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A LAW CORPORATION

January 28, 2019

The Honorable Russell E. Ruderman, Chair
& Members of the Senate Committee on
Human Services
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Re: Senate Bill 479, Relating to Child Visitation

Dear Chair Ruderman and Members:

I write in support of Senate Bill 479.

I had the privilege of serving as the Hawaii Attorney General when the prior version of this Bill, S.B. No. 422 (2017), was introduced. The enclosed Attorney General testimony from that year contained comments that the Legislature accepted and was incorporated into what is now Senate Bill 479 and under consideration by this Committee.

Without this Bill, the language in section 571-46.3 of the Hawaii Revised Statutes, "Grandparents' visitation rights," has been overturned by the Hawaii Supreme Court and is invalid. Passage of Senate Bill 479 cures the constitutional concern with HRS section 571-46.3 -- and validates the Legislature's intent to recognize the special role Hawaii grandparents play in the lives of *keiki* -- by allowing a family court judge to award visitation to a grandparent if the judge finds that denial of reasonable visitation rights would cause significant harm to the child.

States including Hawaii have passed laws just like this one recognizing that grandparents provide a positive, nurturing and unique kinship bond with children in today's family network. I encourage the Committee to let this Bill move forward and restore the recognition our *kupuna* deserve.

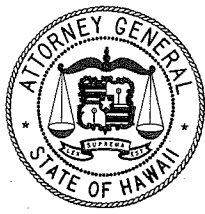
Sincerely,



Doug Chin

Enclosure: Attorney General Testimony

2003578.1



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

ON THE FOLLOWING MEASURE:

S.B. NO. 422, RELATING TO CHILD VISITATION.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY AND LABOR

DATE: Wednesday, February 1, 2017 **TIME:** 9:00 a.m.

LOCATION: State Capitol, Room 016

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

Chair Keith-Agaran 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."

SB-479

Submitted on: 1/27/2019 9:11:09 AM

Testimony for HMS on 1/30/2019 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Carol Davies	Individual	Support	No

Comments:

I was shocked to find out that grandparents are not automatically considered the primary source to raising their grandchildren when the parents are no longer available. These grandparents raised the parents of the grandchildren! I have 6 small grandchildren and would be devastated if I did not have the automatic option to raise them myself if something awful happened to my children.

SB-479

Submitted on: 1/27/2019 2:08:57 PM

Testimony for HMS on 1/30/2019 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Suzanne Hill	Individual	Support	No

Comments:

My name is Suzanne Louise Hill and I am a 37 year resident of the State of Hawaii and a registered voter. I am writing today in strong support of SB479, relating to Child Visitation.

In this day and age, Grandparents are healthier, better educated, and grounded in the successes of their life experience. Their ability to transmit the family, cultural and civic values that are embedded in their own history and behaviors provides precious role modeling to their grandchildren. Children - whose parents are working, or bettering themselves through education or training, or are unable or unwilling to care for their offspring - thrive under the loving care of their grandparents who have the time and desire to dedicate themselves to the well-being of their grandchildren.

I cannot imagine my own parents denying me access to my grandparents. Nor can I imagine my life now without the wisdom, grace and guidance my grandparents so generously and selflessly, bestowed.

Please correct the existing wording of the law to properly provide the courts with guidelines to to consider in awarding visitation rights to grandparents.

Respectfully, Suzanne Louise Hill

SB-479

Submitted on: 1/27/2019 10:58:23 PM

Testimony for HMS on 1/30/2019 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Judith K Halford	Individual	Support	No

Comments:

All grandparents should have the right to take care of their grandchildren if one of the parents pass away. Grandparents are great role models and influence for their children. Please support the grandparents.

COMMITTEE ON HUMAN SERVICES

Senator Russell E. Ruderman, Chair

Senator Karl Rhoads, Vice Chair

NOTICE OF HEARING

DATE: Wednesday, January 30, 2019

TIME: 2:45pm

PLACE: Conference Room 016

**TESTIMONY OF JAMES E. COON SPEAKING IN STRONG SUPPORT OF SB479
RELATING TO CHILD VISITATION:**

Chair Senator Ruderman, Vice Chair Senator Rhoads and Senators of the HMS

My name is James Coon and I am testifying as a Citizen and a Grandparent in strong support of SB479 Relating to Child Visitation.

My wife and I are helping to raise our three Grandchildren and understand the strong bond of love and trust they have for us. We not only help our adult children as part time caregivers of their children, but are an important positive influence in each grandchild's life and development.

Passage of the important bill addressing Grandparent Child visitation is long overdue. I humbly ask you to pass SB 479.

Sincerely,

A handwritten signature in black ink, appearing to read "James E. Coon", is written over a large, hand-drawn oval scribble.

James E. Coon

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Senator Russell Ruderman, Chair
Senator Karl Rhoads, Vice Chair
Senate Human Services Committee Members

Thank you for this opportunity to provide testimony in Opposition and with concern for SB479.

The problem with this legislation and all the measures like it which have been introduced to the Hawaii State Legislature for years (see 2011's HB56, 2012's HB2426, 2015's SB643, 2016's SB2409, etc.) is that it completely and constantly ignores domestic violence and existing child visitation/custody proceedings between the parents of the child/ren.

Considering that I've consistently raised red flags in all the previous legislation about domestic violence and the resulting child visitation and custody matters in family court, shouldn't these two factors be already addressed in SB479? Until domestic violence and existing child custody/visitation proceedings are FACTORED IN rather than OUT, grandparent visitation legislation is woefully misplaced.

PLEASE UNDERSTAND that domestic violence cases always have the ability to become lethal and that lethality may not occur until way after the survivor has "successfully escaped" with the children. How many more "unforeseen" homicides have to occur before people realize that domestic violence isn't an issue to debate over but a potentially life-ending threat? While the courts debate "the issue" of domestic violence, child visitation is immediately enacted "for the child's best interests" and look what's happened as a result: remember Reef Aikau? If you think the Reef Aikau case was "complicated" despite the VOLUMES of evidence of domestic violence and child-directed abuse, HOW do you think the courts are going to effectively administer grandparent visitation?

The Center for Judicial Excellence revealed in a report (last updated on January 27, 2019) that 670 children were murdered by a parent in the U.S. when divorce, separation, custody, visitation or child support proceedings were cited as a factor; we are a far cry from sorting parent-child visitation out and don't need to make matters worse by inserting grandparent visitation into the mix.

Generally the parents of abusers do not want to believe/accept that "their boy" is an abuser and I've seen too many cases already where grandparents think they know better/best and do what they want/feel is right regardless of court orders they're not listed as a party to. Until these loopholes get addressed SB479 is potentially dangerous legislation.

Thank you for your time and consideration.

Respectfully,

Dara Carlin, M.A.
Domestic Violence Survivor Advocate



January 29, 2019

The Honorable Senator Russell E. Ruderman, Chair
Senate Committee on Human Services, Hawaii State Capitol
RE: SB479

Aloha,

My name is Deborah Goodwin, I am a Hawaii resident, and I write in strong support of SB479, Relating to Child Visitation.

I have been a Hawaii resident since 1962 and, in addition to my current position as the Executive Director of the Kahilu Theatre, have contributed consistently to our state's quality of life through my professional career in non-profit organizations including The Nature Conservancy, The Oceanic Institute, Keck Observatory and the Parker School.

This bill clarifies the process of allowing grandparents to visit with their grandchildren. I know from my experience that 'ohana is a part of our island culture as well as deeply rooted across the globe in indigenous cultures. Grandmothers in particular have a role in teaching social skills and the values of kindness and respect for people and our environment. I am a grandmother of two, ages 5 and 9, and have been inextricably involved every month of their lives since they arrived on our planet. From child care to arts and culture events and showing them the wonders of the natural world, I have been there to teach them how to live with aloha. I am there to connect them to their family legacy and to love and support them in their journey to become responsible contributing citizens.

I am well aware that grandparents are playing a larger role in supporting young families because of the stresses of the modern world. A segment recently on a Sixty Minutes broadcast described how states across our country are challenged with managing the need for grandparents to care for their grandchildren due to the opioid crisis.

I understand that this new bill introduces the correct language so that courts have guidelines to consider in awarding visitation to grandparents. This is one important step to our commitment to a more civilized way to honor kinship and to manage families in need.

Thank you for this opportunity to add my voice to this conversation,

Deborah Goodwin

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Kamuela, Hawaii 96743

www.kahilutheatre.org
(808) 885-6868

Representative Russell E. Ruderman
Representative Stanley Chang
Representative Kurt Fevella
Representative Brian T. Taniguchi

LATE

Michelle Okamoto

Wednesday, January 30, 2019

Support for S.B. 479, Child Custody; Grandparent Visitation

My name is Michelle Okamoto. I am a student at U.H. Manoa and a substitute teacher. I support S.B. 479 relating to child custody and grandparent visitation. I back this measure giving visitation rights to grandparents because grandparents play an important part in their grandchildren's lives. Grandparents are part of the family that help care for grandchildren when parents may no longer be able to care for their children. In Hawaii, there are many households that have multiple generations living in one household. As such, grandparents are members of the extended family that watch over and see to their grandchildren's welfare.

According to a Census study, more than six million children in the United States live in homes where a grandparent is the head of household. This was twice the number reported in 2000. These six million children represent approximately eight percent of all children in the United States. Of the six million cared for by grandparents, one million of these children reside in homes where their parents are absent. The reasons for grandparent's helping to raise their grandchildren are parents may be incarcerated, addiction to drugs, custody disputes, and divorce are some of the causes why grandparents step in and care for grandchildren.

From the American Community Survey, 8.7% of Native Hawaiian and Other Pacific Islanders lived with grandchildren in 2015. Also, the survey mentions that 3.1 million children in 2015 were living with both of their grandparents, regardless of whether they were also living with their parents. These statistics show that grandparents play an important part of their grandchildren's lives. I believe if a grandparent is deemed by the court of law to have visitation rights with their grandchildren then they should be allowed to see their grandchildren.

By granting visitation rights to grandparents it helps by ensuring they have a part in their grandchildren's lives if a parent is unable to care for their children. I urge the committee to pass S.B. 479. Thank you for this opportunity to testify.