

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 14, 2011 2:15 PM
To: JUDtestimony
Cc: atg.legcoordinator@hawaii.gov
Subject: Testimony for HB1064 on 2/15/2011 2:00:00 PM
Attachments: HB1064_ATG_02-15-11_JUD.pdf

Testimony for JUD 2/15/2011 2:00:00 PM HB1064

Conference room: 325
Testifier position: support
Testifier will be present: Yes
Submitted by: Joshua Wisch
Organization: Department of the Attorney General
Address:
Phone:
E-mail: atg.legcoordinator@hawaii.gov
Submitted on: 2/14/2011

Comments:

Jay Goss or Mary Anne Magnier, Deputy Attorneys General, will be present at the hearing to testify.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SIXTH LEGISLATURE, 2011**

ON THE FOLLOWING MEASURE:

H.B. NO. 1064, RELATING TO CHILD PROTECTIVE ACT COURT
PROCEEDINGS.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY

DATE: Tuesday, February 15, 2011 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): David M. Louie, Attorney General, or
Jay K. Goss, Deputy Attorney General

Chair Keith-Agaran and Members of the Committee:

The Department of the Attorney General supports this bill. These changes to the Child Protective Act, chapter 587A, Hawaii Revised Statutes, were drafted last year by a committee convened by the Family Court that included representatives of the Family Court, the Department of Human Services, the Legal Aid Society of Hawaii, and the Department of the Attorney General, as well as members who have practiced as attorneys representing parents and guardians ad litem for children. The committee also worked closely with Joanne Brown, from the National Resource Committee on Legal and Judicial Issues, to ensure compliance with the Adoption and Safe Families Act (ASFA) and the Child Abuse Prevention and Treatment Act (CAPTA). After the statute was enacted last year, the committee continued to meet and discuss possible changes that should be made to make the statute work more efficiently, clarify certain issues, and ensure continued compliance with federal laws.

Section 2 of this bill amends section 587A-5, Hawaii Revised Statutes, to clarify that open cases that were previously filed under the former Child Protective Act, chapter 587, are governed by the provisions chapter 587A.

Section 3 amends section 587A-27(a)(2), Hawaii Revised Statutes, to clarify that the reference to an ohana conference in a service plan is to facilitate family finding and family group decisionmaking, not fact finding. The ohana conference program is a program to engage the family in providing solutions and recommendations in a chapter 587A proceeding, and the program does not engage in fact finding.

Section 4 amends section 587A-28(e)(4)(A)(ii), Hawaii Revised Statutes, to make the court process consistent with federal law after a finding of "aggravated circumstances." This section makes it clear that even if there is a finding of "aggravated circumstances," the Department of Human Services is not required to file a motion to terminate parental rights if there are "compelling reasons" why such a motion would not be in the best interests of the child.

Section 5 amends section 587A-30, Hawaii Revised Statutes, to clarify the procedures to take place during periodic review hearings. Section 587-30(a), Hawaii Revised Statutes, is amended to clarify that, if a child is under the permanent custody of the Department of Human Services, or another authorized agency, the appropriate hearing to take place is a permanency hearing pursuant to section 587A-31, Hawaii Revised Statutes, and not a periodic review hearing. Section 587-30(b)(1) is amended to clarify the criteria the court must use in determining whether a child should be placed out of the home under foster custody, whether a child should be left in the home with court supervision under family supervision, or whether the court should terminate jurisdiction and close the case. Finally, section 587A-30(c) and (d) is amended to make clear that should a party decide that termination of parental rights is an appropriate goal, it is not a requirement that it be a

two-step process and the party can file a motion to terminate parental rights without first having to file a motion to set a hearing for the motion to terminate parental rights.

Section 6 amends section 587A-31(a) to provide that if a child is under the permanent custody of the Department of Human Services or another authorized agency, a permanency hearing must be held at least once every six months. Like the previous section, section 587A-31(g) and (h) is amended to make clear that a party can file a motion to terminate parental rights without first having to file a motion to set a hearing for the motion to terminate parental rights.

Section 7 also amends section 587A-33(i) to make clear that a party can file a motion to terminate parental rights without first having to file a motion to set a hearing for the motion to terminate parental rights.

Section 8 amends section 587A-34(e) to clarify that if the court orders a "trial home placement" prior to a full reinstatement of parental rights, either the Department of Human Services or other authorized agency continues to maintain the status of permanent custody until the parental rights are fully reinstated.

We respectfully ask this Committee to pass this bill.

JUDtestimony

From: Marvin.H.Nakagawa@courts.state.hi.us
Sent: Saturday, February 12, 2011 4:55 PM
To: JUDtestimony
Subject: Testimony to House JUD for HB1064 on 2/15/11
Attachments: HB1064(JUD).pdf

Attached please find testimony from the Hawaii State Judiciary:

TESTIFIER: Sabrina S. McKenna, Deputy Chief Judge / Senior Family Court Judge (Written Only)
COMMITTEE: House Committee on Judiciary
HEARING DATE: Tuesday, February 15, 2011, 2:00 p.m.
MEASURE NO: HB1064, Relating to Child Protective Act Court Proceedings
NO. OF COPIES: 3



THE JUDICIARY, STATE OF HAWAII

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

Tuesday, February 15, 2011, 2:00 p.m.
State Capitol, Conference Room 325

by
Sabrina S. McKenna
Deputy Chief Judge/Senior Family Court Judge
Family Court of the First Circuit

WRITTEN TESTIMONY ONLY

Bill No. and Title: House Bill No. 1064, Relating to Child Protective Act Court Proceedings

Purpose: To ensure that the child protective act hearings in HRS Chapter 587A are consistent with federal Title IV-E provisions.

Judiciary's Position:

The Judiciary respectfully supports this bill. Although it is the Judiciary's usual practice to refrain from taking a position on policy or substantive bills, the family court was instrumental in organizing the task force whose work resulted in the major overhaul of HRS Chapter 587 by the 2010 Legislature. In fact, after the passage of last year's bill, the task force decided to remain together for the purpose of evaluating the new law and to work together on the inevitable oversights and omissions.

This bill clarifies certain existing language. It also clears up an unintended ambiguity regarding the effect of the new law on existing cases, that is, cases that were filed and adjudicated under last year's law (see page 2, subsection (2), lines 10 to 11).

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

JUDtestimony

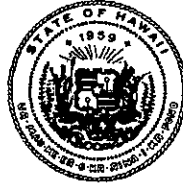
From: SYamamoto2@dhs.hawaii.gov
Sent: Monday, February 14, 2011 12:32 PM
To: JUDtestimony
Subject: Testimony for HB1064 Tuesday 02-15-11 2:00 pm House Judiciary
Attachments: HB1064_HMS_02-15-11_JUD.pdf

Testimony for HB1064
Hearing: Tuesday 02-15-11 2:00 pm House Judiciary Room 325

From: Patricia McManaman
Interim Director
Department of Human Services

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

February 15, 2011

TO: The Honorable Gilbert S.C. Keith-Agaran, Chair
House Committee on Judiciary

FROM: Patricia McManaman, Interim Director

SUBJECT: **H.B. 1064 - RELATING TO CHILD PROTECTIVE ACT COURT
PROCEEDINGS**

Hearing: Tuesday, February 15, 2011; 2:00 p.m.
Conference Room 325, State Capitol

PURPOSE: The purpose of H.B. 1064 is to ensure that child protective act hearings in chapter 587A, Hawaii Revised Statutes, are consistent with federal Title IV-E provisions.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) strongly supports this Administration bill. This legislation is necessary to ensure that Hawaii's laws relating to child protective proceedings are consistent with federal Title IV-E provisions.

The 2010 Hawaii State Legislature passed S.B. 2716, S.D. 2, H.D. 2, C.D. 1, which was enacted as Act 135, Session Laws of Hawaii 2010, and codified as chapter 587A, Child Protective Act, Hawaii Revised Statutes. Act 135 was a comprehensive update of chapter 587, the former Child Protective Act, Hawaii Revised Statutes, which was repealed. The provisions of Act 135 ensured the State's compliance with federal

Title IV-E requirements so that Hawaii remains eligible for approximately \$40,000,000 in annual federal funding.

However, subsequent to the enactment of the statute, it was discovered that some of the language in the statute is not clear or consistent with federal requirements...

Accordingly, it is necessary to make technical, clarifying changes to the statute to further ensure consistency in practice and compliance with federal Title IV-E requirements.

The statutory changes being proposed are in collaboration with the Department of the Attorney General and the Judiciary.

Thank you for the opportunity to testify.