

SB3008



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TESTIMONY IN SUPPORT OF
SB3008 - RELATING TO FAMILY COURT

Committee on Judiciary and Labor
Senator Clayton Hee, Chair
Senator Maile Shimabukuro, Vice-Chair

February 3, 2012 at 10:00 a.m.

The Legal Aid Society of Hawaii submits testimony in support of SB3008 – Relation to Family Court. This bill would allow posting as an alternative to serving notice by publication for impoverished litigants in all family court matters after a due and diligent search for the defendant. This bill would extend current provisions which allow impoverished litigants in divorce actions to serve by posting in lieu of publication to all family court matters.

Last year, Legal Aid represented over 450 families and children in family law matters. For many of these families, finding the defendant in the case can be difficult. It can be a father who was never part of a child's life, a mother who left the child in the care of her sister and then disappeared, or it could be a grandparent whose whereabouts are just unknown. Under current statutes, if you are unable to locate any of these defendants in actions other than divorce, you must pay to publish notice in a newspaper which circulates in the county of the impending action.

For an impoverished litigant, finding the funds to pay for publication is already difficult. However, recent increases to publication rates have now made it almost impossible. For example, last June, we received a quote for a notice in an adoption case – this quote with all of the required legal language was \$580.10. However, in January 2012, we received a quote for a similar notice, this time the cost for slightly less space was \$1,523.56 (approximately half of the monthly income for a family of five who live under 125% of the federal poverty guideline). In a guardianship case, a notice currently costs \$1,020.95.

This legislation would help alleviate this burden of publication and make it more accessible for:

- grandparents who are caring for their mo'opuna and need guardianship to get the child onto their health insurance, but cannot find the mother;
- a mother who needs to register her child in school, but does not have legal custody and does not know where the father of the child is;
- an aunt and uncle who want to adopt their niece who has lived with them since birth and wants to be part of their family, but they have no idea who the niece's father is or where he can be found

These are families who are trying their best to care for children and should be barred from doing so because they cannot afford the cost to publish notice. We encourage you to pass this legislation to help these families and children.

Thank you for this opportunity to provide testimony.

Sincerely,

M. Nalani Fujimori Kaina
Executive Director

The Legal Aid Society of Hawaii (Legal Aid) is the only legal service provider with offices on every island in the state, and in 2011 provided legal assistance to over 10,000 Hawai'i residents in the areas of consumer fraud, public assistance, family law, the prevention of homelessness, employment, protection from domestic violence, and immigration. Our mission is to achieve fairness and justice through legal advocacy, outreach and education for those in need.