

HB1634



The Judiciary, State of Hawai'i

Testimony to the Senate Committee on Judiciary and Labor

Senator Clayton Hee, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

Tuesday, March 11, 2014, 10:00 a.m.
State Capitol, Room 016

by

Elizabeth Zack
Staff Attorney, Supreme Court

Bill No. and Title: House Bill No. 1634, Relating to the Uniform Mediation Act.

Purpose: The purpose of this proposal is to clarify that any judge assigned to a court case, and not only a judge who might issue a ruling in the case, is excluded from the scope of the Uniform Mediation Act, HRS § 658H.

Judiciary's Position:

The Judiciary strongly supports House Bill No. 1634, one of the Judiciary's 2014 package bills.

During the 2013 regular session, the legislature adopted the Uniform Mediation Act (UMA). Presently, Section 1(b)(3) of the UMA provides that the Act shall not apply to a mediation conducted by a judge who might make a ruling on the case. As the Judiciary began the review of court procedures to determine whether the UMA would impact on court procedures or rules, it became clear that there may be a judge assigned to a particular case who would not issue a ruling in the case. This occurs more often in circuit court cases where the presiding judge may enlist another judge to handle settlement conferences. Although we do not believe a settlement conference conducted in a pending court case is a mediation, due to the broad definition of mediation in the definition section of the UMA, the judiciary believes clarification is needed. Consequently, this bill is being submitted for consideration.

Thank you for the opportunity to testify on House Bill No. 1634.