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February 21, 2008

MEMORANDUM

TO: Honorable Tommy Waters, Chair  
House Committee on Judiciary

FROM: Lillian B. Koller, Esq., Director

SUBJECT: H.B. 524, H.D. 1, RELATING TO FOSTER CHILDREN

Hearing: Thursday, February 21, 2008, 2:45 p.m.  
Conference Room 325, State Capitol

**PURPOSE:** The purpose of H.B. 524, H.D. 1, is proposed statutory changes to ensure the provision of notice of permanent plan hearings to a youth who has reached the age of fourteen years.

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) supports H.B. 524, H.D. 1. In addition to allowing attendance and participation in Court hearings under section 587-73, HRS, held subsequent to the permanent plan hearing, this bill will hopefully encourage youth to participate in case planning and in services necessary for a successful transition from foster care to independence.

Thank you for this opportunity to testify.

AN EQUAL OPPORTUNITY AGENCY

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To: Representative Tommy Waters, Chair and Representative Blake K. Oshiro, Vice Chair, and the Committee members

From: Cynthia White

Date: Hearing held on February 21, 2008 in room 325 at 2:45 p.m.

Re: Support of H.B. 524, Relating to Child Welfare

The Hawaii Foster Youth Coalition (HFYC) supports H.B. 524 that relates to the providing notice of permanent plan hearings to a child who has reached the age of 14 and allows for foster children under the age of 14 to be heard.

HFYC is a youth lead organization that assists youth in and transitioning out of the foster care system to see the infinite pathways and possibilities of their lives through advising and advocating for opportunities that will allow youth to enjoy a productive present and a successful future. As the Project Director, I am permitted by the Board of Directors, who are current and former foster youth, to represent their needs.

Foster children seek for the State of Hawaii to recognize the need for notice of permanent plan hearings. In conversations with youth between the ages of 14 and 24, HFYC has learned that many of these youth were unaware of court hearings that decide their fate. These youth expressed a need to be informed and to be able to participate in decisions that determine the course of their lives. H.B. 524 will give youth the opportunity to have a voice in their case planning.

As a former foster youth, I was allowed at the age of six to meet with my Judge and given a choice to be adopted or stay in foster care until my mother could regain custody of me. I chose to wait and stay in foster care. Even though my stay in foster care resulted in abuse and neglect, I still feel that having the choice helped me, empowered me, to cope with being in care. At least I had hoped that I would be reunited, which happened at the age of eleven. My sisters were not given that choice and were adopted. We reunited as adults. Even though they were adopted by affluent families, they felt cheated and hurt by the loss of contact with their biological family.

As a specialist in children's grief and trauma, I am aware that adults tend to not involve children in difficult decisions in an attempt to protect them. I am also aware that trying to protect children by denying them the opportunities to represent themselves and have choices about their futures does not work. It leaves children feeling betrayed, powerless, hopeless, and without trust for adults. Children have the right to and deserve to be involved in their case planning no matter what their age. If children can handle the hardships of abuse, parent loss, living in foster care, they can certainly handle court hearings. Please show your faith in Hawaii's children by supporting this H.B. 524.

Sincerely yours,

Cynthia White, M.A.

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**TESTIMONY IN SUPPORT OF**  
**HB524 HD1 - RELATING TO CHILD WELFARE**

February 21, 2008 at 2:45 p.m.

The Legal Aid Society of Hawaii hereby provides testimony to the House Committee on Judiciary on HB524 HD1 – Relating to Child Welfare, in strong support of the bill.

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, Maui, Hawai'i, Moloka'i and Lāna'i, a significant number of whom have aged out in foster custody.

Over the last several years, Legal Aid has strongly supported bills that protect the interests of foster children in child welfare proceedings. This bill would provide notice of permanent plan hearings to foster children and require the Department of Human Service to arrange for transportation to those hearings should the foster child decide to attend.


Currently, while foster children are technically allowed to participate in their child welfare hearings (i.e. the Family Court of the First Circuit has stated that it has been court policy since 2006 that a child has a presumptive right to attend their hearings), there is no statute neither prohibiting it nor specifically requiring it. As such participation can be dependent circuit by circuit, on whether the foster child is told of the hearing and whether transportation is provided.

A foster child's participation is especially crucial when they reach the age of 14. If parental rights have been terminated they are required to agree to a permanent plan which outlines the plan for the youth given their current placement. For many of these youth, really understanding the nature of the plan, the consequences of their choices and the reality that they no longer have parents is sometimes not made very clear. The opportunity and notice to appear in court can help facilitate their involvement in this process.

By providing notice of these hearings to the youth and the option for the youth to attend the hearing, youth will be more aware of court hearings and the actions being taken by the state with regard to their well-being. As children who no longer have parents, they are now living in a system where their voice has been limited to the signing of a paper with little or no contact with the court system which will ultimately decide their fate. We believe it is critical for foster youth to provided notice of this process.

For these reasons, we support HB524 HD1. Thank you for this opportunity to testify.

Sincerely,

Nalani Fujimori  
Deputy Director  


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To: Representative Tommy Waters, Chair  
Representative Blake K. Oshiro, Vice Chair  
Committee on Judiciary

From: Michelle Kam, Student, University of Hawaii-School of Social Work

Date of Hearing: Thursday, February 21, 2008

Time of Hearing: 2:45 p.m.

Subject: Support of HB 524, HD1, Relating to Child Welfare

I am a graduate student in the School of Social Work at the University of Hawaii. I support HB 524, HD1, Relating to Child Welfare, which allows foster youth, who have reached the age of fourteen, to be notified of, and attend hearings that decide their permanent placement. This bill also addresses that children under the age of fourteen may have the opportunity to attend hearings if the court concludes it appropriate following a camera consultation with the child.

I support this bill because it gives foster children the opportunity to feel some type of ownership of their life. These children did not have the choice to become foster children. They were suddenly placed into a system of people they did not know or trust.

Foster children are represented by guardians ad litem to be their voice in court. However, I feel that the most impact occurs when a child is an active member in hearings that determine their permanent placement.

One of the impacts of allowing foster youth to attend hearings will be felt by the court and all parties involved in the hearings. In these hearings, the court and the parties involved will be able to hear first hand what the child's wishes are. Guardians ad litem do their best to speak on behalf of the child, but seeing the child's body language and hearing the child's intonation is the most personal testimony the court and parties can be influenced by.

The foster youth's presence in hearings will not only make it a personal situation to others, but it will impact the child's self-esteem. Their involvement during this time is one of the most critical stages in their human development. As I have stated before, a foster child did not choose this path for his or her life. Giving a foster child the opportunity to be a greater part of the permanency planning process can strengthen their character and hopefully minimize the belief that they are just another pawn of the State.

Providing the child with the opportunity to attend hearings in the permanency planning process will show the child that the State values their opinion. Although their wishes may not be granted, it is the process of greater participation that could make all the difference in how that child develops and lives the rest of his or her life.

This bill also supports the inclusion of Section 587-51.5, which states that a child who has reached the age of fourteen shall be notified of upcoming hearings. If foster youth are allowed to attend hearings regarding their future placement, then it is only logical to include them in the notification process that all other parties are subjected to.

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By passing HB 524, HD1, foster children will have first hand experience of the court process, have a greater sense of self-worth from knowing their presence matters, and that their presence can establish a more personal impact on the court and other parties involved in the permanency planning process.

Therefore, I urge this committee to pass HB 524, HD1. Thank you for allowing me the time to testify before this committee.

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