



The Judiciary, State of Hawaii

**Testimony to the Senate Committee on
Economic Development, Government Operations and Housing**

Senator Donovan M. Dela Cruz, Chair
Senator Sam Slom, Vice Chair

and

Senate Committee on Technology and the Arts

Senator Glenn Wakai, Chair
Senator Clarence K. Nishihara, Vice Chair

Friday, February 8, 2013, 2:50 pm
State Capitol, Conference Room 016

WRITTEN TESTIMONY ONLY

by

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Chief Court Administrator, First Circuit

Bill No. and Title: Senate Bill No. 473, Relating to Electronic Copies.

Purpose: Clarifies that electronic copies shall be construed in the same manner as an original document for purposes of chapter 1, HRS. Requires that electronic copies are acceptable for all purposes as intended by the particular statute that references an original document or like terms, unless otherwise provided by that statute.

Judiciary's Position:

The Judiciary supports the intent of Senate Bill No. 473, Relating to Electronic Copies, but has concerns with proposed amendments to certain statutes in the bill in relation to impact upon court operations and certain unintended consequences that may arise resulting from these proposed amendments.



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The Judiciary has placed priority and made significant efforts to move towards employing technology and the use of electronic records through its various initiatives such as the JIMS electronic filing and case management system, the Hawaii Court Records Rules, and the Hawaii Electronic Filing and Service Rules. However, work towards the implementation of electronic records in areas such as the Circuit, Family, and District Court Civil areas continue and have yet to be addressed with regard to its impact upon operations, possible evidentiary issues and possible need to propose modifications to existing statutes impacted as a result of electronically “constructing” the official court record and its subsequent court proceedings.

For example, if passed, this bill proposes to amend HRS Sec. 560:3-301, which would allow for submission of an original or electronic copy of a will. Initiation of an informal probate of a will must be accompanied by the original will. The registrar must determine whether an original, duly executed and apparently unrevoked will is in the registrar's possession as required by HRS section 560:3-303(a)(5). (Unavailability of original leaves open the possibility that testator revoked it by destroying it.) Where HRS section 560:3-301 was included as part of this bill for amendment, HRS section 560:3-303(a)(5) (a necessary accompanying statute to HRS Sec. 560:3-301) was not, which may result in unintended consequences in application of the law from both operational and court proceeding perspectives.

Thank you for the opportunity to testify on Senate Bill No. 473.