



The Judiciary, State of Hawaii

Testimony to the Senate Committee on Judiciary and Labor

Senator Clayton Hee, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

Friday, February 8, 2013, 10:00 a.m.
State Capitol, Conference Room 016

by
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Bill No. and Title: Senate Bill No. 966, Relating to the Uniform Mediation Act.

Purpose: Adopts the Uniform Mediation Act of the National Conference of Commissioners on Uniform State Laws.

Judiciary's Position:

The Judiciary takes no position on the merits of this bill which does not have a direct impact on the Judiciary. Whether to address protection of statements made in mediation by an evidentiary rule of admissibility (Rule 408 of the Hawaii Rules of Evidence, the current law) or to adopt a privilege for mediation parties and mediators is a policy decision.

The Uniform Mediation Act (UMA) was a joint project of the Alternative Dispute Resolution Section of the American Bar Association and the Uniform Law Commission. As a member of the UMA drafting committee, I am available to provide background and answer any questions about the UMA. The UMA commentary notes that the purpose of the UMA is to:

- promote candor of parties through confidentiality of the mediation process, subject only to the need for disclosure to accommodate specific and compelling societal interests;
- encourage the policy of fostering prompt, economical, and amicable resolution of disputes in accordance with principles of integrity of the mediation process, active party involvement, and informed self-determination by the parties; and



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- advance the policy that the decision-making authority in the mediation process rests with the parties.

The Judiciary endeavored to inform the public and the mediation community about the UMA by collaborating to hold public forums and provide print information about the UMA.

Thank you for the opportunity to testify on Senate Bill No. 966.