

Testimony of  
Sharon Y. Moriwaki  
Associate  
Senate Committees on Human Services and Judiciary & Labor  
Tuesday, March 19, 2013 1:30 p.m.  
Conference Room 016

**SUPPORT OF HB 1137 HD1, Relating to Family Court**

I am Sharon Y. Moriwaki, former Administrative Director of the Courts, Hawaii State Judiciary, and current facilitator of the legal interventions in the family court working group. Established by the Senate in 2004 and continuing to meet voluntarily with Senator Chun Oakland, the Working Group represents over 20 public and non-profit organizations and individuals who are interested in helping the family court more effectively advance the interests of families and children relating to child custody evaluations. The Working Group is committed to supporting the Judiciary and the public it serves by furthering policies that are in the best interest of both the court and or residents. HB 1137, HD1 fulfills this objective.

HB 1137, HD1 clarifies the appointment requirements and qualifications of child custody evaluators (CCEs), requires the Judiciary to maintain a registry of CCEs and their qualifications, and establishes a process to address complaints against CCEs.

The legislature initially called upon the Judiciary to develop child custody evaluation standards of practice and procedures in 2008 (Act 149, SLH 2008). The Judiciary, however, in its report (*Child Custody Advisory Task Force Report*, December 2008), declined to make recommendations, stating that demand was insufficient to warrant developing minimal requirements, maintaining a list of available custody evaluators, and administratively monitoring and processing complaints relating to child custody evaluators.

On July 31, 2009, the Legislative Reference Bureau submitted a memorandum on child custody evaluator laws and programs in other states, recommending that "Inasmuch as the Judiciary has declined to fulfill ...[Act 149] requirements, the Legislature may wish to consider adopting further legislation to establish requirements for the child custody evaluator program based on the provisions found in statutes and court rules in other states."

The Working Group met again in 2012 to address the lack of standards or accountability in the use of CCEs in contested custody cases. It looked to other jurisdictions and sought to resolve the Judiciary's concerns. The result is HB 1137, HD1.

Based on the hundreds of hours of work and negotiations by committed and concerned organizations and individuals who contributed to this measure, I respectfully request that your committees advance HB 1137, HD1, and support its passage.

Thank you for the opportunity to testify.



*Institute on Violence, Abuse and  
Trauma (IVAT)*

**at Alliant International University**

10065 Old Grove Rd, Suite 101

San Diego, CA 92121

(858) 527-1860 x4050

(858) 527-1743 Fax

www.ivatcenters.org

ivat@alliant.edu



*Promoting Violence Free Homes, Communities, and Societies*

Testimony of  
Robert Geffner, Ph.D

Senate Committees on Human Services and Judiciary & Labor  
Tuesday, March 19, 2013 at 1:30 p.m., Room 016

**COMMENTS ON HB 1137 HD1, Relating to Family Court**

Chairs, Vice Chairs, and committee members, thank you for this opportunity to provide testimony and information with respect to HB 1137 HD1, relating to family court, and more specifically child custody evaluator standards.

I am Dr. Robert Geffner and am the Founding President of the Family Violence and Sexual Assault Institute in San Diego, CA; Founding President of Alliant International University's (AIU) Institute on Violence, Abuse and Trauma (IVAT); Distinguished Research Professor of Psychology at AIU; Licensed Psychologist and Licensed Marriage & Family Therapist in California and Texas; Editor of five internationally disseminated journals, including the *Journal of Child Custody*; and former clinical director of a large private practice mental health clinic for over 15 years. I have been a researcher, trainer, practitioner, and consultant for more than 30 years and have served on national and state committees dealing with family violence, child abuse, forensic psychology, and family law. In addition, I have testified and have been involved in over 300 child custody evaluations during the past 25 years in 40 states, including Hawai'i.

I have been a consultant to the task force that helped devise the bill under consideration for over 5 years, and I have been asked to provide information to the committee members about child custody issues with respect to standards of practice in other states and nationally. I have served on committees in other states and also consulted nationally on the issues being dealt with in the bill under consideration here in Hawaii. I am sorry I can't be there in person to testify, but unfortunately, I and 4 attorneys from the mainland, a social worker and CCE locally (Cheri Tarutani), a former law enforcement expert from the mainland, and Judge Mark Browning locally are currently in session, conducting a workshop to train professionals on testifying in child custody cases. This is part of our 10th annual Hawai'i Trauma conference.

HB 1137 HD1 clarifies the appointment requirements and qualifications of child custody evaluators (CCEs) and requires the Judiciary to maintain a CCE registry and to refer complaints against CCEs to the appropriate professional licensing agencies so they can be reviewed and addressed. It is important to have standards of practice when dealing with such complex issues affecting a child's life for anywhere from 5-15 years. Numerous states have incorporated such standards into their statutes to specify that licensed mental health professionals are the required people with the needed credentials to conduct child custody evaluations due to their specific training in child development, family dynamics, psychological characteristics, attachment, and parenting. It is important to ensure that CCEs perform their duties in the best interests of the



children. Without the appropriate credentials and training, significant adverse results can occur for the children in these families especially in complex cases.

In California, for example, we have similar statutes, as do most states. This allows child custody evaluations to be conducted by trained professionals to ensure consumer safety. A complaint process wherein the appropriate professional state board (DCCA in Hawai'i) evaluates and acts upon ethical complaints is standard practice in most other states. This is the usual process for ethical complaints for CCEs, and is part of the role of the state agency. This has not added any additional work to their normal role.

Having trained CCEs who are licensed mental health professionals is a much better and cost-effective system for providing qualified evaluations for the court. Since child custody evaluations provide the court with objective and comprehensive information and assessment of the well-being of children in conflictual situations, CCEs require specialized education and professional training. The California minimum qualifications standard is similar to the bill you are considering.

A number of advocates, attorneys, mental health professionals, and I who have experienced the bias and less than quality assessments of CCEs came together to work on the above problems with the help of Senator Chun Oakland. Because the family court has not established the needed standards and in fact, has asked the Legislature to provide such direction led to the work of this task force. I believe HB 1137 HD1 addresses these problems fairly and efficiently.

Thank you for the opportunity to testify.

Testimony of  
Melinda L. Franklin

Before:

Senate Committee on Human Services  
The Honorable Suzanne Chun Oakland, Chair  
The Honorable Josh Green, Vice Chair

Senate Committee on Judiciary and Labor  
The Honorable Clayton Hee, Chair  
The Honorable Maile S.L. Shimabukuro, Vice Chair

Tuesday, March 19, 2013 1:30 pm Conference Room 016

Chairs, Vice Chairs, and committee members, thank you for this opportunity to provide Testimony in **strong support** of HB 1137 HD1, relating to child custody evaluator (CCE) standards. HB 1137 HD1 offers qualification standards for child custody evaluators, defines complaint procedures and establishes a registry of CCEs. These measures are necessary to provide for transparency and ethical, neutral decision-making by qualified professionals.

Recommendations by CCEs have life-altering consequences for children of parents involved in high-conflict divorce. I hope by highlighting my experience, it will shine a light on the need for this important legislation. In my case, custody was changed without a hearing from joint to sole for my ex-husband, Honolulu attorney, Kevin Chee, after he solicited a letter from child psychologist, Sue Lehrke, PhD. She sent a letter to the court in which she “diagnosed” me with Parental Alienation Syndrome (PAS). PAS is regarded as “junk science”. Lehrke did not disclose she has never laid eyes on me. She did not disclose Chee was one of her paying clients. Letter in hand, Chee filed a motion for change of custody at 9:30 am. It was heard at 9:31 am. Custody was changed to sole for Chee, and a standing divorce decree of 4 years was overturned in less than 10 minutes. An associated “Temporary” Restraining Order (TRO) was allowed by the Family Court to remain for 7 years duration. I had no opportunity to say good bye to my precious children. Having contact blocked between my children and me was nightmarish. I finally won my Appeal (# 28843, July 10, 2009) in the Hawaiian Intermediate Court of Appeals as a Pro se litigant. That ruling overturned virtually every prior judgment by the Hawaii Family Court in my case. I hope an improved process for custody evaluations will spare other children and their parents similar consequences. The outcomes of the current custody evaluation processes are devastating.

Please endorse this legislation to provide for qualified CCEs and a more transparent family court that maintains a registry of CCEs, including their background, experience and qualifications. Defining having a complaint procedure will hold CCEs accountable to the public and Judiciary.

With responsible aloha, Melinda L. Franklin

RE: HB 1137, to be heard on 3/19/13

Dear Members of the House,

I am in strong opposition to this bill. Being a LCSW or psychologist is no guarantee that one is a good custody evaluator or fit to recommend anything to the court or the parties in a custody case.

When I went through my divorce and custody in 2010, my first custody evaluator was a LCSW, not an attorney, and I cannot tell you the heartache and money she cost our family before she was effectively shut out of our lives. Working with her at her recommendation, which I was afraid not to take because she could tell the court that I was not being cooperative, was a psychologist who also caused me grief in her unprofessional relationship with the custody evaluator.

In contrast, we later had an attorney trained in mental health acting as our parenting coordinator/custody facilitator. She was professional, knowledgeable, and totally neutral, and actually helped us, unlike the social worker and psychologist.

Please do not exclude attorneys from this field in favor of LCSWs or psychologists.

Sincerely,  
Ronnda Heinrich



LATE

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 19, 2013 10:10 AM  
**To:** HMS Testimony  
**Cc:** crslethem@gmail.com  
**Subject:** Submitted testimony for HB1137 on Mar 19, 2013 13:30PM

**Categories:** Red Category

**HB1137**

Submitted on: 3/19/2013

Testimony for HMS/JDL on Mar 19, 2013 13:30PM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Chrs Lethem	Individual	Support	Yes

Comments: In light of the need to create accountability and need to establish an educational criteria for custody evaluators I support this bill. But the overall agenda of a custody evaluator to focus on how time should be allocated between parents is a extremely simplistic approach to addressing the issue of how to best have children grow up to be successful adults who can contribute effectively to society. Far better would be to address parenting challenges faced by both parents going forward. After all, parenting is a time intensive activity. It is also the function of parents to educate their children. It is the function of our schools to teach the curriculum and provide feedback to parents on how children are developing academically. But parents are the constant. Having parents engage in an adversarial conflict over time allocation with their children, is an incredibly stupid idea in the long sad history of stupid ideas. Yet we persist this dysfunctional approach to addressing the parental needs of children. One cannot avoid the question as to why we think children have an advantage when you have effectively removed a parent from a child's life. Having parents collaborating within the context of a business like relationship would nurture far superior outcomes for our children. I believe custody litigation has far more to do with parents than it does with the children. We must make a concerted effort to abandon the "Winner Take All" approach to parenting after divorce. Time allocation is the hammer the judiciary swings and therefore any parenting related issue is treated as a nail. This simplistic and harmful approach does nothing to further the agenda of raising children to achieve their highest potential. Best Regards, Chris Lethem

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)