



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, March 12, 2012, 8:30 a.m.

State Capitol, Conference Room 329

by

R. Mark Browning

Deputy Chief Judge/Senior Judge

Family Court of the First Circuit

Bill No. and Title: Senate Bill No. 2318, S.D. 1, Relating to Adult Guardianship and Protective Proceedings Jurisdiction.

Purpose: Adopts the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act to ensure that only one State has jurisdiction at any one time. Contains specific guidelines to specify which court has jurisdiction to appoint a guardian or conservator for an incapacitated adult. Prioritizes the states that may claim jurisdiction.

Judiciary's Position:

The Judiciary takes no position on the merits of Senate Bill No. 2318; however, we respectfully offer the following comments and concerns:

This bill may not be necessary and may subject families and guardians to increased complexity and procedure. For example, under Hawaii law, the circuit court has jurisdiction over protective proceedings and the family court has jurisdiction over guardianship proceedings. (HRS Section 560:1-302). Hawaii law defines "protective proceeding" as a "proceeding held pursuant to part 4 of article V" (of the Uniform Probate Code- HRS Chapter 560). Part 4 relates to the protection of property of protected persons. Under the uniform law, which is the subject of this bill, "protective proceeding" is defined as "a judicial proceeding in which a protective order is sought or has been issued."(p.3, lines 1-2)



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Currently, families are able to seek guardianship for challenged minors before they turn 18 years of age, thus providing seamless protection after the minor reaches the age of majority. This bill appears to not allow that as it defines an "incapacitated person" as an adult (p.2, lines 8-9).

In addition, we also have concerns with regard to its potential negative impact to judicial operations. As currently drafted, this measure would require changes to court policies, procedures, and rules. In light of the budget shortages caused by the current economic downturn, the Judiciary is concerned that the additional work this measure might create would consume valuable and limited staff resources.

Thank you for the opportunity to testify on this measure

NEIL ABERCROMBIE
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Committee on Human Services

**SB2318, SD1, RELATING TO ADULT GUARDIANSHIP AND PROTECTIVE
PROCEEDINGS JURISDICTION**

**Testimony of Wes Lum
Director, Executive Office on Aging
Attached Agency to Department of Health**

Monday, March 12, 2012; Conference Room 329

8:30 a.m.

1 **EOA's Position:** The Executive Office on Aging (EOA) supports this measure.

2 **Purpose and Justification:** This measure addresses the challenges Hawaii has encountered in
3 dealing with interstate guardianship issues since the enactment of the Uniform Adult Guardianship
4 and Protective Proceedings Jurisdiction Act (UAGPPJA). The measure has received the support
5 of the Alzheimer's Association, the National Academy of Elder Law Attorneys, and the American
6 Bar Association's Commission on Law and Aging.

7 In this age of long distance caregiving, the challenges of legal jurisdiction and the
8 provision of care are a common place. This measure will address the determination of which state
9 has jurisdiction to appoint a guardian, transfer guardianship from one state to another, and
10 recognize guardianship orders from another state. The enactment of the UAGPPJA will address
11 the financial and emotional impact that caregivers face when dealing with interstate guardianship
12 situations. Thank you for the opportunity to testify.