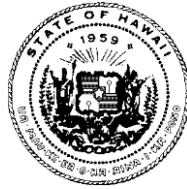


DAVID Y. IGE
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PANKAJ BHANOT
DIRECTOR

CATHY BETTS
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
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March 16, 2018

TO: The Honorable Representative John M. Mizuno
House Committee on Health & Human Services

FROM: Pankaj Bhanot, Director

SUBJECT: **HCR 162/ HR 138 - REQUESTING THE HAWAII STATE JUDICIARY AND
DEPARTMENT OF HUMAN SERVICES TO NOT USE BLINDNESS AS A BASIS
FOR DENYING PARENTAL RIGHTS**

Hearing: Wednesday, March 21, 2018, 8:30 a.m.
Conference Room 329, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent of the resolution and offers the following comments.

PURPOSE: This resolution protects parental rights for blind parents or prospective blind parents in the context of child welfare, foster care, family law, and adoption.

DHS is an equal opportunity service provider and follows all federal and state laws, regulations, and rules that prohibit discrimination on the basis of disability.

DHS agrees that blindness shall not be the basis for denial or restriction of custody, visitation, adoption, or guardianship of children. DHS is also aware of national reports that parents who are deaf or blind report high rates of child removal and loss of parental rights.

However, DHS Child Welfare Services (CWS) Branch is not aware of instances of discrimination against blind individuals within our programs and services. Additionally, the DHS Civil Rights Office reports no discrimination complaints have ever been filed by blind parents or on behalf of blind parents with the Department. Clear information on how to file a complaint is available on the DHS website or is provided upon request.

If the legislature plans to move forward to adopt this resolution, given the lack of evidence of bias within DHS, the Department respectfully suggests that lines 6 through 9 on page 1 of the resolution be stricken, or the word “nationally” is added to line 6, after “WHEREAS.”

Another area of concern is the recommended use of “clear and convincing evidence” on page 2, line 32. The resolution requests that blind parents be held to a different standard of proof than all other parents when the Department and Family Court are making determinations regarding a child’s safety. The use of this higher burden of proof would result in creating unintended inequities, and most crucially would impede the ability of DHS to protect children from abuse and neglect, which is contrary to the purpose of the Child Welfare Services.

DHS is fully committed to the intent of the measure and to improve our service delivery model. We will examine our staff training curriculum to include more information about working with parents with disabilities and blind parents, specifically, and will consult with our Division of Vocational Rehabilitation to improve the way we engage with parents who are blind.

Thank you for the opportunity to testify.



The Judiciary, State of Hawai‘i

Testimony to the House Committee on Health and Human Services

Representative John M. Mizuno, Chair
Representative Bertrand Kobayashi, Vice Chair

Wednesday, March 21, 2018 8:30 AM
State Capitol, Conference Room 329

By

Catherine H. Remigio
Senior Judge, Deputy Chief Judge
Family Court of the First Circuit

WRITTEN TESTIMONY ONLY

Resolution No. and Title: House Concurrent Resolution No. 162 / House Resolution No. 138: REQUESTING THE HAWAII STATE JUDICIARY AND DEPARTMENT OF HUMAN SERVICES TO NOT USE BLINDNESS AS A BASIS FOR DENYING PARENTAL RIGHTS

Purpose: Requesting the Judiciary and the Department of Human Services not use blindness as a basis for denying parental rights

Judiciary's Position:

The Judiciary takes no position on these resolutions but would like to comment that we are unaware of any child welfare, adoption, or guardianship action where the condition of blindness solely controlled the custody or visitation outcome.

Thank you for the opportunity to submit testimony on this measure.

HCR-162

Submitted on: 3/17/2018 8:27:28 PM

Testimony for HHS on 3/21/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Marilyn Yamamoto	Hawaii Family Advocacy Team	Comments	No

Comments:

I am submitting comments only because a resolution does not hold any state entity accountable to the wishes of the legislature.

I counsel families on their rights as parents. Hawaii statutes covers those rights in both the custody in family court and child protective law for abuse/neglect cases. The American Disability Act also defends parents from abuse by the state. If the state abuses a parent's right to raise a child based upon a disability or any other false allegation, there is recourse to rebut the allegation, ask for adjudication and appeal a ruling.

The "wish" to change the current preponderance of the evidence standard to clear and convincing is not valid. The standard of evidence is in the statutes. I submitted a bill to change that standard in all child welfare cases in 2014 and the judiciary and attorneys responded in force to oppose that change.

The challenge to right a wrong in the family custody and dependency cases lies in diligent attorney representation. I suggest that you approach the subject with the judiciary and state bar to address attorneys to take their oath seriously as described by the Rules of Professional Conduct.

This resolution was apparently triggered by one egregious case. I have nearly 50 families who have provided enough detail to show lack of due process via inadequate legal representation.

There will be no compliance to a resolution from family courts and their players who have had too little accountability for too many decades. Only a change in statute will be effective.