



HB2426
RELATING TO CHILD VISITATION
House Committee on Human Services

February 2, 2012

8:30am

Room: 329

The Office of Hawaiian Affairs (OHA) offers the following comments on HB2426, which would permit family court to award reasonable visitation to grandparents if denial of visitation would cause significant harm to the child. The bill establishes a rebuttable presumption that visitation decisions made by a parent are in the best interests of the child and that it may be rebutted by clear and convincing evidence. It also identifies factors the court may consider in awarding visitation.

This measure is a step in the right direction to address and clarify current grandparent visitation statutes. For Native Hawaiian families it is a cultural practice to care for family members and minor children. Often times, it is customary for grandparents to adopt or hānai their grandchildren. When a grandparent adopts their grandchildren it is an opportunity for family customs and traditions to be passed down to future generations. At the same time, it provides stability to their grandchildren. Although it is culturally appropriate for grandparents to have a relationship with their grandchildren, our primary concern is in the best interest of the child. And we encourage that the committee consider all possible safeguards to ensure the protection of the child.

Mahalo nui for the opportunity to testify.

LATE Testimony

Testimony for HUS 2/2/2012 8:30:00 AM HB2426

Conference room: 329
Testifier position: Oppose
Testifier will be present: Yes
Submitted by: Scott Wall
Organization: Individual
E-mail: robertscottwall@yahoo.com
Submitted on: 2/2/2012

Comments:

I don't believe that the State has any place in the middle of familial disputes.

LATE Testimony

Testimony for HUS 2/2/2012 8:30:00 AM HB2426

Conference room: 329

Testifier position: Comments Only

Testifier will be present: No

Submitted by: Dara Carlin, M.A.

Organization: Individual

E-mail: breaking-the-silence@hotmail.com Submitted on: 2/1/2012

Comments:

Good Morning Representatives and my apologies for this late testimony.

I am in general support of this bill but just wanted to know if you might be able to add "or family court order" to section (9).

Domestic violence abusers are master manipulators who actually seek victim status post-separation and the only allegiance they have is to themselves - even if it comes at the expense of their own parents. Here's a real-life example:

The abuser has Wednesday night visitation through a family court order with a return time of the children by 6:00pm. At 5:45pm, the abuser has his parent call the survivor to say "We're having such a good time, we think you should be reasonable and give us until 8:00pm";.

Now what?

If the survivor abides by the terms of the court order that the grandparents are not subject to, she looks terrible by sticking to the order by depriving the grandparents of time with their grandchildren REGARDLESS that the abuser is with them. The only way to enforce the family court order at that point is to call the police - but you're going to call the police on grandparents who aren't on the order? If the survivor "lets it go" SHE'S ALLOWED the court order to be violated so is no better than the abuser; essentially by being compassionate, the survivor could be held accountable in family court proceedings.

Since the grandparents are not a part of nor subject to the family court order "no harm not foul" towards them or the abuser, but the survivor is now not as honest as she seems.

An abuser can enlist his parents - knowingly or unknowingly - into violating court orders that legally don't pertain to them and there's absolutely NOTHING the survivor can do about it (and even if she did try to do something about it, she'll come across as vindictive, unnecessarily punitive and uncaring). THIS is the kind of manipulation that abuser's do and get away with while (many times) the abuser's parents have absolutely NO awareness of the deceit or their part in the abuser's game. For those grandparents who choose to knowingly and willingly disregard family court orders, consequences should follow - not a reward - and role modeling this kind of rule-breaking behavior is completely unhealthy and dysfunctional for children of any age.

Please don't get me wrong - if it weren't for my grandmother, I wouldn't be who I am today and did not have a parent who supported my relationship with her so again, I'm all for the intent of this bill BUT I must forewarn that there are experiences beyond mine that I have witnessed as an advocate that are far from appropriate. Adding "or family court order" should adequately address these concerns.

Thank you for your time and consideration.

Respectfully,

Dara Carlin, M.A.
Domestic Violence Survivor Advocate