



The Judiciary, State of Hawaii

Testimony to the Twenty-Fourth State Legislature, 2008 Session

House Committee on Judiciary
The Honorable Tommy Waters, Chair
The Honorable Blake K. Oshiro, Vice Chair

Tuesday, February 26, 2008, 2:45 p.m.
State Capitol, Conference Room 325

by
Judge Frances Q.F. Wong
Deputy Chief Judge / Senior Judge
Family Court, First Circuit

WRITTEN TESTIMONY ONLY

Bill No. and Title: House Bill No. 3136, Relating to Child Welfare Services.

Purpose: Amends HRS Chapter 587 to include provisions under which DHS may permit a child to remain with caregivers who are not the child's legal/physical custodian but with whom the child has been residing for at least 6 months with consent from the child's legal/physical custodian. Deletes existing provisions regarding a police officer's discretionary assumption of protective custody of a child.

Judiciary's Position:

The Judiciary takes no position on this measure. However, we have the following specific concerns:

1. (p.4) subsection (v): If the caregiver and child are entitled to the same benefits and services available to a foster parent and a child, then they should receive these benefits and should be provided assistance to secure these benefits, if requested by the caregiver.
2. Who will monitor the notification of the return of the child to parents who are deemed harmful?

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3. If the legal parents/guardian cannot be located, then there will be a need for the Department of Human Services or these caregivers to be authorized to sign necessary consents for medical, education, etc. services, including the minor's obtaining a driver's permit/license, etc.
4. If there is a need for services, the caregiver should be able to receive these services. Otherwise, problems will become more entrenched and more difficult to deal with when the State subsequently becomes formally involved in the case.

Thank you for the opportunity to submit testimony on this measure.

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STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
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February 26, 2008

MEMORANDUM

TO: Honorable Tommy Waters, Chair
House Committee on Judiciary

FROM: Lillian B. Koller, Director

SUBJECT: H.B. 3136 - RELATING TO CHILD WELFARE SERVICES

Hearing: Tuesday, February 26, 2008, 2:45 p.m.
Conference Room 325, State Capitol

PURPOSE: The purpose of this bill is to clarify that the children who have an appropriate caregiver do not have to be removed from the caregiver's home if they are safe and add the definitions of "caregiver" and "safe home" to section 587-2, Hawaii Revised Statutes (HRS).

DEPARTMENT'S POSITION: The Department of Human Services strongly supports this Administration bill.

The proposed changes to chapter 587, HRS, will clarify that the Department may consider alternate care arrangements made by a legal and physical custodian of a child if a determination is made that the alternate care arrangement is safe and appropriate for the child. This will ensure that local customs of caring for

children outside the home by friends and relatives are an available alternative when considering the custody of children.

The Department will not be required to petition for jurisdiction, or remove a child from a safe home, if it has been established that the child has been living in the caretaker's home with the legal and physical custodian's written or verbal consent for more than 6 months. This will ensure that no child is taken into custody unnecessarily and will preserve the relationships that are important to the child's well-being.

Chapter 587, HRS, currently requires that the Department assess the safety of the home of the legal and physical custodians of a child who has been reported to the Department as abused or neglected and assigned for investigation. This means, paradoxically, that the Department must base its determination of the safety of the child on our assessment of the home of the child's legal and physical custodians, even if they have made safe and appropriate arrangements with family members, or others, to care for and supervise the child outside of the family home.

The proposed changes align our foster care system with previous legislation that provided eligible caregivers the ability to sign consents to meet a child's educational needs (Act 99, Session Laws of Hawaii (SLH) 2003) and medical care (Act 208, SLH 2005).

Clearly, the Legislature has recognized and sanctioned appropriate care arrangements, either formal or informal, made by the legal and physical custodians of a child that are safe and appropriate. Most often, these care arrangements are with a

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member of the child's extended family (hanai caregivers), helping children develop and maintain positive and lasting relationships with their siblings and other family.

Thank you for this opportunity to testify.

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TO: Representative Tommy Waters, Chair
Representative Blake Oshiro, Vice Chair
Members of the Committee

FROM: Tyra Lamb

DATE: February 25, 2008

RE: Support of HB3136, Relating to Child Welfare Services [Child
Welfare; Caregivers; Child Custody]

My name is Tyra Lamb and I am a student at the University of Hawaii and I am writing in support of HB3136. I am a military wife and have had the opportunity of working in Department of Social Services or Department of Human Services across this great nation. I am a part of the HCWEC (Title IVE) project in which upon graduation of the MSW program at the University of Hawaii, I will have an opportunity to work with the Department of Human Services in Hawaii.

It is good to see a bill that supports keeping children in the family which includes extended family. It is equally impressive to see that there is a bill to support providing financial and legal support to those family members who are taking on the responsibility of taking care of a child or children of family members. Many times, the family members that take on the responsibility of caring for the children of family members are grandparents who for the most part are on fixed incomes. It is unfortunate that many times grandparents or other family caregivers provide the same or greater care for family members than foster care providers do, but are not eligible to receive assistance to provide that care. Keeping the child(ren) with family members should be the first option when appropriate (safe home environment) and it also provides stability for the child(ren).

This bill supports keeping the family together while allowing the legal custodian to have time and to take necessary actions towards reunification with their child(ren) and being returned to the home. This bill will allow the case workers to enter a service plan with alternate family members without having to file a petition in court.

If the goal is to keep families together whenever possible, an extension to that would include family members outside of the home as deemed appropriate by the Department. I am willing to bet that more often than not, this is already happening with much 'Ohana spirit and love. I am pleased to see that it may be officially recognized, acknowledged, and supported.

Keeping a child in a loving environment is important and I believe it is equally as important to help those who love that child and is supporting that child just as we would support someone else outside of that family network providing the same services. I am not speaking against foster care homes because it is a much needed service and foster care providers are special people. I am strongly supporting a bill that supports those

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family members whose love extends far beyond foster care and that those family members get the necessary financial and legal support they deserve.

I am a student who doesn't quite understand the legalities of this situation entirely. This began as a class assignment and has become a passion. I am interested in and dedicated to following this bill. I am sure there are some things that may need to be worked through, but one thing I do know is that when family members, who are often grandparents or aunts and uncles who are themselves on fixed incomes and are still willing to provide a loving home for children, I know it has to be good practice to support them any way we can and one way to do this is by passing HB3136.

Thank you so much for this wonderful learning experience by allowing me this opportunity to testify.

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