



THE JUDICIARY, STATE OF HAWAII

Testimony to the House Committee on Human Services

The Honorable John M. Mizuno, Chair

The Honorable Jo Jordan, Vice Chair

Monday, January 31, 2011, 9:00 a.m.

State Capitol, Conference Room 329

by

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Family Court of the First Circuit

WRITTEN TESTIMONY ONLY

Bill No. and Title: House Bill No. 944, Relating to Family Courts

Purpose: Requires the Court to allow an alleged victim to be listed as "Jane Doe" or "John Doe" within court filings in certain cases of alleged domestic abuse. Also permits the court to seal court records.

Judiciary's Position:

The Judiciary respectfully requests that this bill further clarify the application of "Jane and John Doe" filings. This bill appears to be designed to protect victims' identities from public disclosure. We take no position on this policy issue. However, the public and the Judiciary will need more specific directions. For example, will the defendant or respondent be served with pleadings that do contain the victim's name, so that the defendant/respondent knows the identity of the complainant? Will the existing domestic abuse orders of protection remain public (the victim's name could otherwise be easily traced through the defendant's/respondent's name)? Would this new section apply to any and all pleadings and filings by the victim, such as divorce and paternity actions?

At this time, the family court will, from time to time, exercise its equitable powers to protect persons and children by "sealing" or making confidential selected files which would otherwise be open to the public. This step is not taken lightly and is generally predicated on the possibility of harm to a person or a child. However, the standard of "significant and compelling circumstances" is very high. This section should be clarified to allow the court to exercise this authority with wider discretion.

Thank you for the opportunity to testify on this matter.