



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
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January 31, 2025

The Honorable Senator Karl Rhoads, Chair
Senate Committee on Judiciary
The Thirty-Third Legislature
State Capitol
State of Hawai'i
Honolulu, Hawai'i 96813

Dear Senator Rhoads, and Committee members:

SUBJECT: SB788 Relating to Guardianship and Conservatorship Service

The Hawai'i State Council on Developmental Disabilities **offers COMMENTS on SB788**, 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, 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 SB788**.

Sincerely,



Daintry Bartoldus
Executive Administrator



The Judiciary, State of Hawai‘i

Testimony to the Thirty-Third Legislature, 2025 Regular Session

Senate Committee on Judiciary
Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair

Friday, January 31, 2025 at 9:15 a.m.
Hawai‘i State Capitol, Conference Room 016 and Videoconference

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: Senate Bill No. 788, 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 Senate Bill No. 788, the proposed pilot program, and the anticipated appropriation that will be necessary to run the pilot program.

We thank you for the opportunity to offer testimony on this bill.



LATE

DISABILITY AND COMMUNICATION ACCESS BOARD

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January 30, 2025

TESTIMONY TO THE SENATE COMMITTEE ON JUDICIARY

Senate Bill 788 – Relating to Guardianship and Conservatorship Services

The Disability and Communication Access Board (DCAB) supports Senate Bill 788 – Relating to Guardianship and Conservatorship Services. This bill would establish 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. Additionally, this bill would require the Judiciary to submit reports to the Governor and Legislature.

Guardianship and conservatorship proceedings play a critical role in protecting the rights and well-being of individuals who may be unable to make certain decisions for themselves due to disability, age, or other circumstances. Senate Bill 788 will help ensure that court-appointed guardians and conservators have access to necessary resources when financial barriers would otherwise prevent them from obtaining those services.

Thank you for considering our testimony.

Respectfully submitted,

KIRBY L. SHAW
Executive Director

SB-788

Submitted on: 1/29/2025 6:33:19 PM

Testimony for JDC on 1/31/2025 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Louis Erteschik	Testifying for Hawaii Disability Rights Center	Comments	Written Testimony Only

Comments:

Hawaii Disability Rights Center (HDRC) **offers COMMENTS on SB788**, 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. Requires the the Judiciary to submit reports to the Governor and Legislator. Appropriates funds.

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 SB788 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. We urge you to pass this bill to create this important pilot project and allocate funds accordingly.



Senate Committee on Judiciary
January 31, 2025 @ 9:15am
CR 106 & Videoconference

Aloha nō e Senator Rhoads and Members of the Judiciary Committee:

‘Apoākea (literally meaning “Infinite Reach”) Native Hawaiian Innovation Institute [ANHII] is a Native Hawaiian-led 501(c)(3) non-profit organization founded with the purpose of providing strategic and tactical solutions to issues causing & contributing to the negative consequences of disproportionality & disparity as they are suffered by socially disadvantaged & underserved communities that include, but are not limited to: Native Hawaiians and individuals with intellectual/developmental disabilities & their families. Our work is heavily focused on addressing gap areas in resources, services, and programs impacting individuals with intellectual/developmental disabilities & their families.

The families we represent often have need to obtain guardianship for loved ones who require lifelong care and decision-making support. With the disproportionate financial impacts of this care, it is difficult for families to afford legal fees to navigate and complete the guardianship processes within the judiciary. Offering this opportunity will provide families in need with critical financial support to obtain guardianship for the long-term care of their loved ones. This opportunity will further inform the Judiciary and legislative committees on the effectiveness of facilitating and providing such funding support for families seeking guardianship.

‘Apoākea appreciates the opportunity to provide testimony in **support of SB788** on behalf of individuals with intellectual/developmental disabilities & their families and those who support them.

Me ka mahalo piha,

Brandi-Lynn Makalani Hyden
Executive Director

THE THIRTY-SECOND LEGISLATURE
REGULAR SESSION OF 2025

Senate Committee on Judiciary
Senator Rhoads, Chair
Senator Gabbard, Vice Chair
Senator Chang
Senator San Buenaventura
Senator Awa

1/31/2025, 9:15 am
SB 788 Testimony in support

Dear Senator Rhoads, Gabbard, Chang, San Buenaventura, and Awa

I am in strong support of SB 788, 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 SB 788 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 SB 788.

SB-788

Submitted on: 1/30/2025 6:25:07 AM

Testimony for JDC on 1/31/2025 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Elizabeth Kent	Individual	Support	Written Testimony Only

Comments:

Thank you for the opportunity to present testimony in enthusiastic support of this bill. Although I participated in the Working Group as a Uniform Law Commissioner, I write this testimony in my personal capacity because the subject matter of this bill does not concern a uniform law.

I strongly support creating a vibrant and robust pilot project because it would provide important resources to people who need them. Furthermore, it would provide good data for informed decision making in future. I urge you to move this bill forward.

LATE

SB788

Companion: HB648

He Mele komo a he mele aloha no na kupuna o ke au i hala Aloha mai kakou.

Aloha,

My name is Cindy Freitas and I'm a Native Hawaiian descended of the native inhabitants of Hawai'i prior to 1778 and born and raised in Hawai'i.

I am also a practitioner who still practice the cultural traditional customary practices that was instill in me by my grandparents at a young age from mauka (MOUNTAIN TO SEA) to makai in many areas.

I'm in SUPPORT for SB788

This bill provides a structured approach to addressing financial barriers in guardianship and conservatorship cases. By implementing a pilot program with judicial oversight and mandated reporting, the Legislature ensures accountability and assesses the program's effectiveness before making long-term commitments. The next steps would involve determining the appropriate funding level and refining eligibility criteria to maximize the program's impact.

Mahalo,

_____/s/_____
Cindy Freitas