



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-NINTH LEGISLATURE, 2017**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 983, RELATING TO CHILD VISITATION.

**BEFORE THE:**

HOUSE COMMITTEE ON HUMAN SERVICES

**DATE:** Friday, February 3, 2017

**TIME:** 9:00 a.m.

**LOCATION:** State Capitol, Room 329

**TESTIFIER(S):** Douglas S. Chin, Attorney General, or  
Jay K. Goss, Deputy Attorney General

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Chairs Morikawa and Members of the Committee:

The Department of the Attorney General provides the following comments.

The purpose of this bill is to allow the family court to award reasonable visitation to a grandparent if the denial of visitation would cause actual or potential harm to the child. The bill also establishes a rebuttable presumption that visitation decisions made by a parent are in the best interest of the child.

The current version of section 571-46.3, Hawaii Revised Statutes (HRS), was held unconstitutional by the Supreme Court of the State of Hawaii in Doe v. Doe, 116 Haw. 323, 172 P.3d 1067 (2007). The Supreme Court in Doe ruled that section 571-46.3, HRS, was unconstitutional because it did not require the person who was petitioning for visitation to show that the denial of visitation would cause significant harm to the child.

This bill attempts to address the concerns raised by the Hawaii Supreme Court by: (1) making clear that parents have a fundamental privacy right in making child rearing decisions, and that there is a presumption that their decisions regarding visitation are in their child's best interests, and (2) requiring that if a grandparent challenges the visitation decisions made by a parent, he or she must show that the denial of visitation would cause actual or potential harm to the child. However, the Supreme Court in Doe ruled that the standard to be used is not a showing of "actual or

potential" harm to the child, but rather that the denial of the visitation would cause "significant" harm to the child.

To increase the likelihood that this bill will pass challenges based on the holding Doe, the Department recommends that any changes track the wording used by the Supreme Court. The Department suggests that page 13, lines 15-16, be amended to read "Denial of reasonable visitation rights would cause significant harm to the child." In addition, we suggest that the wording on page 14, lines 3-8, be amended to read "In any proceeding on a petition filed under this section, there shall be a rebuttable presumption that a parent's decision regarding visitation is in the best interest of the child. The presumption may be rebutted by a preponderance of the evidence that denial of reasonable grandparent visitation rights would cause significant harm to the child."

**todd2 - Chloe**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 3, 2017 5:06 AM  
**To:** HUSstestimony  
**Cc:** strider4jesus@aol.com  
**Subject:** Submitted testimony for HB983 on Feb 3, 2017 09:00AM

**HB983**

Submitted on: 2/3/2017

Testimony for HUS on Feb 3, 2017 09:00AM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Strider Didymus	Individual	Support	No

Comments: Please give the grandparents the legal right here, we do NOT need another "Peter Boy" incident. Respect the hanai system of our host culture as well.

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.

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**LATE**

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Rep. Chris Todd, Vice Chair

Rep. Della Au Belatti      Rep. Marcus R. Oshiro  
Rep. Sharon E. Har      Rep. Andria P.L. Tupola  
Rep. Bertrand Kobayashi

AMENDED NOTICE OF HEARING

DATE:      Friday, February 3, 2017  
TIME:      9:00 A.M.  
PLACE:     Conference Room 329

**Testimony of James E. Coon Speaking in Support of HB 983**

Chair Morikawa, Vice Chair Todd and Members of the HUS Committee:

My name is James E. Coon and I am testifying as a concerned Citizen and Grandparent. Overall I am in support of HB 983 however I take exception to a deletion of grandparents found on Page 6 line 10. It does not appear to be redundant with the rest of the bill and seems to weaken the standing of responsible grandparents to be awarded visitation rights.

Please restore the deleted grandparents on page 6 line 10 and I humbly request that you pass this worthy bill HB983.

Sincerely,



James E. Coon

[captcoon@gmail.com](mailto:captcoon@gmail.com)

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