



THE JUDICIARY, STATE OF HAWAII

Testimony to the Twenty-Fifth Legislature, Regular Session of 2009

House Committee on Judiciary
The Honorable Jon Riki Karamatsu, Chair
The Honorable Ken Ito, Vice Chair

Friday, February 13, 2009, 2:20 p.m.
State Capitol, Conference Room 325

by
Karen M. Radius
District Family Judge
Family Court, First Circuit

WRITTEN TESTIMONY ONLY

Bill No. and Title: House Bill No. 1094, Relating to Permanency Hearings

Purpose: To amend HRS Chapter 587 to ensure compliance with federal Title IV-E hearing requirements.

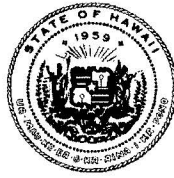
Judiciary's Position:

The Judiciary continues to oppose this bill.

However, the Judiciary will be convening a planning group to collaboratively work toward a solution relating to the problems noted in House Bill No. 1094. The first three meetings have already been scheduled for February 25, March 5, and March 11. The Department of Human Services has already been advised of these meeting dates and approves of them. This planning group will initially include representatives from the Department of Human Services, Department of the Attorney General, University of Hawaii William S. Richardson School of Law, guardians ad litem, parents' counsel, and the Family Court. This group will work closely with representatives from the Federal Regional Office, Region IX, U.S. Department of Health and Human Services, Administration for Children and Families.

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

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 13, 2009

MEMORANDUM

TO: Honorable Jon Riki Karamatsu, Chair
House Committee on Judiciary

FROM: Lillian B. Koller, Director

SUBJECT: H. B. 1094, RELATING TO PERMANENCY HEARINGS

Hearing: February 13, 2009, Friday, 2:20 p.m.
Conference Room 325, State Capitol

PURPOSE: The purpose of H.B. 1094, an Administration-sponsored bill, is to amend chapter 587, HRS, to ensure compliance with Federal Title IV-E hearing requirements.

DEPARTMENT'S POSITION: The Department of Human Services cannot over-emphasize the importance of passage of this bill. If the statute is not amended with the specific language proposed by the Department to ensure compliance with Federal Title IV-E requirements, over of \$50,000,000 in Federal Title IV-E funds annually will be lost.

This legislation is necessary to ensure that chapter 587, Hawaii Revised Statutes, is compliant with Federal Title IV-E provisions related to permanency hearings. Currently, chapter 587, HRS, does not specifically address the Federal requirement for permanency hearings at 12-month intervals to determine the

AN EQUAL OPPORTUNITY AGENCY

permanency plan for a child in accordance with Section 475(5)(C)(1) of the Federal Social Security Act and 45 CFR 1356.21(h). Instead, chapter 587 continues to require 18-month dispositional hearings along with requirements that were made obsolete by the amendments in the Federal Adoption and Safe Families Act of 1997 (P.L. 105-89).

The Department is in the process of submitting an updated Title IV-E State Plan and this is one of the Federal requirements needed to ensure compliance and finalize approval of the State Plan. If the proposed statutory changes are not made, the Department has been informed by the Federal government that our State Plan will not be approved and the State will be restricted from obtaining Federal Title IV-E funds until the statute is revised.

Currently, the Department is drawing down over \$50 million in Title IV-E Federal funds for Hawaii, including foster board, treatment and services, staffing and administrative costs.

Prior to submitting this legislation, the Department explored implementation via Administrative Rules, and changes to the procedures in chapter 587 review and permanent plan hearing sections.

We have also offered the possibility of implementing the requirement through Court rules.

As of February 4, 2009, we have been informed by our Regional Administration for Children and Families (ACF), in consultation with the ACF Central Office that the options we

proposed in lieu of the proposed legislation will not be acceptable.

We believe, based on the information and instructions given to the Department by ACF, that we do not have any other viable option besides this legislation that will ensure compliance with the requirements of Title IV-E prior to our deadline, at the end of the Legislative session in May.

Thank you for the opportunity to testify