

testimony

From: Susan J. Moss [sue@trans-pacificdesign.com]
Sent: Friday, February 22, 2008 7:32 PM
To: testimony
Subject: S.B. 2730 - DATE: Monday, February 25, 2008 TIME: 10:00 a.m. PLACE: Conference Room 016

TO: Honorable Suzanne Chun Oakland,
Chair **Support**
Committee on Human Services and Public Housing

FROM: Susan J. Moss and J. William Sanborn;
grandparents to Joshua and Kewona

SUBJECT: S.B. 2730 Relating to Child Protection

earing: **Monday, February 25, 2008, 10:00 a.m.**
Conference Room 016, State Capitol

PURPOSE: The purpose of S.B.2730 is to establish a grandparent preference for out-of-home placement of children needing child protective services.

POSITION: We strongly support Senate Bill 2730 to give preference to grandparents for out-of-home placement of children needing child protective services.

In 2003, our grandchildren were taken into Child Protective Services and we had to fight to get at least one of them into our home. The younger grandson was only five years OLD, the older seven years old at the time and both the parents and we were not allowed to even talk or see them for over 100 days. You can imagine the confusion and anger these little ones developed over this time period. All I can imagine is they must have felt abandoned.

It took a year and a half to convince CWS to allow us to care for our grandchildren and we honestly think that the only reason we were allowed to have the younger one at this point was because they ran out of foster parents that could handle this very angry child.

It has taken years and lots of therapy to get these kids back on track and the youngest one still says things like: 'I'm afraid to be left alone...you know 'cause of foster care.'

If we were allowed to have them immediately in our home, most of the trauma, anger, and lifelong psychological problems could have been avoided. We kept hearing from the adults in the judicial system and CWS that children are resilient and would bounce back from this trauma. And we respond with, "Oh yes that must be why so many adults are in therapy from events from their childhood!"

If this bill could help just one of Hawai'i's keiki from the trauma that our grandchildren have been through, then yes, it should be passed and passed immediately.

Thank you for the opportunity to testify.

Respectfully,

Susan J. Moss

J. William Sanborn

Susan J. Moss, ASID, IIDA
Principal

Trans-Pacific
DESIGN

64-5176 Kamamalu Rd.
Kamuela
HI 96743
808-885-5587, Ext. 107
808-885-5512 fax
www.trans-pacificdesign.com
susan@trans-pacificdesign.com

LATE

LINDA LINGLE
GOVERNOR



LILLIAN B. KOLLER, ESQ.
DIRECTOR

HENRY OLIVA
DEPUTY DIRECTOR

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

February 25, 2008

MEMORANDUM

TO: Honorable Brian T. Taniguchi, Chair
Senate Committee on Judiciary and Labor

FROM: Lillian B. Koller, Director

SUBJECT: S.B. 2730, S.D.1 - RELATING TO CHILD PROTECTION

Hearing: February 25, 2008, Monday, 10:00 a.m.
Conference Room 016, State Capitol

PURPOSE: The purpose of S. B. 2730, H. D. 1, is to establish a grandparent or other appropriate relative preference for out-of-home placement of children needing child protective services.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) very strongly supports this bill. The proposed bill seeks to acknowledge grandparents and other appropriate relatives, who are willing and able to care for a child, as a preferred placement for a child who is in need of out-of-home care pursuant to chapter 587, Hawaii Revised Statutes (HRS). The proposed change is consistent with national trend, Federal law and child welfare best practices to ensure that children in State's custody are provided with the opportunity to stay within their family, whenever safe and appropriate.

AN EQUAL OPPORTUNITY AGENCY

Specifying grandparents and other appropriate relatives as a preferred placement does not mean that children who need out-of-home placement will automatically be placed with grandparents or other appropriate relatives. The safety of the child is paramount and consideration of the child's safety is the most important part of the any placement decision.

Children under the placement responsibility of the Department can only be placed into homes that meet foster home licensing requirements. The Department has been increasing capacity to provide support services and training to foster parents through our contract with Hui Ho'omaluu. Grandparents and other appropriate relatives would have access to all supportive services available for foster parents.

Grandparents and other appropriate relatives are a very special and integral part of the natural support system for a family. Placing a child with grandparents or other appropriate relatives will have positive effects and improve stability for the child. It helps to ensure that, when safe, the child can stay within the family system and sustain family and sibling relationships that support the child's safety, permanence and well-being and connection with family culture and heritage. In addition to simply being family, grandparents and other appropriate relatives often bring other strengths and resources, including additional life experience and maturity that benefit the child.

Perhaps the most compelling reason should be that grandparents and other appropriate relatives **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.



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

Monday, February 25, 2008 @ 10:00 a.m.
State Capitol, Conference Room 016

by

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

WRITTEN TESTIMONY ONLY

Bill No. And Title: Senate Bill No. 2730, SD1: Relating to Child Protection

Purpose: To amend HRS Chapter 587 to provide a preference for grandparents or other appropriate family members re out-of-home placement.

Judiciary's position:

The Judiciary takes no position on this measure but wishes to provide the following precautionary comments.

Preference for family members is a positive option at the beginning stages of these cases, in particular at the temporary foster custody stage.

However, we respectfully submit that such preference should be limited to the temporary foster custody stage only. These cases are complicated and many events occur that would prompt placement of children in the care of unrelated foster families. If the Court determines that such placement is in the best interests of a particular child, then to introduce a "preference" at the end of the case may create unintended harm to that child.

Senate Bill No. 2730, S.D.1
Senate Committee on Judiciary and Labor
February 25, 2008
page 2

Therefore, the Court respectfully suggests that all proposed amendments, including this preference at any stage beyond the temporary foster custody stage, be deleted as it may be detrimental to the child.

Thank you for the opportunity to provide testimony on this matter.



Legislative Testimony
SB 2730 RELATING TO CHILD PROTECTION
House Committee on Human Services & Housing

Date: February 25, 2008

Time: 10:00am

Room: 016

The Office of Hawaiian Affairs strongly **supports SB 2730** to establish a grandparent preference for out-of-home placement of children needing child protective services.

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). Alarming, 90% of the Child Protective Service cases in which a child needs immediate intervention were drug related.

All families regardless of economic and social background face adversity. However, Native Hawaiian families face greater adversity due to additional stressors that may hinder a child’s upbringing, emotional well-being and education, particularly in situations involving child protective services. Kupuna and children are the most vulnerable family members due to economic hardship and health risks. However, when a family faces crisis, the meaningful connection of family members can deter against the turbulent winds of challenges and obstacles. This can be true of the deep bond between a grandparent and grandchild.

The support of bill SB 2730 can help to strengthen this connection that will enhance a commitment towards one another, quality time spent together, along with coping with stress and building resiliency.

This connection also serves as a gateway for instilling life values such as cultural knowledge and practices, family mo`olelo (storytelling), cultural identity, and spirituality to be transmitted from one generation to the next.

ILATE TESTIMONY

OHA supports SB 2730 to establish a grandparent preference for out-of-home placement of children needing child protective services. Mahalo nui loa for the opportunity to present testimony.



BY EMAIL: testimony@capitol.hawaii.gov

Committee: Committee on Judiciary and Labor
Hearing Date/Time: Monday, February 25, 2008, 10:00 a.m.
Place: Room 016
Re: Testimony of the ACLU of Hawaii in Opposition to S.B. 2730, Relating to Child Protection

Dear Chair Taniguchi and Members of the Committee on Judiciary and Labor:

The American Civil Liberties Union of Hawaii ("ACLU of Hawaii") writes in opposition to S.B. 2730.

This bill is unnecessary and will undermine the court's current flexibility in determining child placement. While we recognize the interest of grandparents and other relatives in caring for their kin, it may be in the best interest of foster children to be placed with non-relative caregivers. By allowing for grandparent and relative preferences, a foster child's placement determination may not be in the child's best interest and may not result in the most appropriate placement.

This bill should be limited to mandating relative notification to ensure that a child's relatives have the opportunity to be considered as a placement.

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for over 40 years.

Thank you for this opportunity to testify.

Sincerely,

Laurie A. Temple
Staff Attorney
ACLU of Hawaii

American Civil Liberties Union of Hawaii
P.O. Box 3410
Honolulu, Hawaii'i 96801
T: 808.522-5900
F: 808.522-5909
E: office@acluhawaii.org
www.acluhawaii.org

Committee on Judiciary and Labor
Chair Senator Brian Taniguchi
Vice Chair Senator Clayton Hee
Relating to Child Protection

Monday February 25, 2008

Support of SB 2730 and HB 2707 Relating to Grandparent preference

EPIC `Ohana Conferencing is a non-profit organization that provides Family Group Conferencing, for families who are involved with Child Welfare Services (CWS). Together, parents, extended family members, social workers and other professionals meet and develop a plan to provide the family with the help and support they need in order to provide a safe home for their children. The `Ohana Conferencing process seeks to empower parents and extended family members, which include grandparents, by allowing them to be part of the decision making process for the care of their children. Since its inception in 1996 EPIC has held over 7,000 `Ohana Conferences for families within the CWS system. More than 70,000 people in the State of Hawaii have participated in an `Ohana Conference. It is during the conference process that family members learn about the safety concerns for the children, how the child welfare and court system works in their particular case and in what ways family members can provide support for the children, parents and Child Welfare System. Family members provide names of family who can foster the children. The extended family members assist parents who are frequently diminished in their capacity to make decisions because of addition or mental health concerns.

Grandparents are often the glue and connection factor in families. They provide vital information or resources to care for and protect their grandchildren. Many grandparents raise or help raise their grandchildren when parents are unable to do so. Today in Hawaii grandparents have no right to participate in court hearings when CWS becomes involved with their family. In order for states to receive Federal payments for foster care and adoption assistance, Federal law requires that states "consider giving preference to an adult relative caregiver who meets all relevant State child protection standards." Currently, approximately 24 States and Puerto Rico give preference or priority to relative placements in their statutes. In addition several States (12) have established "kinship care" or relative caregiver programs by statute to provide relatives with benefits to help family offset the cost of caring for a placed child. The State of Hawaii needs to support giving placement preference to grandparents and other appropriate family members who are identified by the Department of Human Services as "fit and willing".

Grandparents are often left in the dark as to where their grandchildren are and they are left to navigate a confusing, bureaucratic system in which they have no rights to support their participation. Currently non-relative foster parents have more legal standing in a Child Protective case than biological grandparents.

The vast majority of children entering foster care come from poverty backgrounds. The families of these children are typically under-employed or are working at minimum wage jobs. Family members are not in a position to hire attorneys to represent them in family court and advocate for their right to participate in Child Protection proceedings. Hawaii First Circuit Family Court does not provide attorneys for parents participating in a CWS case. The court provides consulting attorneys just prior to parents going into the court room. There is no legal consultation available to parents between court hearings. Allowing grandparents to participate in the Child Protection Hearing would provide an opportunity for a family member, who is not impaired by addiction or mental health issues, to help understand what is happening in the case and with the children. Grandparents are critical links to their grandchildren and other extended family members who may be capable of providing short and long term care for children in foster care.

Children entering foster care are frequently cut off from their biological family at a time when they need them most. Today in the United States there are nearly 500,000 children in care. Over half of these children are age 10 and older. Foster Youth organizations around the country have added their voices to the plea not to orphan them by disconnecting them from their families of origin.

I urge the committee to pass SB 2730. Thank you for this opportunity to testify.

Sincerely,



Arlyna Howell Livingston, Executive Director
EPIC Inc. ~~Ohana Conferencing~~
1130 N. Nimitz Highway, Suite C-210
Honolulu, Hawaii 96817
Phone (808-838-1261)

**TESTIMONY OFFERING COMMENTS ON
SB2730 SD1 - RELATING TO CHILD PROTECTION**

February 25, 2008 at 10:00 a.m.

The Legal Aid Society of Hawaii hereby provides testimony to the Senate Committee on Judiciary and Labor on SB2730 SD1 - 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. Of many of the stakeholders involved in this conversation, we are one of the only stakeholders other than DHS who actively participate in all aspects of child welfare cases.

This bill seeks to confer a preference to grandparents in the placement of children subject to the child welfare statute. While we believe in the importance of kin in foster care and recognize how family can be the best placement for children removed from their parents (especially when the child knows their kin), we do not believe that this bill is the right solution to the problem.

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 and placement with kin on the mainland who have never met the child. 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.

Grandparent or Other Family Preference Would Provide DHS An Excuse When It Fails to Identify Kin Early and Ultimately Harms the Child

The proposed solution would only add to the complexity of the current problem by allowing DHS an excuse for late identification of kinship caregivers and forcefully removing children from homes where they have bonded and been provided for. Recent cases have shown DHS' zeal in placing children with kin (in one case with a marijuana smoking family member) after two years – in some cases removing two year olds from the only families they have known. Again, it is not that children should not be with kin, it is that we should not be giving license to DHS to correct their failure to identify kin at the early stages of removal to the detriment of the child.

DHS Currently Has License to Determine Foster Custody Placement and Does Not Need a Statutory Change to Promote an Administrative Kinship Preference

Under Chapter 587, foster placement prior to permanency is within the realm of DHS and not the court. §587-71 specifically states that the court vests foster custody in DHS or another agency, not in a specific home. As such, DHS can already apply a preference for kinship caregivers which does not have to be codified. Courts across the state have only reviewed foster placements when it has determined that DHS has abused its discretion in placement (in many cases due to removal to kinship care long after a child has bonded

with non-relative caregivers). If the legislature intends to amend this responsibility to bring placement decisions into the court, then additional language will need to be amended to allow the court to make these decisions.

The Problem Is DHS' Inability to Identify Kin Early in Foster Custody Cases and Provide Responses to Inquiries by Potential Kinship Placements

We believe this bill is a reaction to the inability for grandparents and other interested family members to get information about children in their family in the foster care system. It is also a reaction to the failure of DHS to identify early potential kinship caregivers and provide adequate answers to grandparents and other kin.

For example, there are numerous examples of grandparents finding out their grandchildren were removed and wanting to be foster placements, but being re-buffed by DHS. Our intake hotline reports calls from grandparents seeking to gain foster custody of their grandchildren and upset with DHS, but in closer examination we find that the grandparents cannot be licensed because of a criminal history. In a recent case, a grandmother was seeking information as to why she couldn't be the foster parent to her foster children and despite a number of calls to DHS social worker never heard back. This experience is not uncommon.

Early Identification of Kin Not A Kinship Preference Will Better Solve the Problem

The best solution to this problem, we believe are amendments to Chapter 587 that require DHS to identify kin and other interested persons for placement of a foster child very early in the removal of a child from his or her parents. Statutory language should require DHS to report to the court their efforts to locate kinship and continue to actively seek kin. DHS should also be required to provide feedback and information to grandparents and other kin as to why they believe a placement. In addition, these amendments provide a definition for relatives to include not only grandparents, but other kin and potential friends to the child.

To this end, we recommend deleting of the current proposed language in the bill and replacing it with the following which would require early identification of kinship and other interested persons:

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

"Relative" means a person related by blood, lawe hanai parent, or hanai parent, who is willing and able to provide support to the child and the family. As used in this definition, "hanai parent" means an adult other than the natural parent who serves as the child's parent based on written or oral designation by the child or child's relatives. "Lawe hanai parent" means a hanai parent related by blood."

Amend §587-24 to require DHS to work actively from the time of removal of the child to identify kinship caregivers:

"(c) Upon assuming temporary foster custody of a child under this chapter, the department shall place the child in emergency foster care, unless the child is admitted to a hospital or similar institution, while it conducts an appropriate investigation. The department and authorized agencies shall identify all relatives within six months of assuming foster custody of the child, however the court may grant extensions to the department and authorized agencies for good cause."

Revision of §587-25 requiring DHS 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 relatives [~~extended family~~] and/or friends available to the child's family and what attempts have been made to locate and identify relatives and/or friends;

Adding to Chapter 587 a section which requires DHS to provide written responses within 45 days of an inquiry from relatives as to their potential as a foster placement and if denied, the specific reasons why and the right for an administrative appeal:

"§587- Relatives; foster placement. The department shall provide written responses within forty-five days of an inquiry from a relative as to the relative's potential as a foster placement and/or if applicable how to apply to be a foster parent."

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

LATE

testimony

From: THREEPTHARMON@aol.com
Sent: Sunday, February 24, 2008 11:18 PM
To: testimony
Subject: SB 2730 SD1 RELATING TO CHILD PROTECTION

TO: SENATOR BRAIN T. TANIGUCHI, CHAIR
SENATOR CLAYTON HEE, VICE CHAIR
COMMITTEE ON JUDICIARY AND LABOR

FROM: JOHNNY LEE HARMON
THREEPTHARMON@AOL.COM

SUBJECT: IN SUPPORT OF SB 2730 SD1 ESTABLISHES A GRANDPARENT, OR OTHER APPROPRIATE RELATIVE, PREFERENC FOR OUT-OF HOME PLACEMENT OF CHILDREN NEEDING CHILD PROTECTIVE SERVICES (SD1) SSCR2146

HEARING: DATE : MONDAY, FEBRUARY 25, 2008

TIME: 10:00
PLACE: CONFERENCE ROOM 016
STATE CAPITOL

I AM IN SUPPORT OF SB 2730 SD1 (SSCR2146) BECAUSE GRANDPARENTS OR THE BACK BONE OF THE FAMILY. THEY SPEND MOST OF ALL THE TIME WITH THE GRANDKIDS, THEY GO TO THE SCHOOL FUNCTIONS. THEY TEACH THE KIDS THERE ABC AND 123'S TAKING TO THE PARKS, POOL. MOST OF THE PARENTS HAVE TWO AND THREE JOB JUST TO PUT FOODS ON THE TABLE AND PAY THE BILL. SO TELL ME WHAT WOULD THIS WORLD BE WITHOUT GRANDPRANENT.....

SINCERELY,
JOHNNY LEE HARMON
PRESIDENT
PARENTS FOR RIGHTEOUSNESS

Delicious ideas to please the pickiest eaters. [Watch the video on AOL Living.](#)

LATE**testimony**

From: bob mcdermott [ibuckyboyle@yahoo.ie]
Sent: Sunday, February 24, 2008 11:13 AM
To: testimony
Cc: navyleague@hawaiibiz.rr.com; repward@cs.com
Subject: Testimony Against SB 2730 SD 1

Testimony Strongly Opposing SD 2730 SD1 as currently written.

To: Senate Judiciary Committee Chairman
 Hearing Monday, Febuary 25th @ 10:00 am

Fr: Bob McDermott
 91-982 Ololani Street
 Ewa Beach, HI 96706

10 year Foster Parent
 6 year Member of House Committee on Human Services 96 to 2002.

Aloha Mr. Chair and former colleagues,

Although I agree with the intent, **I strongly oppose this measure as currently written.**

Reasonable Time Frame:

This measure should make the language crystal clear that this preference for grandparents be given at the very beginning of the foster placement process. As currently written, it is vague and could lead to disastrous consequences. I suggest that the first sixty days of the foster placement process is enough time to find a relative or grandparent willing to come forward and provide care.

Unless a time limit is specified, DHS can - **and does in fact** - come forward and direct placement with grandparent(s) even if they have been in the same foster home for approximately 3 years; are thriving, and the Foster Parents are willing to adopt. DHS does this as a matter of policy and **does not** use - according DHS official John Watters under oath - "the best int rests of the Child" as placement criteria.

Judicial Handcuffs:

The measure also removes a degree of discretion from the Judge. I can tell you as someone who has personally gone through the process of contested placement with DHS, that I am grateful that the Judge is the final arbiter of Placement decisions. They have access to all of the information in the case, the VGAL reports, the Psych evals, the social worker reports, and family criminal histories. Please don't tie the Judges hands, they have the ability to discern the wheat from the chaff. This measure is a "cookie-cutter" approach that sounds good and reasonable on the surface, but these cases are often much more complicated.

Suggested Remedy: Add a distinct time limit to the preference. Such as, grandparents have a preference within the first 60 days of foster placement. Permanent Placement shall be a court decision using the "best int rests of the Child" as their guiding criteria.

FYI:

I am currently involved in a placement case that has just concluded trial. Without revealing any confidential issues such as names and parties, DHS has advocated placing the 4 children that I have been caring for over the last three years to a grandma who is only related to two of them by blood.

In the court proceedings it was determined that the biological father of two of the children - who has lost his rights as a parent- is still a part time resident of the home and has unsupervised access to the children currently living there. He has been arrested 56 times with 4 felony convictions. He is an ice addict who has refused to participate in ANY DHS services. He has been deemed by the court as a danger to his children. He is a DHS documented abuser who has broken the arm of his oldest son several years ago. In his Pcysh eval, he expressed a desire to kill himself and his wife.

In addition, Granma's current husband - no blood relation to any of the children - was convicted of Child endangerment, and chicken fighting. He expressed reluctance at taking the children.

This is a real case...DHS is aware of all the facts...and STILL wants to place the kids with this grandma in an Absoutley Unsafe environment.

I swear that all of the above is true.

**Bob McDermott
91-982 Ololani Street
Ewa Beach, HI 96706
808-371-4605 cell
808-744-0518 home
808-422-9404 work**

Send instant messages to your online friends <http://uk.messenger.yahoo.com>