

HB-1933-HD-2

Submitted on: 2/27/2022 10:29:41 AM

Testimony for JHA on 3/1/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Marilyn Yamamoto	Hawaii Family Advocacy Team	Support	No

Comments:

JHA Chair,

I fully support this bill.

February 28, 2022

COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Rep. Mark M. Nakashima, Chair

Rep. Scot Z. Matayoshi, Vice Chair

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Rep. Nadine K. Nakamura

Rep. Roy M. Takumi

Rep. James Kunane Tokioka

Rep. Gene Ward

NOTICE OF HEARING

DATE: Tuesday, March 1, 2022

TIME: 2:00PM

PLACE: Conference Room 325

Via Videoconference

State Capitol

415 South Beretania Street

RE: TESTIMONY IN STRONG SUPPORT OF HB1933 HD2 aka Calvin's Law
Relating to Persons Working With Children

Dear Committee on Judiciary & Hawaiian Affairs:

Thank you for reviewing and considering Rep. Yamane's bill for an act, HB 1933 "Calvin's Law" (named after Calvin John Stremel.) Mahalo nui loa for taking the time to read this testimony. I sincerely appreciate all of your public service and can only imagine the amount of stress and responsibility you all have to your position, your constituents, and the people of Hawaii writ large. With COVID still a factor in our everyday lives, your risks and hard work are not going by unnoticed by the regular working kamaaina.

In 2018, my son and I tried to escape my violent, abusive partner. No domestic violence shelter on island would accept men, so we ended up sleeping on the beach, in empty apartments, and under my desk at work. Child Welfare Services (CWS) conducted an investigation and concluded that I was the sole safe and protective parent. Parents and Children Together (PACT) conducted a 6 month investigation and concluded that my son's mother abused and assaulted me and should only be allowed supervised visits based on her criminal record, drug abuse, and failure to cooperate with their investigation. The Department of Health and Human Services (OHS) concluded that my son's mother was "dangerously negligent" of his autism needs and also suggested supervised visits only. The Honolulu Police Department (HPD) had to escort my ex-partner away from my home on several occasions when she made death threats and harassed my son and I. I filed for a restraining Order with the family courts in August of 2018 when my son returned from a visit with his mother with 7 bruises on his back.

CWS, DHS, my son's nanny who witnessed the abuse, and my ex's drug dealer all testified against her in Family Court. She had no witnesses on her side, but what she did have was 4 seasoned attorneys who convinced the Judge to ignore the State agency reports and instead allow them to filter all evidence through an extravagantly expensive, private Custody Evaluator. At the time, I could not afford an attorney and my ex-wife made virtually twice the amount of money I made, so she was able to purchase the Custody Evaluator's report.

I previously had an attorney whom I could no longer afford, so he stopped representing me. My attorney represented the Custody Evaluator's husband in her own divorce. I specifically asked the Custody Evaluator if she knew my attorney and she lied to me. I had to do my own investigating and objected to her appointment because she wanted to charge \$10,000 (which I could not afford) and she had a Conflict of interest with my attorney. She hated my attorney based on her own contentious divorce.

Currently, there is no law that holds Custody Evaluators accountable for lying or failing to disclose a Conflict of Interest. HB 1933 would change that and that is why I met with Rep. Yamane and Rep. Eli and proposed this bill. The Custody Evaluator gave a favorable report to my ex, not because she is good parent, but because she had a high-priced attorney. After doing more research online, I discovered this Custody Evaluator serves the attorney, not the client, and especially not the child.

As a result of this Custody Evaluator's Conflict of Interest, lying about her education credentials, and lying to the Judge, my son, Calvin Stremel, was forced to be around his abuser. I lost full custody and my son and I have been living a nightmare ever since. All because Family Court judge's have no power over Custody Evaluators and overly rely and overly trust them without any verifying or accountability.

I met with 7 other families who had similar experiences with the same Custody Evaluator.

Each time, I didn't need to ask about any facts in the case. I simply looked up who the attorneys were in the case and, with 100% accuracy, I was able to predict who the Custody Evaluator gave a favorable report to. Not based on any facts, but because the Custody Evaluator had a financial incentive to give favorable reports to the powerful law firms. This is not how these investigations should be conducted. It's unchecked corruption, it's not in the child's best interest, it's a waste of money (I was ordered to pay the Custody Evaluator and had to borrow thousands of dollars and hold 3 fundraisers to do so, I lost my job and almost lost my house in the process.)

Multiply times I requested a Guardian Ad Litem (GAL), but the opposing counsel insisted on using "his" Custody Evaluator. Since I am nothing to her, she had no financial incentive to give me a fair report, so she did whatever the attorney hired her to do. The Custody Evaluator also used outdated terms like calling my autistic son "mentally retarded." When I tried to bring up how offensive this was, the Custody Evaluator became enraged and took her anger out on me in her report.

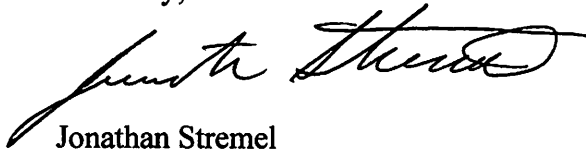
When the Custody Evaluator took the stand, she was asked by my attorney, "Do you remember when I represented your husband in your divorce?" She responded, "Yes." So he asked, then when you saw that I had represented Mr. Stremel, why didn't you recuse yourself?" ex's attorney answered for her, "Because there is no Conflict of Interest law for Custody Evaluators." In a small state like Hawaii, this is a dangerous way to conduct fact finding reports for children. The chances of improprieties are much higher and as a result the keiki pay the price.

1. **This Bill will Positively Affect Minority and Low-Income Parents.** By requiring parents to consent in writing to either a Custody Evaluator, Best Interest Fact Finder, or Guardian Ad Litem will allow more affordable options for parents who need a third part expert to weigh in on contested custody cases. A GAL costs \$2,500 for 1 year (12 months) of work, split two ways between parties. In contrast, Custody Evaluators are NOT investigators by trade, not held to the standards of attorney (the way GALs are), and they charge upwards of \$35,000 and higher. Judges rarely take into consideration the extravagant costs of a Custody Evaluator and there are currently no ramifications or oversight.
2. **Custody of a Child Should Not go to the Highest Bidder.** There should be no financial incentive for a Custody Evaluator to favor one party over the other, however time and time again law firms will have "favorite" Custody Evaluators and the attorneys are his/her "repeat customers." The child and the family no longer matter and this needs to stop.
3. **Child Custody Evaluators Should Not Have a Conflict of Interest.** Custody Evaluators wield a tremendous amount of power and sway with judges and attorneys. Their personal interests, financial profits, or vendettas should not be played out when making supposedly unbiased recommendations for custody.
4. **Best Interest of the Child.** The judge in Calvin's case ignored CWS, OHS, PACT, HPD, and multiple witnesses to the violence and abuse simply because the Custody Evaluator had worked with me ex's attorney and she personally hated my attorney. That is not in the best interest of my son. We were completely ignored throughout the process and other than filing an easy-to-ignore complaint with the licensing agency for psychologists, we are hopeless.
5. **Other States Have Similar Laws.** Several mainland states make it a misdemeanor for a Custody Evaluator to lie to a judge about a Conflict of Interest, see "Tex. Fam. Code § 107.107 - Child Custody Evaluator: Conflicts Of Interest And Bias. ", With Hawaii being such a small state and only having ONE law school, the chances of a Conflict of Interest are much higher, so the need for these laws are imperative to protecting the integrity of our courts.

Thank you for listening to my son's story. Finally, should you decide to support HB 1933, I have one final, big request. My son, Calvin Stremel, is my hero. He didn't choose his parents and at the end of the day, he has overcome his autism and abuse trauma and survived the petty tactics of the Custody Evaluator's greed and misconduct. I have always put him and his needs first and want to be the best advocate for him and other children.

I humbly, respectfully, THANK YOU for naming the act "Calvin's Law" as an acceptable shorthand for HB 1933. When he is old enough to understand, I would like to let him know that his survival of abuse and revictimization was not in vein and did not go unnoticed, and that his daddy and Hawaii's lawmakers heard him and saw him for who he is and recognized the abuse he endured.

Sincerely,

A handwritten signature in black ink, appearing to read "Jonathan Stremel". The signature is written in a cursive style with a large, sweeping initial "J".

Jonathan Stremel

Policy Analyst, Minority Veterans of America

Cell: (808) 746-2021 - Email: Jstremel@Hawaii.edu



HAWAII APPLESEED

CENTER FOR LAW & ECONOMIC JUSTICE

Testimony of the Hawai'i Appleseed Center for Law and Economic Justice
In Support of HB1933 HD2 – Relating to Persons Working With Children
Tuesday, March 1, 2022, at 2:00 pm via Videoconference

Dear Chair Nakashima, Vice Chair Matayoshi and members of the Committee:

Thank you for the opportunity to provide testimony in **SUPPORT of HB1933 HD2**, aka “Calvin’s Law” which would require persons who provide services relating to children, such as social workers, guardians ad litem, custody evaluators, fact finders, and therapists, to follow rules of ethics similar to those that attorneys must follow.

Families, with children, who are involved in Family Court custody matters, already encounter stressful and uncomfortable situations. The situation is made exponentially worse when one side feels they are not being treated fairly, when they feel they are being discriminated against, and when they feel there is bias in the process.

Various professionals are hired by the State to provide evaluations, fact finding, and other information relating to the children involved in these cases. Currently, there are no rules of ethics, including but not limited to rules relating to conflicts of interests, that these professionals are bound to follow.

Without such rules, those who feel they are the victim of bias, conflict, and incorrect evaluations, have no legitimate remedy as there are no standards or rules that can be shown to have been broken.

Ethical rules of conduct exist for other professionals dealing with the court, namely lawyers and judges, and it only makes sense that other involved professionals, such as those covered by this act, follow similar rules regarding 1)candor before a tribunal, 2)fairness to opposing parties, 3)truthfulness in statements, 4)fact finding, and 5)conflicts of interest.

We already expect professionals to hold themselves to the highest standards and to conduct themselves in ways that would comply with the behavior noted above. This act simply codifies our expectations, and serves to hold these professionals accountable when they fail to comply.

This act will help Native Hawaiian families, low-income families, LGBTWQ parents and children, and mixed race families (is that an appropriate term?) who are disproportionately involved in custody disputes.

Thank you for considering this testimony. Requiring social workers, custody evaluators, therapists, and others dealing with children to abide by ethical rules, including conflict of interest rules, places parties on an even and just playing field. This is required to ensure that the children of Hawai‘i’s best interests are always taken into account, and that outside influence and circumstances do not effect a just outcome.

I do not intend to provide oral testimony at the hearing.

Ray Kong
Legal Director
Hawaii Appleseed Center for Law and Economic Justice
Lawyers for Equal Justice

Executive Director
Cindy Shimomi-Saito

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Lindsay Norcross Mist

Nadine Tenn Salle, M.D.

Joshua A. Wisch

Date: February 27, 2022

To: Chair Senator Mark N. Nakashima
Vice Chair Senator Scott Matayoshi
Members of the Judiciary and Hawaiian Affairs Committee

From: Lynn Costales Matsuoka, Associate Director
The Sex Abuse Treatment Center
A Program of Kapi'olani Medical Center for Women & Children

RE: Testimony on HB1933
Relating to Rules of Ethics Applicable to Working with Children on Behalf
of the State of Hawaii

Hearing: March 1, 2022, via video conference 2:00pm

Good Morning Chair Nakashima, Vice Chair Matayoshi and Members of the
Judiciary and Hawaiian Affairs Committee:

The Sex Abuse Treatment Center (SATC) is in support of the intent of HB 1933 establishing ethical rules governing those working with children on behalf of the State. The SATC is an agency contracted by various state agencies to provide sexual abuse services to children in the form of medical forensic examinations, crisis counseling and intervention, short term crisis counseling and long term therapy where necessary. These services provisions including our 24 hour hotline is available and often serves children within our community.

The SATC fully supports and appreciates the efforts to establish ethical rules for those working with children and recognizes the importance of doing so fairly, ethically, and professionally. The sexual abuse of children is a complex matter especially when involving intrafamilial sexual abuse, sexual abuse by and among children, and adult offenders with multiple child victims.

We ask the committee to consider the impact of this bill on existing, well established principles and legal privileges between psychologist and client, under Hawai'i Rules of Evidence Rule 504.1 and victim and counselor, under Hawai'i Rule of Evidence, Rule 505-5. The nature of sexual abuse requires confidentiality be sacrosanct to the relation between therapist/counselor and client. For many clients, identification that they are a client of the SATC alone, without any further details, can compromise the trust and confidentiality of the services rendered to that individual and the ability to engage in open therapeutic processes.

While we recognize the importance of obtaining necessary written consents after consultation, doing so may compromise confidentiality when clients (and parents)

may not be aware of each other's victimization or engagement in services rendered by the same agency.

The very nature of determining whether a conflict of interest exists, requires acknowledgement and disclosure of the conflict and those involved.

The SATC supports the intent of HB 1933, we kindly ask for consideration of the dynamics of sexual abuse for children and the confidential relation between therapist and victim.

Thank you for your consideration.

February 25, 2022

COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Rep. Mark M. Nakashima, Chair
Rep. Scot Z. Matayoshi, Vice Chair
Rep. Linda Ichiyama
Rep. Dale T. Kobayashi
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Rep. Angus L.K. McKelvey
Rep. Nadine K. Nakamura
Rep. Roy M. Takumi
Rep. James Kunane Tokioka
Rep. Gene Ward

NOTICE OF HEARING

DATE: Tuesday, March 1, 2022
TIME: 2:00PM
PLACE: Conference Room 325
Via Videoconference
State Capitol
415 South Beretania Street

RE: TESTIMONY IN STRONG SUPPORT OF **HB1933 HD2** With Amendments
Relating to Persons Working With Children

Dear Committee on Judiciary & Hawaiian Affairs:

I write in strong support of HB1933 HD2 aka “Calvin’s Law” with amendments included with this testimony that afford legal redress to protective parents and their children who have been affected by the professional misconduct of “covered persons” as defined in this bill.

Persons harmed by the gross misconduct of “covered persons” must be afforded appropriate remedy. I have included language, based on a recently passed Colorado reform law (SB20-217), allowing individuals a cause for civil action against covered persons who violate the provisions of this measure. A violation of Calvin’s Law is essentially a violation of a parent(s) and their child’s/children’s Constitutional rights under the First, Fourth, Fifth, and Fourteenth Amendments.

Other states such as New York have issued studies on the grave need for reform that Calvin’s Law addresses, specifically to Custody Evaluators. Among the recommendations to the governor is a cause for civil action as proposed in this testimony. *See the NY Governor’s Blue Ribbon Commission report here: <https://ocfs.ny.gov/programs/cwcs/assets/docs/Blue-Ribbon-Commission-Report-2022.pdf>

Calvin's Law (HB1933 HD2)

Goal: To prevent miscarriages of justice in the Family Court System by holding third-parties such as social workers, custody evaluators, and therapists to follow a strict standard of evidence and/or the same professional responsibility ethical rules as attorneys.

Reasons: To prevent rampant bias in fact finding and in custody evaluation reports in Family Court ordered custody proceedings, which lead to the inhumane rupture of families with little to no access to justice or accountability.

Communities most affected: Native Hawaiian families, low-income families, LGBTQ parents and children, families where one parent is white and another is a person-of-color, mothers-of-color whose children report sexual abuse or other domestic violence by father.

The problem: Private third parties acting as de facto court officers often run amok of jurisprudence in dealing with custody and child welfare matters. Bias is rampant and unchecked. CEs deciding custody for judges lack professional rules of conduct in their investigations. They also have quasi immunity to being held accountable for taking a child away from a protective parent due to bias or returning a child to a dangerous parent for the same. The rupture of families leads to higher rates of runaways, increased child abuse and sometimes child disappearances and murder, NIED of protective parents, and no access to justice for poor families-of-color.

Current remedy for abuses by third-parties empowered by courts: proving Constitutional violations by the offender (LCSW, CE, Therapist, etc), which is nearly impossible, and subsequent costly litigation. Essentially, this means that there currently is no recourse for such violations.

Lawyers must abide by a strict code of conduct when they practice law but other third parties tasked by court to aid in deciding custody matters, child abuse, etc, do not have such a professional code of conduct.

Because of the lack of rules for private third-parties working with court as de facto court officers, bias, conflicts of interest, racism, sexism, and Constitutional violations of the rights of children and their protective guardians/parent(s) are committed daily.

Without accountability, private third parties have the ability to shirk their duties, continue to charge exorbitant fees, judge with bias, lie to court, bribe witnesses, commit fraud, omit evidence, and get away with it.

I strongly urge you to pass this important measure for reform.

Sincerely,

Kathryn 'Alamea-Xian

Expert Consultant and Trainer on Anti Human Trafficking Issues, U.S. Federal Government
Juris Doctor Candidate, William S. Richardson School of Law

SUGGESTED AMENDMENTS TO HB1933 HD2

NEW SECTION FOR HB1933 HD2

“Civil action for deprivation of rights — definition.

(1) A covered person, as defined in this chapter who, under color of law, subjects or causes to be subjected, including failing to intervene, any other person to the deprivation of any individual rights secured by the Bill of Rights of the Hawaii State Constitution, is liable to the injured party for legal or equitable relief or any other appropriate relief.

(2) (a) Statutory immunities and statutory limitations on liability, damages, or attorney fees do not apply to claims brought pursuant to this section.

(b) Quasi immunity is not a defense to liability pursuant to this section.

(c) Qualified immunity is not a defense to liability pursuant to this section.

(3) In any action brought pursuant to this section, a court shall award reasonable attorney fees and costs to a prevailing plaintiff. In actions for injunctive relief, a court shall deem a plaintiff to have prevailed if the plaintiff’s suit was a significant factor in obtaining the results sought by the litigation.

(4) Notwithstanding any other provision of law, a covered person’s employer shall indemnify its employee for any liability incurred by the employee and for any judgement or settlement entered against the employee for claims arising pursuant to this section; except that, if the covered person’s employer determines that the employee did not act upon a reasonable belief that the action was lawful, then the covered person is personally liable and shall not be indemnified by the employer. Notwithstanding any provision of this section to the contrary, if the covered person’s portion of the judgement is uncollectible from the covered person, the covered person’s insurance shall satisfy the full amount of the judgement or settlement.

(5) A civil action pursuant to this section must be commenced within five years after the cause of action accrues.”

HB-1933-HD-2

Submitted on: 2/26/2022 9:50:31 PM

Testimony for JHA on 3/1/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Meyer Cummins	Individual	Support	No

Comments:

I support HB1933 HD2

COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Chair: Rep. Mark M. Nakashima

Vice Chair: Rep. Scot Z. Matayoshi

Dear Members of the Committee,

I am writing regarding HB1933: Pertaining to Children; Contractors; Ethics; Rules; Penalties. I have read HB1933 and feel it has merit and should move forward. I'm writing in strong SUPPORT of this measure.

As a mental health provider for over 30 years, I witnessed the trauma and devastation of seeing children separated from the parents and families without notice. I have worked on many cases in which the parent's rights were stripped and they had no way of knowing where the child or children were placed and were denied the right to see or talk to their children, sometimes for months and sometimes years. The practice of the removal of children, where no "imminent" or "immediate," harm exists is extremely traumatizing to all involved, especially to the children. Sadly, many parents have expressed that having their children removed, without notice, often feels like a death. No parent or child should have to go through this type of trauma, devastation and humiliation.

The violation and humiliation parents feel after being named an "alleged" perpetrator is devastating. A covered person often deems these parents as, "guilty until proven innocent," which is a violation of every Constitutional Right provided to them under the United States Constitution and the Hawaii State Constitution, namely the right to Due Process (*United States Constitution, Fifth Amendment and Fourteenth Amendment, Hawaii State Constitution, Article 1, Section 5*). The Constitution provides that a person is presumed "innocent until proven guilty." This is the highest standard for all States both at the district level and the Supreme court level. This standard needs to be upheld throughout all departments dealing with child abuse and neglect. The immediate removal of children from their parents without notice, written report, timely investigations and lack of information on Parents Rights is an insidious and dangerous violation of the Constitution.

Regarding HB1933, Part III., Other Provisions, Item 23, Candor before a Tribunal (a) states that "a covered person shall not knowingly: (1) Make false statement of material fact or law to a tribunal (2) Fail to disclose a material fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client; or (3) offer evidence that a covered person knows to be false. If a covered person had offered material evidence and comes to know of its falsity, the covered person shall take remedial measures to the extent reasonably necessary to rectify the consequences." The practice of false, misleading and overt "errors" by a covered person is extensive and widespread.

Again, as a mental health provider I have reviewed many fact-finding reports. In some of these reports there were clearly false, misleading information and overt "errors" that were never rectified by the covered person, even upon written request by the respondent. In one case, the covered person "mistakenly" reported someone else's criminal history as that of the respondent. In this case the fact-

finding report indicated that the respondent had 27 prior convictions and that he was dismissed from the Honolulu Fire Department (HFD). The respondent did not have 27 prior convictions nor was he ever employed by HFD. This document was submitted to Family Court as part of the Child Welfare Services investigative packet. In another case, the fact-finding report indicated sexual abuse by another person, other than the respondent. When confronted, the covered person simply said, "it was a typo." This kind of practice needs to stop, and covered persons need to be held accountable for their actions.

In closing I want to cite, United Supreme Courts of Appeals, Ninth Circuit. *Preslie Hardwick, Plaintiff-Appelle, vs. County of Orange, Defendant. No. 15-55563, Jan 03, 2017*. In this case:

"The panel of held the district court's denial, on summary judgment, of absolute and qualified immunity to social workers who plaintiff alleged maliciously used perjured testimony and fabricated evidence to secure plaintiffs' removal from her mother, and that this abuse of state power violated her 4th and 14th amendment constitutional rights to her familial relationship with her mother.

The panel held that the social workers were not entitled to absolute immunity from claims that they maliciously used perjured testimony and fabricated evidence to secure plaintiffs removal. The panel held that plaintiff's complaint targeted conduct well outside the social workers legitimate raw as a quasi-prosecutorial advocate in presenting the case."

I am writing in strong SUPPORT of HB1933 and request that your committee pass this important measure. Protect the Constitution and the families who are denied their Parental Rights. Thank you for your time and consideration on this important matter.

Nonohe Botelho, MSCP

Independent Consultant/ Victim Advocate

February 28, 2022

COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

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PLACE: Conference Room 325

Via Videoconference

State Capitol

415 South Beretania Street

**RE: TESTIMONY IN STRONG SUPPORT OF HB1933 HD2
Relating to Persons Working With Children**

Dear Committee on Judiciary & Hawaiian Affairs:

My name is Sandy Narvaez and I am testifying as a parent and on behalf of my community. I appreciate the opportunity to testify in support of HB1933, which would prevent injustices in the Family Court System by holding third-parties such as social workers, custody evaluators, and therapists accountable to the same professional conduct as attorneys.

To ensure the delivery of justice, attorneys are required to follow a strict standard of evidence that prevents rampant and unchecked bias in fact finding and custody evaluation reports, which lead to the inhumane rupture of families with little to no access to justice or accountability. The communities that suffer the greatest under this bias are Native Hawaiian families, low-income families, LBGTQ parents and children, families where one parent is white and another is a person-of-color, and mothers-of-color whose children report sexual abuse by their father.

The disturbing result of these biases are higher rates of runaways, child abuse and sometimes disappearance, murder, NIED of protective parents, and lack of justice for poor families-of-color.

I humbly ask for your consideration of this bill that increase accountability and ensure our families receive fair and equitable treatment.

Sincerely,

Sandy Narvaez

HB-1933-HD-2

Submitted on: 2/28/2022 11:20:22 AM

Testimony for JHA on 3/1/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Anika Aftab	Individual	Support	No

Comments:

February 28th, 2022

COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Rep. Mark M. Nakashima, Chair

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DATE: Tuesday, March 1, 2022

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Conference Room 325

Via Videoconference

PLACE: State Capitol

415 South Beretania Street

**RE: TESTIMONY IN STRONG SUPPORT OF HB1933 HD2
Relating to Persons Working With Children**

Dear Committee on Judiciary & Hawaiian Affairs:

I hereby testify in strong support of HB1933. I strongly support establishing rules of ethics for those working with children to prevent injustice in the Family Court System. This includes third parties such as social workers, custody evaluators, and therapists. Just like attorneys, they should follow the same professional rules of conduct. This will inhibit common biases in factual findings and evaluations and limit the communities and families that are impacted.

Sincerely, Anika Aftab

February 28, 2022

COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

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PLACE: Conference Room 325
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State Capitol
415 South Beretania Street

RE: TESTIMONY IN STRONG SUPPORT OF HB1933 HD2

Dear Committee on Judiciary & Hawaiian Affairs:

I am submitting my testimony in strong support of HB1933. The Family Court System ought to be protecting the most vulnerable members of our community, not putting them at further risk due to the questionable practices of third parties. It is unconscionable that our keiki, already in highly contentious and/or traumatic family situations, could be further harmed by third parties such as custody evaluators, social workers, and therapists. If third parties are going to be tasked by the state to deal with custody matters and child abuse, they need to be held to a code of ethics and professionalism. Without such a code of conduct, third parties working with the court continue to subject families to rampant bias, racism, sexism, and homophobia-- to name a few. While one would think individuals working with children and their families would demonstrate a modicum of professional conduct, the reality is that they have charged exorbitant fees, lied to court, bribed witnesses, committed fraud, and omitted evidence. As such, third parties need to be held legally accountable, and I support HB1933 in order to make the Family Court System less damaging for families.

Sincerely,

Jennifer Meleana Hee

February 28th, 2022

COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Rep. Mark M. Nakashima, Chair

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RE: TESTIMONY IN STRONG SUPPORT OF **HB1933 HD2**

Relating to Persons Working With Children

Dear Committee on Judiciary & Hawaiian Affairs:

To prevent the perpetuation of injustice in the Family Court System by third-parties it is essential to move forward with this bill. Third-parties need to be held to the same standard that is expected of attorneys while acting on behalf of children. This is essential to providing justice to the communities affected by the unregulated decisions from third-parties.

Sincerely,

Jacob Wong Evans

LATE

HB-1933-HD-2

Submitted on: 2/28/2022 9:41:18 PM

Testimony for JHA on 3/1/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Karis Whi	Individual	Support	No

Comments:

Thomas Paine said this, "A body of men holding themselves accountable to nobody ought not to be trusted by anybody." I'm writing in strong support of HB1933, which will hold third-parties of our family courts here in Hawai'i to a standard of accountability. Accountability cannot exist without a standard and those in our family court system certainly deserve both a standard and accountability during vulnerable seasons of their life.

Goal: To prevent miscarriages of justice in the Family Court System by holding third-parties such as social workers, custody evaluators, and therapists to follow a strict standard of evidence and/or the same professional responsibility ethical rules as attorneys. Reasons: To prevent rampant bias in fact finding and in custody evaluation reports in Family Court ordered custody proceedings, which lead to the inhumane rupture of families with little to no access to justice or accountability. Communities affected: Native Hawaiian families, low-income families, LGBTQ parents and children, families where one parent is white and another is a person-of-color, mothers-of-color whose children report sexual abuse by father. The problem: Third parties acting as de facto court officers often run amok of jurisprudence in dealing with custody and child welfare matters. Bias is rampant and unchecked. CEs deciding custody for judges lack professional rules of conduct in their investigations. They also have quasi immunity to being held accountable for taking a child away from a protective parent due to bias or returning a child to a dangerous parent for the same. The rupture of families leads to higher rates of runaways, increased child abuse and sometimes child disappearances and murder, NIED of protective parents, and no access to justice for poor families-of-color. Current remedy for abuses by third-parties empowered by courts: proving Constitutional violations by the offender (LCSW, CE, Therapist, etc), which is nearly impossible, and subsequent costly litigation. Essentially, this means that there currently is no recourse for such violations. • Lawyers must abide by a strict code of conduct when they practice law but other third parties tasked by court to aid in deciding custody matters, child abuse, etc, do not have such a professional code of conduct. • Because of this lack of rules for third-parties working with court, bias, conflicts of interest, racism, sexism, and Constitutional violations of the rights of children and their protective guardians/parent(s) are committed daily. • Without accountability, third parties have the ability to shirk their duties, continue to charge exorbitant fees, judge with bias, lie to court, bribe witnesses, commit fraud, omit evidence, and get away with it.

LATE

28 FEBRUARY 2022

COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Rep. Mark M. Nakashima, Chair

Rep. Scot Z. Matayoshi, Vice Chair

Rep. Linda Ichiyama

Rep. Dale T. Kobayashi

Rep. Nicole E. Lowen

Rep. Angus L.K. McKelvey

Rep. Nadine K. Nakamura

Rep. Roy M. Takumi

Rep. James Kunane Tokioka

Rep. Gene Ward

NOTICE OF HEARING

DATE: Tuesday, March 1, 2022

TIME: 2:00PM

PLACE: Conference Room 325
State Capitol, Via Videoconference

RE: **TESTIMONY IN STRONG SUPPORT OF HB1933 HD2**
Relating to Persons Working With Children

Dear Committee on Judiciary & Hawaiian Affairs:

I write in strong support of HB1933 HD1 aka “Calvin’s Law”. The intent of this measure addresses an important area in our Family Court system which is in dire need of reform. The purpose of this bill is to extend protections to our most cherished population, our children.

I strongly urge the committee to adopt the recommendations for amendments attached to fix the language of the bill to include custody evaluators (CEs) who do not technically “contract” with the state but rather are ordered by the state (courts) to provide services to parties involved in a court proceeding. Nonetheless, CEs in fact contract directly with both parties by order of the courts and are in direct contact with children and families. Therefore, these third-party actors should be held to a higher standard.

[Other states have issued studies on the grave need for reform that Calvin’s Law addresses regarding “Covered Person” as defined in this bill, specifically to Custody Evaluators.](#)

Calvin’s Law will help correct flaws in Family Court, and the goal of this bill is to prevent miscarriages of justice in the Family Court System by holding third parties such as: social workers, custody evaluators, and therapists to follow a strict standard of evidence and/or the same professional responsibility ethical rules as attorneys. This should be a goal of all of us—to protect those most vulnerable and hold those in charge of their care accountable.

I strongly urge you all to vote in favor of Calvin’s Law.

Sincerely,
Kelly Glatthorn

HB-1933-HD-2

Submitted on: 2/28/2022 10:11:40 PM

Testimony for JHA on 3/1/2022 2:00:00 PM



Submitted By	Organization	Testifier Position	Remote Testimony Requested
kimo lee	Individual	Support	No

Comments:

Aloha, I am in support of HB1933. I raised my daughter from birth, the mom struggled with mental health issues and abandoned my daughter as an infant. I dedicated my whole life to raising my daughter right and good. We lived in a good neighborhood, I took her on stroller rides every day, taught her how to crawl, walk, eat, drink, sing, laugh, love, play, relax, swim, fish, farm, read, write, climb, dance, chant and so much more. We were inseperable. Everyday we went on a new adventure, learned new things and talked to people every where we went so we were well known in the community.

I got on Native Hawaiian scholarships to get my Masters degree so I could have the bills paid and raise my daughter myself and didnt need a babysitter. For me I had a child so that I could raise her myself and not work all day for someone else to raise her. My kids are my life and I couldnt picture a life not raising them. My daughter acompanied me to classes, presentations and the archives where I did my research. My daughter became very good at research, history, presentations and asking questions by being around the academic world. I put her in preschool and she made many friends. We ate dinner every sunday at my anti's house where she was apart of a bigger family, we went on trips to the east coast every christmas to visit her grandma, grandpa, antis, uncles and cousins. She had many friends whom she hung out with, she went to hula and jujitsu practice, we played soccer and tennis often, had many tea parties and art projects and she loved to have water baloon fights. I helped her with her school work as she got older as I was a full time teacher and had a Masters degree and moving towards getting my Phd.

I have worked in the community teaching kids tennis and martial arts for over twenty years. The mom who suffers from severe mental health problems came back into her life only to create havoc and chaos. Eventually after one of her psych ward visits I protested against her getting my daughter while she was heavily medicated and not right mentally and I felt like she needed to focus on her own healing before taking care of our daughter. Not too long after she went for sole custody as she comes from a wealthy family and had the money to hire a good attorney. I looked every where and found that most firms started at 10k for a starting retainer which I did not have at the time. Legal aid would not help or volunteer legal services and probono is unheard of for family court.

I was forced to represent myself and was trampled on from the start. The moms attorney wanted her close colleague Barbara Higa Rogers to be the custody evaluator whom the attorney had already talked to worked with in the past as fact finders and had done previous cases with. I protested to the judge pointing out the biasness and premeditated working relationship between

this attorney and Barbara Higa Rogers but the judge ordered her the custody evaluator anyways. Rogers was rude to me, racist, prejudice and unprofessional to both me and my daughter during her evaluation. Rogers falsified information, applied the moms faults to me, wrote down the moms hearsay as fact, ommitted critical records such as the moms MH6 involuntary intakes to the psych ward and ignored evidence of the mom's neglect, abuse, recklessness and endangerment to the child. Although I gave Rogers 6 collaterals to call she contacted 0 of them and only filled her court report with the mothers collaterals. Rogers ignored anything I had to say even if I had evidence to support my claims of the mom endangering my child. Rogers remained in constant communication with the mothers attorney through out her investigation and while she was writing the report which is called exparte communication which is illegal for an attorney and custody evaluator to do during an evaluation. The moms attorney included in an order that said the mom was the only one that could pay the custody evaluator which was lawyer size fees. When Rogers talked to me on the first day in her office she pretended like she did not know the mom was the only one who was supposed to pay for the custody evaluator. Rogers pretended like the mom didnt already pay her and she was asking me to pay the bill which is a form of double dipping. I asked her if the mom had payed her and she said, "oh yea I must of forgot, but if you want me to look at your side of the story and review your evidence you have to pay also." I said, "how much?" Rogers stated, "equal to that of the mom or more depending on how much you want me to look at your side of the story so 7 thousand dollars or more." I told Rogers I didnt have the money and since she was the custody evaluator it should be her job to evaluate it in a fair way no matter who paid her. She laughed and told me that she had many other cases and didnt have time to waste on me if I didnt pay her. When I said I didnt have the money she treated me like an adversary for the rest of the investigation. The judges took Rogers report like it was the bible and gave the mother sole custody entirely based off of a false custody evaluation report.

Rogers never brought her notes, reports and records with her to testify as she was subpoenaed to and her testimony was far outdated as the trial was a year later from her report. The family court collaborated with Rogers to justify awarding the mother sole custody. The judges were clearly working against me in court. My daughter had her rock, her stability, her home, her foundation, her dad, stolen and stripped away from her just like that after being raised by her dad for 11 years and now she was forced to be in an environment which she was very uncomfortable in and didnt feel safe in.

The bribe culture and money over morals attitude in family court must stop, these are real families, real children real fathers and real mothers that are being unnecessarily separated from their families because a custody evaluator was paid lawyer size fees to write a false and favorable report to the attorney that they are collaborating with and continue to get referrals from. Custody evaluators like Rogers are the hitman of family court and they are making reports out and decisions based on whats in the best interest of their bank account and not the child. This is a form of child trafficking and it must stop. Family court corruption must be tackled head on because it is ruining Hawaii families and children.