



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
KA 'OIHANA O KA LOIO KUHINA  
THIRTY-THIRD LEGISLATURE, 2026**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 2093, RELATING TO THE UNIFORM PROBATE CODE.

**BEFORE THE:**

SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

**DATE:** Monday, March 23, 2026                      **TIME:** 1:40 p.m.

**LOCATION:** State Capitol, Room 225

**TESTIFIER(S):** Anne E. Lopez, Attorney General, or  
Erin K. S. Torres, Deputy Attorney General, or  
Margaret A. Leong, Deputy Attorney General

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Chair San Buenaventura and Members of the Committee:

The Department of the Attorney General (Department) provides the following comments.

This bill amends section 560:1-311, Hawaii Revised Statutes (HRS), to establish a procedure in guardianship and conservatorship proceedings under which certain documents are sealed upon filing, while other confidential documents are temporarily sealed pending a court hearing to determine whether they should remain sealed. The bill also amends sections 560:5-307 and 560:5-407, HRS, to specify the persons who may access the confidential documents temporarily sealed pending a court determination, while preserving the court's authority to grant access for good cause.

The Department offers comments on sections 3 and 4 of the bill (page 4, line 7, through page 5, line 14), which identify the persons entitled to access confidential documents enumerated in section 560:1-311(c). The Department notes that the listed persons include some, but not all, individuals who are parties to guardianship and conservatorship proceedings. To ensure that all parties entitled to notice under chapter 560, HRS, are afforded appropriate access to these documents, the Department recommends the following amendments:

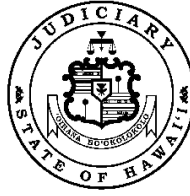
Amend section 560:5-307(3) (page 4, lines 15 to 18) as follows:

- (3) ~~[The petitioner,]~~ All parties named in the petition under section 560:5-304(b), the kokua kanawai, ~~[any nominated guardian,]~~ and the petitioner's, nominated guardian's, and respondent's lawyers, for purposes of the proceeding; and

Amend section 560:5-407(3) (page 5, lines 9 to 12) as follows:

- (3) ~~[The petitioner,]~~ All parties named in the petition under section 560:5-403(b) and (c), the kokua kanawai, ~~[any nominated conservator,]~~ and the petitioner's, nominated conservator's, and respondent's lawyers, for purposes of the proceeding; and

Thank you for the opportunity to provide comments.



*The Judiciary, State of Hawai‘i*  
*Ka ‘Oihana Ho‘okolokolo, Moku‘āina ‘o Hawai‘i*

**Testimony to the Thirty-Third Legislature, 2026 Regular Session**

**Senate Committee on Health and Human Services**  
Senator Joy A. San Buenaventura, Chair  
Senator Angus L.K. McKelvey, Vice Chair

Monday, March 23, 2026, 1:40 PM  
State Capitol, Conference Room 225

by

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

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**Bill No. and Title:** House Bill No. 2093, Relating to the Uniform Probate Code.

**Purpose:** Provides for the temporary sealing of certain medical records and professional evaluations filed in guardianship and conservatorship proceedings pending a judicial determination on the need for continued sealing.

**Judiciary and Committee's Position:**

The Honorable Jeannette H. Castagnetti, on behalf of the Judiciary and the Uniform Probate Code and Probate Court Practices Committee (the “Probate Committee”),<sup>1</sup> submits this testimony in favor of House Bill No. 2093 to amend the procedure for sealing sensitive medical and health records filed in guardianship and conservatorship proceedings to protect an individual’s right to privacy pending a hearing to determine an individual’s capacity. Members of the Probate Committee reviewed existing case law on the sealing of medical and health records in court filings and sought to create a uniform procedure to streamline the process to seal such sensitive information.

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<sup>1</sup> The Probate Committee is chaired by the Honorable Jeannette H. Castagnetti of the First Circuit Court and is comprised of the Honorable Henry T. Nakamoto, the Honorable Peter T. Cahill and attorney members Colin Goo, Rhonda Griswold, Frank Kanemitsu, Joy Miyasaki, Jeffrey Niebling, Rosemarie Sam, Summer Shelverton, Douglas Smith, Carroll Taylor, and Eric Young.



In Civil Beat Law Center for the Public Interest, Inc. v. Rodney A. Maile, in an Official Capacity as Administrative Director of the Court, et al., 117 F. 4th 1200 (9th Cir. 2024), the United States Court of Appeals for the Ninth Circuit made clear that the categorical sealing of medical and health records in court filings is unconstitutionally overbroad as the First Amendment grants the public a presumptive right of access to court documents. As a result of the Ninth Circuit ruling, Rules 2.19 and 9.1(a) of the Hawai'i Court Records Rules, which apply to all criminal and civil proceedings in Hawai'i state courts, were amended to no longer permit the categorical and automatic sealing of medical and health records.

The Probate Committee recommends the proposed amendments to establish an efficient and uniform procedure to seal medical and health records specifically in guardianship and conservatorship proceedings under chapter 560, Hawai'i Revised Statutes. Such medical and health records often describe a person's mental or physical condition, diagnosis, and prognosis, among other details of a highly personal and intimate nature. In those proceedings, an individual's medical and health records that are sensitive and private in nature become the subject of the court proceedings to determine whether the individual has capacity or not.

House Bill No. 2093 amends Sections 560:1-311, 560:5-307, and 560:5-407, Hawai'i Revised Statutes, to establish a procedure for temporary sealing of certain medical and health records of a highly sensitive nature upon filing until a court hearing can be held to determine whether the records should remain sealed. If the court determines that a compelling interest justifies restricting public access to the subject records, the court will order the records remain sealed. If the court does not determine that a compelling interest justifies restricting the public's access to the subject records, the court will order the records be unsealed. This procedure allows the court to conduct a case-by-case evaluation in a manner that sufficiently protects the individual's privacy interest in the information pending a court hearing and promotes the efficient administration of guardianship and conservatorship proceedings in the Probate Courts.

The Judiciary respectfully asks this Committee to vote in favor of House Bill No. 2093.

Thank you for the opportunity to testify on this measure.