

*The Judiciary, State of Hawai‘i*

**Testimony to the Thirty-Third Legislature, 2025 Regular Session**

**House Committee on Judiciary & Hawaiian Affairs**

Representative David A. Tarnas, Chair

Representative Mahina Poepoe, Vice Chair

Wednesday, February 12, 2025 at 2:00pm  
Hawai‘i State Capitol, Conference Room 325

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**

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**Bill No. and Title:** House Bill 648, 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, 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.



**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  
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February 12, 2025

The Honorable Representative David A. Tarnas, Chair  
House Committee on Judiciary and Hawaiian Affairs  
The Thirty-Third Legislature  
State Capitol  
State of Hawai'i  
Honolulu, Hawai'i 96813

Dear Representative Tarnas and Committee Members:

**SUBJECT: HB648 Relating to Guardianship and Conservatorship Services**

The Hawai'i State Council on Developmental Disabilities **offers COMMENTS on 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 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 on HB648.**

Sincerely,



Daintry Bartoldus  
Executive Administrator



**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

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DIRECTOR  
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**STATE OF HAWAII  
DEPARTMENT OF HEALTH  
KA 'OIHANA OLAKINO  
EXECUTIVE OFFICE ON AGING**  
NO. 1 CAPITOL DISTRICT  
250 SOUTH HOTEL STREET, SUITE 406  
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**Testimony in SUPPORT of HB648  
RELATING TO GUARDIANSHIP AND CONSERVATORSHIP SERVICES**

COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS  
REP. DAVID A. TARNAS, CHAIR  
REP. MAHINA POEPOE, VICE CHAIR

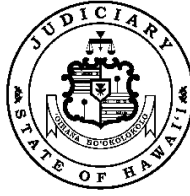
Testimony of Caroline Cadirao  
Director, Executive Office on Aging  
Attached Agency to the Department of Health

Hearing: Wednesday, February 12, 2025, 2:00 P.M., Conference Room 325

- 1 **EOA Position:** The Executive Office on Aging (EOA), an attached agency to the Department of
- 2 Health (DOH) **supports HB320.**
- 3 **Fiscal Implications:** Appropriates \$100,000 for fiscal year 2025-2026 and a \$100,000 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 member of the workgroup to address issues with the States  
6 guardianship and conservatorship procedures EOA supports HB648.  
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 Judiciary & Hawaiian Affairs**

Representative David A. Tarnas, Chair

Representative Mahina Poepoe, Vice Chair

Wednesday, February 12, 2025 at 2:00pm  
Hawai'i State Capitol, Conference Room 325

by

Roland Lee

Public Guardian Director

Office of the Public Guardian

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**Bill No. and Title:** House Bill 648, 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:

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 itself. By requiring petitioners to independently furnish professional evaluations,



Bill No. 648, Relating to Guardianship and Conservatorship  
Committee on Judiciary & Hawaiian Affairs  
Wednesday, February 12, 2025 at 2:00pm  
Page 2

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.



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**The State Legislature  
House Committee on Judiciary and Hawaiian Affairs  
Wednesday, February 12, 2025  
Room 325, 2:00 p.m.**

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

Aloha Chair Tarnas 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 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**

Submitted on: 2/7/2025 5:22:44 PM

Testimony for JHA on 2/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Louis Erteschik	Hawaii Disability Rights Center	Support	Remotely Via Zoom

## Comments:

Hawaii Disability Rights Center (HDRC) supports this Bill 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.



**HB-648**

Submitted on: 2/11/2025 1:23:03 PM

Testimony for JHA on 2/12/2025 2:00:00 PM

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

Comments:

The Hawaii Self-Advocacy Advisory Council supports HB648. People with disabilities who apply for guardianship often do not have the resources to afford a Kokua Kanawai to provide information to the courts.

**HB-648**

Submitted on: 2/8/2025 10:07:27 AM

Testimony for JHA on 2/12/2025 2:00:00 PM

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

Comments:

Thank you for the opportunity to present testimony in 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.

**HB-648**

Submitted on: 2/10/2025 12:17:05 PM

Testimony for JHA on 2/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Shana Wailana Kukila	Individual	Support	Written Testimony Only

Comments:

**HB648: Support****TO: Judiciary & Hawaiian Affairs Committee****FROM: Shana Kukila, Parent of a disabled adult in Hawai'i**

Aloha Chair Tarnas and Committee Members,

I stand in full support of HB648, which sets up a pilot program within the Judiciary to provide legal representation of respondents subject to guardianships in the family courts.

There is one concern I have for this bill, and that is funding. This year, the state may not be able to fund things like this. However, it's in compliance with ADA. [https://archive.ada.gov/ada\\_title\\_II.htm#:~:text=Title%20II%20applies%20to%20State,entities%20receive%20Federal%20financial%20assistance.](https://archive.ada.gov/ada_title_II.htm#:~:text=Title%20II%20applies%20to%20State,entities%20receive%20Federal%20financial%20assistance.)

My suggestion is for the state to engage and partner with the Hawai'i Disability Rights Center (HDRC) for these services, possibly through an M.O.U. /M.O.A.

For years, I have tried to get services for my autistic son from HDRC, but to no avail. They have been unresponsive and have not been of any assistance. I have heard from others seeking help that they also haven't been able to receive services from HDRC, even with our valid complaints and concerns. The HDRC needs to live up to their claims:

"HDRC is the designated Protection and Advocacy (P&A) System for all of Hawaii's residents with disabilities. P&A systems are authorized by Congress in each state and territory of the U.S. to defend and enforce the human, civil and legal rights of people with disabilities and to protect them from discrimination." <https://hawaiidisabilityrights.org/about-hdrc/>

Many children and adults with disabilities are in need of legal assistance, but the demand is far greater than current govt resources, and HDRC needs to more fully and rigorously step up to the plate to fulfill their obligations to our most vulnerable. The HDRC must be better engaged with the disabled community here in Hawai'i, because state sponsored attorneys and other family court attorneys are often not as well versed at the rights and protections under federal and state law that disability lawyers are. It's a highly specialized field of law that requires an attorney to be

highly skilled, and I have found that the average GAL knows little to nothing about this field, and they tend to apply lower standards of evaluation that often leads to misinformation to the court, which then leads to guardianship decisions that have been faulty, as in the recent child welfare cases involving children with special needs who were fatally harmed by their guardians who were "approved" by child welfare and Hawai'i's family courts (Geanna Bradley; Isabella Kalua/Ariel Sellers were both special needs students who were in foster care and guardianships thereafter which claimed their lives). This is the danger of not having the proper legal representation for individuals with disabilities, which also includes financial exploitation and other hidden abuses that are prevalent in the lives of the disabled and which go unreported and unaddressed by adult & child protective services.

Please consider this suggestion to make this pilot program permanent in order to protect the most vulnerable and be in compliance with federal law.

Mahalo for the opportunity to testify on this important law that should have been in place long ago in compliance with Title II of the ADA.

THE THIRTY-SECOND LEGISLATURE  
REGULAR SESSION OF 2025

The Honorable Representative David A. Tarnas, Chair  
House Committee on Judiciary and Hawaiian Affairs  
The Thirty-Third Legislature  
State Capitol  
State of Hawai'i  
Honolulu, Hawai'i 96813

Dear Representative Tarnas 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.