

JAN 26 2009

A BILL FOR AN ACT

RELATING TO NOTICE OF GUARDIANSHIP PROCEEDINGS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 560:5-113, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) Except as otherwise ordered or waived by the court
4 for good cause, if notice of a hearing on a petition is
5 required, other than a notice for which specific requirements
6 are otherwise provided, the petitioner shall give notice of the
7 time and place of the hearing to the person to be notified.
8 Notice shall be given in compliance with section 560:1-401, at
9 least fourteen days before the hearing[-], provided that notice
10 to parents shall not be required if the parents have been served
11 in a proceeding under chapter 587 and a permanent plan has been
12 ordered."

13 SECTION 2. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY: _____

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BY REQUEST

Report Title:

Guardianship Proceedings; Notice

Description:

Amends section 560:5-113, Hawaii Revised Statutes, to provide that notice to parents shall not be required if the parents have been served in a proceeding under chapter 587, Hawaii Revised Statutes, and a permanent plan has been ordered by the Court.

JUSTIFICATION SHEET

DEPARTMENT: Human Services

TITLE: A BILL FOR AN ACT RELATING TO NOTICE OF GUARDIANSHIP PROCEEDINGS.

PURPOSE: To clarify that notice to parents shall not be required in guardianship proceedings under chapter 560, Hawaii Revised Statutes, if the parents have been served in a proceeding under chapter 587, Hawaii Revised Statutes and a permanent plan has been ordered by the Court.

MEANS: Amend section 560:5-113(a), Hawaii Revised Statutes.

JUSTIFICATION: This legislation is a housekeeping measure to ensure that the Department of Human Services is not required to provide duplicative notice in guardianship proceedings under chapter 560, Hawaii Revised Statutes, to parents whose rights have not been terminated, if they have already been noticed in the chapter 587 proceeding.

Act 106, Session Laws of Hawaii 2007, amended chapter 587, Hawaii Revised Statutes, to allow the Family Court to order legal guardianship without termination of parental rights. A corresponding revision to section 560:5-113(a), Hawaii Revised Statutes, is needed to clarify that notice is not required to be served on persons who are not, and will not, be parties to the guardianship proceedings. Since section 560:5-113(a) still requires such notice, the department cannot proceed with petitions for legal guardianship without providing the currently required notices, even if such notices have already been provided pursuant to chapter 587 proceedings.

Impact on the public: None.

Impact on the department and other agencies:

The Department will not be required to provide duplicative notice to persons who have already been noticed. The cost to publish a notice is approximately \$600 so having to publish a notice twice would double this expense.

Cost savings in staff time and administrative expenses for the department, the Judiciary, and the Department of the Attorney General.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: HMS 301

OTHER AFFECTED
AGENCIES: Judiciary, Department of Attorney General

EFFECTIVE DATE: Upon approval.