

Late Testimony

Date: March 27, 2008

To:

Rep. Tommy Waters	Rep. Black K. Oshiro
Rep. Cindy Evans	Rep. Joseph M. Souki
Rep. Josh Green, M.D.	Rep. Clift Tsuji
Rep. Ken Ito	Rep. Ryan I. Yamane
Rep. Sylvia Luke	Rep. Kyle T. Yamashita
Rep. Angus L.K. McKelvey	Rep. Barbara C. Marumoto
Rep. Hermina M. Morita	Rep. Kymberly Marcos Pine
Rep. Alex M. Sonson	Rep. Cynthia Thielen

Committee on Judiciary

From: Chris Lethem

Subj: Testimony **IN STRONG SUPPORT** of **SB2054 SD1** re factors the courts shall consider in determining the best interests of the child

Hearing: Thursday, March 27, 2008; 2:25 pm.; Room 325, State Capitol

I strongly support **SB2054 SD1**. This bill creates standards which will help children and families as custody decisions are being made by the courts. As a participant in the process, which included various groups and interests, I can say that there was broad consensus for the best interests criteria in the current bill. From domestic violence groups to family law lawyers, people came together to support this bill because a standard is required for custody determinations. Many other states have specific criteria, in statute, and this bill is necessary for the best interests of children. This bill also supports SB2055 SD1 which establishes a framework for child custody evaluator standards and policies.

HSCADV HAWAII STATE COALITION AGAINST DOMESTIC VIOLENCE

Hearing date and time: March 11, 2008, 8:30am Room 329

RE: SB2054 SD2 Relating to Family Court – Best Interest of the Child

TO: Chair Shimabukuro, Vice Chair Rhoads and members of the Committee on Human Services

FR: Ana Maring, Hawaii State Coalition Against Domestic Violence

Aloha, my name is Ana Maring and I represent the Hawaii State Coalition Against Domestic Violence (HSCADV). HSCADV is a private non-profit agency which serves as a touchstone agency for the majority of domestic violence programs throughout the state. For many years HSCADV has worked with the Hawaii Legislature by serving as an educational resource and representing the many voices of domestic violence programs and survivors of domestic violence.

Healthy and safe families have been the primary goal of the Battered Women's Movement. Frequently there is an assumption that the violence will end once the victim of abuse separates from the batterer. Multiple studies have shown this is the most dangerous time for women and their children. 75% of women who are murdered by a partner or former partner have recently separated or told their partner they are planning to leave. According to media accounts Janel Tupola had separated from her batterer prior to her death and co-workers of Jenny Hartsock say she was in the process of leaving her batterer. Perpetrators of family violence often use visitation and custody as an opportunity to be violent or manipulate the victim.

Battered women frequently believe the court system will support them in their quest for safety but that is often not the case. "Compared to non-battering fathers, batterers are more likely to seek custody of their children, and they may misuse the legal system as a symbolic battleground for continuing abuse through harassing and retaliatory litigation." (Kendall Segel-Evans, Wife Abuse and Child Custody and Visitation by the Abuser 1989). Additionally, there tends to be a presumption that courts will not give custody to batterers but according to a Massachusetts survey (Jay Silverman, Harvard) conducted as recently as 2004, 54% of custody cases involving documented spousal abuse were decided in favor of the alleged batterers. Joint and shared/joint custody may be an appropriate parenting situation in non-violent families. When domestic violence has been present in the relationship, shared/joint custody and visitation can be dangerous for the victim and the children. Several studies suggest that up to half of spouse abusers are also violent with their children.

The Coalition supports this bill's intent to have the courts and its associated personnel appropriately evaluate safety for children when addressing custody. Best interest of the child standards must only be applied when appropriate. It is extremely important for Family Court to consider domestic violence cases separately for those of non-violent families.

Thank you for the opportunity to comment.