The Judiciary, State of Hawai'i

Testimony to the Thirty-First Legislature
2022 Regular Session

Senate Committee on Judiciary
Senator Karl Rhoads , Chair
Senator Jarrett Keohokalole, Vice Chair

Thursday, February 17, 2022 at 9:30 a.m.
Via Videoconference

by
Matthew J. Viola
Senior Judge, Deputy Chief Judge
Family Court of the First Circuit

Bill No. and Title: Senate Bill No. 2747, Relating to the Uniform Parentage Act.

Purpose: Repeals and replaces the Uniform Parentage Act of 1973 with the Uniform Parentage Act of 2017.

Judiciary's Position:

The Judiciary strongly supports Senate Bill No. 2747 and the proposal to repeal Hawai'i Revised Statutes (HRS) Chapter 584, which was adopted in 1975, and replace it with language in line with the Uniform Parentage Act (UPA) of 2017.

There have been many changes to society, the law, and medical technology that make many of the provisions in HRS Chapter 584 obsolete or completely lacking. The language of Senate Bill No. 2747 seeks to ensure the equal treatment of children born to all parents, whether they be from heterosexual or same-sex couples; allows for the establishment of a *de facto* parent as a legal parent, which is permitted under existing case law; includes surrogacy provisions to reflect the scientific developments in that area; and addresses the rights of children born through assisted reproductive technology.

In 2002, a draft UPA was created, but Hawai‘i did not adopt the 2002 version. Hawai‘i has made some amendments over the years to HRS Chapter 584, including the addition of an “expedited process of paternity” in 1996. In general, however, the statute has not kept up with the changes in our society.

In 2021, Act 201 was passed creating a task force to recommend statutory amendments to update existing parentage laws that reflect cisheteronormative concepts of families, parenthood, and parental rights. The task force was made up of the Department of Health, the Department of the Attorney General, Child Support Enforcement Agency, a Family Court judge, a family law attorney, representative of AF3IRM Hawaii, a representative of the Department of Health's sexual and gender minority working group, a representative of Ka Aha Mahu, and any other member as recommended by the task force. The task force commenced its work on August 27, 2021. The pandemic, time constraints, and unforeseen circumstances prevented the task from reaching a full agreement on draft legislation in time for this legislative session. Senate Bill No. 2747 represents the draft legislation that the task force was developing.

The passage of Senate Bill No. 2747 has the potential of benefiting many members of our community and the Judiciary supports this measure.

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

TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-FIRST LEGISLATURE, 2022

ON THE FOLLOWING MEASURE:
S.B. NO. 2747, RELATING TO THE UNIFORM PARENTAGE ACT.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY

DATE: Thursday, February 17, 2022 **TIME:** 9:30 a.m.

LOCATION: State Capitol, Via Videoconference

TESTIFIER(S): Holly T. Shikada, Attorney General,
Mark T. Nugent, Deputy Attorney General

Chair Rhoads and Members of the Committee:

The Department of the Attorney General (Department) supports the intent of the bill and provides the following comments.

The purpose of this bill is to update the Uniform Parentage Act of 1973, which is codified as chapter 584, Hawaii Revised Statutes (HRS), by replacing it with the Uniform Parentage Act of 2017 (Model UPA). This bill seeks to: ensure the equal treatment of children born to same-sex couples; establish a de facto parent as a legal parent; include surrogacy provisions to reflect developments in that area; and address the rights of children born through assisted reproductive technology.

This bill includes presumptions of parentage that do not arise from biological relationships or heterosexual marriage. In addition, it specifically addresses how parentage may be established given the three major conception scenarios: sexual intercourse; assisted reproduction; and surrogacy. The proposed bill introduces new assisted reproduction and surrogacy laws to the State of Hawaii, which raise concerns as stated in the Report on Surrogacy and Gestational Carrier Agreements submitted by the Department to the 2018 Legislature.

Although section 1 of this bill states that this measure enacts the Model UPA, this bill actually combines certain provisions of the Model UPA with existing provisions of chapter 584, HRS. Because this bill appears to be an attempt to mold the Model UPA

to existing Hawaii law, the Department makes the following comments and suggests the following amendments to this bill.

§ -3 Jurisdiction; venue. (Page 4, line 12, through page 8, line 10).

The terms of this section should be made consistent with the provisions of chapter 576B, the Uniform Interstate Family Support Act, which governs interstate establishment of parentage and child support. We suggest the following amendments on page 4, lines 12-16:

> (a) Without limiting the jurisdiction of any other court, the family court has jurisdiction over an action brought under this chapter [~~or~~], chapter 583A[~~.~~], or chapter 576B. The action may be joined with an action for divorce, annulment, separate maintenance, or support.

On page 5, we recommend adding a new sentence at the end of line 2:

> A court of the State with jurisdiction to adjudicate parentage may exercise personal jurisdiction over a nonresident individual, or the guardian or conservator of the individual, if the conditions prescribed in section 576B-201 are satisfied.

On page 5, lines 7-11, in order to be consistent with existing law, section 584-8(c), HRS, we suggest the following language:

> In addition to any other method of service provided by statute or court rule, if the respondent is not found within the circuit, [~~the court may authorize~~] service may be effectuated by registered or certified mail, with request for a return receipt and direction to deliver to addressee only.

§ -4 Parentage determinations from other states and territories. (Page 8, lines 11 to 16).

This section should make clear that, in situations where only a determination of parentage has been made in another state, a court in this State is not precluded from addressing other related issues. Therefore, we recommend the following amendments to the wording on page 8, lines 12-16:

> Parentage determinations from other states and territories, whether established through voluntary acknowledgement or through administrative or judicial processes, shall be treated the same as a parentage adjudication in the State. A determination addressing parentage only in another state or territory does not preclude a court in the State from addressing other related issues.

§ -8 Presumption of parentage. (Page 15, line 10, through page 16, line 20).

To establish a legal standard of proof, and to be consistent with the existing statute, section 584-4(b), HRS, we recommend requiring a finding of clear and convincing evidence to rebut a presumption of parentage. We suggest designating the current wording in the proposed section 8 as subsection (a) and adding a new subsection (b), after page 16, line 20, as follows:

> (b) A presumption under this section may be rebutted in an appropriate action only by clear and convincing evidence.

§ -11 Expedited process of parentage. (Page 18, line 19, through page 22, line 15).

In anticipation of electronic filing and electronic versions of acknowledgments of parentage, it may be prudent to add wording allowing for this.

Moreover, in addition to the list of procedural requirements in this section, title 45 Code of Federal Regulations section 303.5(g)(2)(i)(D) requires "[t]he opportunity to speak with staff, either by telephone or in person, who are trained to clarify information and answer questions about paternity establishment" be provided to parents. This requirement should be added as a new subsection (a)(4) on page 19, line 20, as follows:

> (4) The opportunity to speak with staff, either by telephone or in person, who are trained to clarify information and answer questions about parentage establishment.

To be consistent with the existing law in 584-4(a)(6), HRS, we recommend amending subsection (g) on page 22, lines 8-10, to read as follows:

> Judicial and administrative proceedings shall not be required or permitted to ratify an unchallenged acknowledgment of parentage. A voluntary, written acknowledgment of parentage signed by the individual under oath or affirmation and filed with the department of health shall be the basis for establishing and enforcing a support obligation through a judicial or administrative proceeding.

§ -16 Enforcement of judgment or order. (Page 30, line 5, through page 31, line 18).

Because the Child Support Enforcement Agency (CSEA) is not allowed to enforce child support orders payable to an adult child, subsection (b) on page 30, lines 15-19, should be amended as follows:

> (b) The court may order support payments to be made to a parent, an adult child, [~~the child support enforcement agency,~~] or an individual, corporation, or agency designated to administer them for the benefit of the child under the supervision of the court[~~.~~], or through the child support enforcement agency as its rules permit.

§ -17 Modification of judgment or order. (Page 31, line 19, through page 33, line 8).

The verification of continuing education should be consistent with the existing law in section 576E-14, HRS. Subsection (b) on page 32, line 10, through page 33, line 5, should be amended as follows:

> (b) In those cases where child support payments are to continue due to the adult child's pursuance of education, the child support enforcement agency, at least three months prior to the adult child's nineteenth birthday, shall send notice by regular mail to the adult child and the custodial parent that prospective child support will be suspended unless proof is provided by the custodial parent or adult child to the child support enforcement agency, prior to the child's nineteenth birthday, that the child is presently enrolled as a full-time student in school or has been accepted into and plans to attend as a full-time student for the next semester a post-high school university, college, or vocational school. If the custodial parent or adult child fails to do so, prospective child support payments may be automatically suspended by the child support enforcement agency, hearings officer, or court [~~upon the child reaching the age of nineteen years~~]. If applicable, the agency, hearings officer, or court may issue an order terminating existing assignments against the responsible parent's income and income assignment orders.

Additionally, the Department notes that section 580-47(a), HRS, may also need to be amended to be consistent with the above language.

§ -31 Definitions. (Page 48, lines 7-20).

Definitions for "ethnic or racial group" and "relationship index" should be included to be consistent with the Model UPA and because both factors are currently used in calculating the probability of parentage.

On page 48, line 10, we recommend adding:

> "Ethnic or racial group" means, for the purpose of genetic testing, a recognized group that an individual identifies as the individual's ancestry or part of the ancestry or that is identified by other information.

After page 48, line 20, we recommend adding:

> "Relationship index" means a likelihood ratio that compares the probability of a genetic marker given a hypothesized genetic relationship and the probability of the genetic marker given a genetic relationship between the child and a random individual of the ethnic or racial group used in the hypothesized genetic relationship.

§ -32 Scope of Part; limitation on use of genetic testing. (Page 49, lines 1-12).

The Department is concerned that this section may conflict with section -54(c), on page 71, lines 7-11, which requires the court to order genetic testing if a child is alleged to be a genetic child of the surrogate. We suggest adding a new subsection (b)(3) after page 49, line 12 to read as follows: "(3) Except as required by section -33 or -54."

§ -34 Requirements for genetic testing. (Page 51, line 9, through page 52, line 6).

We recommend adding another subsection to include "ethnic or racial group" and "relationship index" as factors to be used in calculating the probability of parentage in the same manner as the Model UPA. We suggest subsection (d) be added after page 52, line 6, as follows:

> (d) Based on the ethnic or racial group of an individual undergoing genetic testing, a testing laboratory shall determine the databases from which to select frequencies for use in calculating a relationship index. If an individual or the child support enforcement agency objects to the laboratory's choice, the following rules apply:
>
> (1) Not later than thirty days after receipt of the report of the test, the objecting individual or the child support enforcement agency may request the court to require the laboratory to recalculate the

relationship index using an ethnic or racial group different from that used by the laboratory;

(2) The individual or the child support enforcement agency objecting to the laboratory's choice under this subsection shall

(A) If the requested frequencies are not available to the laboratory for the ethnic or racial group requested, provide the requested frequencies compiled in a manner recognized by accrediting bodies; or

(B) Engage another laboratory to perform the calculations; and

(3) The laboratory may use its own statistical estimate if there is a question which ethnic or racial group is appropriate. The laboratory shall calculate the frequencies using statistics, if available, for any other ethnic or racial group requested.

§ -36 Genetic testing results; challenge to results.

Title 45 Code of Federal Regulation section 302.70(a)(5)(v) requires the State to have procedures that provide that any objection to genetic testing results must be made in writing within a specified number of days before any hearing at which such results may be introduced into evidence; and if no objection is made, a report of the test results, which is reflected in a record, is admissible as evidence of parentage without the need for foundation testimony or other proof of authenticity or accuracy. These procedures are currently codified in state law under section 584-11(e), HRS. We suggest that subsections (d) and (e) be added to this bill after page 54, line 9 as follows:

(d) In any hearing or trial brought under this chapter, a report of the facts and results of genetic tests ordered by the court under this chapter shall be admissible in evidence by affidavit of the person whose name is signed to the report, attesting to the procedures followed in obtaining the report. A report of the facts and results of genetic tests shall be admissible as evidence of parentage without the need for foundation testimony or other proof of authenticity or accuracy, unless objection is made. The genetic testing performed shall be of a type generally acknowledged as reliable by accreditation bodies designed by the United States Secretary of the Health and Human Services. An alleged parent or party to the parentage action who objects to the admission of the report concerning the genetic test results must file a motion no later than twenty days after receiving a copy of the report and shall show good cause as to why a witness is necessary to lay the foundation for the admission of the report as evidence. The court may, sua sponte, or at a hearing on the motion determine whether a witness shall be required to lay the foundation for the admission of the report as evidence. The right to call witnesses to rebut the report is reserved to all parties.

(e) Should an original test result be contested, the court shall order further genetic testing with payment of the testing to be advanced and paid for by the contesting party.

Furthermore, the term "paternity" should be replaced with "parentage" throughout this bill for consistency, for example, on page 6, line 6 and on page 10, line 16. The term "a child support agency" should also be replaced with "the child support enforcement agency" throughout the bill to avoid any confusion, for example, on page 38, line 2, page 49, lines 6-7, page 50, line 4, and page 50, line 7.

The Department respectfully requests that the recommended changes be accepted.

Thank you for the opportunity to provide testimony.

SB-2747
Submitted on: 2/15/2022 8:43:28 AM
Testimony for JDC on 2/17/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Michael Golojuch Jr	Testifying for Stonewall Caucus of the Democratic Party of Hawaii	Support	Yes

Comments:

Aloha Senators,

The Stonewall Caucus of the Democratic Party of Hawai‘i (formerly the LGBT Caucus) Hawai‘i’s oldest and largest policy and political LGBTQIA+ focused organization fully supports SB 2747.

We hope you all will support this important piece of legislation.

Mahalo nui loa,

Michael Golojuch, Jr.
Chair and SCC Representative
Stonewall Caucus for the DPH

I am opposed to SB 2747 as it is currently written. My primary objection is that the proposed bill may enable the creation of humans who will not be able to access their genetic origin information, even when they are adults. The language in the bill for documenting, preserving and releasing biological/genetic origin information does not adequately protect the rights and needs of those humans created through assisted reproduction.

The absence of this information disadvantages these persons who will **lack medical history** of their donor genetic parent(s) and family. Even if the gamete bank or fertility center collected a medical history from the donor at the time of donation, that snapshot-in-time medical history is incomplete as the young donor may not yet have manifested health problems and may not be an accurate reporter of their family medical history.

The lack of information about their genetic origins also leaves the donor-conceived person with a **void about their ethnicity, family lineage, and family traits**.

Experience and research have documented consequences for persons not knowing their biological family origins and identities. By not ensuring that persons will have access to their origin information even as adults, this proposed legislation repeats known barriers and mistakes that have had harmful consequences for adopted persons.

Possible amendments to consider to strengthen protections for the donor-conceived:

- **Require that all gametes used in Hawaii would come from donors who are willing to have their identifying information disclosed to their child** at least by age 18. This willing-to-be-identified status shall be certified by the gamete bank or fertility clinic.

- **Require that this identifying information be documented, securely preserved and then released to the donor-conceived person** (person created with assisted reproduction) **after they reach the age of 18 upon request.**

- **Include provisions for the child/family to access this information any time before the child reaches 18**
    - **a) for medical need,**
    - **b) to prove Hawaiian ancestry for eligibility for Hawaiian birth rights such as Hawaiian Home Lands or Kamehameha Schools, or**
    - **c) if the donor and receiving family are in mutual agreement.**

- **Require that all gametes used in Hawaii procured by a gamete bank or fertility clinic from both inside or outside the state shall be accompanied with an ID number associated with the donor and the name and address of the gamete bank or fertility clinic and certified by them. This information shall be given to the person purchasing or using the gametes as well as kept by the clinic, doctor or medical facility.**

- **The state shall document the ID number and name and address of the gamete bank or fertility clinic associated with a birth** perhaps on the long form birth certificate.

Rationale: It is not uncommon for some donor-conceived persons to not have any information about the gamete bank, donor, or doctor involved and have no idea where to go for information. **The gamete banks may not have records of the subsequent births resulting from each sale.** State documentation could be used by the donor-conceived adults to prove they are connected to a donor and have a right to identifying information from the gamete bank.
If the parent keeps this information and also provides it at the birth of the child for the long form birth certificate and/or also gives it to their child, it will help the donor-conceived person to have some record to follow to get more information.

Also, women can purchase sperm from a gamete bank and have it shipped directly to them along with an insemination syringe and general guidelines for the insemination process.

The complexity and gravity of assisted reproduction and surrogacy **warrants extended study** and discussion to ensure protection of the best interests of the donor-conceived persons. **I urge you to amend SB 2747 or call for a two-year study of these complex issues to protect children's interests for the truthful facts of their genetic origins and medical history**.
Donor-conceived individuals should be included in these discussions.

Thank you for the opportunity to share my views.

Respectfully,
Kat McGlone

Resources:

Session by donor-conceived and surrogate-born at the United Nations on 30th anniversary of the Convention on the Rights of the Child. (2019).
https://www.youtube.com/playlist?list=PL3PTiHF4egBG2KaSTYLDZUpIY_f1-BYy2

Concise, powerful testimony that highlight the issues for those who are donor-conceived

Donor Sibling Registry https://donorsiblingregistry.com/
This website is a resource trove of information, research articles, and support. DSR goal is to educate, connect, and support donor families. DSR's core value is honesty, with the conviction that people have the fundamental right to information about their biological origins and identities.

Samuels, Elizabeth. (2018). An Immodest Proposal for Birth Registration in Donor-Assisted Reproduction, In the Interest of Science and Human Rights.
https://scholarworks.law.ubalt.edu/fac_articles/5

Resources *continued on next page.*

Kramer, Wendy. (2016). The Ambiguity of "Open" Sperm Donation. *https://www.huffpost.com/entry/the-ambiguity-of-open-sperm-donation_b_5813858de4b096e8706964f1*

Cahn, Naomi. (2014). "Do Tell! The Rights of Donor-Conceived Offspring," *Hofstra Law Review*: Vol. 42 : Iss. 4 , Article 3. https://scholarlycommons.law.hofstra.edu/hlr/vol42/iss4/3

Cahn, Naomi. (2011). Old Lessons for a New World: Applying Adoption Research and Experience to ART. https://www.researchgate.net/publication/228139419_Old_Lessons_for_a_New_World_Applying_Adoption_Research_and_Experience_to_Art

United Nations. (1990). **Convention on the rights of the child**. https://www.ohchr.org/EN/professionalinterest/pages/crc.aspx

Article 8 - States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

SB-2747
Submitted on: 2/14/2022 6:08:05 PM
Testimony for JDC on 2/17/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Elizabeth Kent	Testifying for Commission to Promote Uniform Laws	Support	No

Comments:

Aloha,

Thank you for this opportunity to submit these comments on behalf of the Commission to Promote Uniform Legislation in strong support of Senate Bill No. 2747 which repeals and replaces the Uniform Parentage Act of 1973 with the Uniform Parentage Act of 2017 (UPA 2017). To date, the UPA 2017 has been enacted in California, Connecticut, Maine, Rhode Island, Vermont, and Washington. In addition, bills to enact it are pending in Massachusetts and Pennsylvania.

I urge you to pass SB 2747 because adoption will:

- remove unnecessarily gendered terms and reduce unnecessary litigation involving children born to same-sex couples,
- provide a means of protecting established parent-child relationships,
- broaden the acknowledgment process so that it applies equally to women,
- establish clear provisions governing surrogacy and assisted reproduction technology, and
- address the right of children born through assisted reproductive technology to access medical and identifying information regarding any gamete providers.

Thank you for the opportunity to testify in support of SB 2747.

Respectfully submitted,

Elizabeth Kent

SB-2747
Submitted on: 2/16/2022 5:31:13 AM
Testimony for JDC on 2/17/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Wendy Kramer	Testifying for Donor Sibling Registry	Comments	No

Comments:

It's imperative that the needs and rights of donor-conceived people are acknowledged and addressed in this bill. We have more than 30 published papers on donor-conceived people and their families. and more than 2 decades of hearing from more than 78,000 donors, parents, and donor-conceived people. Anonymity is a thing of the past, as with DNA testing, no donor can expect to stay anonymous for 18 years. Laws should reflect this truth. Donor-conceived people have a right to know about their ancestry, medical backgrounds, and close genetic relatives....long before the age of 18. There is no research or evidence backing the claim that mandating a donor child to wait 18 years is in their best interests and plenty of evidence shows the importance of this information being known long before the age of 18.
https://donorsiblingregistry.com/dsr-research

Wendy Kramer
www.donorsiblingregistry.com

303-258-0902 (Office)

There are only two lasting bequests we can hope to give our children.
One is roots; the other wings.- Hodding Carter

Books:

Counseling Donor Family Members: A Guide for Mental Health Professionals

Finding Our Families: A First-of-Its-Kind Book for Donor-Conceived People and Their Families (Amazon)
Your Family: A Donor Kid's Story (Bookshop) (Amazon)

Donor Family Matters (Barnes & Noble) (Amazon) (Bookshop)

Articles:

Wendy's DSR Blog and Huffington Post Articles

Booklets:

DNA= Donors Not Anonymous

Research Booklet: All The DSR's 2009-2021 Published Research

DSR Short Introductory Video:

DSR Video

February 16, 2022

Senator Karl Rhoads, Chair
Senate Committee on Judiciary

Re: S.B. 2747, Relating to Uniform Parentage Act

Hearing: February 17, 2022, 9:30 a.m., Via Videoconference

Dear Chair Rhoads, Vice Chair Keohokalole and Members of the Committee on Judiciary:

Hawaii Women Lawyers ("HWL") submits testimony in **support** of S.B. 2747, which updates the Uniform Parentage Act in Hawaii.

The mission of Hawaii Women Lawyers is to improve the lives and careers of women in all aspects of the legal profession, influence the future of the legal profession, and enhance the status of women and promote equal opportunities for all.

S.B. 2747 provides much needed updates to Hawaii's Parentage Act, which is based upon the Uniform Parentage Act of 1973. This measure updates these laws to ensure the equal treatment of children born to same-sex couples, establish a de facto parent as a legal parent, provide for a legal process for surrogacy, and address the rights of children born through assisted reproductive technology.

Under existing Hawaii law, a process to establish voluntary parentage does not exist equally for all families. Because the laws that address parentage have not been updated for many decades, Hawaii families that are not heteronormative expend significant amounts of resources and face legal barriers when they have children. S.B. 2747 provides for a legal process to establish parentage for all intended parents, gestational carriers and non-gestational parents. This will give all families legal certainty when their children are born, including the ability to obtain a pre-birth court order so that the names of the intended parents can be placed on their child's birth certificate.

We would note that in 2021, the Legislature passed Act 201 SLH, which created a task force to recommend amendments to the Hawaii parentage laws and to eliminate outdated, cisheteronormative concepts of families, parenthood, and parental rights. The task force brought together representatives of the court, family law practitioners, and community groups, and S.B. 2747 is the result of the task force's efforts.

For the above reasons, we support S.B. 2747 respectfully request that the Committee pass this measure to allow discussion on this important topic to continue.

P.O. Box 2072 • Honolulu, Hawaii 96805
Email: hawaiiwomenlawyers@gmail.com

LATE

SB-2747
Submitted on: 2/16/2022 3:22:41 PM
Testimony for JDC on 2/17/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Neil F. Hulbert	Testifying for Truth in Adoption	Oppose	No

Comments:

The bill turns a birth certificate into a parentage certificate. A birth certificate should record ONLY the bilogical facts of the birth, including the names of all biological contributors to the birth. Anyone else who becomes a legal parent under the terms of the bill should be issed a parentage certificate.

A parent's name is not removed from a birth certificate upon divorce and termination of custodial rights. The parents names are not removed from a birth certificate upon judicial termination of parental rights. Those events do not alter the original biological facts. When the biological facts do not change the birth certificate should not change. When parental legal rights and obligations change another document can reflect that fact.

A solution is to have at birth all births reflected in a birth certificate and simultaneously the legal parent-child relationship reflected in a separate certificate. One certifys the biological facts and the othe certifys the legal parental relationship.

The child, upon reacing majority, should have access to the records of all proceedings under the bill relating to the child just as adoptees have unfettered access to their adoption records.

SB-2747
Submitted on: 2/14/2022 7:21:13 AM
Testimony for JDC on 2/17/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Eileen McKee	Individual	Support	No

Comments:

Aloha,

I support the passage of SB2747.

Mahalo,

Eileen McKee

Kihei

Mark Shapiro
josef.shap@gmail.com

My name is Mark Shapiro and I'm a resident of Maui. I oppose S.B. No 2747 as written.

As early as I can remember, as a child, I felt something was deeply wrong. I turned inward as a teenager and embarked on a journey to find myself.

I studied dozens of models, methodologies, philosophies, spiritualities, etc. to try to get to the bottom of what was missing. I learned a great deal about myself, people, and reality and it's a journey I wouldn't trade for anything. However, I learned at age 47 that it could have been far easier.

Of the many things I learned about myself along the way, I had a pattern of being drawn to male authority figures who would ultimately disappoint and often betray me. It happened so often that it was clear I was the common denominator. I knew I grew up with an emotionally distant father, but somehow the father issues I worked didn't unravel the issue.

When a friend in late 2020 suggested I do **23 and Me**, **I was curious about genetic predispositions I had for disease as I was getting older. I was shocked to discover eight relatives I'd never heard of, one of whom reached out to me and told me our biological father was a sperm donor.** He sent me a picture of that man that easily could have been a younger picture of myself.

I had little doubt, but pressed my parents the next day and they confessed that they'd kept this secret for 47 years and planned to take it to their graves. I barely slept for about ten days. It was like my entire memory, my entire being was reorganizing, updating with this new information.

It explained so much: those awkward moments I felt as a child when asking my social father how tall he was to understand how tall I would be, dinner table conversations about whether I would inherit his poor eyesight, and all the times I kind of stared at him because something just seemed strange in a way I couldn't place.

Something in me knew all along he wasn't my father. Children sense and feel things adults cannot, and when we tell them they're imagining things it makes it worse.. It wounds us. It causes us to not trust people and reality. It makes the world unsafe.

When that information is about where we came from and who our parents are, it's my direct experience that it creates existential level wounding that is nearly impossible to outwork without having the true information. As a therapist and coach, this is my area of expertise and professional opinion.

It's just a matter of time before the impact of genetic secrecy in families becomes a mainstream understanding. It wasn't that long ago that homosexuality was considered a disease or that heroin was a healthy alternative to morphine. The fertility industry and laws related to it are unregulated and primitive.

We have a right to know where we come from. The **genetic predispositions to disease** alone are an open and shut case for this. Both of my social father's brothers died of Alzheimers, but it turns out I don't have to worry about that. I did discover, however, that have a genetic predisposition to blood clots. I also discovered that my biological father's passion was blending psychology and spirituality, fascinatingly a trait I inherited not seen anywhere in my social family.

It's not okay that this information was kept from me only because my parents were too uncomfortable to share the truth, and that no laws required that truth to be available to me. All of this will change as more and more people get genetic testing. It's just a matter of time at this point. Which states lead the change and which trail behind, struggling to embrace evolution?

S.B. No. 2747 allows donors to withhold their identity from the child forever. This idea stems from a flawed paradigm that says that nurture is more important than nature–that we can literally play God and move genetic material around without significant consequences that are too subtle for most people to notice.

To those who subscribe to this misguided paradigm, I say this: speak to a hundred donor-conceived children like me, who found out the truth by accident as an adult, many of whom were unable to ever find anything out about their true parent, and see if it still seems the same to you.

When I found out about my biological father, he had been dead for fifteen years. I had the fortune to know about him, but never knew him. I hold, as many people in my situation do, that it was my birthright to know who he was.

As a former foster youth, an adoptee and a medical professional, I am very passionate about an individual's right to know their identifying information including their medical history. Throughout my life, whenever I went to the doctor, I always had to document "family history-unknown." One of my doctors even told me that it was a "handicap" that I did not know my medical background as this is often a provider's first step in accurately diagnosing patients. While I always had a strong desire to know my medical history, I truly began to realize the importance of knowing my family medical history when working with oncology patients. According to the American Medical Association (2022), knowing one's family medical history leads to better preventative screening, earlier diagnosis and a lower likelihood of early mortality for current and future generations.

While I am grateful that I have been able to finally receive my medical records and family background at the age of 31 because of a change in the law which now honors the importance of this basic human right for adoptees, I am gravely concerned about the lack of information which is provided to individuals who are donor conceived. We must make more than a "good faith effort" to ensure that donor-conceived individuals have access to their identifying information.

Donor-conceived individuals should have parity with those who are adopted or were in foster care which would allow them access to their identifying information including their genetic parent's (the donor's) name, birthdate, genetic and medical history, and other information that was collected. When the donor fills out their known medical history before conception of the child, this is only a single snapshot in time of their physiological and psychological health. Therefore, it is imperative for donor-conceived individuals to have access to their identifying information at the age of 18 upon request to gather updated information that has evolved since the time of original donation.

I oppose this bill as currently written, and I strongly urge that you allow more time to consider the unintended consequences of this legislation. **Furthermore, I ask that you create a working group to listen to the voices of those in the community with lived experience to mitigate harm for those who are donor-conceived.**

Reference:

American Medical Association (2022). *Collecting a family history.* Retrieved from https://www.ama-assn.org/delivering-care/precision-medicine/collecting-family-history

SB-2747
Submitted on: 2/16/2022 9:04:27 AM
Testimony for JDC on 2/17/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Doreen Akamine	Individual	Comments	No

Comments:

Aloha Chair Keohokalole, Vice Chair Baker, and Honorable Members,

I would like to submit this written testimony as a comment for consideration. I have been an RN in the State of Hawaii for over 47 years and have been directly involved with thousands of patients. Those who do not have any family medical history are at a disadvantage and at risk when specific treatments are required, e.g. anesthesia, allergies, reactions to products, chemotherapy, etc. In addition, preventively, those without family medical information are not able to anticipate potential health conditions such as cancer, diabetes, heart problems, kidney failure, high risk pregnancy conditions, immunocompromised issues, and many, many more genetically-related issues that can be mitigated early when a person is aware of their family medical history. I urge you to strongly consider this during your discussion of this bill and how the health and well being of the child will be affected for their entire life if they do not have access to their family medical history.

Respectfully,

Doreen Akamine, RN, MPH

SB-2747
Submitted on: 2/16/2022 10:40:46 AM
Testimony for JDC on 2/17/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Erin Castillo	Individual	Oppose	No

Comments:

Aloha. I am submitting this testimony an individual who grew up with my biological heritage hidden from me.

My hope for the future, is there will be no more anonymous sperm or egg donations during the invitro process. We all have the basic human right to know our genetic history. Further, having our genetic and family history is vital for our well being. Knowing our origrins will aid in healthier, happier adults.

Thank you for considering my testimony.

SB-2747
Submitted on: 2/16/2022 6:19:56 PM
Testimony for JDC on 2/17/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
J. Takane	Individual	Oppose	No

Comments:

Speaking as an adopted person who was denied access for so long to much needed and deserved information about one's heritage, genealogy, health and knowledge from where I came, pages 84-88 concerning donor parentage concerns me. Once again our potential laws are trying to deny the truth regarding where these babies come from and in doing so, deny those children much needed information regarding themselves. If the parents themselves can't be truthful from the beginning, the law must insure that the children have access to this knowledge that directly affects their lives and well being
I hope we can learn from the past in order to better shape the future of our children by using truth and transparency to help their way.

LATE

February 16, 2022

To: Senator Karl Rhoads, Chair
Senate Committee on Judiciary

From: Carol E. Lockwood

Re: S.B. 2747, Relating to the Uniform Parentage Act

Hearing: February 17, 2022, 9:30 a.m., Via Videoconference

Dear Chair Rhoads, Vice Chair Keohokalole, and Members of the Senate Committee on Judiciary:

My name is Carol Lockwood, I am an attorney in private practice with the firm of Schlack Ito, LLLC, here in Honolulu. I am Hawaii's only member of the American Academy of Adoption and Assisted Reproductive Technology Attorneys, and I am writing in my personal capacity in **support** of S.B. 2747. I have been practicing in the field of assisted reproductive technology law in the State of Hawaii for more than a dozen years and have been privileged to assist in the creation or expansion of hundreds of Hawaii families. I regularly witness firsthand the myriad legal, financial, practical, and emotional challenges experienced by Hawaii residents struggling to build their families through the use of assisted reproductive technology when faced with an outdated statutory regime that does not adequately anticipate or address advances in reproductive technology over recent decades and the specific circumstances of infertile and/or non-cisheteronormative individuals and families. I work with clients who have often struggled through years – or even decades – of infertility and finally been blessed with a child, only to realize that months of complex and costly legal proceedings lie ahead before they can be recognized as their child's legal parent(s).

S.B. 2747 provides critical updates to Hawaii law by enacting the Uniform Parentage Act of 2017 (UPA) to replace the Uniform Parentage Act of 1973. The stated goal is to "ensure the equal treatment of children born to same-sex couples, establish a de facto parent as a legal parent, include surrogacy provisions to reflect developments in that area, and ensure the rights of children born through assisted reproductive technology." The practical effects would include (but are not limited to) extending Hawaii courts' jurisdiction to reach individuals who undergo reproductive technology procedures or enter into reproductive technology agreements in the State (rather than simply those who engage in sexual intercourse in the State); ensuring recognition of parentage determinations from other states; allowing the expedited, voluntary establishment of parentage by alleged genetic parents and intended parents through assisted reproductive technology (regardless of marital status or gender identity); facilitating amendment of birth certificates to reflect children's genetic and/or intended parentage through assisted reproductive technology; protecting known and anonymous gamete donors from parentage actions; allowing individuals to contest parentage of children born to their spouse through assisted reproductive technology without their consent; establishing basic requirements for gestational surrogates, intended parents via gestational surrogacy, and gestational surrogacy agreements; and permitting the issuance of pre-birth parentage judgments in gestational surrogacies.

None of the issues addressed by S.B. 2747 are new: infertile and non-cisheteronormative individuals and families have always been part of our State. To its credit, Hawaii has a time-honored tradition of recognizing that 'ohana can be created in many different ways and take many different forms, but that are all to be equally valued. Nonetheless, these individuals and families have for too long been required to navigate a confusing morass of outdated, only marginally-applicable statutes to confirm their legal status, rights and responsibilities under Hawaii law. It is a burden not imposed on other Hawaii families. S.B. 2747 would remedy that inequity by updating Hawaii's Parentage Act to specifically address the use of assisted reproductive technology in family-building and ensure the equal treatment of infertile and non-cisheteronormative individuals and families under the law. I therefore respectfully urge the Committee to pass this measure.