



LEGAL AID  
SOCIETY OF HAWAII

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**TESTIMONY IN SUPPORT OF**  
**SB516 – Relating to Paternity; Removes Time Bar on Actions**

Senators Shimabukuro, Chun-Oakland

February 7, 2013 at 10:00 a.m.

The Legal Aid Society of Hawaii submits testimony in support of SB516 – Relating to Paternity; Removes Time Bar to Actions to declare the existence or non existence of father and child relationship for certain proceedings. This bill would permit people to establish a father and child relationship at any time, for good cause shown. Many people in Hawaii seek to establish paternity for Hawaiian ancestry purposes to take advantage of programs and public benefits for themselves and for their children.

The Legal Aid Society of Hawaii is the largest non profit law firm in the State. We have offices Statewide serving Hawaii's low income population. Over the years we have helped many people establish paternity and many of those are seeking to establish paternity for the purpose of obtaining benefits available to native Hawaiians. Kamehameha Schools is one such organization that requires beneficiaries of their services to prove 2 generations of Hawaiian ancestry. HRS 584-6 in its current form would not permit a litigant to establish paternity for many of those people except that the Family Court has always taken the position that even if the litigant did not meet the strict letter of the law, that for "good cause shown" a litigant would be permitted to file a paternity action long after such an action would have been time barred. The intent of the amendment offered below is to formalize the informal procedure that the Court has followed for years.

This is the form, with amendment, that the Legal Aid Society of Hawaii supports:

SECTION 1. Section 584-6, Hawaii Revised Statutes, is amended  
by amending subsection (a) to read as follows:

"(a) A child, or guardian ad litem of the child, the child's natural mother, whether married or unmarried at the time the child was conceived, or her personal representative or parent if the mother has died; or a man alleged or alleging himself to be the natural father, or his personal representative or parent if the father has died; or a presumed father as

defined in section 584-4, or his personal representative or parent if the presumed father has died; or the child support enforcement agency, may bring an action for the purpose of declaring the existence or nonexistence of the father and child relationship [~~within~~] in accordance with the following [~~time periods~~]:

(1) If the child is the subject of an adoption proceeding, action may be brought:

(A) Within thirty days after the date of the child's birth in any case when the mother relinquishes the child for adoption during the thirty-day period; or

(B) Any time prior to the date of execution by the mother of a valid consent to the child's adoption, or prior to placement of the child with adoptive parents [~~, but in no event later than three years after the child reaches the age of majority; or~~

2) If the child has not become the subject of an adoption proceeding, within three years after the child reaches the age of majority [or any time after that for good cause shown]; provided that any

period of time during which the man alleged or alleging himself to be the natural father of the child is absent from the State or is openly cohabitating with the mother of the child or is contributing to the support of the child, shall not be computed.

~~[-(3)]~~ (3) ~~[Section 584-6]~~ This section shall not extend the time within which a right of inheritance or a right to a succession may be asserted beyond the time provided by law relating to distribution and closing of decedents' estates or to the determination of heirship, or otherwise~~[-]~~; and

~~[-(4)]~~ (4) A personal representative in this section ~~[584-6]~~ may be appointed by the court upon a filing of an ex parte motion by one of the parties entitled to file a paternity action. Probate requirements need not be met. However, appointment of the personal representative in this section is limited to representation in chapter 584 proceedings."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

Although the intent of the original form of SB516 would be to remove the time bar on filing a paternity action, SB516 in its current form removes the Court's power to hear paternity actions except for cases involving adoptions. The amendment offered above fixes this problem.

We ask for your support in passing SB516 and removing the time bar on paternity actions for good cause shown.

Thank you for this opportunity to provide testimony.

Sincerely,



Daniel E. Pollard, Esq.  
Co-Managing Attorney

*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.*