



The Judiciary, State of Hawai'i

**Testimony to the Thirty-Second State Legislature
2023 Regular Session**

Committee on Judiciary and Hawaiian Affairs
Representative David A. Tarnas, Chair
Representative Gregg Takayama, Vice Chair

Wednesday, March 28, 2023 at 2:00 p.m.
State Capitol, Conference Room 325 & Videoconference

WRITTEN TESTIMONY ONLY

by:

Matthew J. Viola
Senior Judge, Deputy Chief Judge
Family Court of the First Circuit

Bill No. and Title: Senate Bill No. 944, SD1, HD1, Relating to the Uniform Parentage Act.

Purpose: Requires the department of the attorney general to convene a task force to recommend amendments to update existing parentage laws that reflect cisheteronormative concepts of families, parenthood, and parental rights. Requires an interim report to the legislature twenty days prior to the regular session of 2024 and a final report forty days prior to the regular session of 2025. Effective 7/1/3000. (HD1)

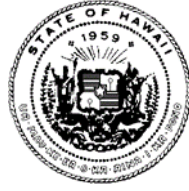
Judiciary's Position:

The Judiciary takes no position on Senate Bill No. 944, SD1, HD1, but offers the following comments.

House Bill No. 384, HD2 enacts portions of the Uniform Parentage Act of 2017 to replace our existing and outdated parentage statutes. HB384, HD2, which the Judiciary supports, will address the concerns noted in the purpose statement of this bill. If HB384, HD2 is passed, the task force would be able to focus on other portions of the Uniform Parentage Act that are not addressed in HB384, HD2, including assisted reproduction and surrogacy. The Judiciary would look forward to continuing to work on those issues as a member of the task force.

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

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



CATHY BETTS
DIRECTOR
KA LUNA HO'OKELE

JOSEPH CAMPOS II
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

STATE OF HAWAII
KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF HUMAN SERVICES
KA 'OIHANA MĀLAMA LAWELAWE KANAKA
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March 28, 2023

TO: The Honorable Representative David A. Tarnas, Chair
House Committee on Judiciary & Hawaiian Affairs

FROM: Cathy Betts, Director

SUBJECT: **SB 944 SD1 HD1 – RELATING TO THE UNIFORM PARENTAGE ACT.**

Hearing: Wednesday, March 29, 2023, 2:00 p.m.
Conference Room 325 & Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent of this measure and offers comments. DHS defers to the Department of the Attorney General and the Judiciary.

PURPOSE: Requires the Department of the Attorney General to convene a task force to recommend amendments to update existing parentage laws that reflect cisheteronormative concepts of families, parenthood, and parental rights. Requires an interim report to the legislature twenty days prior to the regular session of 2024 and a final report forty days prior to the regular session of 2025. Effective 7/1/3000. (HD1)

SD1 amended this measure by:

- (1) Rather than extending and modifying the task force established by Act 201, Session Laws of 2021, establishing a new task force for the same purpose;
- (2) Specifying that the task force shall submit a report of its findings and recommendations, including any proposed legislation, to the Legislature no later than forty days prior to the convening of the Regular Session of 2025;
- (3) Inserting an effective date of March 22, 2025, to encourage further discussion; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

HD1 amended this measure by:

- (1) Requiring the Department of the Attorney General, rather than the Department of Health, to convene the task force;
- (2) Amending the composition of the task force;
- (3) Requiring the task force to submit an interim report to the Legislature no later than twenty days prior to the Regular Session of 2024;
- (4) Changing the effective date to July 1, 3000, to encourage further discussion; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

DHS appreciates the proposals to update Hawaii's parentage law (HB384) to address contemporary family structures. DHS also requests that other proposals revising gender terms (SB 109 and SB 110) remain consistent with the changes to the parentage law. DHS supports efforts to clarify the rights of same-sex couples, non-binary individuals, and children with more than two parents. The Department agrees with the recommendation by the initial task force that it addresses parentage issues for adopted children and children born via surrogacy or other assistive reproductive technology to ensure that any updates to the State's parentage laws will benefit as many families as possible.

The Child Welfare Services Branch (CWSB) provides various prevention and intervention services to reduce or address the impact of child abuse and neglect, including adoption.

As the parentage law is revised, CWSB will need time to update its procedures, forms, and data systems and provide training for staff and contracted service providers. CWSB aims to ensure changes are implemented with quality and that CWSB staff is supported, trained, and better equipped to work with diverse families and children. The CWSB data system will likely require updating to reflect, amongst other things, non-gendered terms, alleged genetic parent, and defacto parents and remain aligned with federal reporting requirements. Additionally, CWSB will need to work with contracted service providers and may need to increase contract amounts to provide services for potentially more parents and family members. CWSB will continue to review the proposed measures and consider additional resources that may be required to implement the measure. DHS anticipates that the proposed task force will provide guidance and support to the department's efforts to implement new procedures and training and make system modifications successfully.

Thank you for the opportunity to provide comments on this measure.

SB-944-HD-1

Submitted on: 3/27/2023 12:08:44 AM

Testimony for JHA on 3/29/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Michael Golojuch Jr	Stonewall Caucus of the Democratic Party of Hawai'i	Comments	Remotely Via Zoom

Comments:

Aloha Representatives,

The Stonewall Caucus of the Democratic Party of Hawai'i; Hawai'i's oldest and largest policy and political LGBTQIA+ focused organization used to support this bill but that is no longer the case. This is due to the fact that the last House committee REMOVED any assured representation for the LGBTQIA+ community and allowed it to be hijacked by those that want to use a birth certificate as a DNA tracker.

We hope you all will address our concerns or admit that the taskforce that this bill now creates is not to update existing parentage laws that reflect cisheteronormative concepts of families, parenthood, and parental rights as stated in Section 1.

If this taskforce is to work to make birth certificates a DNA tracker then there are others that are missing from the group and here is who we have so far:

1. Sperm and egg donors that want to remain anonymous
2. Rape survivor that got pregnant from the rape or a rape survivor advocate
3. Domestic abuse survivor
4. Closed adoption advocate

We look forward to discussing this at the hearing.

Mahalo nui loa,

Michael Golojuch, Jr.
Chair and SCC Representative
Stonewall Caucus for the DPH

SB-944-HD-1

Submitted on: 3/28/2023 11:53:22 AM

Testimony for JHA on 3/29/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
J. Takane	Individual	Support	In Person

Comments:

With respect to SB944, I commend the changes to include a health care professional familiar with hospital and birthing center procedure experience; a mental health professional familiar with post-adoption experience; and an individual with personal knowledge of adoption-related health and medical issues.

But I still feel strongly, as an adoptee who never was able to provide any input into the adoption laws that kept me from my own heritage, genealogy, genetic health history and any other vital information about myself, it is imperative that individuals who are donor conceived to be a part of this task force. It is their rights that are at the center of what is being discussed. Any results from such a task force will be subject to controversy if there isn't anyone who has been directly (aka the children) impacted by donor conceived parentage issues because this law will affect them.

I support a task force rather than just changing the laws without due diligence. One must first understand the complexity of how children are brought into the world now and all the consequences that go along with them, especially those that directly impact the children who are conceived.

Aloha Chair Tarnas, Vice Chair Takayama, and Members of Committee on Judiciary & Hawaiian Affairs

SB 944 SD1 HD1 convenes a task force to make recommendations to update existing parentage laws to reflect modern concepts of families. Some of these families have children created with the help of assisted reproduction. The current fields available in the “certificate of live birth” do not capture the person’s origins from assisted reproductive technology (such as sperm or egg donation, surrogacy) nor do the current fields match well with current diverse family configurations.

This complex issue deserves consideration **to meet current needs of parents and children**. The task force is a good idea if it represents all the key stakeholders.

Based on the experience of donor-conceived persons and from adoptees who were raised and denied knowing their genetic and biological connections, it is known that children and the adults they become have a need-to-know fundamental information about themselves – from whom they were created – their genetic, biological and family connections. The lack of information about their genetic origins can leave people with a void about their ethnicity, family lineage, and family traits. Lack of medical history is a clear disadvantage.

I speak as a person who grew up in a closed adoption, as a PhD in social welfare that studied adoption, foster care, and the Hawaiian cultural practice of hanai, and through years of experience in adoption support and advocacy listening to countless triad members (persons who were adopted, birth parents and adoptive parents). Over the last year and a half, I’ve sought out information, resources, and those with experience related to being donor-conceived to learn more. Issues related to not knowing one’s origins is similar between those in closed adoptions and those who were donor-conceived. However, other issues are different, such as those who were donor-conceived finding out they have numerous siblings including some who have over 50 siblings.

Since this parentage bill would affect children who were created through assisted reproduction, it is important to have representation on this task force of persons with knowledge and experience of those who were donor-conceived.

Two important areas of focus that representatives of the child’s perspective would bring to the task force would be

- 1) the preservation of an original certificate of live birth that records the facts of a child’s genetic and biologic origins and
- 2) transparency and access so that the child and family have access to the information when needed. The need could be for medical reasons, to prove Hawaiian ancestry for Hawaiian birth rights such as Kamehameha Schools, or if the donor and receiving family are in mutual agreement, and other reasons.

One obstacle to achieve truth and transparency for children about their origins is the current practice of assisted reproduction often using anonymous gametes sourced from an unregulated industry in the US.

Another consideration for discussion is if the documentation of personhood “certificate of live birth” should be amended at all. Other options for a parentage document for everyone that could be amended might better reflect our current society.

Making changes to the parentage law is a complex issue and warrants a task force to figure out a path for the State of Hawaii that reflects our care for children, our culture and values. Some resources about the donor-conceived and related issues follow.

Thank you very much for this opportunity to testify.

Respectfully,
Kat McGlone

Resources

Session by donor-conceived and surrogate-born at the United Nations on 30th anniversary of the Convention on the Rights of the Child. (2019). *Concise, powerful testimony that highlight the issues for those who are donor-conceived*

https://www.youtube.com/playlist?list=PL3PTiHF4egBG2KaSTYLDZUpIY_f1-BYy2

The **Donor Sibling Registry** seems to be the largest organization with support services and resources for the donor-conceived. Their mission is “Educating, Connecting & Supporting Donor Families.” “DSR's core value is honesty, with the conviction that people have the fundamental right to information about their biological origins and identities.” Their founder also has published “*Counseling Donor Family Members. A Guide for Mental Health Professionals.*”

<https://donorsiblingregistry.com/>

Samuels, Elizabeth. (2018). An Immodest Proposal for Birth Registration in Donor-Assisted Reproduction, In the Interest of Science and Human Rights.

https://scholarworks.law.ubalt.edu/fac_articles/5

Cahn, Naomi. (2014). "Do Tell! The Rights of Donor-Conceived Offspring," *Hofstra Law Review*: Vol. 42 : Iss. 4 , Article 3. <https://scholarlycommons.law.hofstra.edu/hlr/vol42/iss4/3>

Cahn, Naomi. (2011). Old Lessons for a New World: Applying Adoption Research & Experience to ART. https://www.researchgate.net/publication/228139419_Old_Lessons_for_a_New_World_Applying_Adoption_Research_and_Experience_to_Art

United Nations. (1990). **Convention on the rights of the child.**

<https://www.ohchr.org/EN/professionalinterest/pages/crc.aspx>

Article 8 - States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

SB-944-HD-1

Submitted on: 3/24/2023 5:55:19 PM

Testimony for JHA on 3/29/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Andrew Crossland	Individual	Oppose	Written Testimony Only

Comments:

I **strongly oppose** this woke nonsense Bill.

March 29, 2023

Chair David Tarnas
Vice Chair Gregg Takayama
Members of the House Committee on Judiciary & Hawaiian Affairs

RE: SB 944, HD1
Relating to the Uniform Parentage Act

Testimony in support

Please accept my testimony in support of SB 944, HD1 to re-convene this important Task Force. Unfortunately due to the ongoing pandemic, the prior Task Force was only able to meet twice where concerns were expressed but not adequately resolved in a thoughtful manner.

The Judiciary's proposed Uniform Law on Parentage, HB 384, HD2, introduced this session, seeks to offer expedited parentage to non-genetic parents regardless of gender or marital status. I agree with the Family Court's assertion that there should not be discrimination based on gender in marriage nor adoption, and in fact both state and federal law prohibit such. However, the expedited parentage offered in HB 384, HD2, allows a child's original birth record to reflect non-genetic parent(s) information in the place of their genetic parents. There will be no official record of the genetic parents that can be accessed by the child nor the legal parents who will need genetic and medical history at some point in their life.

As a person who was raised in a closed adoption system, I have experienced the adverse emotional and health impacts from not having genetic and medical information. My genetic parent's identity was hidden from my adoptive parents and me in sealed adoption records. The laws of the last mid-century that created sealed adoption records were informed before we understood the importance of genetics on human development. There is myriad research since then about genetics that has informed openness in adoptions, and the subsequent opening of sealed adoption records, including in Hawaii in 2016. In 2023, we cannot plead the same ignorance of genetics, particularly with regard to health care and medical treatments.

Adoption has been the legal mechanism for the conferring of parentage to non-genetic parents for decades by allowing the creation of an amended birth certificate once legal parentage is conferred by the Family Court. The recent history with evolved adoption policy in Hawaii can inform an improved Uniform Law on Parentage, and one that preserves a child's genetic and medical history.

Mahalo for your consideration of my testimony.

Laurel Johnston

SB-944-HD-1

Submitted on: 3/27/2023 12:17:28 PM

Testimony for JHA on 3/29/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Doreen Akamine	Individual	Support	Written Testimony Only

Comments:

As an adoptive parent of two adult adopted children and being an RN of more than 45 years, I can personally attest to the importance of having access to medical and health information. Adopted individuals who do not know their biological family are at a disadvantage when health issues arise. They are not able to anticipate potential diseases that they may be predisposed to including possible severe allergic reactions. As adults, adopted individuals should have the same rights and opportunities to access this information through their birth records. I strongly support the additional member of this task force to be someone with "personal knowledge of adoption-related health and medical issues". Thank you for your kind consideration.

SB-944-HD-1

Submitted on: 3/27/2023 4:15:55 PM

Testimony for JHA on 3/29/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Dara Yatsushiro	Individual	Oppose	Written Testimony Only

Comments:

George Orwell penned the novel, "Animal Farm" as a metaphor to caution society against the very thing being proposed with this bill. SB944 seems to be a step towards classism and I can think of no good reason to ever move in such a direction. **There is no law telling people what they can and cannot consider as a family** - as it is, they are free to live in whatever constellation they choose - so to convene a task force to update laws and concepts sounds like an expensive waste of time towards a "need" that doesn't exist. The Attorney General's department has a myriad of other *real* problems to address and that's where their time should be spent, not on this.