

JOSH GREEN, M.D.
GOVERNOR OF HAWAII
KE KIA'ĀINA O KA MOKU'ĀINA 'O HAWAII



KENNETH FINK, MD, MGA, MPH
DIRECTOR OF HEALTH
KA LUNA HO'OKELE

**STATE OF HAWAII
DEPARTMENT OF HEALTH
KA 'OIHANA OLAKINO
EXECUTIVE OFFICE ON AGING**
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Executive Office on Aging

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**Testimony in SUPPORT of HB648 HD1
RELATING TO GUARDIANSHIP AND CONSERVATORSHIP SERVICES**

COMMITTEE ON FINANCE
REP. KYLE T. YAMASHITA, CHAIR
REP. JENNA TAKENOUCI, VICE CHAIR

Testimony of Caroline Cadirao
Director, Executive Office on Aging
Attached Agency to the Department of Health

Hearing: Tuesday, February 25, 2025, 12:00 P.M., Conference Room 308

- 1 **EOA Position:** The Executive Office on Aging (EOA), an attached agency to the Department of
- 2 Health (DOH) **supports HB648 HD1.**
- 3 **Fiscal Implications:** Appropriates funds for fiscal year 2025-2026 and the same sum for fiscal
- 4 year 2026-2027 to establish a pilot program in the First Circuit Probate Court for guardianship
- 5 and conservatorship court resources.
- 6 **Purpose and Justification:** The purpose of this bill is to establish a two-year guardianship and
- 7 conservatorship pilot program in the First Circuit Probate Court for court related resources,
- 8 specifically in cases where the respondent can't afford to pay for these resources. These
- 9 resources include the Kokua Kanawai services which provide the court with appointed
- 10 individuals who can provide an independent assessment of the situation; guardians ad litem who
- 11 represent the best interests of the respondent; and professional evaluations of the respondent's

1 physical, mental, and/or cognitive health. These resources are deemed by the court as beneficial
2 to the respondent and is crucial to ensure that respondents' rights are protected, and that due
3 process is conducted during the guardianship or conservatorship proceedings. These resources
4 also enable the court to make a more informed decision on the case.

5 **Recommendation:** As a participating member of the workgroup to address issues with the States
6 guardianship and conservatorship procedures, EOA supports HB648 HD1.
7 Thank you for the opportunity to testify.



The Judiciary, State of Hawai'i

Testimony to the Thirty-Third Legislature, 2025 Regular Session

House Committee on Finance

Representative Kyle T. Yamashita, Chair
Representative Jenna Takenouchi, Vice Chair

Tuesday, February 25, 2025 at 12:00pm
Hawai'i State Capitol, Conference Room 308

by

Roland Lee
Public Guardian Director
Office of the Public Guardian

Bill No. and Title: House Bill 648, H.D. 1, Relating to Guardianship and Conservatorship Services.

Purpose: Establishes a two-year court resources pilot program for guardianship and conservatorship cases. Appropriates funds for the pilot project.

Judiciary's Position:

The Judiciary's Office of the Public Guardian appreciates the legislature's efforts to expand services in the critical area of guardianships and conservatorships, with the aim of creating a more equitable system that better serves the public. We fully support funding the Probate Court and Family Court in the First Circuit for a two-year pilot project for Kokua Kanawai and Guardian Ad Litem services.

However, we respectfully request the following amendments to House Bill No. 648, H.D. 1:

1. Delete "and physician's letters and" from Page 1, line 17.
2. Remove lines 1 through 4 on Page 2.
3. Remove lines 12 through 17 on Page 3.

These amendments would exclude "professional evaluations" from the pilot program's scope to maintain judicial impartiality by ensuring that the court does not introduce new information to

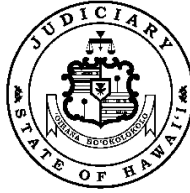


Bill No. 648, H.D. 1, Relating to Guardianship and Conservatorship
House Committee on Finance
February 25, 2025
Page 2

itself. By requiring petitioners to independently furnish professional evaluations, we protect respondents' rights and uphold the fundamental principle that petitioners must bear the burden of proving the respondent's cognitive impairment. The proposed changes safeguard fairness in the process by removing any involvement of the court in assisting petitioners in meeting their evidentiary burden. Moreover, the pilot program's funding would still enable courts to appoint a Kokua Kanawai or Guardian Ad Litem to conduct independent interviews and fact-finding, providing valuable, unbiased recommendations that support the court's decision-making process without compromising the respondent's rights or the overall integrity of the guardianship system.

We believe these amendments will strengthen the pilot program while maintaining the integrity of the guardianship and conservatorship processes.

Thank you for your consideration of our position on this important legislation.



The Judiciary, State of Hawai'i

Testimony to the Thirty-Third Legislature, 2025 Regular Session

House Committee on Finance

Representative Kyle T. Yamashita, Chair
Representative Jenna Takenouchi, Vice Chair

Tuesday, February 25, 2025, 12:00 p.m.
Hawai'i State Capitol, Conference Room 308

by

Jeannette H. Castagnetti

Chief Judge of the First Circuit

Chair, Committee on the Uniform Probate Code and Probate Court Practices Committee

Dyan M. Medeiros

Senior Judge, Deputy Chief Judge
Family Court of the First Circuit

WRITTEN TESTIMONY ONLY

Bill No. and Title: House Bill No. 648, H.D. 1, Relating to Guardianship and Conservatorship Services.

Purpose: Establishes a two-year court resources pilot program for guardianship and conservatorship cases. Appropriates funds for the pilot project.

Judiciary's Position:

The Judiciary supports House Bill No. 648, H.D. 1, the proposed pilot program, and the anticipated appropriation that will be necessary to run the pilot program. We believe the initially recommended amount of \$100,000 is an appropriate amount for this pilot project.

We respectfully request that any appropriation provided not supplant the Judiciary's existing funding or budget requests.

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



STATE OF HAWAII
KA MOKU'ĀINA O HAWAII
STATE COUNCIL ON DEVELOPMENTAL DISABILITIES
'A'UNIKE MOKU'ĀPUNI NO KA NĀ KĀWAI KULA
PRINCESS VICTORIA KAMĀMALU BUILDING
1010 RICHARDS STREET, Room 122
HONOLULU, HAWAII 96813
TELEPHONE: (808) 586-8100 FAX: (808) 586-7543

February 25, 2025

The Honorable Representative Kyle T. Yamashita, Chair
House Committee on Finance
The Thirty-Third Legislature
State Capitol
State of Hawai'i
Honolulu, Hawai'i 96813

Dear Representative Yamashita and Committee members:

SUBJECT: HB648 HD1 Relating to Guardianship and Conservatorship Service

The Hawai'i State Council on Developmental Disabilities **offers COMMENTS on HB648 HD1**, which establishes a two-year pilot program in the Probate Court and Family Court of the First Circuit to fund certain guardianship and conservatorship related court resources in situations where the respondent does not have the sufficient funds to pay for one or more of the resources and the court has deemed the resource or resources beneficial. Requires the Judiciary to submit reports to the Governor and Legislature. Appropriates funds.

The Council is providing testimony as the facilitator of a working group created by Representative Tarnas in response to the 2023 Legislative Session's HB1440. Our group began by reviewing the UGCOPAA and its applicability to Hawai'i and shifted our focus to identifying current issues or gaps in our guardianship and conservatorship laws. Our group began meeting in July 2023, and our meetings are continually ongoing. The members of our group are below.

The working group comprises representatives from various key entities, including the Family court, the Hawaii Judiciary's Probate Committee, the Department of the Attorney General, the Department of Human Services- Adult Protective and Community Services Branch, the Uniform Law Commission, AARP Hawaii, the Caregiver Foundation, the Office of the Public Guardian, the Hawaii Disability Rights Center, Long-term Care Ombudsman John McDermott, Parents of Individuals with Developmental Disabilities, and the Richardson Law School's Elder Law Clinic.

Our working group put forward this measure because, through our discussions, we have identified this specific program as an opportunity to enhance the guardianship and conservatorship process. Three key tools—Kōkua Kanawai, Guardian Ad Litem, and Capacity Evaluations—help courts gain deeper insight into cases. However, these resources are currently only available to respondents (those subject to guardianship or conservatorship) who can afford them.

This pilot project aims to make these tools accessible in cases where respondents lack financial means but where the court deems them beneficial. By implementing this measure, we seek to promote greater equity and procedural fairness in Hawai'i's guardianship and conservatorship system. Our working group came to a general consensus that these tools would be valuable to the courts.

Thank you for the opportunity to submit testimony **offering comments of HB648 HD1**.

Sincerely,



Daintry Bartoldus
Executive Administrator

COUNTY COUNCIL

Mel Rapozo, Chair
KipuKai Kualii, Vice Chair
Addison Bulosan
Bernard P. Carvalho, Jr.
Felicia Cowden
Fern Holland
Arryl Kaneshiro



OFFICE OF THE COUNTY CLERK

Jade K. Fountain-Tanigawa, County Clerk
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Council Services Division
4396 Rice Street, Suite 209
Lihu'e, Kaua'i, Hawaii 96766

February 24, 2025

**TESTIMONY OF ADDISON BULOSAN
COUNCILMEMBER, KAUAI COUNTY COUNCIL
ON**

**HB 648, HD 1, RELATING TO GUARDIANSHIP AND CONSERVATORSHIP
SERVICES**

House Committee on Finance

Tuesday, February 25, 2025

12:00 p.m.

Conference Room 308

Via Videoconference

Dear Chair Yamashita and Members of the Committee:

Thank you for this opportunity to provide testimony in SUPPORT of HB 648, HD 1, Relating to Guardianship and Conservatorship Services. My testimony is submitted in my individual capacity as a member of the Kaua'i County Council.

I wholeheartedly support the intent of HB 648, HD 1, which would greatly affect the Kaua'i community.

Thank you again for this opportunity to provide testimony in support of HB 648, HD 1. Should you have any questions, please feel free to contact me or Council Services Staff at (808) 241-4188 or via email to cokcouncil@kauai.gov.

Sincerely,

ADDISON BULOSAN
Councilmember, Kaua'i County Council

AAO:dmc

HB-648-HD-1

Submitted on: 2/21/2025 5:56:01 PM

Testimony for FIN on 2/25/2025 12:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Louis Erteschik	Hawaii Disability Rights Center	Support	Written Testimony Only

Comments:

Hawaii Disability Rights Center (HDRC) supports this which establishes a two-year pilot program in the Probate and Family Court of the First Circuit to fund certain guardianship and conservatorship related court resources in situations where the respondent has insufficient funds to pay for one or more resources the court has deemed beneficial.

Even when a petition for guardianship or conservatorship is genuinely sought for benevolent reasons, the imposition of a guardianship or conservatorship results in a profound restriction of a person's fundamental rights because it removes a person's right to make certain choices and transfers decision-making power to another. This can impact whether a person marries or goes on to have children, whether they vote, where they live and with whom, what education or job training opportunities they pursue, how they spend their money, where and if they travel, whether they get a driver's license, and what kinds of medical and other services they receive.

Because of these restrictions on a person's rights, a guardianship or conservatorship may not be imposed by a court unless a respondent's needs cannot be met by less restrictive means. Also, whenever feasible, "the court shall grant to the guardian only those powers necessitated by the ward's limitations and demonstrated needs and make appointive other orders that will encourage the development of the ward's maximum self-reliance and independence." HRS § 560:5-311(b) (emphasis added). See also, HRS § 560:5-409 (for similar requirements for conservatorships). The court services funded under this bill—Kōkua Kanawai, Guardian Ad Litem, and Capacity Evaluations—help courts make informed decisions about guardianships and conservatorships that are least restrictive and encourage the development of the ward's maximum self-reliance and independence. However, these services are currently only available to respondents in guardianship and conservatorship proceedings who can afford them.

HDRC believes the passage of this bill represents a critical step in advancing due process for respondents in guardianship and conservatorship proceedings who are of low or moderate income by making these services available when a court finds them to be beneficial—and not just when a respondent can afford them.



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**The State Legislature
House Committee on Finance
Tuesday, February 25, 2025
Room 308, 12:00 p.m.**

TO: The Honorable Kyle Yamashita
FROM: Keali'i S. López, State Director
RE: Support for H.B. 648 HD1, Relating to Guardianship and Conservatorship Services

Aloha Chair Yamashita and Members of the Committee:

I am Keali'i Lopez, State Director of AARP Hawai'i. AARP is a nonprofit, nonpartisan, social impact organization dedicated to empowering people 50 and older to choose how they live as they age. We advocate at the state and federal level for the issues that matter most to older adults and their families. On behalf of our nearly 135,000 members statewide, thank you for the opportunity to share our testimony.

AARP is in support of H.B.648, HD1 which establishes a two-year pilot program in the Probate Court and Family Court of the First Circuit to fund certain guardianship and conservatorship related court resources in situations where the respondent does not have sufficient funds to pay for one or more of the resources, and the court has deemed the resource or resources beneficial.

Adult guardianship is a complex system where a state court names someone to care for the well-being, and possible finances, of another person who has been deemed unable to care for themselves. Orders for guardianship and conservatorship, by their very nature, take away the civil rights of the individuals subject to them. Therefore, it is important to ensure that these individuals are afforded due process of the law.

Petitions for guardianships can often become contentious, "he said, she said" cases. To address this, it is crucial for the court to have a neutral third party, such as a Kokua Kanawai, who can investigate the circumstances and report their findings. This bill establishes and funds a two-year pilot program to engage neutral third parties like Kokua Kanawai.

Parties such as Kokua Kanawai, guardians ad litem, and independent experts play a vital role in providing the court with a comprehensive understanding of an individual's situation. This enables

the court to formulate protective orders tailored to the person's needs. Simply put, these additional parties help ensure that respondents to guardianship or conservatorship petitions receive due process.

Although respondents are entitled to have these parties appointed, financial constraints often prevent this. This bill ensures that respondents will not be denied due process simply because they lack the financial resources to defend against a petition.

Thank you for the opportunity to testify in support.

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HB-648-HD-1

Submitted on: 2/24/2025 8:34:06 AM

Testimony for FIN on 2/25/2025 12:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Hawaii Self Advocacy Advisory Council	Hawaii Self-Advocacy Advisory Council	Support	Written Testimony Only

Comments:

The Hawaii Self-Advocacy Advisory council supports HB648 HD1.



February 24, 2025

House Committee on Judiciary & Hawaiian Affairs
Representative David A. Tarnas, Chair
Representative Mahina Poepoe, Vice Chair
Representatives Della Au Belatti, Elle Cochran, Mark J. Hashem, Kirstin Kahaloa, Amy A. Perruso, Gregg Takayama, Chris Todd, Diamond Garcia, and Garner M. Shimizu, Committee Members

RE: HB 320 RELATING TO SUPPORTED DECISION-MAKING AGREEMENTS – SUPPORT

Dear Chair Tarnas, Vice Chair Poepoe, and Committee Members,

I am submitting this letter in support of HB 320 on behalf of Easterseals Hawaii. Easterseals Hawaii served 2,025 Hawaii community members with intellectual and developmental disabilities (I/DD) in 2024. Our purpose is to create a more equitable world where people with I/DD can choose their own path.

Many individuals with disabilities benefit from the support of their friends, family, and other community members when making vital decisions about topics such as medical, financial, and occupational choices. Such support and consultation help disabled individuals make informed and confident choices, just as they help nondisabled individuals. This bill would enhance independence and quality of life for individuals with I/DD by creating awareness about supported decision-making (SDM) agreements and enshrining them into law without requiring guardianship, thereby allowing SDM agreements to be accepted by institutions. It would also protect the disabled individual's agency by specifying that their supportive community may advise them but should not make decisions on their behalf. This achieves a balance that permits disabled individuals to receive assistance from trusted partners without relinquishing autonomy, thereby maximizing opportunities for people to choose their own path.

Easterseals Hawaii supports HB 320 and respectfully requests your "aye" vote.

Mahalo for the opportunity to submit this letter.

A handwritten signature in black ink, appearing to read "Rachel Liebert Lewis".

Rachel Liebert Lewis
Director, Public Policy and Advocacy
Easterseals Hawaii
PublicPolicyAndAdvocacy@eshawaii.org

2.25.2025

To: Committee on Finance

Representative Kyle T. Yamashita, Chair, Representative Lisa Takenouchi, Vice Chair and Committee Members:

Support of Bill HB648 HD1: Relating to Guardianship and Conservatorship

I am writing in **support of HB648 HD1** to fund a pilot project supporting guardianship and Conservatorship activities. I work as a Case Coordinator supporting adults with Intellectual and Developmental Disabilities (ID/DD) in the Home and Community Based Services Waiver program in Hawaii. In my role I work with individuals and their families advocating community integration and inclusion within the community. 50% of the adults in our program are legally their own self-guardian. While the benefit of guardianship has been discussed with participants and families during the annual Individual Service Plan meetings, there are a variety of reasons why families have not proceeded with securing guardianship. Financial hardship is one barrier that has been discussed. Another barrier identified were options to consider with guardianship. Passage of this bill along with HB320 that supports Supported Decision Making, could assist adults with ID/DD explore option of benefit to them.

Mahalo

Anne Hvizdak, BSDH, CDHC
669 Aewa St. #375
Eleele, HI (Kauai) 96705
Hvizdak11@gmail.com

HB-648-HD-1

Submitted on: 2/24/2025 9:06:33 AM

Testimony for FIN on 2/25/2025 12:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Christina Hogan	Individual	Support	Written Testimony Only

Comments:

Honorable Representatives:

I am writing in support of HB548 in favor of the 2 year pilot project. Many individuals with developepmental/ developmental disabilities, and their families, do not have the financial ability to pay for an attorney and court fees. It is imperative that individuals with DD are represented by individuals that know, care and love them. OPG provides a wonderful service for individuals, however with the massive caseload these people carry they can not fully know everyone on their caseload and must rely on others to inform them. We can not, nor should we rely solely on second hand information when it comes to peoples lives and futures.

Sincerely, Christina Hogan

THE THIRTY-SECOND LEGISLATURE
REGULAR SESSION OF 2025

The Honorable Representative Kyle T. Yamashita, Chair
House Committee on Finance
The Thirty-Third Legislature
State Capitol
State of Hawai'i
Honolulu, Hawai'i 96813

Dear Representative Yamashita, and Committee members:

HB648 Testimony in support

I am in strong support of HB648, which establishes a two-year pilot program in the Probate Court and Family Court of the First Circuit to fund certain guardianship and conservatorship related court resources.

My name is Deziree Tacub, and I am in support of HB648 which will assist individuals with developmental disabilities to have proper assessment before guardianship is given.

I think this bill is important because, I have a developmental disability, and I have a guardian that I was forced to have. And I don't like having a guardian because they are not on island. Having a guardian limits what I can do, I'm not allowed an ABLE account, they limit my money and they do not manage my money correctly. Making it so I have to pay back social security. I would have liked it, if the court had required an assessment to ensure that a guardian was necessary for me, before making that decision.

Thank you for allowing me to testify in support of HB648.