

Testimony for JUD 3/2/2011 2:05:00 PM HB1407

Conference room: 325
Testifier position: oppose
Testifier will be present: No
Submitted by: Tania Mahoni
Organization: Individual
Address:
Phone:
E-mail: Polynesianart@gmail.com
Submitted on: 3/2/2011

LATE TESTIMONY

Comments:
I appose this strongly appose this bill.



Testimony for HB1407 on 3/2/2011 2:05:00 PM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Wednesday, March 02, 2011 11:29 AM

To: JUDtestimony

Cc: sa7ma@aol.com

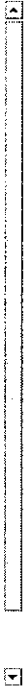
LATE TESTIMONY

Testimony for JUD 3/2/2011 2:05:00 PM HB1407

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Sandra Heu
Organization: Individual
Address:
Phone:
E-mail: sa7ma@aol.com
Submitted on: 3/2/2011

Comments:

In 1979 I located my birth family by a Judge ordering my file to be opened. My mother was in need of help & I also located my dad. We all continue to have a relationship. When I got my passport, because of the discrepancy of dates they asked for my original birth certificate which I was able to provide.



Testimony for HB1407 on 3/2/2011 2:05:00 PM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Wednesday, March 02, 2011 11:42 AM

To: JUDtestimony

Cc: FRohlfing@caselombardi.com

LATE TESTIMONY

Testimony for JUD 3/2/2011 2:05:00 PM HB1407

Conference room: 325
Testifier position: oppose
Testifier will be present: No
Submitted by: Frtiz Rohlfing
Organization: Individual
Address:
Phone:
E-mail: FRohlfing@caselombardi.com
Submitted on: 3/2/2011

Comments:
TESTIMONY IN OPPOSITION TO HOUSE BILL 1407,
A BILL FOR AN ACT RELATING TO ADOPTION RECORDS

Frederick W. Rohlfing III, Esq.
737 Bishop Street, Suite 2600
Honolulu, Hawaii 96813
Telephone: (808) 547-5400

HOUSE COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS
Gilbert S.C. Keith-Agaran, Chair
Karl Rhoads, Vice Chair

Wednesday, March 2, 2011
2:05 p.m., House Conference Room 325

Good afternoon, Chair Keith-Agaran and Vice Chair Rhoads and Members of the Committee.

Thank you for the opportunity to testify. I oppose the passage of HB 1407.

I am an attorney in private practice. As an attorney, I have assisted several adoptive parents with adoptions.

HB 1407 would:

1. Require that the names of the natural parents be included in the new birth certificate for the adopted child. See Section 1 amending HRS § 578-14. Currently, the natural parents are not included in the new birth certificate unless the adoptive parents request that the names of the natural parents appear on the new birth certificate.

2. Eliminate the requirement that the natural parents or the adoptive child first show "good cause" to the Family Court before being allowed to inspect the Family Court's sealed adoption records. See Section 2 amending HRS § 578-15(b)(1).

3. Eliminate the current right and privilege of natural parents to maintain their anonymity after the adopted child attains the age of eighteen. See Section 2 amending HRS § 578-15(b)(3).

These changes will eliminate the option currently available to the natural parents of an adoptive child of remaining anonymous to the child. This will inevitably discourage natural parents who desire anonymity from putting their child up for adoption in the first place, thereby reducing the number of children available for adoption. It is difficult to understand why this Honorable Committee would want to discourage adoptions from taking place by recommending passage of HB 1407.

I therefore ask this committee vote to defer HB 1407.

Thank you.

Testimony for HB1407 on 3/2/2011 2:05:00 PM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Wednesday, March 02, 2011 12:03 PM

To: JUDtestimony

Cc: cryssiberry@gmail.com

LATE TESTIMONY

Testimony for JUD 3/2/2011 2:05:00 PM HB1407

Conference room: 325
Testifier position: oppose
Testifier will be present: No
Submitted by: Cryssandra Berry
Organization: Individual
Address:
Phone:
E-mail: cryssiberry@gmail.com
Submitted on: 3/2/2011

Comments:

I strongly oppose HB 1407 as it eliminates the option for confidentiality and privacy in a legal procedure. Birth-parents should have the right to choose to seal or unseal their records and whether their names should be included on the adopted child's birth certificate. Privacy in adoption cases should be an option for all involved.

Testimony for HB1407 on 3/2/2011 2:05:00 PM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Wednesday, March 02, 2011 12:05 PM

To: JUDtestimony

Cc: sheagrimm@hotmail.com

Attachments: testimony.txt (9 KB)

LATE TESTIMONY

Testimony for JUD 3/2/2011 2:05:00 PM HB1407

Conference room: 325

Testifier position: support

Testifier will be present: No

Submitted by: Shea Grimm

Organization: Individual

Address:

Phone:

E-mail: sheagrimm@hotmail.com

Submitted on: 3/2/2011

Comments:

I am an adopted individual and Hawaii resident who writes to you today in full-throated support of HB 1407, as written.

After finding my birthparents as a young adult (like tens of thousands of adoptees, I found them despite the sealed records bureaucracy), I became interested in unsealing records from the perspective of simple dignity, due process, and the equal protection of the law. The United States remains one of the last countries to routinely seal adoption records and keep them closed from the very people who are parties to the adoption. In a handful of states (Alaska, Kansas, Oregon, Alabama, and Maine), the original, unaltered birth certificate is available to adult adoptees upon request, unconditionally.

In 1998, I co-wrote and fought for passage of Measure 58 in Oregon, a ballot measure that provided for unconditional access to one's unaltered original birth certificate upon request by an adult adopted person. It passed overwhelmingly, survived a legal challenge, and for more than ten years has been the law of the land in Oregon. Despite the fears of some, abortion rates have not increased, adoption rates have not gone down, and there have been no reports of adoptees harassing or stalking their birthparents. After Measure 58 passed, two more states opened their records unconditionally to adult adoptees through the legislative process (Alabama and Maine). (Kansas and Alaska never sealed their records). There is enough data from these states to completely dispense with the notion that opening records to adult adoptees somehow alters the "attractiveness" of adoption, for any of the parties.

While certainly some people will use the opportunity afforded by an open records law to search for and find their birthparents, most adoptees are able to do so despite the sealed records laws already in place. One only has to turn on the television to see a myriad of talk shows and reality TV shows showcasing reunions. This bill is really much more about ending the destructive practice of secrecy, and introducing transparency and dignity into the adoption process. No one should have anything to feel ashamed about when it comes to adoption; not the adoptive parents, nor the birthparents, and certainly not the adopted person.

I read with interest the testimony submitted by the Hon. Sabrina McKenna, who expressed concern that the parties' "right to privacy" might be affected by passage of 1407. I respectfully disagree. Existing Hawaii law is somewhat unique in that it is adoptive parents who have been given the statutory prerogative to keep or remove the birthparents names from the amended birth certificate (a provision HB 1407 would dispense with). It does not follow that an adoptive parent would have a constitutional right to hide the fact of the adoption and the identity of one's birthparents from an adopted person. With respect to alleged birthparent privacy, it is clear from research that the entire legislative intent of sealed records was to protect the adoptive parents; not the adoptee nor the birthparents. This is obvious when one considers that records are only sealed and amended upon adoption, not upon relinquishment. Birthparents who relinquish into foster care, and their children, have no sealed or altered records.

While it is my reading of HB 1407 that the new provisions regarding the issuance of amended birth certificates would be prospective only, the access provisions would and should apply to all adoptions. Existing state law creates a cumbersome multi-tiered maze respecting access depending on when the adoption was finalized. Adding yet another tier, as suggested by the Judiciary's testimony, is unnecessary and undesirable. As set forth above, relinquishing birthparents are entitled to no legal assurance of 'privacy', given the way in which records are sealed (upon adoption rather than upon relinquishment).

Moreover there is no legal basis for Justice McKenna's claim that birthparents have a constitutional right to privacy that would give them the constitutional right to keep their identities from the children they bear, or to keep the original records of birth from the people to whom they primarily pertain. On the contrary, case law has decidedly determined just the opposite. With respect to Oregon's ballot Measure

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58, legal action challenging the law was dismissed, with the trial court concluding that "...this court may not set aside Measure 58 unless it runs afoul of the Oregon or United States Constitutions. It is my conclusion that it does not... Even assuming birth records to be an intimate personal matter, the effect of Ballot Measure 58 is only to give access to the person born, not to the general public. And significantly, there was no privacy or confidentiality at all which was attached to adoption records at the time of the enactment of either Constitutions." The Oregon Court of Appeals affirmed the lower court's decision, holding that birth mothers have no constitutional guarantee of privacy regarding the fact that they relinquished a child, despite promises they may have received that their identities would be protected. *Does v. State of Oregon*, 164 Or.App. 543, 993 P.2d 833, 834 (1999). In Tennessee, a legal challenge in federal court to that state's semi-open records bill on right to privacy grounds failed, the court concluding that "The Act does not directly impinge upon birth parents' rights to subsequently marry, have, and raise children as they see fit, or upon adoptive parents' right to raise their adoptive children as they see fit. Thus, the Act does not fall within the scope of a Constitutional right to familial privacy and autonomy as deemed by case law." *Doe v. Sundquist*, 943 F. Supp. 886, 893-94 (M.D.Tenn. 1996).

All citizens have a right to privacy, and existing anti-harassment laws protect all people from unwanted relationships. There is no compelling State interest in imposing special conditions upon adopted persons with respect to accessing the records of their own birth. I do applaud and concur with Justice McKenna, however, on the general proposition that all parties to an adoption should have access to their birth and adoption records, even if we disagree as to whether the access provisions should be retroactive.

It is noteworthy that the practice of amending birth certificates and sealing adoption records has come under increased scrutiny in the aftermath of 9/11. With respect to passport applications (the Constitutional right to travel), the State Department has taken the position that if one's birth certificate is dated more than one year after one's birth, additional documentation (such as a name change order or adoption decree) must be provided explaining the delay. Of course for the vast majority of adoptees, even those adopted at birth, the amended birth certificate is issued more than one year after birth as a result of the waiting periods and judicial delays in finalizing adoptions (which is when the record is sealed, and the amended birth certificate issued). I receive emails and Facebook messages from dozens of adoptees each year who cannot get a passport because of their delayed amended birth certificates, with no access to any adoption records to explain the delay. Many of these adoptees have found or been found by their birthparents, and still the laws do not provide for them to gain access to their records. In addition, many states DMVs are adopting regulations similar to the State Department's, with the resulting consequence that individuals with delayed birth certificates are being denied drivers licenses. (see http://travel.state.gov/passport/get/first/first_830.html for the State's Department's position regarding delayed birth certificates).

It is long overdue not only for Hawaii, but all other states, to amend their outdated practices of altering and sealing birth records of adopted people. Search and reunion will always be a complicated issue. Some reunions will be successful, some will not, but that process will continue regardless of whether or not HB 1407 passes. But we must amend our laws to comport with basic human rights, dignity and the right to the equal protection of the law for all adopted persons and their parents; adoptive and birth. In this respect, I must applaud particularly the provision in HB 1407 that would put both the adoptive parents names and either or both of the birthparents names, on the amended birth certificate for all adoptions moving forward. This practice would honor adoption, not cloak it unnecessarily in outdated notions of shame.

While my support for the bill as written is unconditional, I must wholeheartedly object in advance, and would no longer support the bill, should it be amended to include vetoes to access by any of the parties. All parties to the adoption should

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have unconditional access to the adoptee's unaltered original birth certificate. As a Hawaii resident, I applaud the introduction of this simple, sane, dignified approach to remedying the deep flaws in Hawaii's current adoption records laws.

Testimony for JUD 3/2/2011 2:05:00 PM HB1407

Conference room: 325

Testifier position: oppose

Testifier will be present: No

Submitted by: Haley Osburn

Organization: Individual

Address:

Phone:

E-mail: hawaii_haley@hotmail.com

Submitted on: 3/2/2011

LATE TESTIMONY

Comments:

I strongly opposed HB 1407. It completely removes confidentiality and privacy for birthparents. Birthparents should be given the right to keep their records closed if they want to. Their names should not be on the birth certificate of the child they have placed for adoption. My sister has recently adopted a child, and the birthmother had chosen to have a closed adoption. There were many reasons why she had decided to do a closed adoption instead of an open one for many personal reasons. I believe those desires of birthparents should be respected. We should all have the right of privacy, especially when it deals with something as precious as a child's life. It is appalling that such an invasive bill would be passed, especially when the outcome could lead to fewer adoptions and may result in an increase in abortions.

House Judiciary Committee hearing March 2nd, 2:05 pm, room 325

HB 1407, re Adoption Records

To: Representative Keith-Agaran, Chair of the Judiciary Committee
and other Committee members

TESTIMONY

Please support HB 1407, which will allow adoptees 18 years old or older access to their own adoption records.

Among many reasons to support this bill:

Adults adopted as children no longer need protection. As autonomous adults, they can decide for themselves what is in their best interests.

Denying adult adoptees their birth information raises significant civil rights concerns, as all other Americans have access to their own birth records.

Please support HB 1407.

Renie Lindley P.O. Box 765 Haleiwa HI 96712

Darlene Rodrigues 94-338 ULUKOAST MILILANI 96789

Melissa Wood 1967 Naio St. Honolulu HI 96817

Kyle Kojihoro 657 Hansten St Apt B Honolulu HI 96826

Kepa Akana 449 Kawaihale St. Hon HI 96825

Edgar Lyle 55 S. Kukui St., Apt. D714, Honolulu, HI 96813

Jeffrey Acido 1122B Richard Lane Honolulu, HI 96819

Stephen Dinion (adoptee) 1441 Victoria St. #505 Honolulu, HI 96822

House Judiciary Committee hearing March 2nd, 2:05 pm, room 325

HB 1407, re Adoption Records

LATE TESTIMONY

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and other Committee members

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Please support HB 1407.

Sincerely,

TED TALBOT CPA KANEONE
(Honolulu Friends Meeting) Adoptive Father

House Judiciary Committee hearing March 2nd, 2:05 pm, room 325

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and other Committee members

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Please support HB 1407.

Sincerely,

M. J. Jones MD
Adoptive mother
(Honolulu Friends Meeting)

House Judiciary Committee hearing March 2nd, 2:05 pm, room 325

HB 1407, re Adoption Records

LATE TESTIMONY

To: Representative Keith-Agaran, Chair of the Judiciary Committee
and other Committee members

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Please support HB 1407.

Sincerely,

Annie K. Wosch

Ramona Hursey, PO Box 61951, Honolulu, HI 96839

(Honolulu Grand Meeting)