



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

February 5, 2008

MEMORANDUM

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

FROM: Lillian B. Koller, Director

SUBJECT: S.B. 3054 - RELATING TO AGE OF CONSENT FOR ADOPTION

Hearing: Tuesday, February 5, 2008, 1:15 p.m.
Conference Room 016, State Capitol

PURPOSE: The purpose of this bill is to facilitate the adoption of children, under the Department's permanent custody, between the ages of 10 to 14 years old, by changing the age at which a child needs to consent to an adoption from 10 years old to 14 years old.

DEPARTMENT'S POSITION: The Department strongly supports this Administration bill. Changing the age of consent for a child in the adoption proceedings from 10 to 14 is appropriate because it recognizes the cognitive development and ability of the child, provides for informed consent by the child, and is consistent with existing statutory requirements regarding a child's consent to the termination of parental rights pursuant to Section 587-73(a)(4), Hawaii Revised Statutes (HRS).

However, section 578-2(a)(8), Hawaii Revised Statutes (HRS), currently specifies that consent to an adoption must be obtained from a child who has reached the age of 10, unless the Family

Court determines that it is in the child's best interest to dispense with the consent.

Currently State statutes contain a discrepancy in the age at which the child must give consent for actions regarding the child's life and legal status. For adoption, section 578-2(a)(8), HRS, consent to the proposed adoption is required from the child if the child is more than 10 years of age, while for the termination of parental rights, section 587-73(a)(4), HRS, the child who has reached the age of 14 currently has to consent to the proposed permanency plan that specifies a goal of adoption, legal guardianship, or permanent custody of the child.

This discrepancy in the age of consent for adoption and the age of consent for the permanency plan has been confusing for the children and for the adults working with the children. Making the age of consent for adoption consistent with the age for consent to the permanency plan will eliminate this confusion.

Widely accepted as an important component in the theories of child developmental psychology, Jean Piaget's model of cognitive development indicates that at the age of 10, a child is not able to fully understand the concept of adoption or the impact of the action. At this time, the child is beginning to reason logically and organize thoughts coherently. However, the child can only think about actual physical objects and cannot understand abstract reasoning. Requesting a 10-year-old child to consent to being adopted is not consistent with the intent of informed decision-making and consent.

By age 14, a youth is usually able to think abstractly, reason logically, and draw conclusions from available

information. During this developmental stage, which begins around age 12, the youth is able to understand such things as love, "shades of gray," logical proofs, and values. These abilities are critical if the child is going to be able to make an informed decision as important and life-changing as consenting to adoption. A 14-year-old child is better able to understand concepts of adoption and consequences of consenting or not consenting to the process.

The cognitive development of the child must be considered when looking at what can appropriately be expected from a child at a given age. Although each child develops on an individual basis, commonalities are shared within a developmental stage.

Many of the children in foster care, especially those who become available for adoption, lag behind others in reaching the emotional and cognitive milestones. A child may be 10 years old but function more at the developmental level of an 8 year old. Many national studies have shown that instability in the early years has a negative impact on the child's rate of cognitive and emotional development. Often cited is a delay or set-back of approximately 2 years for each move or change in placement. Counting the initial placement into foster care, all children in foster care have had at least one move.

It is unreasonable to place the burden of making such a permanent and life-changing decision on a 10 year old child. Ensuring that every child involved in the adoption understands what the adoption means, to the best of his or her developmental ability, is an important factor to the success of the adoption. Children and youth are always to be involved in the case planning

and planning for their own futures, to the fullest extent possible based on their age and development, regardless of the age of consent. Changing the age of consent to 14 years will not delay adoptions nor will it decrease the child's involvement in the adoption process.

Nationally, 25 States and the District of Columbia set the age of consent at 14. Eighteen States require a child's consent at age 12. Only six States, including Hawaii, require consent at age 10. In 11 States, the requirement can be dispensed with if the child lacks the mental capacity to consent. In 16 States, the Court, in its discretion, may dispense with consent if it is in the best interest of the child. Colorado requires that the child be provided with counseling prior to giving consent.

Adoption is the most permanent and preferred option for children under the Department's permanent custody. The proposed legislation will support our agency's efforts with the Family Court and community partnerships, such as Hui Ho'omaluu, Hawaii Heart Gallery, Ohana Conferencing, HOPE I.N.C., and Kokua Ohana, to find forever and loving adoptive families for all our foster children and youth.

Thank you for this opportunity to testify.