



*The Judiciary, State of Hawaii*

**Testimony to the House Committee on Judiciary**  
The Honorable Gilbert S.C. Keith-Agaran, Chair  
The Honorable Karl Rhoades, Vice Chair

Tuesday, March 29, 2011, 3:30 p.m.  
State Capitol, Conference Room 325

By

Lori M. Okita  
Interim Deputy Chief Court Administrator  
First Circuit

**WRITTEN TESTIMONY ONLY**

---

**Bill No. and Title:** Senate Bill No. 946, SD1, Proposed HD1. Relating to the Judiciary.

**Purpose:** Permits a court to allow a petition, complaint, motion, or other document to be filed by the plaintiff identifying the parties as "jane doe" or "john doe"; permits a court to use a multi-factor balancing test when determining if an anonymous filing is appropriate. Permits a court to allow a petitioner to be listed as "jane doe" or "john doe" within court filings when petitioning for a temporary restraining order or an injunction from further harassment; provided that the court determines it would be necessary to protect the privacy of the petitioner. Also permits courts to seal court records associated with the "jane doe" or "john doe" filing under certain circumstances. Effective 1/7/2059.

**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 plaintiff's/petitioner's 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:

1. Will the defendant/respondent be served with pleadings that do contain the plaintiff's/petitioner's name, so that the defendant/respondent knows the identity of the plaintiff/petitioner?
2. Following service, in District Court TRO matters, for example, how will the respondent know from whom to stay away?

**LATE TESTIMONY**



Senate Bill No. 946, SD1, HD1, Relating to the Judiciary  
House Committee on Judiciary  
March 29, 2011  
Page 2

3. In District Court TRO matters, for example, how will law enforcement know the petitioner's identity to serve and/or enforce the TRO or protective order?

Currently, the courts do, from time to time, exercise its equitable powers to protect persons and entities by "sealing" or making confidential selected files and documents that would otherwise be open to the public.

The Judiciary needs further clarification regarding the specific intent of this bill. If the intent is to protect the current whereabouts of someone being stalked by a family or household member, the Family Court already routinely allows petitioners to keep their addresses confidential on their pleadings. If the intent is to protect the privacy of the petitioners' identity from the public in non-confidential cases, that too is currently being allowed at the courts' discretion in appropriate cases by rendering the file confidential or "sealing" a particular document or pleading.

Whether the intent is to hide the whereabouts of a petitioner or to protect a petitioner from public view, the courts are already currently responding to these concerns in appropriate cases. The Judiciary is therefore confused about the specific aim of this bill.

Thank you for the opportunity to testify on this matter.