

## HAWAI'I STATE ETHICS COMMISSION

State of Hawai'i · Bishop Square, 1001 Bishop Street, ASB Tower 970 · Honolulu, Hawai'i

Committee: House Committee on Government Reform  
House Committee on Legislative Management  
Bill Number: H.B. 1933  
Hearing Date/Time: February 4, 2022, 9:30 a.m.  
Re: Testimony of the Hawai'i State Ethics Commission with **COMMENTS**  
about HB 1933, Relating to Persons Working With Children

Aloha Chair McKelvey, Chair Kobayashi, and Committee Members:

The Hawai'i State Ethics Commission (“Commission”) respectfully observes there are existing post-employment laws in place, *see* Haw. Rev. Stat. § 84-18, which may interact with subsection -15 of this measure (“Special conflicts of interest for former government officers and employees.”). The Commission observes it may be prudent to acknowledge the existing post-employment provisions with language such as “in addition to the existing restrictions in post employment stated in Chapter 84, . . . .”

Thank you for the opportunity to testify.

Very truly yours,

/S/ Robert D. Harris  
Robert D. Harris  
Executive Director and General Counsel

**HB-1933**

Submitted on: 2/2/2022 11:36:30 AM

Testimony for GVR on 2/4/2022 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Marilyn Yamamoto	Hawaii Family Advocacy Team	Support	No

Comments:

I support HB1933



# HAWAII APPLESEED

CENTER FOR LAW & ECONOMIC JUSTICE

Testimony of the Hawai'i Appleseed Center for Law and Economic Justice  
In Support of HB1933 – Relating to Persons Working With Children  
Friday, February 4, 2022, at 9:30 AM via Videoconference

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Dear Chair McKelvey, Vice Chair Wildberger, and members of the Committee on Government Reform:

Thank you for the opportunity to provide testimony in **SUPPORT of HB1933**, which would require persons who provide services relating to children, such as social workers, guardians ad litem, custody evaluators, fact finders, and therapists, to follow rules of ethics similar to those that attorneys must follow.

Families, with children, who are involved in Family Court custody matters, already encounter stressful and uncomfortable situations. The situation is made exponentially worse when one side feels they are not being treated fairly, when they feel they are being discriminated against, and when they feel there is bias in the process.

Various professionals are hired by the State to provide evaluations, fact finding, and other information relating to the children involved in these cases. Currently, there are no rules of ethics, including but not limited to rules relating to conflicts of interests, that these professionals are bound to follow.

Without such rules, those who feel they are the victim of bias, conflict, and incorrect evaluations, have no legitimate remedy as there are no standards or rules that can be shown to have been broken.

The current process would allow a Custody Evaluator, who has a social relationship with counsel for one parent, to continue involvement in the matter without ever disclosing that relationship to the other parent or the Court. Requiring disclosure of such a relationship is necessary so that a new Custody Evaluator can be appointed due to a potential conflict of interest. This bill would address this situation, while the status quo would allow the matter to proceed.

Ethical rules of conduct exist for other professionals dealing with the court, namely lawyers and judges, and it only makes sense that other involved professionals, such as those covered by this act, follow similar rules regarding 1)candor before a tribunal, 2)fairness to opposing parties, 3)truthfulness in statements, 4)fact finding, and 5)conflicts of interest.

We already expect professionals to hold themselves to the highest standards and to conduct themselves in ways that would comply with the behavior noted above. This act simply codifies our expectations and serves to hold these professionals accountable when they fail to comply.

This act will help Native Hawaiian families, low-income families, LGBTWQ parents and children, and multiracial families who are disproportionately involved in custody disputes.

**To clarify and improve the Bill we support the following amendments:**

Page 2, line: 9:

“Matter” means any proceeding, application, fact-finding, trial, hearing, custody evaluation,...”

Page 3, after line 9, add:

“(C) A pecuniary interest of the covered person.”

Page 4, lines 19-20:

“The client is ~~advised~~ informed in writing of the ~~desirability of seeking~~ transaction and is given a reasonable opportunity to...”

Page 5, line 16:

“The client provides written consents after consultation;...”

Page 6, lines 7-10:

“shall not provide services to a ~~person~~ client if those services are directly adverse to a ~~person~~ the client that the covered person knows is being provided services by the other covered person, except upon written consent by the ~~affected person~~ client after consultation regarding the...”

Page 6, after line 14, add:

(e) A covered person shall not provide services to a client in any matter involving a lawyer or law firm with which the covered person has a personal relationship; unless the client consents after consultation and confirms consent in writing.

Page 8, line 12:

“providing services to a new client with interests materially...”

Page 10, after line 14:

“and the client consents in writing after consultation.”

Page 11, after line 3:

“and the client consents in writing after consultation.”

Page 11, after line 14:

“and the client gives written consent after consultation with an attorney.”

Page 15, line 10:

“Falsify or omit evidence, or counsel or assist a witness to...”

Page 16, lines 16-17:

“any and all recommendations on the relevant evidence standard, as defined in Hawaii Rules of Evidence,

Chapter 626, Rule 401.”

**Thank you for considering this testimony and the proposed amendments.** Requiring social workers, custody evaluators, therapists, and others dealing with children to abide by ethical rules, including conflict of interest rules, places parties on an even and just playing field. This is required to ensure that the children of Hawai‘i’s best interests are always taken into account, and that outside influence and circumstances do not effect a just outcome.

I do not intend to provide oral testimony at the hearing.

Ray Kong  
Legal Director  
Hawaii Appleseed Center for Law and Economic Justice  
Lawyers for Equal Justice

February 1, 2022

**COMMITTEE ON GOVERNMENT REFORM**

Rep. Angus McKelvey, Chair  
Rep. Tina Wildberger, Vice Chair  
Rep. Ty Cullen  
Rep. Stacelynn K.M. Eli

Rep. John M. Mizuno  
Rep. Justin H. Woodson  
Rep. Kyle T. Yamashita  
Rep. Gene Ward

**NOTICE OF HEARING**

DATE: February 4, 2022  
TIME: 9:30AM  
PLACE: Conference Room 309  
Via Videoconference  
State Capitol  
415 South Beretania Street

RE: TESTIMONY IN STRONG SUPPORT OF HB1933, With Amendments  
Relating to Persons Working With Children

Dear Committee on Government Reform:

I write in strong support of HB1933 with amendments included with this testimony. The intent of this measure addresses an important area in our Family Court system which is in dire need of reform, where injustice and constitutional violations run rampant and unchecked to the detriment of protective parents and vulnerable children.

**Goal:** To prevent miscarriages of justice in the Family Court System by holding third-parties such as social workers, custody evaluators, and therapists to follow a strict standard of evidence and/or the same professional responsibility ethical rules as attorneys.

**Reasons:** To prevent rampant bias in fact finding and in custody evaluation reports in Family Court ordered custody proceedings, which lead to the inhumane rupture of families with little to no access to justice or accountability.

**Communities most affected:** Native Hawaiian families, low-income families, LGBTQ parents and children, families where one parent is white and another is a person-of-color, mothers-of-color whose children report sexual abuse or other domestic violence by father.

**The problem:** Private third parties acting as de facto court officers often run amok of jurisprudence in dealing with custody and child welfare matters. Bias is rampant and unchecked. CEs deciding custody for judges lack professional rules of conduct in their investigations. They also have quasi immunity to being held accountable for taking a child away from a protective parent due to bias or returning a child to a dangerous parent for the same. The rupture of families leads to higher rates of runaways, increased child abuse and sometimes child disappearances and murder, NIED of protective parents, and no access to justice for poor families-of-color.

Current remedy for abuses by third-parties empowered by courts: proving Constitutional violations by the offender (LCSW, CE, Therapist, etc), which is nearly impossible, and subsequent costly litigation. Essentially, this means that there currently is no recourse for such violations.

Lawyers must abide by a strict code of conduct when they practice law but other third parties tasked by court to aid in deciding custody matters, child abuse, etc, do not have such a professional code of conduct.

Because of the lack of rules for private third-parties working with court as de facto court officers, bias, conflicts of interest, racism, sexism, and Constitutional violations of the rights of children and their protective guardians/parent(s) are committed daily.

Without accountability, private third parties have the ability to shirk their duties, continue to charge exorbitant fees, judge with bias, lie to court, bribe witnesses, commit fraud, omit evidence, and get away with it.

I strongly urge you to pass this important measure for reform.

Sincerely,

Kathryn 'Alamea-Xian  
Expert Consultant and Trainer on Anti Human Trafficking Issues, U.S. Federal Government  
Juris Doctor Candidate, William S. Richardson School of Law

## SUGGESTED AMENDMENTS TO HB1933

Page 1, Part 1, Definitions:

“Tribunal” means a court, an arbitrator in a binding arbitration proceeding, or a legislative body, administrative agency, or other body acting in an adjudicative capacity. A legislative body, administrative agency or other body acts in an adjudicative capacity when a neutral official, after the presentation of evidence or legal argument by a party or parties, will render a binding order directly affecting a party's interests in a particular matter.

Page 2, line: 9:

“Matter” means any proceeding, application, fact-finding, trial, hearing, custody evaluation,...”

Page 3, line 2:

“another ~~person~~ client receiving services from the covered person; or

Page 3, after line 9, add:

“(C) A pecuniary interest of the covered person.”

Page 4, lines 1-3:

“Each ~~affected person~~ client or an appropriate guardian of the ~~affected person~~ client gives consent after consultation.”

Page 4, line 4:

“When the provision of services to multiple ~~persons~~ clients in...”



Page 4, lines 19-20:

“The client is ~~advised~~ informed in writing of the ~~desirability of seeking~~ transaction and is given a reasonable opportunity to...”

Page 5, line 16:

“The client provides written consents after consultation;...”

Page 6, lines 7-10:

“shall not provide services to a ~~person~~ client if those services are directly adverse to a ~~person~~ the client that the covered person knows is being provided services by the other covered person, except upon written consent by the ~~affected person~~ client after consultation regarding the...”

Page 6, after line 14, add:

(e) A covered person shall not provide services to a client in any matter involving a lawyer or law firm with which the covered person has a personal relationship; unless the client consents after consultation and confirms consent in writing.

Page 7, line 2:

“to a ~~person~~ client in the same of a substantially related matter in...”

Page 7, lines 12-13:

“a ~~person~~ client in a matter or whose present of former firm has formerly provided services to a ~~person~~ client in a matter shall not...”

Page 7, line 21:

“that ~~person~~ client.”

Page 8, line 12:

“providing services to a new client with interests materially...”

Page 9, line 15:

“former client to enable ~~it~~ the former client to ascertain compliance...”

Page 10, after line 14:

“and the client consents in writing after consultation.”

Page 11, after line 3:

“and the client consents in writing after consultation.”

Page 11, line 6:

“government information about ~~another person~~ a client, acquired when the...”

Page 11, line 8-9:

“provide services to ~~a client~~ another person whose interests are adverse to ~~that person~~ a client in a matter in which the information could be used to the material disadvantage of ~~that person~~ the client. A firm with which the...”

Page 11, after line 14:

“and the client gives written consent after consultation with an attorney.”

Page 14, line 8:

“Make a false statement of ~~material~~ fact or law to a...”

Page 14, line 10:

“Fail to disclose a ~~material~~ fact to a tribunal when...”

Page 15, line 10:

“Falsify or omit evidence, or counsel or assist a witness to...”

Page 15, lines 16-21:

“Knowingly disobey an obligation under the rules of a tribunal, ~~except for an open refusal based on an assertion that no valid obligation exists; or~~

(5) ~~Request a person other than a client to refrain from voluntarily giving relevant information to another party unless:~~”

Page 16, lines 1-5: Delete completely.

Page 16, line 9:

“Make a false statement of ~~material~~ fact or law to a...”

Page 16, line 11:

“Fail to disclose a ~~material~~ fact to a third person...”

Page 16, lines 16-17:

“any and all recommendations on the relevant evidence standard, as defined in Hawaii Rules of Evidence, Chapter 626, Rule 401.”

Page 16, lines 20-21:

“person’s work product will be used by a tribunal, ~~child custody evaluator~~, or other fact finder, shall keep comprehensive and reasonably detailed...”

Page 17, lines 1-2:

“records that the tribunal, ~~child custody evaluator~~, or other fact finder can use for their purposes.”

Page 17, lines 16-18:

“A state agency that contracts with a covered person ~~or an applicable licensing board~~ shall fine a covered person \$        for each violation of this chapter....”

Page 17, after line 20:

Add: “An applicable licensing board that licenses a covered person shall fine a covered person \$ for each violation of this chapter; provided that this penalty shall be in addition to any other penalties or remedies available by law.”

## **NEW SECTION**

Add: Cause for Civil Action

Civil action for deprivation of rights — definition.

(1) A COVERED PERSON, AS DEFINED IN THIS CHAPTER WHO, UNDER COLOR OF LAW, SUBJECTS OR CAUSES TO BE SUBJECTED, INCLUDING FAILING TO INTERVENE, ANY OTHER PERSON TO THE DEPRIVATION OF ANY INDIVIDUAL RIGHTS SECURED BY THE BILL OF RIGHTS OF THE HAWAII STATE CONSTITUTION, IS LIABLE TO THE INJURED PARTY FOR LEGAL OR EQUITABLE RELIEF OR ANY OTHER APPROPRIATE RELIEF.

(2) (a) STATUTORY IMMUNITIES AND STATUTORY LIMITATIONS ON LIABILITY, DAMAGES, OR ATTORNEY FEES DO NOT APPLY TO CLAIMS BROUGHT PURSUANT TO THIS SECTION.

(b) QUASI IMMUNITY IS NOT A DEFENSE TO LIABILITY PURSUANT TO THIS SECTION.

(c) QUALIFIED IMMUNITY IS NOT A DEFENSE TO LIABILITY PURSUANT TO THIS SECTION.

(3) IN ANY ACTION BROUGHT PURSUANT TO THIS SECTION, A COURT SHALL AWARD REASONABLE ATTORNEY FEES AND COSTS TO A PREVAILING PLAINTIFF. IN ACTIONS FOR INJUNCTIVE RELIEF, A COURT SHALL DEEM A PLAINTIFF TO HAVE PREVAILED IF THE PLAINTIFF’S SUIT WAS A SUBSTANTIAL FACTOR OR SIGNIFICANT CATALYST IN OBTAINING THE RESULTS SOUGHT BY THE LITIGATION.

(4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A THIRD PARTY’S EMPLOYER SHALL INDEMNIFY ITS THIRD PARTY EMPLOYEE FOR ANY LIABILITY INCURRED BY THE THIRD PARTY EMPLOYEE AND FOR ANY JUDGMENT OR SETTLEMENT ENTERED AGAINST THE THIRD PARTY EMPLOYEE FOR CLAIMS

ARISING PURSUANT TO THIS SECTION; EXCEPT THAT, IF THE THIRD PARTY'S EMPLOYER DETERMINES THAT THE THIRD PARTY DID NOT ACT UPON A REASONABLE BELIEF THAT THE ACTION WAS LAWFUL, THEN THE THIRD PARTY IS PERSONALLY LIABLE AND SHALL NOT BE INDEMNIFIED BY THE THIRD PARTY'S EMPLOYER FOR TWENTY PERCENT OF THE JUDGMENT OR SETTLEMENT OR FIFTY THOUSAND DOLLARS, WHICHEVER IS LESS. NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, IF THE THIRD PARTY'S PORTION OF THE JUDGMENT IS UNCOLLECTIBLE FROM THE THIRD PARTY, THE THIRD PARTY'S INSURANCE SHALL SATISFY THE FULL AMOUNT OF THE JUDGMENT OR SETTLEMENT.

(5) A CIVIL ACTION PURSUANT TO THIS SECTION MUST BE COMMENCED WITHIN FIVE YEARS AFTER THE CAUSE OF ACTION ACCRUES.

**HB-1933**

Submitted on: 2/1/2022 1:44:06 PM

Testimony for GVR on 2/4/2022 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Will Caron	Individual	Support	No

Comments:

I support the bill and defer to Lawyers for Equal Justice on any proposed amendments.

**HB-1933**

Submitted on: 2/2/2022 2:13:18 PM

Testimony for GVR on 2/4/2022 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Malena McKee	Individual	Support	No

Comments:

Dear Committee on Government Reform:

As a citizen of the Hawaii community, I am in favor of this bill, because it will help to prevent the harming and sexual abuse of children who are in harmful situations. This will help keep those who are in authority accountable for their actions and put the needs of the children first. That is what the goals of those advocating for children should be, and it will help strengthen the community and the families affected by breaking abuse cycles and keeping children safe. Thank you

Malena McKee - Future social worker



**HB-1933**

Submitted on: 2/2/2022 2:24:07 PM

Testimony for GVR on 2/4/2022 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Anika Aftab	Individual	Support	No

Comments:

February 2, 2022

COMMITTEE ON GOVERNMENT REFORM

Rep. Angus McKelvey, Chair Rep. Tina Wildberger, Vice Chair Rep. Ty Cullen  
Rep. Stacelynn K.M. Eli

NOTICE OF HEARING

Rep. John M. Mizuno Rep. Justin H. Woodson Rep. Kyle T. Yamashita Rep. Gene Ward

DATE: TIME: PLACE:

February 4, 2022 9:30AM  
Conference Room 309 Via Videoconference State Capitol

415 South Beretania Street

RE: TESTIMONY IN STRONG SUPPORT OF HB1933 Relating to Persons Working With Children

Dear Committee on Government Reform:

I hereby testify in strong support of HB1933. I strongly support establishing rules of ethics for those working with children to prevent injustice in the Family Court System. This includes third parties such as social workers, custody evaluators, and therapists. Just like attorneys, they should follow the same professional rules of conduct. This will inhibit common biases in factual findings and evaluations and limit the communities and families that are impacted.

Sincerely,

Anika Aftab

February 2, 2022

**COMMITTEE ON GOVERNMENT REFORM**

Rep. Angus McKelvey, Chair  
Rep. Tina Wildberger, Vice Chair  
Rep. Ty Cullen  
Rep. Stacelynn K.M. Eli

Rep. John M. Mizuno  
Rep. Justin H. Woodson  
Rep. Kyle T. Yamashita  
Rep. Gene Ward

**NOTICE OF HEARING**

DATE: February 4, 2022  
TIME: 9:30AM  
PLACE: Conference Room 309  
Via Videoconference  
State Capitol  
415 South Beretania Street

RE: TESTIMONY IN STRONG SUPPORT OF **HB1933**  
Relating to Persons Working With Children

Dear Committee on Government Reform:

To prevent the perpetuation of injustice in the Family Court System by third-parties it is essential to move forward with this bill. Third-parties need to be held to the same standard that is expected of attorneys while acting on behalf of children. This is essential to providing justice to the communities affected by the unregulated decisions from third-parties.

Sincerely,

Jacob Wong Evans

February 2, 2002

Re: HB1933: Children; Contractors; Ethics; Rules; Penalties

Dear Chair, Vice Chair and Members of the Committee,

I am writing regarding HB1933: Pertaining to Children; Contractors; Ethics; Rules; Penalties. I have read HB1933 and feel it has merit and should move forward. I'm writing in strong SUPPORT of this measure.

As a mental health provider for over 30 years, I witnessed the trauma and devastation of seeing children separated from the parents and families without notice. I have worked on many cases in which the parent's rights were stripped and they had no way of knowing where the child or children were placed and were denied the right to see or talk to their children, sometimes for months and sometimes years. The practice of the removal of children, where no "imminent" or "immediate," harm exists is extremely traumatizing to all involved, especially to the children. Sadly, many parents have expressed that having their children removed, without notice, often feels like a death. No parent or child should have to go through this type of trauma, devastation and humiliation.

The violation and humiliation parents feel after being named an "alleged" perpetrator is devastating. A covered person often deems these parents as, "guilty until proven innocent," which is a violation of every Constitutional Right provided to them under the United States Constitution and the Hawaii State Constitution, namely the right to Due Process (United States Constitution, Fifth Amendment and Fourteenth Amendment, Hawaii State Constitution, Article 1, Section 5). The Constitution provides that a person is presumed "innocent until proven guilty." This is the highest standard for all States both at the district level and the Supreme court level. This standard needs to be upheld throughout all departments dealing with child abuse and neglect. The immediate removal of children from their parents without notice, written report, timely investigations and lack of information on Parents Rights is an insidious and dangerous violation of the Constitution.

In regard to HB1933, Part III., Other Provisions, Item 23, Candor before a Tribunal (a) states that "a covered person shall not knowingly: (1) Make false statement of material fact or law to a tribunal (2) Fail to disclose a material fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client; or (3) offer evidence that a covered person knows to be false. If a covered person had offered material evidence and comes to know of its falsity, the covered person shall take remedial measures to the extent reasonably necessary to rectify the consequences." The practice of false, misleading and overt "errors" by a covered person is extensive and widespread.

Again, as a mental health provider I have reviewed many fact-finding reports. In some of these reports there were clearly false, misleading information and overt "errors" that were never rectified by the covered person, even upon written request by the respondent. In one case the covered person "mistakenly" reported someone else's criminal history as that of the respondent. In this case the fact-

finding report indicated that the respondent had 27 prior convictions and that he was dismissed from the Honolulu Fire Department (HFD). The respondent did not have 27 prior convictions nor was he ever employed by HFD. In another case the fact-finding report indicated sexual abuse by another person other than the respondent. When confronted, the covered person simply said, "it was a typo." This kind of practice needs to stop, and covered persons need to be held accountable for their actions.

I am writing in strong SUPPORT of HB1933 and request that your committee pass this important measure. Protect the Constitution and the families who are denied their Parental Rights. Thank you for your time and consideration on this important matter.

Sincerely,

Nonohe Botelho, MSCP  
Independent Consultant/ Victim Advocate

February 2, 2022

**COMMITTEE ON GOVERNMENT REFORM**

Rep. Angus McKelvey, Chair  
Rep. Tina Wildberger, Vice Chair  
Rep. Ty Cullen  
Rep. Stacelynn K.M. Eli

Rep. John M. Mizuno  
Rep. Justin H. Woodson  
Rep. Kyle T. Yamashita  
Rep. Gene Ward

**NOTICE OF HEARING**

DATE: February 4, 2022  
TIME: 9:30AM  
PLACE: Conference Room 309  
Via Videoconference  
State Capitol  
415 South Beretania Street

**RE: TESTIMONY IN STRONG SUPPORT OF HB1933  
Relating to Persons Working With Children**

Dear Committee on Government Reform:

Thank you for reviewing and considering Rep. Yamane's bill for an act, HB 1933. Mahalo nui loa for taking the time to read this testimony. I sincerely appreciate all of your public service and can only imagine the amount of stress and responsibility you all have to your position, your constituents, and the people of Hawaii writ large. With COVID still a factor in our everyday lives, your risks and hard work are not going by unnoticed by the regular working kamaaina.

In 2018, my son and I tried to escape my violent, abusive partner. No domestic violence shelter on island would accept men, so we ended up sleeping on the beach, in empty apartments, and under my desk at work. Child Welfare Services (CWS) conducted an investigation and concluded that I was the sole safe and protective parent. Parents and Children Together (PACT) conducted a 6 month investigation and concluded that my son's mother abused and assaulted me and should only be allowed supervised visits based on her criminal record, drug abuse, and failure to cooperate with their investigation. The Department of Health and Human Services (DHS) concluded that my son's mother was "dangerously negligent" of his autism needs and also suggested supervised visits only. The Honolulu Police Department (HPD) had to escort my ex-partner away from my home on several occasions when she made death threats and harassed my son and I. I filed for a restraining Order with the family courts in August of 2018 when my son returned from a visit with his mother with 7 bruises on his back.

CWS, DHS, my son's nanny who witnessed the abuse, and my ex's drug dealer all testified against her in Family Court. She had no witnesses on her side, but what she did have was

4 seasoned attorneys who convinced the Judge to ignore the State agency reports and instead allow them to hire a private Custody Evaluator. At the time, I was could not afford an attorney and my ex-wife made virtually twice the amount I made, so she had money on her side.

I previously had an attorney whom I could no longer afford, so he stopped representing me. My attorney represented the Custody Evaluator's husband in her own divorce. I specifically asked the Custody Evaluator if she knew my attorney and she lied to me. I had to do my own investigating and objected to her appointment because she wanted to charge \$10,000 (which I could not afford) and she had a Conflict of interest with my attorney. She hated my attorney based on her own contentious divorce.

Currently, there is no law that holds Custody Evaluators accountable for lying or failing to disclose a Conflict of Interest. HB 1933 would change that and that is why I met with Rep. Yamane and Rep. Eli and proposed this bill. The Custody Evaluator gave a favorable report to my ex, not because she is good parent, but because she had a high-priced attorney. After doing more research online, I discovered this Custody Evaluator serves the attorney, not the client, and especially not the child.

As a result of this Custody Evaluator's Conflict of Interest, lying about her education credentials, and lying to the Judge, my son, Calvin Stremel, was forced to be around his abuser. I lost full custody and my son and I have been living a nightmare ever since. All because Family Court judge's have no power over Custody Evaluators and overly rely and overly trust them without any verifying or accountability.

I met with 7 other families who had similar experiences with the same Custody Evaluator. Each time, I didn't need to ask about any facts in the case. I simply looked up who the attorneys were in the case and, with 100% accuracy, I was able to predict who the Custody Evaluator gave a favorable report to. Not based on any facts, but because the Custody Evaluator had a financial incentive to give favorable reports to the powerful law firms. This is not how these investigations should be conducted. It's unchecked corruption, it's not in the child's best interest, it's a waste of money (I was ordered to pay the Custody Evaluator and had to borrow thousands of dollars and hold 3 fundraisers to do so, I lost my job and almost lost my house in the process.)

Multiple times I requested a Guardian Ad Litem (GAL), but the opposing counsel insisted on using "his" Custody Evaluator. Since I am nothing to her, she had no financial incentive to give me a fair report, so she did whatever the attorney hired her to do. The Custody Evaluator also used outdated terms like calling my autistic son "mentally retarded." When I tried to bring up how offensive this was, the Custody Evaluator became enraged and took her anger out on me in her report.

When the Custody Evaluator took the stand, she was asked by my attorney, "Do you remember when I represented your husband in your divorce?" She responded, "Yes." So he asked, then when you saw that I had represented Mr. Stremel, why didn't you recuse yourself?" ex's attorney answered for her, "Because there is no Conflict of Interest law for Custody Evaluators." In a small state like Hawaii, this is a dangerous way to conduct fact finding reports for children. The chances of improprieties are much higher and as a result the keiki pay the price.

**1. This Bill will Positively Affect Minority and Low-Income Parents.** By requiring parents to consent in writing to either a Custody Evaluator, Best Interest Fact Finder, or Guardian Ad Litem will allow more affordable options for parents who need a third part expert to weigh in on contested custody cases. A GAL costs \$2,500 for 1 year (12 months) of work, split two ways between parties. In contrast, Custody Evaluators are NOT investigators by trade, not held to the standards of attorney (the way GALs are), and they charge upwards of \$35,000 and higher. Judges rarely take into consideration the extravagant costs of a Custody Evaluator and there are currently no ramifications or oversight.

**2. Custody of a Child Should Not go to the Highest Bidder.** There should be no financial incentive for a Custody Evaluator to favor one party over the other, however time and time again law firms will have “favorite” Custody Evaluators and the attorneys are his/her “repeat customers.” The child and the family no longer matter and this needs to stop.

**3. Child Custody Evaluators Should Not Have a Conflict of Interest.** Custody Evaluators wield a tremendous amount of power and sway with judges and attorneys. Their personal interests, financial profits, or vendettas should not be played out when making supposedly unbiased recommendations for custody.

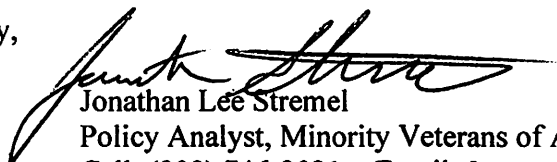
**4. Best Interest of the Child.** The judge in Calvin’s case ignored CWS, DHS, PACT, HPD, and multiple witnesses to the violence and abuse simply because the Custody Evaluator had worked with me ex’s attorney and she personally hated my attorney. That is not in the best interest of my son. We were completely ignored throughout the process and other than filing an easy-to-ignore complaint with the licensing agency for psychologists, we are hopeless.

**5. Other States Have Similar Laws.** Several mainland states make it a misdemeanor for a Custody Evaluator to lie to a judge about a Conflict of Interest, *see “Tex. Fam. Code § 107.107 - Child Custody Evaluator: Conflicts Of Interest And Bias.”* With Hawaii being such a small state and only having ONE law school, the chances of a Conflict of Interest are much higher, so the need for these laws are imperative to protecting the integrity of our courts.

Thank you for listening to my son’s story. Finally, should you decide to support HB 1933, I have one final, big request. My son, Calvin Stremel, is my hero. He didn’t choose his parents and at the end of the day, he has overcome his autism and abuse trauma and survived the petty tactics of the Custody Evaluator’s greed and misconduct. I have always put him and his needs first and want to be the best advocator for him and other children.

**I humbly, respectfully request that you consider naming the act “Calvin’s Law” as an acceptable shorthand for HB 1933.** When he is old enough to understand, I would like to let him know that his survival was not in vein and that his daddy and Hawaii’s lawmakers heard him and saw him for who he is and recognize the abuse he endured. Regardless, this bill will heal.

Sincerely,



Jonathan Lee Stremel

Policy Analyst, Minority Veterans of America

Cell: (808) 746-2021 ~ Email: [Jstremel@Hawaii.edu](mailto:Jstremel@Hawaii.edu)

February 2, 2022

**COMMITTEE ON GOVERNMENT REFORM**

Rep. Angus McKelvey, Chair  
Rep. Tina Wildberger, Vice Chair  
Rep. Ty Cullen  
Rep. Stacelynn K.M. Eli  
Rep. John M. Mizuno

Rep. John M. Mizuno  
Rep. Justin H. Woodson  
Rep. Kyle T. Yamashita  
Rep. Gene Ward

**NOTICE OF HEARING**

DATE: February 4, 2022  
TIME: 9:30AM  
PLACE: Conference Room 309  
Via Videoconference  
State Capitol  
415 South Beretania Street

RE: **TESTIMONY IN STRONG SUPPORT OF HB1933**  
Relating to Persons Working with Children

Dear Committee on Government Reform:

I am submitting my testimony in strong support of HB1933. The Family Court System ought to be protecting the most vulnerable members of our community, not putting them at further risk due to the questionable practices of third parties. It is unconscionable that our keiki, already in highly contentious and/or traumatic family situations, could be further harmed by third parties such as custody evaluators, social workers, and therapists. If third parties are going to be tasked by the state to deal with custody matters and child abuse, they need to be held to a code of ethics and professionalism. Without such a code of conduct, third parties working with the court continue to subject families to rampant bias, racism, sexism, and homophobia-- to name a few. While one would think individuals working with children and their families would demonstrate a modicum of professional conduct, the reality is that they have charged exorbitant fees, lied to court, bribed witnesses, committed fraud, and omitted evidence. As such, third parties need to be held legally accountable, and I support HB1933 in order to make the Family Court System less damaging for families.

Sincerely,

Jennifer Meleana Hee





February 1, 2022

**COMMITTEE ON GOVERNMENT REFORM**

Rep. Angus McKelvey, Chair  
Rep. Tina Wildberger, Vice Chair  
Rep. Ty Cullen  
Rep. Stacelynn K.M. Eli

Rep. John M. Mizuno  
Rep. Justin H. Woodson  
Rep. Kyle T. Yamashita  
Rep. Gene Ward

**NOTICE OF HEARING**

DATE: February 4, 2022  
TIME: 9:30AM  
PLACE: Conference Room 309  
Via Videoconference  
State Capitol  
415 South Beretania Street

**RE: TESTIMONY IN STRONG SUPPORT OF **HB1933**  
Relating to Persons Working With Children**

Dear Committee on Government Reform:

My name is Sandy Narvaez and I am testifying as a parent and on behalf of my community. I appreciate the opportunity to testify in support of HB1933, which would prevent injustices in the Family Court System by holding third-parties such as social workers, custody evaluators, and therapists accountable to the same professional conduct as attorneys.

To ensure the delivery of justice, attorneys are required to follow a strict standard of evidence that prevents rampant and unchecked bias in fact finding and custody evaluation reports, which lead to the inhumane rupture of families with little to no access to justice or accountability. The communities that suffer the greatest under this bias are Native Hawaiian families, low-income families, LBGTO parents and children, families where one parent is white and another is a person-of-color, and mothers-of-color whose children report sexual abuse by their father.

The disturbing result of these biases are higher rates of runaways, child abuse and sometimes disappearance, murder, NIED of protective parents, and lack of justice for poor families-of-color.

I humbly ask for your consideration of this bill that increase accountability and ensure our families receive fair and equitable treatment.

Sincerely,

Sandy Narvaez



**HB-1933**

Submitted on: 2/3/2022 11:31:32 PM

Testimony for GVR on 2/4/2022 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Karis Whi	Individual	Support	No

## Comments:

Thomas Paine said this, "A body of men holding themselves accountable to nobody ought not to be trusted by anybody." I'm writing in strong support of HB1933, which will hold third-parties of our family courts here in Hawai'i to a standard of accountability. Accountability cannot exist without a standard and those in our family court system certainly deserve both a standard and accountability during vulnerable seasons of their life.

**Goal:** To prevent miscarriages of justice in the Family Court System by holding third-parties such as social workers, custody evaluators, and therapists to follow a strict standard of evidence and/or the same professional responsibility ethical rules as attorneys.

**Reasons:** To prevent rampant bias in fact finding and in custody evaluation reports in Family Court ordered custody proceedings, which lead to the inhumane rupture of families with little to no access to justice or accountability.

**Communities affected:** Native Hawaiian families, low-income families, LGBTQ parents and children, families where one parent is white and another is a person-of-color, mothers-of-color whose children report sexual abuse by father.

**The problem:** Third parties acting as de facto court officers often run amok of jurisprudence in dealing with custody and child welfare matters. Bias is rampant and unchecked. CEs deciding custody for judges lack professional rules of conduct in their investigations. They also have quasi immunity to being held accountable for taking a child away from a protective parent due to bias or returning a child to a dangerous parent for the same. The rupture of families leads to higher rates of runaways, increased child abuse and sometimes child disappearances and murder, NIED of protective parents, and no access to justice for poor families-of-color.

**Current remedy for abuses by third-parties empowered by courts:** proving Constitutional violations by the offender (LCSW, CE, Therapist, etc), which is nearly impossible, and subsequent costly litigation. Essentially, this means that there currently is no recourse for such violations.

- Lawyers must abide by a strict code of conduct when they practice law but other third parties tasked by court to aid in deciding custody matters, child abuse, etc, do not have

such a professional code of conduct.

- Because of this lack of rules for third-parties working with court, bias, conflicts of interest, racism, sexism, and Constitutional violations of the rights of children and their protective guardians/parent(s) are committed daily.
- Without accountability, third parties have the ability to shirk their duties, continue to charge exorbitant fees, judge with bias, lie to court, bribe witnesses, commit fraud, omit evidence, and get away with it.