



The Judiciary, State of Hawai‘i

Testimony to the Thirty-Third Legislature, 2025 Regular Session

Senate Committee on Judiciary
Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair

Thursday March 13, 2025, 9:45 a.m.
Hawai‘i State Capitol, Conference Room 016

by
Jeannette H. Castagnetti
Chief Judge of the First Circuit
Chair, Committee on the Uniform Probate Code and Probate Court Practices Committee

Dyan M. Medeiros
Senior Judge, Deputy Chief Judge
Family Court of the First Circuit

WRITTEN TESTIMONY ONLY

Bill No. and Title: House Bill No. 648, H.D. 1, Relating to Guardianship and Conservatorship Services.

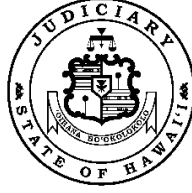
Purpose: Establishes a two-year court resources pilot program for guardianship and conservatorship cases. Appropriates funds for the pilot project.

Judiciary's Position:

The Judiciary supports House Bill No. 648, H.D. 1, the proposed pilot program, and the anticipated appropriation that will be necessary to run the pilot program. We believe the initially recommended amount of \$100,000 is an appropriate amount for this pilot project.

We respectfully request that any appropriation provided not supplant the Judiciary’s existing funding or budget requests.

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



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Testimony to the Thirty-Third Legislature, 2025 Regular Session

Senate Committee on Judiciary

Senator Karl Rhoads, Chair

Senator Mike Gabbard, Vice Chair

Thursday, March 13, 2025 at 9:45 am
Hawai‘i State Capitol, Conference Room 016

by

Roland Lee

Public Guardian Director

Office of the Public Guardian

Bill No. and Title: House Bill 648, H.D. 1, Relating to Guardianship and Conservatorship Services.

Purpose: Establishes a two-year court resources pilot program for guardianship and conservatorship cases. Appropriates funds for the pilot project.

Judiciary's Position:

The Judiciary’s Office of the Public Guardian appreciates the legislature's efforts to expand services in the critical area of guardianships and conservatorships, with the aim of creating a more equitable system that better serves the public. We fully support funding the Probate Court and Family Court in the First Circuit for a two-year pilot project for Kokua Kanawai and Guardian Ad Litem services and professional evaluations of a respondent's alleged impairment.

However, we respectfully request the following amendments to House Bill No. 648, H.D. 1:

1. On page 1, line 17 to page 2, line 2, replace "physician's letters and reports, also statutorily referred to as a 'professional evaluation'," with “professional evaluations.”



2. On page 3, line 17, at the end of paragraph (3), insert: "; provided that the court may order that a psychological evaluation, neurocognitive evaluation, or functional evaluation be conducted under this paragraph whenever the court deems it necessary."

These amendments would ensure that the pilot program funding would cover psychological, neurocognitive, and functional evaluations that the court may order whenever physician letters and reports may be insufficient to establish the respondent's incapacity. We note that physician's letters are summaries that make conclusions about a respondent's incapacity but often lack detailed evaluative testing for IQ, logic, comprehension, memory, and critical thinking, even though such testing is important in evaluating the respondent. Accordingly, physician's letters are not appropriate substitutes for professional evaluations in certain situations. For example, when a physician's letter concludes that the respondent has a cognitive impairment, but the respondent nonetheless appears capable of making sound decisions, a professional evaluation – such as a neurocognitive, psychological, or functional evaluation – is needed to support the physician's conclusion. These evaluations involve thorough testing and should already be completed when a petitioner files for guardianship to clarify the respondent's decision-making abilities.

We believe these amendments will strengthen the pilot program by including coverage for the full range of available resources to assist the court in making decisions in guardianship and conservatorship proceedings based on a thorough evaluation of the respondent's ability to understand, retain, process, and communicate information necessary to make decisions. Only when equipped with such information from a professional can a meaningful decision be made as to a respondent's capacity to manage their own affairs and on their own behalf or, if the respondent clearly cannot do so, the need to appoint a guardian.

Thank you for your consideration of our position on this important legislation.



STATE OF HAWAII
KA MOKU'ĀINA O HAWAII
STATE COUNCIL ON DEVELOPMENTAL DISABILITIES
'A'UNIKE MOKU'ĀPUNI NO KA NĀ KĀWAI KULA
PRINCESS VICTORIA KAMĀMALU BUILDING
1010 RICHARDS STREET, Room 122
HONOLULU, HAWAII 96813
TELEPHONE: (808) 586-8100 FAX: (808) 586-7543

March 13, 2025

The Honorable Senator Karl Rhoads, Chair
Senate Committee on Judiciary
The Thirty-Third Legislature
State Capitol
State of Hawai'i
Honolulu, Hawai'i 96813

Dear Senator Rhoads and Committee Members:

SUBJECT: HB648 HD1 Relating to Guardianship and Conservatorship Services

The Hawai'i State Council on Developmental Disabilities **offers COMMENTS on HB648 HD1**, which establishes a two-year pilot program in the Probate Court and Family Court of the First Circuit to fund certain guardianship- and conservatorship-related court resources in situations where the respondent does not have sufficient funds to pay for one or more of the resources and the court has deemed the resource or resources beneficial. Requires the Judiciary to submit reports to the Governor and Legislature. Appropriates funds. Effective 7/1/3000. (HD1)

The Council is providing testimony as the facilitator of a working group created by Representative Tarnas in response to the 2023 Legislative Session's HB1440. Our group began by reviewing the UGCOPAA and its applicability to Hawai'i and shifted our focus to identifying current issues or gaps in our guardianship and conservatorship laws. Our group began meeting in July 2023, and our meetings are continually ongoing. The members of our group are below.

The working group comprises representatives from various key entities, including the Family Court, the Hawaii Judiciary's Probate Committee, the Department of the Attorney General, the Department of Human Services- Adult Protective and Community Services Branch, the Uniform Law Commission, AARP Hawaii, the Caregiver Foundation, the Office of the Public Guardian, the Hawaii Disability Rights Center, Long-term Care Ombudsman John McDermott, Parents of Individuals with Developmental Disabilities, and the Richardson Law School's Elder Law Clinic.

Our working group put forward this measure because, through our discussions, we have identified this specific program as an opportunity to enhance the guardianship and conservatorship process. Three key tools—Kōkua Kanawai, Guardian Ad Litem, and Capacity Evaluations—help courts gain deeper insight into cases. However, these resources are currently only available to respondents (those subject to guardianship or conservatorship) who can afford them.

House Bill 648, H.D. 1
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This pilot project aims to make these tools accessible in cases where respondents lack financial means but where the court deems them beneficial. By implementing this measure, we seek to promote greater equity and procedural fairness in Hawai'i's guardianship and conservatorship system. Our working group came to a general consensus that these tools would be valuable to the courts.

Thank you for the opportunity to submit testimony **offering comments of HB648 HD1.**

Sincerely,

A handwritten signature in blue ink that reads "Daintry Bartoldus". The signature is written in a cursive, flowing style.

Daintry Bartoldus
Executive Administrator

HB-648-HD-1

Submitted on: 3/7/2025 6:11:49 PM

Testimony for JDC on 3/13/2025 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Louis Erteschik	Testifying for Hawaii Disability Rights Center	Support	Remotely Via Zoom

Comments:

The Hawaii Disability Rights Center (HDRC) supports this Bill which establishes a two-year pilot program in the Probate and Family Court of the First Circuit to fund certain guardianship and conservatorship related court resources in situations where the respondent has insufficient funds to pay for one or more resources the court has deemed beneficial.

Even when a petition for guardianship or conservatorship is genuinely sought for benevolent reasons, the imposition of a guardianship or conservatorship results in a profound restriction of a person’s fundamental rights because it removes a person’s right to make certain choices and transfers decision-making power to another. This can impact whether a person marries or goes on to have children, whether they vote, where they live and with whom, what education or job training opportunities they pursue, how they spend their money, where and if they travel, whether they get a driver’s license, and what kinds of medical and other services they receive. Because of these restrictions on a person’s rights, a guardianship or conservatorship may not be imposed by a court unless a respondent’s needs cannot be met by less restrictive means.

Also, whenever feasible, “the court shall grant to the guardian only those powers necessitated by the ward’s limitations and demonstrated needs and make appointive other orders that will encourage the development of the ward’s maximum self-reliance and independence.” HRS § 560:5-311(b) (emphasis added). See also, HRS § 560:5-409 (for similar requirements for conservatorships).

The court services funded under this bill—Kōkua Kanawai, Guardian Ad Litem, and Capacity Evaluations—help courts make informed decisions about guardianships and conservatorships that are least restrictive and encourage the development of the ward’s maximum self-reliance and independence. However, these services are currently only available to respondents in guardianship and conservatorship proceedings who can afford them.

HDRC believes the passage of this bill represents a critical step in advancing due process for respondents in guardianship and conservatorship proceedings who are of low or moderate income by making these services available when a court finds them to be beneficial—and not just when a respondent can afford them.



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**The State Legislature
Senate Committee on Judiciary
Thursday, March 13, 2025
Room 016, 9:45 a.m.**

TO: The Honorable Karl Rhodes
FROM: Keali'i S. López, State Director
RE: Support for H.B. 648 HD1, Relating to Guardianship and Conservatorship Services

Aloha Chair Rhoads and Members of the Committee:

I am Keali'i Lopez, State Director of AARP Hawai'i. AARP is a nonprofit, nonpartisan, social impact organization dedicated to empowering people 50 and older to choose how they live as they age. We advocate at the state and federal level for the issues that matter most to older adults and their families. On behalf of our nearly 135,000 members statewide, thank you for the opportunity to share our testimony.

AARP is in support of H.B.648, HD1 which establishes a two-year pilot program in the Probate Court and Family Court of the First Circuit to fund certain guardianship and conservatorship related court resources in situations where the respondent does not have sufficient funds to pay for one or more of the resources, and the court has deemed the resource or resources beneficial.

Adult guardianship is a complex system where a state court names someone to care for the well-being, and possible finances, of another person who has been deemed unable to care for themselves. Orders for guardianship and conservatorship, by their very nature, take away the civil rights of the individuals subject to them. Therefore, it is important to ensure that these individuals are afforded due process of the law.

Petitions for guardianships can often become contentious, "he said, she said" cases. To address this, it is crucial for the court to have a neutral third party, such as a Kokua Kanawai, who can investigate the circumstances and report their findings. This bill establishes and funds a two-year pilot program to engage neutral third parties like Kokua Kanawai.

Parties such as Kokua Kanawai, guardians ad litem, and independent experts play a vital role in providing the court with a comprehensive understanding of an individual's situation. This enables

the court to formulate protective orders tailored to the person's needs. Simply put, these additional parties help ensure that respondents to guardianship or conservatorship petitions receive due process.

Although respondents are entitled to have these parties appointed, financial constraints often prevent this. This bill ensures that respondents will not be denied due process simply because they lack the financial resources to defend against a petition.

Thank you for the opportunity to testify in support.

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March 10, 2025

Senate Committee on Judiciary
Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair
Senators Stanley Chang, Joy A. San Buenaventura, and Brenton Awa, Committee Members

RE: HB 648 RELATING TO GUARDIANSHIP AND CONSERVATORSHIP SERVICES – SUPPORT

Dear Chair Rhoads, Vice Chair Gabbard, and Committee Members,

I am submitting this letter in support of HB 648 on behalf of Easterseals Hawaii. Easterseals Hawaii served 2,025 Hawaii community members with intellectual and developmental disabilities (I/DD) in 2024. Our purpose is to create a more equitable world where people with I/DD can choose their own path.

HB 648 would establish a two-year pilot program to fund certain guardianship and conservatorship-related court resources, such as kōkua kanawai, when beneficial for individuals who may not be able to pay for it otherwise. These resources provide the court with vital information regarding the individual's personal circumstances, their disability, and more. They therefore help the court make a more informed decision on guardianship and conservatorship matters. However, many families face financial barriers in accessing these resources. Guardianship and conservatorship are major decisions that must not be made lightly or with incomplete information, so equitable access to appropriate resources is essential to protect the wellbeing, rights, and self-determination of disabled individuals. By ensuring equitable access to all necessary resources during this sensitive process, this bill will help individuals with disabilities choose their own path.

Easterseals Hawaii supports HB 648 and respectfully requests your "aye" vote.

Mahalo for the opportunity to submit this letter.

A handwritten signature in black ink, appearing to read "Rachel Liebert Lewis".

Rachel Liebert Lewis
Director, Public Policy and Advocacy
Easterseals Hawaii
PublicPolicyAndAdvocacy@eshawaii.org

HB-648-HD-1

Submitted on: 3/11/2025 9:02:17 AM

Testimony for JDC on 3/13/2025 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Hawaii Self Advocacy Advisory Council	Testifying for hawaii self advocacy advisory council	Support	Written Testimony Only

Comments:

The Hawaii Self-Advocacy Advisory Council is in full support of HB648 HD1.

HB-648-HD-1

Submitted on: 3/10/2025 5:38:50 PM

Testimony for JDC on 3/13/2025 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Elizabeth Kent	Individual	Support	Written Testimony Only

Comments:

Aloha,

Thank you for the opportunity to present testimony in support of this bill. Although I participated in the Working Group as a Uniform Law Commissioner, I write this testimony in my personal capacity because the subject matter of this bill does not concern a uniform law.

I strongly support creating a vibrant and robust pilot project because it would provide important resources to people who need them. Furthermore, it would provide good data for informed decision making in future. I urge you to move this bill forward.

Respectfully,

Elizabeth Kent

HB-648-HD-1

Submitted on: 3/11/2025 6:28:26 AM

Testimony for JDC on 3/13/2025 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Frank Schultz	Individual	Support	Written Testimony Only

Comments:

I support this initiative.