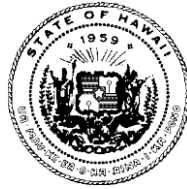


DAVID Y. IGE
GOVERNOR



PANKAJ BHANOT
DIRECTOR

CATHY BETTS
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96808

March 16, 2018

TO: The Honorable Josh Green, Chair
Senate Committee on Human Services

FROM: Pankaj Bhanot, Director

SUBJECT: **SCR 102 / SR 61 - REQUESTING THE HAWAII STATE JUDICIARY AND
DEPARTMENT OF HUMAN SERVICES TO NOT USE BLINDNESS AS A BASIS
FOR DENYING PARENTAL RIGHTS**

Hearing: Monday, March 19, 2018, 3:45 PM
Conference Room 016, 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.

AN EQUAL OPPORTUNITY AGENCY

If the Senate 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 Senate Committee on Human Services

Senator Josh Green, Chair
Senator Stanley Chang, Vice Chair

Monday, March 19, 2018 at 3:45 pm
State Capitol, Conference Room 16

By

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

WRITTEN TESTIMONY ONLY

Resolution No. and Title: Senate Concurrent Resolution No. 102 / Senate Resolution No. 61: 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.



DISABILITY AND COMMUNICATION ACCESS BOARD

1010 Richards Street, Room 118 • Honolulu, Hawaii 96813
Ph. (808) 586-8121 (V) • Fax (808) 586-8129 • TTY (808) 586-8162

March 19, 2018

TESTIMONY TO THE SENATE COMMITTEE ON HUMAN SERVICES

Senate Concurrent Resolution 102/Senate Resolution 61 – Requesting the Hawaii State Judiciary and Department of Human Services to Not Use Blindness as a Basis for Denying Parental Rights

The Disability and Communication Access Board (DCAB) supports the intent of SCR 102/SR 61 and provides comments. This measure asks the Judiciary and Department of Human Services not to use blindness as the basis for denial or restriction of visitation or custody in family or dependency law cases. Although we appreciate the concerns raised in this resolution and in HB 1928 and SB 2208, people with various types of disabilities (not only people who are blind) are impacted by this measure.

Blindness or any disability should not pre-dispose a judgement of incapacity because a person's disability. We appreciate the purpose of the bill, but there are currently other provisions in Hawaii law that are related to child welfare and parental rights that protect children. Protection of children is assessed with criteria that are not related to disability. This bill singles out a group of people needing extra protection.

If the Legislature believes that current laws do not adequately offer adequate protection then other individuals with disabilities may also face the same form of discrimination where they are deemed unfit parents solely based upon their disability. Therefore, we recommend the subject matter of these resolutions be expanded to include and protect the rights of all parents with disabilities to make this a more comprehensive endeavor.

Thank you for the opportunity to provide comments.

Respectfully submitted,

FRANCINE WAI
Executive Director



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2018**

ON THE FOLLOWING MEASURE:

S.C.R. NO. 102 and S.R. NO. 61, REQUESTING THE HAWAII STATE JUDICIARY AND DEPARTMENT OF HUMAN SERVICES TO NOT USE BLINDNESS AS A BASIS FOR DENYING PARENTAL RIGHTS.

BEFORE THE:

SENATE COMMITTEE ON HUMAN SERVICES

DATE: Monday, March 19, 2018 **TIME:** 3:45 p.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): Russell A. Suzuki, Acting Attorney General, or
Erin LS Yamashiro, Deputy Attorney General

Chair Green and Members of the Committee:

The Department of the Attorney General appreciates the intent of this concurrent resolution, but suggests a few modifications.

The purpose of this concurrent resolution is to ask the Hawaii State Judiciary (Judiciary) and the Department of Human Services (DHS) not to use blindness as the sole basis for determining the appropriateness of denying or restricting custody or visitation in family and dependency law cases, and in adoptions or guardianship cases.

This resolution, as written, would encourage special protections for blind persons to the exclusion of persons with other disabilities. Parents with other disabilities who also face preconceived biases and attitudes in society, including but not limited to the deaf and hearing impaired, and the physically impaired would be excluded from these protections. However, every parent or prospective parent, regardless of the nature of his or her ability or disability, should be afforded equal protection under the law.

Under chapter 587A, Hawaii Revised Statutes (HRS), also known as the Child Protective Act, all parents are treated equally by the DHS in assessing the safety of the child in accordance with federal law, which requires a court to find that continuation in the family home is contrary to the child's welfare, to justify the removal of that child from the family home. 42 U.S.C. § 672(a)(1) and (2). Additionally, a court must find that reasonable efforts were made to prevent or eliminate the need for removal, prior to the

placement of a child into foster care. 42 U.S.C. § 671(a)(15). The Hawaii Supreme Court has upheld the constitutionality of chapter 587A, HRS, because it promotes and protects the public welfare, which is within the state's general police power, even though the state is interfering with a parent's fundamental right to care for their child. *In re Doe*, 99 Hawaii 522 (2002). Additionally, the Hawaii Intermediate Court of Appeals has held that when the best interests of the child and the rights of the parents are in conflict, all other factors being equal, the best interests of the child must prevail. *In re Doe*, 85 Hawaii 119 (App. 1997). Clearly, our legislature and appellate courts have recognized that a child's safety and welfare is of paramount concern.

This concurrent resolution, however, asks the Judiciary and the DHS to fundamentally change the method of assessing the safety of a child with blind parents. Chapter 587A, HRS, and the Hawaii Family Court Rules provide judicial safeguards and a judicial appeal process to ensure that every parent is afforded due process when a child is removed from his or her home and when parental rights are terminated. Pursuant to section 587A-7, the DHS is required to consider numerous factors when assessing the safety of a home. The risk factors do not include the disability of a parent. In addition, the DHS has an administrative appeal process for a parent or a prospective parent who believes the DHS's decision regarding placement is erroneous. See, § 17-1625-15, Hawaii Administrative Rules.

This concurrent resolution also requests that the burden of proof be raised to "clear and convincing evidence" when there are allegations that a parent or prospective parent's behaviors are endangering or will likely endanger the safety of the child, before a child can be removed from the home of a blind parent, or before denying or limiting a blind parent's right to custody, visitation, foster care, guardianship, or adoption. "Clear and convincing evidence" is defined as "the degree of proof that will produce in the mind of the trier of fact a firm belief or conviction that the fact sought to be proved is true." § 587A-4, HRS. In contrast, the burden of proof to justify an award of temporary foster custody is "reasonable cause," which is defined as "the degree of proof that would cause a person of average caution to believe the evidence is reasonably trustworthy." §§ 587A-4 and 587A-26(c)(2), HRS. If adopted, this concurrent resolution would ask

the DHS to restrict its ability to protect children from harm by increasing the burden of proof for removing a child from the family home when the parent is blind, which is contrary to the purposes of chapter 587A, HRS. Furthermore, the burden of proof for a legal proceeding is established by only statute or caselaw. Therefore, adopting a resolution with the intent of changing the burden of proof is ineffective.

Ultimately, this resolution is unnecessary because chapter 587A, HRS, the judicial process, and the administrative process sufficiently protect a person's liberty interest as a parent, regardless of whether that parent has a disability. However, if this committee is inclined to adopt this concurrent resolution, based on the above discussion, we suggest modifying the resolution by deleting lines 31-35 on p. 2, and removing the word "blind" and all its variations from this resolution, and replacing them with the word "disabled" or any suitable variation of that word.



Progressive Democrats of Hawai'i

<http://pd-hawaii.com>

1418 Mokuna Pl, HON HI 96816

email: info@pd-hawaii.com

March 18, 2018

To: Senate Committee on Human Services
Senator Josh Green, Chair; Senator Stanley Chang, Vice Chair

Re: SCR 102 & SR 61 – REQUESTING THE HAWAII STATE JUDICIARY AND DEPARTMENT OF HUMAN SERVICES TO NOT USE BLINDNESS AS A BASIS FOR DENYING PARENTAL RIGHTS

Hearing: Monday, March 19, 2018, 3:45 p.m. Room 016

Position: Strong Support

Members of the Progressive Democrats of Hawai'i were astonished to learn last year that Hawai'i and many other states tolerate a paternalistic policy in which persons with disabilities suffer discrimination in employment law and child custody proceedings.

The present Resolutions address the problem that the Judiciary and the Department of Human Services may, in certain instances, use the blindness of a parent inappropriately to bar that parent from a custodial role. The text of the Resolutions makes clear what the appropriate standard ought to be:

[If] a parent or prospective parent's blindness is alleged to have a detrimental impact on a child, the Hawaii State Judiciary and Department of Human Services are requested to:

- (1) Place the burden of proof on the party raising the allegation by requesting clear and convincing evidence that the behaviors are endangering or will likely endanger the health, safety, or welfare of the child; and
- (2) Provide the blind parent or prospective parent the opportunity to demonstrate how the implementation of supportive parenting services can alleviate any concerns that have been raised; . . .

We believe that this allocation of burden of proof is the appropriate one. For this reason, we strongly support SCR 102 and SR 16, in their present forms, and we urge the Committee to pass them UNAMENDED. Thank you very much for the opportunity to testify on this important matter for the disabled and elderly.

Alan B. Burdick, co-chair
Progressive Democrats of Hawai'i
Burdick808@gmail.com / 486-1018



Live the life you want.

COMMITTEE ON HUMAN SERVICES
Senator Josh Green, Chair
Senator Stanley Chang, Vice Chair

Monday, March 19, 2018
3:45PM
Conference Room 016
Hawaii State Capitol

To the Senate Committee on Human Services:

Mahalo for taking the time to hear this resolution, which addresses one of the most pressing civil rights issues of today in Hawaii. In our state, blind people have no explicit right to parent, and we face the constant risk that prejudiced beliefs and uninformed biases can be held against us, resulting in our loss or denial of parental rights. Part of *sighted privilege* is not needing to constantly justify oneself as competent due to prejudice and bias against the sighted.

In this same room, on January 31, 2018, this Committee passed, unamended, SB 2208, a bill that sought to establish a codified right to parent for blind persons. This resolution covers the same topic in resolution form. In that hearing, opponents of the bill demonstrated their inherent biases against blind people, which even included comparing blindness to substance abuse in the context of parental capacity. Any person who is abusing substances is automatically impaired in their ability to care for a child, but such impairment is not an automatic consequence of blindness. When uninformed social workers and courts share this bias, our family security is threatened.

I am 28 years old, and I am a heterosexual, single man. I am getting to that point in my life where I am hoping to meet the right woman, get married, and start a family. I do not yet know who that woman is, but I am hoping to be proactive to protect our right to raise our own children regardless of whether she, too, is blind.

I think of dating as the process of finding the person who one will eventually marry. For me, the lack of right to raise my own children adds confusion to the dating scene because it places a limitation, albeit far-off, on how far any given relationship can truly go. Until a blind person's right to parent is established, I cannot enjoy the privilege of having the full American dream without the lingering threat of losing my children. When I meet young women who seem interesting, I face the unfortunate reality that our best-case scenario could lead to one of the following:

Case 1: I have children with a blind woman.

- Neither of us will have the explicit right to raise our children.

- If we become separated and fight for custody, we will be able to compare our parental qualifications based on which parent can see more than the other, if any difference exists.

Case 2: I have children with a sighted woman.

- My access to my children will depend upon my staying married to her and her remaining sighted or otherwise fit to parent.
- If we become separated, she can argue that blindness makes me unfit for custody.
- If, God forbid, she passes away, I will be at risk of losing my children, as well, because I, as the only remaining parent, could be determined unfit because of my blindness.

All we are requesting is the opportunity to make these important life decisions for the same reasons that a sighted person might make them. We don't want the threat of losing our children due to prejudice toward blindness.

When new parents meet their new baby in the delivery room, it is always a powerful emotional experience. For blind parents, there are extra emotions, which are not inherent consequences of blindness. Blind parents in Hawaii face the reality that their child can legally be taken away from them at birth and placed in the care of the state, simply because they are blind, if they encounter relevant gatekeepers with the wrong biases.

When parents take their children to a doctor's office for a regular checkup or maybe a sick visit, the results of the visit can always create emotions. For blind parents in Hawaii, these visits often entail interrogation from allied health professionals and social workers, who often do not believe that a blind parent can raise a child safely and effectively. A sighted parent has the privilege of being able to leave when it's time to go, but a blind parent must face the gatekeeper, who might not let them leave.

Adoption and foster care programs are also potential ways of building a family. For blind prospective parents in Hawaii, blindness can be used to deny them the opportunity to serve as foster parents or adopt a child. The parents and children alike can benefit from having an ohana if we let them.

Daily lives of sighted people do not require them to understand how blind people function, but this should not lead to prejudiced assumptions about what blind people can and cannot do. Blind people have been raising children forever, and we respectfully request that you make a statement protecting our right to continue. Mahalo in advance.

Justin M. Salisbury, MA, NOMC, NCRTB, NCUEB
Legislative Committee Chair
Honolulu Chapter
National Federation of the Blind of Hawaii

What follows is a deconstruction of public hearing testimony opposing a right to parent for blind persons, submitted by the Office of the Attorney General, to the House Committee on Health & Human Services for a hearing on House Bill 1928 on February 06, 2018:

National Federation of the Blind of Hawaii

Nani Fife, *President NFBHI* | P.O. Box 4372, Honolulu, HI 96812-4372 | 808-595-6123 | www.hawaii.nfb.org

Attorney General:

“Chair Mizuno and Members of the Committee:

The Department of the Attorney General appreciates the intent of this bill, but opposes the bill, as written, because of the following concerns. The purpose of this bill is to afford additional protections to parents, or prospective parents, who are blind, as defined in the bill, in cases under chapter 587A, Hawaii Revised Statutes (HRS). These protections would apply when assessing whether a blind parent can provide a safe family home for their child in a chapter 587A matter, or an appropriate home for a child in an adoption or in a legal guardianship matter. These protections seemingly would also apply in other family court matters involving custody and visitation, such as in paternity, divorce, and domestic abuse cases.”

Response:

This bill will clarify protections of blind parents which are not explicitly stated in current laws.

Attorney General:

“This bill, as written, violates the Equal Protection Clause, as stated in the Fourteenth Amendment of the United States Constitution, as well as article I, section 5, of the Hawaii State Constitution, in that it creates special protections for blind persons to the exclusion of persons with other disabilities. Parents with other disabilities who also face preconceived biases and attitudes in society, including but not limited to the deaf and hearing impaired, and the physically impaired would be excluded from protection.”

Response:

This statement is obviously false. If this concept were true, then the Indian Child Welfare Act would never exist. Here in Hawaii, we are all abundantly familiar with special rights and protections given to Native Hawaiians at the exclusion of other ethnic groups. Thus, there is obviously nothing preventing the creation of special protections for blind persons to the exclusion of persons with other disabilities. Furthermore, we have some special privileges granted to certain disability groups in Hawaii which do not apply to blind people because they are not relevant to blind people. For example, blind people are not eligible for handicapped parking in Hawaii because it is completely irrelevant to blindness. We have not found any other disability group who has any interest in parental rights legislation because parental rights are not a pressing threat on their communities. We, the blind, are not experts on other types of disabilities and cannot discuss other disability groups with appropriate expertise without their participation. Thus, the bill is drafted to specifically deal with the community affected by this threat, the blind.

We would also question the contention that “special protections” necessarily come at the exclusion of other groups. Blind people are a subset of a protected class – people with disabilities – and thus U.S. jurisprudence recognizes that rights and protections afforded to such populations are necessary for the promotion of equality. “Special protections” granted to African-Americans in order to eradicate discrimination and promote equality are not undesirable or legally dubious because they come at the “exclusion” of white Americans, as the Attorney Generals logic would suggest. Leveling the playing field for those who face additional barriers based on certain characteristics is a necessary and proper legislative endeavor.

Attorney General:

“The Hawaii Supreme Court has concluded that being a parent is a liberty interest that is protected by due process and equal protection under the Hawaii State Constitution. Therefore, every parent or prospective parent, regardless of the nature of his ability or disability, must be afforded the

same protections under the law. Under chapter 587A, all parents are treated equally by the Department of Human Services (DHS) in assessing the safety of the child in accordance with federal law, which requires a court to find that continuation in the family home is contrary to the child's welfare to justify the removal of a child from their home. See, 42 U.S.C. § 672(a)(1) and (2)."

Response:

This is ideally how the law should be enforced. The issue, however, is that blind people continue to face unfair, preconceived, and unnecessary societal biases as well as antiquated attitudes regarding our ability to successfully parent our children. If a biased professional assumes that blindness of a parent inherently implies that continuation in the family home is contrary to the child's welfare to justify the removal of a child from their home, then the child can be removed. We need protection from these biases, so we need this law.

Attorney General:

"Additionally, a court must find that reasonable efforts were made to prevent or eliminate the need for removal prior to the placement of a child in foster care. See, 42 U.S.C. § 671(a)(15). The Court has upheld the constitutionality of chapter 587A because it promotes and protects the public welfare, which is within the state's general police power, even though the state is interfering with a parent's fundamental right to care for their child. See, *In re Doe*, 99 Hawaii 522 (2002)."

Response:

As noted below, this bill would strengthen the standard of proof required of the state before any determination as to the fitness of a blind parent may be made. When the "police power" of a state is being exercised, especially to infringe on the sacred right to be a parent, it is entirely reasonable to impose rigorous evidentiary standards. This bill would enhance "public welfare" by ensuring that families are not needlessly torn apart based on harmful misperceptions and insufficient civil rights protections.

Attorney General:

"Additionally, the Court has held that when the best interests of the child and the rights of the parents are in conflict, all other factors being equal, the best interests of the child must prevail. See, *In re Doe*, 85 Hawaii 119 (App. 1997)."

Response:

It is completely invalid to ever conclude that, because of blindness, the best interests of the child and the rights of the parents are in conflict. Thus, if blindness is the reason a social worker or court is concerned, they will not be allowed to determine that such a condition has been met.

Attorney General:

"Clearly, our legislature and the courts have recognized that a child's safety and welfare is of paramount concern. This bill would fundamentally change how DHS is to assess the safety of a child with blind parents, and would hinder DHS's ability to protect that child from abuse and neglect, which is contrary to the purposes of chapter 587A. Specifically, this bill requires a finding by clear and convincing evidence that the parent or prospective parent's behaviors are endangering or will likely endanger the safety of the child whenever a child is removed from the home of a blind parent or caregiver. "Clear and convincing evidence" is defined as "the degree of proof that will produce in the mind of the trier of fact a firm belief or conviction that the fact sought to be proved is true." HRS § 587A-4. In contrast, the burden of proof for temporary foster custody is "reasonable cause" which is defined as "the degree of proof that would cause a person of

average caution to believe the evidence is reasonably trustworthy.” HRS §§ 587A-4 and 587A-26(c)(2). If passed, this bill would severely impede the DHS’s ability to protect children from harm by increasing the burden of proof for removal of a child when the parent or caregiver is blind.”

Response:

If blindness is the concern, “reasonable cause” is a low bar to clear. If a child is being abused or neglected, then the actual evidence of abuse and neglect are the reasons to act, not the blindness itself. Realistically, once someone needs to prove that blindness prevents a person from raising children, they will be essentially unable to do it. If the blind person happens to be a neglectful or abusive parent, then the case will be handled according to the idea that the parent is an abusive parent or a neglectful parent, not a blind parent.

Attorney General:

“Furthermore, the bill prohibits the court from considering a person’s blindness in determining visitation or custody, and in determining whether a proposed placement is appropriate for adoption, legal guardianship, or foster care unless it is in the best interest of the child. Notwithstanding the unconstitutionality of this bill, these proposed protections are misplaced, because chapter 587A only relates to child welfare services. The standard for visitation and custody in the context of family law cases is set forth in section 571-46, HRS, adoptions are governed by chapter 578, HRS, and minor legal guardianships fall under chapter 560, HRS. Likewise, paternity cases are governed by chapter 584, divorce cases are governed by chapter 580, and domestic abuse cases are governed by chapter 586. In addition, the decision to license a foster home, although related, is outside of the purview of chapter 587A. Therefore, by limiting these protections to chapter 587A, this bill does not meet its stated goal and purpose.”

Response:

If you want to amend the bill to change which parts of the law receive the appropriate amendments, then do that. Please do not oppose the bill because you think it needs an amendment. This language is not unconstitutional, as explained above.

Attorney General:

“Also, chapter 587A, HRS, and the Hawaii Family Court Rules provide judicial safeguards and a judicial appeal process to ensure that every parent is afforded due process when a child is removed from his or her home and when parental rights are terminated. Pursuant to section 587A-7, the DHS is required to consider numerous factors when assessing the safety of a home. The risk factors do not include the disability of a parent. In addition, the DHS has an administrative appeal process for a parent or a prospective parent who believes the DHS’s decision regarding placement is erroneous. See, section 17-1625-15, Hawaii Administrative Rules.”

Response:

This bill will add clarity to these processes. If the risk factors truly do not involve the disability of a parent or the assumed consequences of a disability of a parent, then passing this bill will not add any confusion. Blind parents deserve this protection so that we do not have our children removed and then need to appeal the removal.

Attorney General:

“Ultimately, this bill is unnecessary because chapter 587A, the judicial process, and the administrative process sufficiently protect a person’s liberty interest as a parent, regardless of whether that parent has a disability. If the Legislature is inclined to pass a law that provides reassurance to the blind community that children will not be removed from their home under

chapter 587A, unless there are legitimate safety concerns, then we suggest amending section 587A-7, HRS, to add that the disability of a parent or caregiver shall not be the sole basis for determining whether the parent or caregiver is able to provide a safe family home.”

Response:

We should not have to go through a judicial or administrative process to maintain our family security just because we are blind. Please support this bill.

Attorney General:

“However, under article III, section 14, of the Hawaii State Constitution, “[e]ach law shall embrace but one subject, which shall be expressed in its title.” Additionally, the Court has previously held that an act is void if its subject is neither suggested by the title, nor germane to the subject expressed in the act. See, *Schwab v. Ariyoshi*, 58 Haw. 25 (1977). The title of this bill states that it relates to blind parents. Our suggestion broadens the subject of the bill to include parents with any disability and, if passed, is void. Unfortunately, this suggestion cannot be implemented in this bill as the subject and title limit this bill to rights for blind persons. We respectfully ask this Committee to hold this bill.”

Response:

Again, this is an issue for the blind community, and we want this protection. No other disability group has expressed interest in this legislation. If, after we pass this bill, any other disability group wishes to expand this right to cover them, too, we will help them in the process. In the meantime, we, the population affected by these unique biases and misperceptions, are asking for this bill to be passed to give us proper protection.



Chair Green
Vice Chair Chang
Senate Committee on Human Services

Monday, March 19, 2018
3:45 PM

TESTIMONY IN SUPPORT OF SENATE RESOLUTION 61 SENATE CONCURRENT RESOLUTION 102

Aloha Chair Green, Vice Chair Chang, Members of the Senate Committee on Human Services,

My name is Jun Shin. I am a freshman at the University of Hawaii at Manoa, and I serve as a board member at-large for Young Progressives Demanding Action - Hawaii.

I would first like to thank Chair Green and the other senators for introducing this resolution, and the Senate Committee on Human Services for taking the time to hear this. It is really awesome that this committee already has familiarity with the subject of this resolution, also passing SB2208 unamended, which is basically the same as this resolution.

Here is why I as a community member support this resolution:

-To give blind parents the opportunity to be equal under the eyes of the law when it comes to custody battles

-So many blind parents have raised amazing kids so I don't see why there still needs to be this stigma

-Blind people have the right as individuals to raise a family, and that should not be any different from people who can see as people who are blind are able to function just as well in society in innovative ways

-Love between a parent and a child transcends all boundaries

Thank you for this opportunity to testify on this measure,

Jun Shin,
Board Member At-Large
Young Progressives Demanding Action – Hawaii
1561 Kanunu St. #2106 Honolulu, HI 96814
Cell: 808-255-6663
Email: junshinbusiness729@gmail.com

SCR-102

Submitted on: 3/18/2018 4:01:47 PM

Testimony for HMS on 3/19/2018 3:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Testifying for OCC Legislative Priorities Committee, Democratic Party of Hawai'i	Support	No

Comments:

To the Honorable Josh Green, Chair; the Honorable Stanley Chang, Vice-Chair and the Members of the Committee on Human Services:

Good afternoon. My name is Melodie Aduja. I serve as Chair of the Oahu County Committee ("OCC") on Legislative Priorities of the Democratic Party of Hawaii. Thank you for the opportunity to provide written testimony on **SCR102** REQUESTING THE HAWAII STATE JUDICIARY AND DEPARTMENT OF HUMAN SERVICES TO NOT USE BLINDNESS AS A BASIS FOR DENYING PARENTAL RIGHTS.

The OCC Legislative Priorities Committee is in favor of **SCR102** and supports its passage.

SCR102 is in accord with the Platform of the Democratic Party of Hawai'i ("DPH"), 2016, as it requests the Hawaii State Judiciary and Department of Human Services not to use

(1) a parent's blindness as a basis for denial or restriction of visitation or custody in family or dependency law cases when the visitation or custody is determined to be in the best interest of the child; (2) a prospective parent's blindness as a basis for the prospective parent's denial of participation in public or private adoption when the adoption is determined to be in the best interest of the child; or (3) an individual's blindness as a basis for denial of foster care or guardianship when the appointment is determined to be in the best interest of the child.

The DPH Platform states that "[t]he inherent dignity and equal and inalienable rights of all human beings are the foundations of freedom, justice, and peace. We support affirmative action, the full implementation of the Civil Rights Acts of 1964 and 1990 and the Americans with Disabilities Act of 1990.

We believe that the concept of "Family" includes people regardless of sexual orientation, blood relation, marital status, or gender, gender identity or gender expression, who choose to join together to offer one another moral, spiritual and economic support.

We support initiatives that enhance access and equity in education, employment, and business opportunities intended to lift families and individuals out of poverty and remove existing barriers to equal opportunity in our communities." (Platform of the DPH,

P.3, Lines 159-165, 189-191 (2016)).

Given that **SCR102** requests the Hawaii State Judiciary and Department of Human Services not to use (1) a parent's blindness as a basis for denial or restriction of visitation or custody in family or dependency law cases when the visitation or custody is determined to be in the best interest of the child; (2) a prospective parent's blindness as a basis for the prospective parent's denial of participation in public or private adoption when the adoption is determined to be in the best interest of the child; or (3) an individual's blindness as a basis for denial of foster care or guardianship when the appointment is determined to be in the best interest of the child, it is the position of the OCC Legislative Priorities Committee to support this measure.

Thank you very much for your kind consideration.

Sincerely yours,

/s/ Melodie Aduja

Melodie Aduja, Chair, OCC Legislative Priorities Committee

Email: legislativepriorities@gmail.com, Tel.: (808) 258-8889

SCR-102

Submitted on: 3/17/2018 8:24:40 PM

Testimony for HMS on 3/19/2018 3:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Marilyn Yamamoto	Testifying for 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.



Oahu Intertribal Council

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Aloha Legislators:

18 March 2018

The Oahu Intertribal Council works to perpetuate the cultures of American Indians and Alaska Natives in Hawaii. For many years, American Indians and Alaska Natives experienced our children being removed from our custody due to prejudiced beliefs about our parental fitness. Whether by forced adoptions or by compulsory enrollment in Indian boarding schools, our families were disrupted by the removal of our children. All family members were negatively impacted. Though there exist variations in beliefs from one American Indian or Alaska Native nation to another, the belief that families should not be separated because of prejudiced beliefs is consistent and pervasive in our peoples.

It has come to our attention that blind people do not have the right to raise their own children here in the State of Hawaii. Just as it is wrong to make assumptions about how effectively a person can raise children based on race, it is also wrong to make assumptions about how effectively a person can raise children based on disability.

We understand that resolutions have been introduced in the 2018 Hawaii State Senate to address this issue by requesting procedural safeguards to protect families where blind people are the parents: Senate Resolution 61 and Senate Concurrent Resolution 102.

We encourage you to support the rights of blind people to raise children by supporting these resolutions.

American Indians and Alaska Natives know the damage caused by removing children from their parents' loving homes. Nobody should ever have to experience that again.

Mahalo,

Jacob Wruck
President
Oahu Intertribal Council

COMMITTEE ON HUMAN SERVICES
Senator Josh Green, Chair
Senator Stanley Chang, Vice Chair

Monday, March 19, 2018
3:45 PM
Conference Room 016
Hawaii State Capitol

Position: **SUPPORT SR 61 and SCR 102**

To the Chair, Vice Chair and the Senate Committee on Human Services:

I write this testimony in support of SR 61 and SCR 102. We must be always looking for ways to promote the needs of the blind community. I remember hearing of such a case where a parent took their children to a doctor's office for a regular checkup or maybe a sick visit. The results of the visit can always create emotions. For blind parents in Hawaii, these visits often entail interrogation from allied health professionals and social workers, who often do not believe that a blind parent can raise a child safely and effectively. A sighted parent has the privilege of being able to leave when it's time to go, but a blind parent must face the gatekeeper, who might not let them leave.

Daily lives of sighted people do not require them to understand how blind people function, but this should not lead to prejudiced assumptions about what blind people can and cannot do. Blind people have been raising children forever, and I respectfully ask you to give them the right to continue.

Ken Farm

Member-At Large
Neighborhood Board No. 15
Kalihi-Palama