



The Judiciary, State of Hawai‘i

Testimony to the House Committee on Human Services

Representative Dee Morikawa, Chair
Representative Bertrand Kobayashi, Vice Chair

Tuesday, March 17, 2015 11:00 AM
State Capitol, Conference Room 329

WRITTEN TESTIMONY ONLY

By

Judge R. Mark Browning
Deputy Chief Judge and Senior Judge, Family Court

Bill No. and Title: House Concurrent Resolution No. 37 and House Resolution No. 14, Requesting an Audit of Child Custody Proceedings Involving the Commission of Family Violence of a Parent, to Assess the Use and Application of Section 571-46, HRS.

Judiciary's Position:

The Judiciary has grave concerns about House Concurrent Resolution (HCR) No. 37 and House Resolution (HR) No. 14 and respectfully offers the following reasons for our position:

1. While we are certainly well aware of the consequences of family violence, the lethality surrounding the victim's attempts to leave the perpetrator, and the courage it takes for victims to take those steps to leave, HCR No. 37 and HR No. 14 require the Auditor to go far beyond her authority and her mission and seriously abridge the fundamental democratic policy of separation of powers. HCR No. 37 and HR No. 14 should not be passed out of committee for these reasons alone. We address these issues and include other reasons for our grave concerns.

2. Separation of powers is a critical concept underpinning of our democracy. Basically, it recognizes that our country's strength is in part based on three co-equal branches of government, with all three being able to work robustly and vigorously within its own kuleana. The Legislature makes the laws; the Executive carries out the laws; and the Judiciary enforces and interprets the laws.



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House Committee on Human Services

Tuesday, March 17, 2015, 11:00 AM

Page 2

3. In researching whether the Auditor can conduct such an “assessment” of specific judicial cases, we made a cursory review of reports by the U.S. General Accounting Office (GAO) (similar to our Legislative Auditor’s Office). We first noted its scope of operations:

Congress created GAO in the Budget and Accounting Act of 1921 in order assist in the discharge of its [Congress’] core constitutional powers-- the power to investigate and oversee the activities of the executive branch, the power to control the use of federal funds, and the power to make laws. All of GAO's efforts on behalf of Congress are guided by three core values: (1) Accountability-- GAO helps Congress oversee federal programs and operations to ensure accountability to the American people; (2) Integrity-- GAO sets high standards in the conduct of its work. GAO takes a professional, objective, fact-based, non-partisan, nonideological, fair, and balanced approach on all activities; and (3) Reliability-- GAO produces high quality reports, testimonies, briefings, legal opinions, and other products and services that are timely, accurate, useful, clear and candid.

<http://www.gpo.gov/fdsys/pkg/GAOREPORTS-GAO-02-816T/html/GAOREPORTS-GAO-02-816T.htm> (accessed March 5, 2015).

Based on this cursory review, we found three reports concerning the judiciary. One report was made in order for the Congressional Judicial Resources Committee to determine when additional courts of appeals judgeships needed to be created. Here is a sample of their sources of data:

The design for the new case weights relied on three sources of data for specific types of cases: (1) data from automated databases identifying the docketed events associated with the cases; (2) data from automated sources on the time associated with courtroom events for cases, such as trials or hearings; and (3) consensus of estimated time data from structured, guided discussion among experienced judges on the time associated with noncourtroom events for cases, such as reading briefs or writing opinions.

<http://www.gao.gov/products/GAO-13-862T> (accessed March 5, 2015).



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House Committee on Human Services

Tuesday, March 17, 2015, 11:00 AM

Page 3

Here are the purpose and methodology for another report concerning judicial data:

Laws, such as the Clean Air Act, require EPA to issue rules by specific deadlines. Citizens can sue EPA for not issuing rules on time. These lawsuits are sometimes known as deadline suits. EPA sometimes negotiates a settlement to issue a rule by an agreed upon deadline. Some have expressed concern that the public is not involved in the negotiations and that settlements affect EPA rulemaking priorities. GAO was asked to review EPA settlements in deadline suits. This report examines (1) key environmental laws that allow deadline suits and the factors EPA and DOJ consider in determining whether to settle these suits, (2) the terms of settlements that led EPA to issue major rules in the last 5 years and the extent to which the public commented on the settlements, and (3) the extent to which settlements in deadline suits have affected EPA's rulemaking priorities.

<http://www.gao.gov/assets/670/667532.pdf> (accessed March 5, 2015).

We found one 1985 report regarding special education that looked a little deeper into specific cases:

In response to a request from your office [Senator Lowell Weicker, Jr., Chairman, Subcommittee on the Handicapped, Committee on Labor and Human Resources], we have reviewed several lawsuits filed under The Education of All Handicapped Children Act (EAHCA) (Public Law 94-142). The act provides for "a free appropriate public education which emphasizes special education and related services designed to meet . . . [the] unique needs . . . of handicapped children." As agreed with your office, our review was limited to obtaining information on only the successfully litigated cases under EAHCA from those court cases identified for your Subcommittee by the Congressional Research Service. We determined (1) whether each successfully litigated case was brought by an individual or a class; (2) the attorney's fees awarded, if any, and who paid; (3) the amount of the damage award, if any, and who paid; and (4) the nature of each case and the reasons litigation was brought.



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House Committee on Human Services

Tuesday, March 17, 2015, 11:00 AM

Page 4

<http://www.gao.gov/assets/210/207656.pdf> (accessed March 5, 2015).

As illustrated by these reports, there are legitimate reasons for a legislature to obtain information from the judiciary and even information regarding specific cases. However, the scope, intent, and methodology of HCR No. 37 and HR No. 14 go way beyond anything found in these three examples.

4. Similarly, HCR No. 37 and HR No. 14 would require the Auditor to go beyond what our own state would allow. It is clear that, similar to the GAO, the Auditor's primary mission is to be an independent watchdog over spending of public funds.

In 1950, the delegates to Hawaii's first Constitutional Convention considered the position of the Auditor sufficiently important to be established in the State Constitution. The delegates envisioned an Auditor who would help eliminate waste and inefficiency in government, provide the Legislature with a check against the powers of the executive branch, and ensure that public funds are expended according to legislative intent.

The State Constitution in Article VII, Section 10, establishes the position of Auditor. To ensure independence from undue pressure from individual legislators, the executive branch, and forces outside government, the Constitution specifies that the Auditor be appointed for an eight-year term by a majority vote of each house in joint session. The Auditor may be removed only for cause by a two-thirds vote of the members in joint session.

It is the constitutional duty of the Auditor to conduct post-audits of the transactions, accounts, programs and performance of all departments, offices, and agencies of the State and its political subdivisions. The 1978 Constitutional Convention clarified these duties, making clear that the office's post-auditing functions are not limited to financial audits, but also include program and performance audits of government agencies. . . .

The Auditor also undertakes other studies and investigations as may be directed by the Legislature. In addition, Hawai'i Revised



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House Committee on Human Services

Tuesday, March 17, 2015, 11:00 AM

Page 5

Statutes, Chapter 23, gives the Auditor broad powers to examine all books, records, files, papers, and documents, to summon persons to produce records and answer questions under oath, to hold working papers confidential, and to conduct post-audits as the Auditor deems necessary. These powers in their totality support the principles of objectivity and independence that the *1950 constitutional drafters envisioned for a fearless watchdog of public spending*.

<http://auditor.hawaii.gov/about-us/> (accessed March 14, 2015, emphases added).

5. The common law upon which our nation's judiciaries are designed provides for orderly and predictable court processes. Persons dissatisfied with the decision at the trial level in our state have two levels of appellate courts to turn to. The appellate courts defer to the trial court on credibility matters but not on matters of law. This makes common besides legal sense. At a contested trial, the trial judge sees and hears the litigants. The trial judge observes body language, interactions, facial expressions, and myriad other human cues. The trial judge makes findings of fact based on all the pleadings, testimony at trial, and the arguments made by the litigant or the litigant's attorney.

Furthermore, the Family Court is committed to judicial training. Nationally, Family Courts and Juvenile Courts have long been viewed as courts with specially trained judges. Such special training promotes better understanding of certain areas such as child abuse, divorce, and family/domestic violence. In addition to training provided to all judges by the Judiciary, the Family Court judges of all the circuits also attend an annual Family Court Symposium. Family/domestic violence is a major topic that is regularly presented in addition to other matters and topics. For example, in the last five years, the judges have received training on the following family/domestic violence subjects:

(table on next page)



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House Committee on Human Services

Tuesday, March 17, 2015, 11:00 AM

Page 6

Year	Topic	Speaker(s)
2010	Accounting for Domestic Violence in Child Custody Cases: <ul style="list-style-type: none"> • Victim & Perpetrator Behavior • Implications for Parenting • Custody & Visitation: Getting the Right Information Crafting Plans: Best Interests of the Child	National Council of Juvenile and Family Court Judges (NCJFCJ)
2011	Domestic Violence and Child Welfare	National Council of Juvenile and Family Court Judges
2012	Child Witness in Domestic Violence, CPS, & Divorce Cases	National Council of Juvenile and Family Court Judges
2013	Context for Understanding Trauma in Victims of Domestic Violence & Sexual Assault Responding to Trauma in Victims of Domestic Violence & Sexual Assault	Olga Trujillo, J.D. Danielle Pugh-Markie Honorable Tamona Gonzalez Olga Trujillo, J.D. Danielle Pugh-Markie Honorable Tamona Gonzalez
2014	Intimate Partner Violence & Trauma <ul style="list-style-type: none"> • Examining the Impact from the Inside Out • Connecting the Neurobiology of Trauma • Victim Behavior & Assessing Credibility • What You Can Do to Help 	Olga Trujillo, J.D.

6. The common law also recognizes that the public good requires certainty in judicial decisions. Even in a court such as Family Court that deals with ever changing human beings and their family systems, certainty must be available absent material changes in circumstances. A lack of certainty harms the community, the litigants, and their children.



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House Committee on Human Services

Tuesday, March 17, 2015, 11:00 AM

Page 7

7. The Auditor's assessing "the use and application of section 571-46(a) (9) to (14), Hawaii Revised Statutes" in the manner suggested in HCR No. 37 and HR No. 14 will cause upheaval in the lives of families and serious breaches of privacy. And, in the end, the Legislature will not be able to affect any of the final decisions and orders. The Legislature has other avenues and resources that can inform its work and does not have to rely on the kind of "audit" found in HCR No. 37 and HR No. 14. The Legislature can make different, new, and better laws based on input appropriate to legislative bodies such as by working with advocacy professionals, surveying national best practices, networking with other state legislatures, and other legislative resources.

8. The Auditor's work as envisioned by HCR No. 37 and HR No. 14 may be a Sisyphean task of rolling a large boulder up a steep hill only to have it roll back down near the top. The initial petitions in divorce and paternity cases do not usually include allegations of family violence. The family court becomes aware of such allegations through subsequent pleadings or by reviewing related cases or when the allegations are orally made during a pretrial proceeding. Transcripts will need to be ordered and examined. In the end, the Auditor will find herself taking on the role of a finder of fact and making determinations of credibility. This is clearly an undesirable outcome for all parties to the investigation.

9. The preamble at page 2, from line 1, recognizes a dynamic that the Family Court is already aware of, i.e., perpetrators extend their coercive controls even outside the home—with family members, neighbors, circles of friends, the workplace, church, and courtrooms. Please do not add the Auditor to this list. Although we know it is not the Legislature's intent, perpetrators will find an "audit" to be a new fertile ground upon which to further torment the victims and their children.

10. The intrusions into personal and family privacy cannot be underscored enough; neither can the harsh consequences for all litigants and their children. This is especially true since the Auditor will have powerful authority under §23-5:

(b) The auditor may cause search to be made and extracts to be taken from any account, book, file, paper, record, or document in the custody of any public officer without paying any fee for the same; and every officer having the custody of the accounts, books, records, files, papers, and documents shall make such search and furnish such extracts as thereto requested.

(c) The auditor may issue:



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House Committee on Human Services

Tuesday, March 17, 2015, 11:00 AM

Page 8

(1) Subpoenas compelling at a specified time and place the appearance and sworn testimony of any person whom the auditor reasonably believes may be able to provide information relating to any audit or other investigation undertaken pursuant to this chapter; and

(2) Subpoenas *duces tecum* compelling the production of accounts, books, records, files, papers, documents, or other evidence, which the auditor reasonably believes may relate to an audit or other investigation being conducted under this chapter.

Upon application by the auditor, obedience to the subpoena may be enforced by the circuit court in the county in which the person subpoenaed resides or is found in the same manner as a subpoena issued by the clerk of the circuit court.

11. HRS §23-5 mandates certain duties required of the “officer having the custody of the accounts, books, records, files, papers, and documents.” Although we normally do everything we can to respond to legislative and Auditor’s requests, we will not be able to offer the same level of assistance pursuant to HCR No. 37 and HR No. 14. For example, we would not be able to duplicate the volumes and volumes of files that may be requested without an appropriation to cover temporary clerical assistance and related costs. We cannot provide the transcripts; those will have to be purchased through the court reporters. We certainly cannot make any comment on any of the cases.

12. We reiterate that, in the end, neither the Auditor nor the Legislature can change the outcome of a particular case. The Legislature has other avenues to determine whether new laws are needed or whether current laws should be amended. As noted above, local and national advocacy groups and professionals can advise the Legislature. The Legislative Reference Bureau can report on national best practices and the work of other states’ legislatures.

13. As a final note, the Judiciary, including Family Court, is deeply concerned about access to justice issues. We respectfully suggest that what is truly needed is more significant funding of Legal Aid and other providers of legal services such as the Domestic Violence Action Center. The control wielded by perpetrators includes control over finances and family resources. They, therefore, are more likely to have legal representation. The Family Court is not a social services provider, neither is it a legal services provider. The judges are not and should not be advocates. It is our job to be objective, fair, and neutral. Our democracy demands this and our community rightfully expects this. The Judiciary does what we can to promote access to the



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House Committee on Human Services

Tuesday, March 17, 2015, 11:00 AM

Page 9

court through steps such as working hard on *pro se* packets of forms and directions, working with the bar to provide opportunities to consult with attorneys at self-help centers, and by adopting procedures that are appropriately accommodating without running the risk of perceptions of impropriety or bias. Victims desperately need legal representation and support for legal services funding will help ensure that they can get such representation.

Thank you for the opportunity to testify on these measures.

kobayashi2-Lynda

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 14, 2015 10:21 AM
To: HUS testimony
Cc: cindyjdumas@yahoo.com
Subject: Submitted testimony for HCR37 on Mar 17, 2015 11:00AM

Categories: Blue Category

HCR37

Submitted on: 3/14/2015

Testimony for HUS on Mar 17, 2015 11:00AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Cindy Dumas	Safe Kids International	Support	No

Comments: I am the director of Safe Kids International, an organization which exclusively deals with the epidemic of judges giving custody to abusers. I get contacted daily by women all over the nation and world who are desperate to protect their children, but their judge is minimizing, dismissing or concealing evidence of abuse. Judges routinely deem women liars when they report abuse and take custody away. Many women end up in jail. The children suffer most being placed under the control of a perpetrator. Please support this resolution. Thank you.

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Categories: Blue Category

HCR37

Submitted on: 3/14/2015

Testimony for HUS on Mar 17, 2015 11:00AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
A. Tafe	Individual	Support	No

Comments: My testimony of abuse summarized via our support page--
www.facebook.com/pages/GET-THEM-BACK-to-their-Rightful-Place/514750708599047 -Children's dad leaves mother each time pregnant--children are 11 ms apart. Does not come back; while attending out-of-state college, going to Europe, and travelling the US. -Children's dad does not actively come into kids' lives until a few months before getting married. Children were 5 and 6 [walking/talking independent of needing dependency age.] --Said wife and kids' dad have paid a "dime" to get pregnant to no avail and as soon as they gave up that financial burden of "trying" to get pregnant, they filed for 'custody'. -Children's dad was (is) emotionally and verbally abusive to mother, kids (and present wife--but not relevant). - Children were healthy, happy, loved, not treated like slaves, and social in mothers care. -Children's prior school violate FERPA and expressed kids' dad to file for custody b.c they didn't want to have a lawsuit with mom--which was going that direction from their treatment of mom and children. -Mom had children enrolled in new school. -Mom has been ignored repetitively by Judge, FOC, and CPS about child abuse, court violations, and parental violations. However FOC and Judge show EXTREME favoritism to dad b.c dad makes 7 times more money than mom and will approve his "alleged violations" over mothers. -Judge violated mothers homeschooling rights, privacy rights and due process rights and withheld information all to speed the "process" under "Lambardo" which only applies to joint legal cases. We were NOT joint legal at time of trial: which convened Sept 3 2013. --judge knowingly hindered mothers chances in obtaining sufficient defense. Mom retained a lawyer; after Legal Aid denied helping 5 hours before weekend before trial and 10 days after initial request, less than 24 hours before trial. - Judge has knowingly transferred care of (per stated on file) healthy, well educated, well mannered, well clothed, fun and [at time] happy children away from a good, non-abusing, loyal, loving, healthy, honorable, active, involved mother. Said transfer has deteriorated children's health, manners, social health, emotional health, and academic health. Children were 10 and 11.

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Subject: *Submitted testimony for HCR37 on Mar 17, 2015 11:00AM*

Categories: Blue Category

HCR37

Submitted on: 3/14/2015

Testimony for HUS on Mar 17, 2015 11:00AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
lauren echeverria	Individual	Support	No

Comments:

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kobayashi2-Lynda

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Categories: Blue Category

HCR37

Submitted on: 3/13/2015

Testimony for HUS on Mar 17, 2015 11:00AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
May Lee	Individual	Support	No

Comments: I fully support HCR37. This is long overdue to stop the atrocities in family court that not only helps the abuser continue his abuse, but gets the law to back him and force his victim to continue to submit to him by using the kids to control her. I became a police officer to try to help women get out of abusive relationships like I was in. However, getting out is only the beginning of the nightmare. My daughter was forced to visit her abusive dad despite 3 separate custody evaluators who recommended supervised visits only. The judge overrode all that and forced a 3 week visit. My daughter was a straight A student, loved school, and was happy. She came back from that visit with lupus, PTSD and severe depression. Our life has been a nightmare since. The judge refused to give me full legal custody, so he continues to control us denying school trips, doctors appointments and anything that matters to my daughter where he can veto it by not signing a consent form. Shame on family court for helping the abuser perpetrate abuse. Reno family court says my daughter has to be 18 before she has a say. I'm afraid she won't live that long. Her lupus is severe and is made worse by stress. She says if she has to visit again she will commit suicide. It's is a horrifying nightmare. Please please help.

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kobayashi2-Lynda

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 14, 2015 11:02 AM
To: HUS testimony
Cc: pholdorf@verizon.net
Subject: *Submitted testimony for HCR37 on Mar 17, 2015 11:00AM*

Categories: Blue Category

HCR37

Submitted on: 3/14/2015

Testimony for HUS on Mar 17, 2015 11:00AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Paul Stanley Holdorf	Individual	Support	No

Comments:

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kobayashi2-Lynda

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Sent: Saturday, March 14, 2015 4:33 PM
To: HUS testimony
Cc: Victoriawest5930@gmail.com
Subject: Submitted testimony for HCR37 on Mar 17, 2015 11:00AM

Categories: Blue Category

HCR37

Submitted on: 3/14/2015

Testimony for HUS on Mar 17, 2015 11:00AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Victoria Vargo	Individual	Support	No

Comments: My child was taken from me, a fit and loving mother who has been a stay at home mother and primary taker her whole life. Custody was given to my abuser. Family courts are awarding custody to abusers at rapid rates. This needs to be investigated! Innocent children are sent to live with their abusive parent.

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Sent: Sunday, March 15, 2015 2:30 PM
To: HUS testimony
Cc: kato.lee@verizon.net
Subject: Submitted testimony for HCR37 on Mar 17, 2015 11:00AM
Attachments: MothersOnTrialPhyllisCheslerCourtEnabledIncest2011.pdf

Categories: Blue Category

HCR37

Submitted on: 3/15/2015

Testimony for HUS on Mar 17, 2015 11:00AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Kathy Lee	Individual	Support	No

Comments: I, Kathy Lee of Massachusetts, am "Sharon" in Phyllis Chesler's chapter entitled "Court-Enabled Incest in the Twenty-First Century" which is here uploaded as a PDF. I invite all civilized peoples to unite in a stance against the destruction of mothers and children in the United States.

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"Sure to inspire anger, understanding and action." -Gloria Steinem



MOTHERS
on TRIAL

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Completely revised and updated for the twenty-first century, *Mothers on Trial* remains the bible for all women facing custody battles, as well as the lawyers, psychologists, and activists who support them. This landmark book was the first to break the false stereotype that mothers receive preferential treatment over fathers in the courts. In this new edition, Phyllis Chesler shows that, with few exceptions, the news keeps getting worse when both the father and the mother want custody: the father usually wins.

The highly praised *Mothers on Trial* is essential reading for anyone concerned personally or professionally with custody rights and the well-being of our children.



The author of thirteen books and thousands of articles and speeches, feminist icon PHYLLIS CHESLER is an emerita professor of psychology and women's studies at City University of New York, a psychotherapist, and an expert courtroom witness. Her pioneering work *Women and Madness* is a long-standing classic. She lives in Manhattan.

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In 2007 the judge gave Colette two weeks to vacate her home. She would be allowed to see her daughters in two weeks but only at a supervised visitation center. She said,

That day, after carpool, soccer, dinner, homework, I packed my daughters' school lunches, washed out their soccer uniforms, set their backpacks out, and went upstairs to hug and kiss them goodbye, and as they cried, I cried, telling them that I love them very much. My daughters cried, "Mommy fight for us, do something every day to try to get us back and don't ever stop." I promised them I would but never did I imagine that it would be thirty-two months without them and only fifty-seven hours of actual contact at the SV center. Now [2009], I talk to them most every day after school and before bedtime. He tried to stop my phone contact but, in 2007, my appeals attorney just said to call them. I also get to go to school events, band concerts, awards ceremonies. The judge ordered me to provide supervisors so that I could see the girls outside of the SV center. We provided fifteen people such as PTA presidents, soccer moms, business and community leaders. My ex-husband refused all fifteen, and the judge agreed with him.

To add insult to injury, her husband began an affair with a neighbor, a married woman, before the divorce was finalized. Colette told me, "He was having an affair with my married neighbor for two years during the three-and-a-half-year divorce right in front of the children—dating with them, [going to] hotels with her and the children—and he married her after the divorce and now she is their primary caregiver."

Despite these injustices, or because of them, Colette told me, "I am finding out that I have incredible strength and am very empowered to speak up about the injustice done to all of our children. I have faith in God, an attitude of gratitude, and I pray that one day justice will prevail." She wrote, "America better wake up, because if I can lose custody, anyone can."

MASSACHUSETTS

Sharon is a technical sergeant in the U.S. Air Force. She married and gave birth to a son in 2001. Sharon first noticed signs of abuse when her son was only one and a half years old. He had been staying with her husband's family while she attended a program at her air force base. The boy came home in

severe pain because his genitals had been rubbed raw. She called her husband's mother and asked what had happened. "Nothing," she said. At first, she bought into the excuse because she "didn't even want to conceive" of sexual abuse. But when her son was old enough to talk, he told her what had really happened.

When Sharon found out that her son was being sexually abused, she reported the abuse to the Department of Social Services (DSS). She and her son found safety in a domestic violence shelter. The child revealed to a forensic sexual evaluator that he had been abused by his father's family. DSS documented that a paternal aunt had "bit her nephew hard on the butt, leaving teeth marks." The toddler also told DSS that his half sister "stuck Lego blocks up my butt and it's not funny!" Both a pediatrician and the child's therapist filed multiple abuse and neglect reports. According to her lawyer, the pediatrician documented injuries to the boy's genitals.

One day in 2004 as she was reading a book to her son, he climbed onto her head, pressed his diaper into her face, and said, "Mommy, suck my cock. Suck my cock, Mommy. Mommy, suck my cock." "Trying to hide my shock," she told me, "I picked him up and set him on the bed and asked, 'Who said this to you? Who told you these words?' He began to cry and said, 'I want Daddy.'"

Even then she "remained in disbelief" about what her husband had been doing to her son. "I was very slow to realize Daddy was one of the perps. I was in love; I thought I was married for life; I had a beautiful baby boy whom I love more than I ever thought it was possible to love anyone." But when her son began fingering his own anus and saying, "Daddy tickle me there for go," and then pantomiming his father's orgasm, "complete with heavy breathing," she finally accepted the truth.

In 2005 her husband sued for divorce because she had insisted that he get therapy. Incredibly, the judge in the divorce trial barred the boy's therapist from testifying on behalf of the child. The judge ignored videotaped evidence of the child "humping" both the floor and his teddy bear for up to five minutes at a time. She also ignored videotape of the son saying, "Daddy licks my pee pee," an audiotape of him pleading not to go his father for visitation, and a log of eyewitness accounts of the son using inappropriate language and sexually acting out. While the judge's concerns about the reliability of the evidence were not unreasonable, she could have at least spoken to the child herself. She never did. On the contrary: she openly laughed when the testimony was presented.

According to Sharon, her husband was a "coacher," an "alienator," and an "employee." The judge agreed that she used her own honorable military service as a "shield" and could be "sent to the sand" for not caring for her child.

The outcome of the case was the destruction of our lives with a baby boy, sole legal and physical custody. A pedophilic father was awarded custody. Sharon was reduced to superannuated hundred dollars per week. The judge's evaluation with a "court-appointed" evaluator.

Sharon wrote, "At first I didn't know that it was a setup. I didn't do once the truth of the case was revealed. Attorney Michael Leshner, who represents the father, gives the lie to some child protection services, 'law guardian' and norms of due process."

According to Sharon, her husband was forced to retire early and was on Judicial Conduct. The judge was not censured and his reputation intact. Of the lawyers that I hired were corrupt and were fleeced, a mother with a child, neglecting my helpless child.

The advice she gives is to get on a railway because you have no money. The court considers your wishes. Wake up. . . . Take your child and flee. I would not recommend this if they are affordable."

Incredibly, this boy was "retaliated" against by the judge.

According to Sharon, her husband's lawyer accused her of being a "coacher," an "alienator," and "every other abuse excuse they typically employ." The judge agreed that she was "making up the abuse." Her husband used her own honorable military service against her by stating that since she could be "sent to the sand" at any moment, she was incapable of adequately caring for her child.

The outcome of the custody battle was, as she put it, "The complete destruction of our lives with court enforced sexual torture of my precious baby boy, sole legal and physical custody to the perpetrator." The allegedly pedophilic father was awarded full custody of the four-year-old child. Sharon was reduced to supervised visitation, for four hours per week, at three hundred dollars per week. The judge ordered her to undergo a psychological evaluation with a "court-preferred" psychologist.

Sharon wrote, "At first I was shocked that the judge 'fell for it.' Now I know that it was a setup from the git-go, and there was nothing I could do once the truth of the father-on-son rape was out." Quoting pro-mother attorney Michael Leshner, she told me, "The truth about the family courts gives the lie to some cherished American assumptions. Americans believe they are safe from arbitrary abuse of governmental power—yet child protective services, 'law guardians,' and family court judges can cast aside the norms of due process."

According to Sharon, the judge in her case, a woman, was eventually forced to retire early after Sharon lobbied the Massachusetts Commission on Judicial Conduct. Letters of complaint may have been effective. The judge was not censured—she was merely "retired," probably with her pension intact. Of the lawyers who handled her case, she writes, "five out of the six I hired were corrupt, collusive, cowering, and incompetent. I was simply fleeced, a mother with two government jobs, a juicy target sucked in by dangling my helpless child."

The advice she gives to other women is stern. "Organize the underground railway because you have an obligation to the child you bore, and the American court considers you and your baby to be a man's property to dispose of as he wishes. Wake up. . . . Change the law, and until you can accomplish that, take your child and flee. If you expect even a chance of raising your child, I would not recommend impregnation by a man. I recommend a sperm bank; they are affordable."

Incredibly, this battle is far from over. In Sharon's view, a new judge "retaliated" against her and stood by the previous "retired" judge's ruling.

Sharon still has to pay in order to see her son and then only for limited, supervised visitation. Worse: She still cannot protect him from whatever abuse he is being forced to endure.

Why would the courts enforce such a savage mother-child separation? Why would the courts, the police, the Department of Social Services, and the state attorney general refuse to believe the sworn testimony of a high-ranking U.S. Air Force veteran?

Homosexually abused children grow up to become pedophiles. There is no cure for this. And, of course, incest runs in families. It is an ongoing, intergenerational problem, a tribal or cultlike phenomenon. No one turns another member in, few escape, and anyone who tries to "tell" is denounced and shunned.

Ask most lawyers, judges, and mental health professionals whether they are in favor of raping children; all will say "absolutely not." However, like others, they resist believing that incest really exists. It is easier, even safer, to believe that the mothers involved are "lying" and "crazy" and have made it all up.

Thus, those mothers who are trying to free themselves and their children from lives of living horror, often find themselves trapped in the court system for anywhere from five to fifteen years. Some mothers may be trying to get child and/or spousal support enforced. Other mothers may be trying to end unsupervised visitation with an abusive father or to overturn an existing order of sole paternal custody or joint custody. Some mothers are fighting against orders which have cruelly forced them into expensive, supervised, and limited visitation, usually because they've alleged paternal child sexual abuse. Some mothers have faced battles over allegations of paternal or maternal brainwashing and kidnapping.

All such cases become torturous. Mothers are being condemned to spend their time and (nonexistent) money on defending themselves in court. In my opinion, they are being tortured by the legal system. I am not using this word lightly.

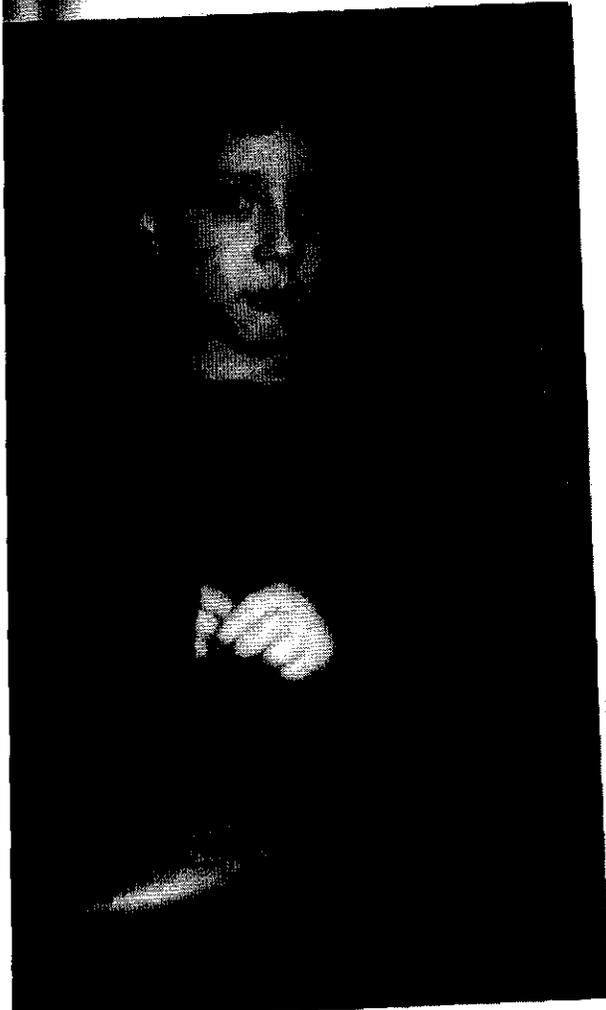
However herein lies a dilemma. If we want the court system to rule justly, that process takes time and costs a great deal of money. Although everything is relative, the truth is that most judges are underpaid and have far too many cases at any given moment. Most lawyers cannot afford to work forever for a wage below the poverty level, nor can they pay for all the costs that a "high-conflict," acrimonious, complex divorce might incur. Why should they? Such realities, combined with an anti-woman bias, leads to years of

court-enabled
physical and
"the system"
true.

Allow me
longed legal

court-enabled torture for "good enough" mothers. Many lose both their physical and mental health under the pressure. Often, when this happens, "the system" believes that the mother was crazy to begin with. This is rarely true.

Allow me to introduce you to some twenty-first-century cases of prolonged legal torture.



kobayashi2-Lynda

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 15, 2015 8:26 AM
To: HUS testimony
Cc: peter_sw_lee@yahoo.com
Subject: Submitted testimony for HCR37 on Mar 17, 2015 11:00AM

HCR37

Submitted on: 3/15/2015

Testimony for HUS on Mar 17, 2015 11:00AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
peter lee	Individual	Support	No

Comments: i fully support this bill. The courts need to recognize that abusers are using the law to enable them to continue their abuse of families and kids. The courts need to employ common sense to stop domestic abuse. This abuse is not always physical and sometime the emotional we is worse than the physical because psychological trauma is harder to heal. Don't let abusers to be able to continue their terrorist acts against innocent family members. If they are not abusers and are really good people they will do the right thing by their families. Vote to pass this bill. B

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

TO: Representative Dee Morikawa, Chair
Representative Bertrand Kobayashi, Vice Chair
House Human Services Committee Members

FROM: Dara Carlin, M.A.
Domestic Violence Survivor Advocate
881 Akiu Place
Kailua, HI 96734

DATE: March 17, 2015

RE: STRONG SUPPORT for HCR 37 / HR 14

Good Morning Chair Morikawa, Vice Chair Kobayashi & House Human Services Committee Members and my apologies for this Late Testimony.

I am an independent Domestic Violence Survivor Advocate who works exclusively with those who have “successfully escaped” domestic violence meaning those who were not killed in the process of leaving. What many people fail to understand is that **domestic violence doesn't end just because the primary victim leaves/ends the relationship**; for those survivors who have children in-common with their abusers, their journey through hell is far from over. Our state boasts some of the best anti-abuse legislation and laws in the nation, however, these laws and legislation mean nothing when they are not appropriately applied and enforced.

Back in 2010, Senator Mike Gabbard and Representative John Mizuno presented **SCR 91** that sought an audit of contested child custody cases to see if **HRS 571-46(9)** was accurately being applied in all domestic abuse/family violence-related cases. Thanks to the effort of a group of DV survivors, Representative Karl Rhoads and Senator Suzanne Chun-Oakland, SCR 91 gathered every legislator's signature on both the House and Senate side in support, except for two – unfortunately, one of the two absent signatures was a crucial one as Hawaii News Now reporter, Mari-Ela David, detailed in a news story here:

DOWNTOWN HONOLULU (HawaiiNewsNow) - A domestic violence resolution designed to make sure judges stick to the law and not grant batterers child custody, is just one final house vote away from passing.

But on Wednesday, SCR91 got stuck on House Speaker Calvin Say's desk.

He wasn't available for comment, but his staff says it's all because of one letter.

The holdup is the letter 'C'. The resolution is an 'SCR' but Speaker Say's office says it should be labeled 'SR'. There are questions though on whether that really makes a difference.

"The survivors are hurt, they're really hurt. If you look at some of the testimony they really put

themselves on the line coming forward, going public with some of their stories. So it's disappointing," said Dara Carlin, a domestic violence advocate.

'SCR' stands for Senate Concurrent Resolution which means the House and Senate are involved.

'SR' stands for Senate Resolution, which means only the Senate is involved.

SCR91 calls for an investigative child custody task force made up of Senate members, no House members.

That's why Speaker Say's office says he refuses to pull it out onto the House floor for a full vote. A staff member says the House has nothing to do with the resolution.

"Initially we wanted the House and the Senate to both be involved. We were not too sure if the House wanted to do that. And so the proposal that went over to the House was basically a Senate investigative committee," said Sen. Suzanne Chun Oakland.

The hope was that the House would support it.

And some lawmakers who wish to remain anonymous tell Hawaii News Now that technically, Speaker Say could've still pushed the resolution through, regardless of its label.

But with Thursday being the last day of the legislative session, time has run out.

Sen. Chun Oakland says interested lawmakers will still form the task force, just without the formal legislative stamp of approval.

The informal child custody task force is set to have its first meeting at the end of May.

Sen. Chun Oakland says they'll try to push for SCR91 again at next year's legislative session.

<http://www.hawaiinewsnow.com/story/12395042/domestic-violence-resolution-gets-stuck-in-house-because-of-the-letter-c>

Five years later, HCR 37 / HR 14 re-introduces what SCR 91 attempted to accomplish.

Last May (2014) I traveled to Washington, DC to participate in the *Mothers of Lost Children's* Mothers Day event outside of the White House and visited with our congressional leaders to explain the reason for the annual gathering of DV survivor moms who've lost custody of their children to their abusers after successfully escaping the violence and abuse in their homes despite laws to protect them from such outcomes. Senator Maize Hirono was particularly upset by what I had to say and asked for "numbers and statistics" to validate what I had told her. I explained that DV survivors in Hawaii had indeed tried to obtain those numbers and statistics back in 2010 through SCR 91 but we failed; she suggested it be re-introduced in the 2015 legislative session so the next time I come to visit her, she'd have the numbers and statistics available to her.

The problem I brought before Senator Hirono – DV survivors losing custody of their children to their abusers despite laws against it – has been called “the family court crisis” which is a *national* problem as well as a “local” one:

According to a conservative estimate by experts at the Leadership Council on Child Abuse and Interpersonal Violence (LC), more than 58,000 children a year are ordered into unsupervised contact with physically or sexually abusive parents following divorce in the United States.

<http://www.leadershipcouncil.org/1/med/PR3.html>

HCR 37 isn't going to solve the problem BUT it *is* a first step towards it so I humbly ask for your support towards this end.

Please understand that HCR 37 isn't about laying blame, pointing fingers or assigning fault for what's already happened; it's about getting it right, doing what's right and seeing the wisdom of the law and best practices being applied to protect those most at-risk of harm by abusers known to them.

Thank you most sincerely for your time, consideration and for this opportunity to provide testimony in STRONG SUPPORT of HCR 37 / HR 14.

Respectfully,

Dara Carlin, M.A.
Domestic Violence Survivor Advocate