



The Judiciary, State of Hawaii

Testimony to the Senate Committee on Human Services

The Hon. Suzanne Chun Oakland, Chair
The Hon. Josh Green, Vice Chair

Tuesday, February 4, 2014
1:00 p.m.
State Capitol, Conference Room 016

by

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Family Court of the First Circuit

Bill No. and Title: Senate Bill No. 2002, Relating to Child Protective Proceedings

Purpose: Requires child protective proceedings and records to be open to the public unless a party to the proceeding, other than an authorized agency, can prove by clear and convincing evidence that an open hearing or access to records would cause the child severe emotional distress.

Judiciary's Position:

The Judiciary respectfully opposes this bill. This bill mandates that child abuse and neglect Family Court hearings and records be open to the public, unless a party can prove that these open records and hearings would cause severe emotional distress to the child.

1. The current confidential nature of child abuse and neglect court proceedings reflects the concern of the heightened privacy that families need in order to heal. Parents are required to rigorously follow a service plan in order to overcome their challenges which put their children at risk for further abuse and neglect. Most importantly, the children need to be left in peace. The abuse and neglect they have suffered are now compounded with the family's involvement with various agencies and, of course, the court system.



2. It does not help abused children to mandate that all hearings and records be open to the public. It also does not help to require the child's parent to prove to the court, by a higher standard of proof, that public access will cause the child severe emotional distress. The law currently give the Court discretion to open these hearings, if the party requests, and if it is in the best interests of the child (HRS Section 571-41(b) (1).

3. In these cases, particularly when the child is in foster care, time is of the essence. Children are further harmed by the system if time is wasted; the overwhelming majority wants to return home safely. These children are very aware of waiting for bureaucracies to turn and hearings to be had. We foresee that there will be hearings on this issue in nearly all of the cases. These requirements will further tax severely limited resources and cause delays and extra steps, to the children's detriment. Also, these hearings must be held at the beginning of the case; thereby causing delays at a time of significant trauma to the children and their families. These delays will also detract from what all parties must be immediately focused on, i.e., taking immediate steps to ameliorate the situation for the children and their families, particularly if the child has been removed from the family home.

4. In our experience, information that has been divulged, either intentionally or not, has caused physical and/or psychological harm to the child. Children do not need the added trauma and pain of having to explain to their friends, their classmates, their teachers, and their employers why they can't live with their brothers and sisters, why their parents are addicts, why their parent hit them or sexually abused them, why they can't wear their own clothes, or why they have to keep changing schools.

5. In these cases, the state is exercising its *parens patriae* powers to protect children. It is unclear how this change falls under those powers.

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