H.B. NO. 3131

A BILL FOR AN ACT

RELATING TO SIBLING VISITATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Chapter 578, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"**§578- Right to visitation of child with siblings.** (a) The department of human services and the prospective adoptive parent or parents of a child to be adopted may enter into an enforceable agreement that provides for post adoptive contact between the child who has been adopted and their siblings.

(b) An agreement that provides for post adoptive contact is enforceable if the agreement:

(1) Is in writing and signed by the parties; and

(2) Is incorporated into an order or decree of adoption.

(c) A court that enters an order or decree of adoption that incorporates an agreement that provides for post adoptive contact shall retain jurisdiction to enforce, modify, or terminate the agreement that provides for post adoptive contact until:

(1) The child reaches eighteen years of age;

(2) The child becomes emancipated; or

1 (3) The agreement is terminated.

2 (d) The establishment of an agreement that provides for
3 post adoptive contact does not affect the rights of an adoptive
4 parent or parents as the legal parent or parents of the child."

5 SECTION 2. Section 560:5-207, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§560:5-207 Duties of guardian.** (a) Except as otherwise
8 limited by the court, a guardian of a minor ward has the duties
9 and responsibilities of a parent regarding the ward's support,
10 care, education, health, and welfare. A guardian shall act at
11 all times in the ward's best interest and exercise reasonable
12 care, diligence, and prudence.

13 (b) A guardian shall:

14 (1) Become or remain personally acquainted with the ward
15 and maintain sufficient contact with the ward to know
16 of the ward's capacities, limitations, needs,
17 opportunities, and physical and mental health;

18 (2) Ensure that the ward who requests visitation is
19 provided reasonable on-going contact and visitation
20 with the ward's siblings, with consideration being
21 given to the safety and well-being of the child;

[~~(2)~~] (3) Take reasonable care of the ward's personal effects and bring a protective proceeding if necessary to protect other property of the ward;

[~~(3)~~] (4) Expend money of the ward that has been received by the guardian, for the ward's current needs for support, care, education, health, and welfare;

[~~(4)~~] (5) Conserve any excess money of the ward for the ward's future needs; provided that if a conservator has been appointed for the estate of the ward, the guardian shall pay the money at least quarterly to the conservator to be conserved for the ward's future needs;

[~~(5)~~] (6) Report the condition of the ward and account for money and other assets in the guardian's possession or subject to the guardian's control, as ordered by the court on application of any person interested in the ward's welfare or as required by court rule; and

[~~(6)~~] (7) Inform the court of any change in the ward's custodial dwelling or address."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

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SECTION 4. This Act shall take effect upon its approval.

INTRODUCED BY: Calvin K.Y. Say

BY REQUEST

JAN 22 2008

Report Title:
Adoption; Sibling visitation

Description:
Specifies that the Family Court may grant reasonable visitation with their siblings before and after adoption or award of legal guardianship.

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JUSTIFICATION SHEET

DEPARTMENT: Human Services

TITLE: A BILL FOR AN ACT RELATING TO SIBLING VISITATION.

PURPOSE: To affirm that the Family Court may grant children reasonable visitation with the children's siblings before and after adoption or award of legal guardianship.

MEANS: Add a new section to chapter 578 and amend section 560:5-207, Hawaii Revised Statutes (HRS).

JUSTIFICATION: This change will ensure that children have the opportunity to maintain family connections with their siblings even after they are separated due to an award of adoption or legal guardianship.

The power of the sibling bond is a persistent theme in sibling studies. In some cases, sibling relationships are more influential than any other, including those with parents. The bonds between siblings can be the most powerful relationships in these children's lives. Particularly, when children's relationships with their parents have been strained by abuse and neglect, they may see their brothers and sisters as the only members of their 'real' families. Youth in foster care often report that their relationships with their siblings are most important to them and that the separation from brothers and sisters is the most painful aspect of their foster care experiences.

Sibling relationships can and should last a lifetime. These relationships help to maintain a family connection and a sense of family identity.

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Project Visitation is a successful collaborative effort by the Department of Human Services, Legal Aid Society of Hawaii, and private agencies to enable siblings separated in foster care to have monthly or more frequent visits with each other. Continuing support for sibling visitation post-adoption and legal guardianship is needed.

This proposed legislation seeks to provide siblings who have entered foster care, and become separated from each other through the processes of adoption and the awarding of legal guardianship, with the opportunity to maintain a connection with some of the most important people in their lives - their brothers and sisters.

Although there may be situations where it is not in the child's best interests to maintain relationships and visitation with all siblings, reasonable on-going contact and visitation with siblings should be presumed to be an inherent right and in the child's best interest.

Impact on the public: Prospective adoptive parents, legal guardians, and the Family Court will need to consider providing children with the opportunity for reasonable on-going contact and visitation between siblings, after the adoption or legal guardianship, as they come to the decision to proceed with the adoption or legal guardianship.

Impact on the department and other agencies: This will support the Department's policy of developing and maintaining family connections, even after an adoption or guardianship is awarded.

GENERAL FUND: None.

OTHER FUNDS: None.

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PPBS PROGRAM DESIGNATION: HMS 301

OTHER AFFECTED AGENCIES: The Department of the Attorney General; the Judiciary.

EFFECTIVE DATE: Upon approval.