

**SB 131**



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

February 5, 2009

MEMORANDUM

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

FROM: Lillian B. Koller, Director

SUBJECT: S.B. 131, RELATING TO CHILDREN

Hearing: February 5, 2009, Thursday, 1:15 p.m.  
Conference Room 016, State Capitol

**PURPOSE:** The purpose of S.B. 131 is to amend section 587-40, Hawaii Revised Statutes (HRS), by removing the designation of a person employed by the Department in the area of child protective or child welfare services as an expert witness.

**DEPARTMENT'S POSITION:** The Department of Human Services cannot support this bill.

Section 587-40, HRS, provides that the Department's social workers are qualified as expert witnesses to allow the submission of their reports to the court in chapter 587 proceedings. The fact that the Department's social workers are qualified as expert witnesses does not require the court to give their testimony or evidence any added weight. It is simply a vehicle for the Department's social workers to give their opinions as to the allegations of abuse or neglect and submit

their reports to the court and all parties. All of the reports and testimony provided by the Department's social workers are subject to cross examination and if there is a dispute, parties are entitled to a trial.

If the Department's social workers are not automatically qualified as expert witnesses as a class by law, then each time one of our social workers goes to court for a hearing, he or she will have to be qualified in the court proceeding as an expert to ensure that his or her reports, which contain evidence regarding an allegations of child abuse or neglect and other information from the child and other sources can be admitted into evidence.

This means that the court process, which is already backlogged, will slow down even further, there will be delays in hearings and additional hearings will be required. As a result, parents and other parties will have to attend multiple additional hearings and the cost to the courts and the Department will increase. This also means that children will be left in foster care longer and services will be delayed.

If the court process slows down, it will also result in delays in the court's ability to make timely findings and orders that are necessary for the State to claim Title IV-E Federal funds that are used to provide services and treatment to children and families.

Thank you for the opportunity to testify.



*The Judiciary, State of Hawaii*

**Testimony to the Senate Committee on Human Services**

The Honorable Suzanne Chun Oakland, Chair

The Honorable Les Ihara, Jr., Vice Chair

Thursday, February 5, 2009, 1:15 p.m.

State Capitol, Conference Room 016

by

Frances Q. F. Wong

Deputy Chief Judge

First Circuit

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**WRITTEN TESTIMONY ONLY**

**Bill No. and Title:** Senate Bill No. 131, Relating to Children.

**Purpose:** Amends HRS Chapter 587, the Child Protective Act, to remove the existing designation of social worker testimony as expert testimony.

**Judiciary's Position:**

The Judiciary takes no position on Senate Bill No. 131.

However, this bill will increase the amount of time necessary for hearings in HRS Chapter 587 cases but with no additional benefits. It is reasonable to assume that the Department of Human Services will act reasonably in its hiring and training of social workers in this important area. Consequently, requiring extra steps in the court hearings to establish individual social workers' "expertise" will undoubtedly lead to the courts' finding such expertise in nearly all cases.

Perhaps it is important to be aware that, even if a witness is deemed an expert (either by statute, agreement of the parties, or after questioning by the parties), any party can still ask questions about the expert's training, experience, and knowledge. Furthermore, the finders of fact (in these cases, that would be the judge) are always able to give more or less weight to any testimony, whether from an expert or not.

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



For Thurs Feb 5, 2009  
Senate HMS  
1:15 pm

National Association of Social Workers  
Email: info@naswhi.org

Hawaii Chapter  
PH: 521-1787

February 2, 2009

TO: Senator Suzanne Chun Oakland, Chair  
And members of the Senate Human Services Committee  
FROM: Debbie Shimizu, LSW  
National Association of Social Workers, Hawaii  
RE: SB 131 Relating to Children- **OPPOSED**

Chair Chun Oakland and members of the Senate Human Services Committee, I am Debbie Shimizu, Executive Director of the National Association of Social Workers, Hawaii Chapter (NASW). I am testifying in **OPPOSITION** to SB 131 that amends HRS 587-40 to remove the designation of social worker as an expert witness in child protection or child welfare.

In 2005, the Legislature passed Act 238 that established title protection for the social work series in the state system. This act required by 2010, individuals in a "social work" position to have a social work degree and all others to be called "human service professionals". Therefore, a person employed by DHS as a social worker in the area of child protection or child welfare has the education and training of a professional social worker and follows a code of ethics.

Furthermore, NASW established Standards for Social Work Practice in Child Protection. These standards document the ethics, values, knowledge requirements and skills of all social workers engaged in child protective services. They include:

1. Social workers in CPS shall meet the expectations of conduct established by the NASW Code of Ethics
2. Social workers in CPS shall demonstrate, throughout all their child protective tasks and activities, acceptance of specific professional values.
3. Social workers in CPS shall display knowledge basic to the social work profession and an understanding of the social institutions, organizations and resources serving children and families.
4. Social workers in CPS shall possess specialized knowledge and understanding about children and families and about the dynamics of child abuse and neglect.
5. Social workers in CPS shall uphold the authority to protect the child as vested in state law.
6. Social workers in CPS shall demonstrate skills fundamental to the profession of social work.

According to HRS 626 relating to Rules of Evidence, Rule 702 states that "*a witness qualified as an expert by knowledge, skill, experience, training, or education may testify thereto in the form of an opinion or otherwise*". Social workers have the knowledge, skill, experience, training and education to qualify as an expert witness.

Thank you for this opportunity to testify.

Ivan K Kapaona  
85 1299 Kaneaki Street  
Waianae, Hawaii 96792  
(808) 450-4817  
ivankapaona@msn.com

February 4, 2009

Re: Testimonial Opposition of SB No 131

As a parent, a resident of the State of Hawaii, and a member of Parents for Righteousness, Inc., I strongly oppose the proposed bill SB-131 for the following reasons:

- 1) In conjunction of just removing the words "as an expert" will not be beneficial or efficient to prevent improper handling of cases where social workers within the agency classified as "experts" without the full knowledge of their case at hand.
- 2) Denying a social worker's "expertise" is a candid disregard of their education and commitment to their work. I do not deny their expertise nor deny that they are the expertise within their field in collaboration of their additional post-schooling degrees.

However, I do propose the following to be most beneficial and efficient for the agency, the courts, and the families to help unification where is feasible:

- 1) Removing the factor of being an expert in the area of their services to reallocate towards the evidence being presented within cases and hearing under this chapter.
- 2) Including a definition of what is an "Expert" in accordance to the Black's Law Dictionary.
- 3) Including a definition of what is an "Expert Testimony" in accordance to the Black's Law Dictionary.

*Please refer to the Proposed Amendment file*

Thank you,

Ivan K Kapaona

cc: PFR record filing

# William Guzman & Raelene Tenno

February 3, 2009

The Honorable Senator Suzanne Chun Oakland  
Committee on Human Services  
State Capitol  
415 South Beretania Street  
Honolulu, HI 96813

Re: Testimony on SB131 relating to children

Dear Senator Oakland and members of the Committee,

Thank you for this opportunity to testify today on Senate bill 131.

An "expert" testimony should be an unbiased, independent opinion by a person qualified based upon their education, training and hands on professional experiences.

This "expert" must be provided with *all evidence*, to include but not limited to: initial CWS intake reports or complaints and interviews, medical records and evaluations, police reports and Ohana conferencing report.

Under the current law, a person employed by the department as a social worker in the area of child protective or child welfare services is qualified to provide expert testimony according to the evidence being presented under this chapter and within their educational experience and personal knowledge of the case.

As it stands today, a person fresh out of college with a degree in Social Work and hired by the Department of Human Services can be given the case file to review and be called to testify as an "expert". What true life and hands on experience makes this person an expert and would you truly testify against your own employer?

I urge the committee to allow SB131 to pass.

Thank you again for your time and allowing me to testify on SB 131.

Sincerely,

Raelene Tenno

**P.O. Box 283195 Honolulu, Hawaii 96828**  
**808-368-3657**