



The Judiciary, State of Hawai'i

Testimony to the Thirty-Third Legislature, 2025 Regular Session

Senate Committee on Ways and Means
Senator Donovan M. Dela Cruz, Chair
Senator Sharon Y. Moriwaki, Vice Chair

Monday, March 31, 2025, 10:02 a.m.
Hawai'i State Capitol, Conference Room 211

LATE

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

WRITTEN TESTIMONY ONLY

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

Purpose: 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 4/23/2057. (SD1)

Judiciary's Position:

The Judiciary supports House Bill No. 648, H.D. 1, S.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.



STATE OF HAWAII
KA MOKU'ĀINA O HAWAII
STATE COUNCIL ON DEVELOPMENTAL DISABILITIES
'A'UNIKE MOKU'ĀPUNI NO KA NĀ KĀWAI KULA
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March 31, 2025

The Honorable Senator Donovan M. Dela Cruz, Chair
Senate Committee on Ways and Means
The Thirty-Third Legislature
State Capitol
State of Hawai'i
Honolulu, Hawai'i 96813

Dear Senator Dela Cruz and Committee members:

SUBJECT: HB648 HD1 SD1 Relating to Guardianship and Conservatorship Service

The Hawai'i State Council on Developmental Disabilities **offers COMMENTS on HB648 HD1 SD1**, 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 4/23/2057. (SD1)

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 Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act (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.

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 on HB648 HD1 SD1**.

Sincerely,



Daintry Bartoldus
Executive Administrator

HB-648-SD-1

Submitted on: 3/28/2025 5:43:49 PM

Testimony for WAM on 3/31/2025 10:02:00 AM

Submitted By	Organization	Testifier Position	Testify
Louis Erteschik	Testifying for Hawaii Disability Rights Center	Support	Written Testimony Only

Comments:

Hawaii Disability Rights Center (HDRC) supports this 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.



LATE

March 31, 2025

Senate Committee on Ways and Means

Senator Donovan M. Dela Cruz, Chair

Senator Sharon Y. Moriwaki, Vice Chair

Senators Henry J.C. Aquino, Lynn DeCoite, Brandon J.C. Elefante, Troy N. Hashimoto, Lorraine R. Inouye, Dru Mamo Kanuha, Michelle N. Kidani, Donna Mercado Kim, Chris Lee, Glenn Wakai, and Kurt Fevella, Committee Members

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

Dear Chair Dela Cruz, Vice Chair Moriwaki, 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