permitting a child's grandparents to participate as a party at certain child protective hearings. The children in the system deserve to have the support and voice of a caring family member. Grandparents often have a more global view of the family issues as well as a deep seeded connection to the child, that can be missing without their presence. Their perspectives may be able to add to current knowledge about a case and provide an opportunity for more thorough planning and decision making.

I strongly urge the committee to pass HB 2708.

Thank you for this opportunity to testify.

TESIMONY

To the House Committee on Human Services and Housing for Bill scheduled to be heard by HSH on Tuesday, 02-05-08 at 9:00 am in House conference room 329.

From Patricia Urieff, MSW, ACSW, LSW, with twenty-four years of experience providing social work services to children and families.

SB 2708 RELATING TO CHILD PROTECTION.

Permits a child's grandparent to participate as a party at certain child protective hearings.

Regarding *What Should Happen When Children Are Taken into DHS-CPS Custody.*

When Child Protective Services Investigations show child (ren) at risk of harm to the degree that the child must be removed the child's grandparents have the right to be invited to be a party at certain protective hearings.

Regarding *Assessment*

Heavy responsibility lies with the DHS Worker and Supervisor to assess for clarity about which grandparent(s) [biological and hanai], the degree to which each has participated in the child (ren)'s life, safety, bonding, ability and capacity to provide fulltime care to each child.

The DHS Report to the Court should include those aspects of the assessment including which grandparent [paternal, maternal, hanai caregiver for over six months] the child (ren) feels bonded to in a strong relationship.

The DHS `Ohana Conference should bring together all the interested grandparents to discuss how as a team they can all support best interest of the child(ren).

Therefore the DHS Assessment Report to the Court should determine who should be NOTIFIED to participate as a party at certain protective hearings.

02/04/2008 03:44PM FAX:8085958120

Testimony of Corrina Moefu, a Grandmother and a Foster Family
Liaison for Partners In Development-Kokua `Ohana

IN SUPPORT OF
HB 2708-RELATING TO CHILD PROTECTION

Human Services and Housing Committee
Rep. Maile S.L. Shimabukuru, Chair
Rep. Karl Rhoads, Vice Chair

Conference Room 329, 9:00 a.m.
February 5, 2008

Aloha Chair Rep. Shimabukuru and members of the committee:

On behalf of my mo`opuna (grandchildren) I support HB 2708 which permits a child's grandparent to participate as a party at certain child protective hearings. This Act will give grandparents an opportunity to participate in such hearings so that we can help to ensure the safety and well-being of our mo`opuna.

We all know the important role of Tutu wahine (grandmother) and Tutu kane (grandfather) play in our families. They were always part of the decision making when it came to the wellbeing and protection of our keiki. When we don't give them the opportunity to participate it takes away a vital role in our family. Kupuna (grandparents) are special people; they have the wisdom and heart to want better for their mo`opuna (grandchildren).

In closing, I'll leave you with the saying "Nana I Ke Kumu" (Look to the Source), was used often by our ancestors as a means of educating the youth to seek answers from the makule (elderly people) around them that had the answers to many of their questions.

I thank you for this opportunity to testify and respectfully urge the passage of HB 2708. For further information, please contact me at cmoefu@pidfoundation.org.