



The Judiciary, State of Hawai'i

Testimony to the Thirty-Second Legislature, 2023 Regular Session

House Committee on Human Services
Representative John M. Mizuno, Chair
Representative Terez Amato, Vice Chair

Tuesday, January 31, 2023 at 9:30 a.m.
State Capitol, Conference Room 329 & Videoconference

by:

Matthew J. Viola
Senior Judge, Deputy Chief Judge
Family Court of the First Circuit

WRITTEN TESTIMONY ONLY

Bill No. and Title: House Bill No. 349, Relating to Children

Purpose: Expands the original jurisdiction of family court to include proceedings for declaration of emancipation of minors. Specifies the rights of an emancipated minor. Allows a minor who has reached the age of sixteen years to petition the family court for a declaration of emancipation. Allows certain parties to petition the family court for voidance or rescission of a declaration of emancipation. Sets forth court procedures and standards in issuing, voiding, and rescinding a declaration of emancipation. Allows parties to appeal the court's decisions pertaining to emancipation to the Intermediate Court of Appeals.

Judiciary's Position:

The Judiciary takes no position on House Bill No. 349, but respectfully offers the following comments and recommendations.

Unlike cases involving child abuse and neglect or delinquency, petitions for emancipation involve issues of a more private nature and are not based solely on the doctrine of *parens patriae*. Therefore, public funds need not be made available in all aspects of the case. The family court is willing to pay the fees and costs of a guardian ad litem (whose duties are to assist



the court rather than advocating for a party) unless the minor and/or the minor's parents or guardian have sufficient means to pay those fees and costs (although we may have to request a future legislature for increased funds depending on the number of cases filed after enactment). The minor and/or the minor's parents or guardian must cover all other fees and costs. We suggest the following amendments to this bill.

Change page 10, lines 1-7, to include a new subsection (4) as follows:

“(3) Appoint a guardian ad litem to represent the interest of the minor throughout the pendency of the minor's emancipation proceedings; ~~and~~

(4) The fees and costs of a guardian ad litem appointed pursuant to this section may be paid by the court, unless the minor and/or the minor's parents or guardian have funds sufficient to pay such fees and costs; and “

Change page 10, lines 4-7, to re-number (4) to (5), to read:

~~“(4)]~~ (5) Require the minor to undergo a mental health evaluation conducted by a licensed mental health professional, as arranged for by the court or the minor's parents or guardian that will be paid for by the minor or the minor's parents or guardian, and, if they are unable to, the evaluation will be conducted by the Child and Adolescent Mental Health Division of the Department of Health.”

In addition, the court should not be expected to pay for the travel expenses of parties and/or witnesses required by the parties. HRS §621-7, which addresses criminal cases, should not apply to this context. Additionally, that section does not require the court to cover all the expenses listed.

Change page 15, lines 5-13, to read:

~~“Service of summons, process, or any notice required by this section may be made by any suitable person under the direction of the court and upon request of the court shall be made by any police officer. The judge may authorize the payment of necessary travel expenses incurred by persons summoned or otherwise required to appear at the hearing of a case coming within the purview of this section. Section 621-7 shall apply to persons summoned under this section other than a parent, guardian, or other legal custodian of the child concerned.”~~

In order for the payment responsibilities to be clear to those employed by the minor



and/or the minor's parents or guardian as well as experts and others who may have been appointed by the court, we respectfully suggest the following amendment.

Change page 15, lines 14-21, to read (please note the small typo in bold):

“(1) Notwithstanding any other law to the contrary, the court shall order reasonable fees of counsel, experts, ~~and the minor's guardian ad litem,~~ and other costs of services required in relation to a petition for declaration of emancipation, including reasonable fees for service of process of the petition, summons, and notice of hearing, and services provided **by** mental health providers, to be paid by the minor's parents or guardian, regardless of whether the fees were incurred by the minor and/or other parties or ordered by the court.”

We respectfully suggest deleting the prohibition of minors availing themselves of public assistance. While there may be a strong public policy in favor of requiring parents to be the sole providers of monetary resources of their children, a minor seeking emancipation may come from a family already on public assistance. The parents with means may not be willing to provide assistance before or after emancipation. If this bill is designed to pave the way for a minor to be a functioning member of the community, public assistance can be an important foundation for the minor's progress. Note that this is already recognized on page 7, lines 5-7, which gives the emancipated minor the right to apply for public assistance programs. We therefore suggest deleting this requirement.

Change page 9 from line 5 as follows:

“(D) The source of the minor's income ~~does not include public assistance and~~ is not derived from any activity in violation of any laws of this State or the United States; and”

Change page 11 from line 5 as follows:

“(6) The source of the minor's income ~~does not include public assistance and~~ is not derived from any activity in violation of any laws of this State or the United States;”

The family court hopes that these recommendations will serve to promote clear expectations of the minor, the minor's parents or guardian, and those contracted or required to assist in the case.

Thank you for the opportunity to testify in this matter.

Opportunity Youth Action Hawai'i

House Committee on Human Services

Hearing Time: 9:30 a.m., January 31, 2023

Location: State Capitol

Re: HB 349, Relating to Children

Aloha e Chair Mizuno, Vice Chair Amato and members of the Committee:

We are writing in **support** of HB 349, Relating to Children.

This bill will expand the original jurisdiction of family court to include proceedings for declaration of emancipation of minors; specify the rights of an emancipated minor; allow a minor who has reached the age of sixteen years to petition the family court for a declaration of emancipation; allow certain parties to petition the family court for voidance or rescission of a declaration of emancipation; set forth court procedures and standards in issuing, voiding, and rescinding a declaration of emancipation; and allow parties to appeal the court's decisions pertaining to emancipation to the Intermediate Court of Appeals.

Providing a judicial avenue for emancipation at 16 years old is vital for the wellbeing of some children in certain circumstances. We note that data from the Friend's of the Children's Justice Center of O'ahu indicates that in 2021 (the latest report), the center tracked 2,060 instances of child abuse and neglect, which is up 19% from 2020. A process for emancipation is one of many tools that should be available to our state judiciary to address the specific needs of youth in appropriate instances.

Our collective, the Opportunity Youth Action Hawai'i (OYAH), works to support young people under age 25 who are disconnected from school and work, referred to as "opportunity youth." This developmental time period is extremely consequential to the individual growth and overall life chances of our children. Although HB 74 specifically pertains to minors, we also support the legislature's ongoing efforts to address the needs of opportunity youth more broadly.

The Opportunity Youth Action Hawai'i hui is a collaboration of organizations and individuals committed to reducing the harmful effects of a punitive incarceration system for youth; promoting equity in the justice system; and improving and increasing resources to address adolescent and young adult mental health needs. We seek to improve the continuity of programs and services for youth and young adults transitioning from minor to adult status; eliminate youth houselessness and housing market discrimination against young adults; and promote and fund more holistic and culturally-informed approaches among public/private agencies serving youth.

Please support HB 349.

HB-349

Submitted on: 1/30/2023 9:59:47 AM

Testimony for HUS on 1/31/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Carla Houser	RYSE (Residential Youth Services & Empowerment)	Support	Written Testimony Only

Comments:

A process for emancipation is one of many tools needed to support unaccompanied youth who are experiencing homelessness with no supportive adults.



LATE

HAWAII YOUTH SERVICES NETWORK

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Vonnell Ramos, President
Cyd Hoffeld, Vice President
Sione Ford Naeata, Treasurer
Jefferson Gourley, Secretary

Judith F. Clark, Executive
Director

Network Membership

Bay Clinic

Big Brothers Big Sisters Hawaii

*Big Island Substance Abuse
Council*

Bobby Benson Center

Child and Family Service

Coalition for a Drug-Free Hawaii

Collins Consulting, LLC

Domestic Violence Action Center

EPIC 'Ohana, Inc.

Family Programs Hawaii

Family Support Hawaii

Friends of the Children's Justice

Center of Maui

Get Ready Hawaii

Hale Kipa, Inc.

Hale 'Opio Kaua'i, Inc.

Hawaii Children's Action

Network

Hawaii Health & Harm

Reduction Center

Ho'ola Na Pua

Ho'okele Coalition of Kaua'i

Ka Hale Pomaika'i

Kahi Mohala

Kokua Kalihi Valley

Kaua'i Planning and Action

Alliance

Maui Youth and Family Services

Na Pu'uwai Molokai Native

Hawaiian Health Care

Systems

P.A.R.E.N.T.S., Inc.

Parents and Children Together

PHOCUSED

PFLAG - Kona, Big Island

Planned Parenthood of the

Great Northwest, Hawaii

Alaska, Kentucky, Indiana

Residential Youth Services

& Empowerment (RYSE)

Salvation Army Family

Intervention Services

Sex Abuse Treatment Center

Susannah Wesley Community

Center

The Catalyst Group

January 30, 2023

To: Representative John Mizuno, Chair,
And members of the Committee on Human Services

**TESTIMONY IN SUPPORT OF
HB349 RELATING TO CHILDREN**

Hawaii Youth Services Network supports SB 349 Relating to Children.

The legislation includes necessary safeguards to ensure that the minor:

- Has the skills and resources to live independently
- is not seeking emancipation due to duress or coercion by a parent or guardian. In the Hawaii Street Youth Survey, 41% of the youth reported that they were forced to leave home by their parents.
- Can continue to receive educational and other services intended for and needed by adolescents.

Thank you for this opportunity to testify.

Sincerely,

Judith F. Clark, MPH
Executive Director

"This was my first experience in attending a meeting with other youths where our voices matter. . . . I want to make a difference and attending the Summit gave me the courage to step out and share everything I've learned with my fellow students. I know I will never stop speaking up for what is right."

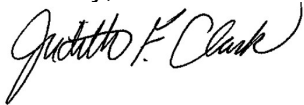
--Alisha Estoy, Junior at Konawaena High School

I have always been passionate about the environment . . . but I never thought I could make a difference now. . . . Thank you for providing that chance to speak out and give me someone to listen. . . . This has been one of the few times that I felt like people listened to me.

--Makena Anderson

Thank you for this opportunity to testify.

Sincerely,

A handwritten signature in black ink that reads "Judith F. Clark". The signature is written in a cursive, flowing style.

Judith F. Clark, MPH
Executive Director

HB-349

Submitted on: 1/27/2023 7:20:41 PM

Testimony for HUS on 1/31/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Michael Golojuch Jr	Stonewall Caucus of the Democratic Party of Hawaii	Support	Remotely Via Zoom

Comments:

Aloha Representatives,

The Stonewall Caucus of the Democratic Party of Hawai‘i; Hawai‘i’s oldest and largest policy and political LGBTQIA+ focused organization fully supports HB 349.

We hope you all will support this important piece of legislation.

Mahalo nui loa,

Michael Golojuch, Jr.
Chair and SCC Representative
Stonewall Caucus for the DPH

HB-349

Submitted on: 1/28/2023 6:11:30 AM

Testimony for HUS on 1/31/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Mike Golojuch, Sr.	Rainbow Family 808	Support	Written Testimony Only

Comments:

We support HB349.

Mike Golojuch, Sr., Secretary/Board Member

To: Representative John Mizuno, Chair
Representative Terez Amato, Vice Chair
House Human Service Committee Members

From: Dara Carlin, M.A.
Domestic Violence Survivor Advocate

Date: January 31, 2023

Re: Support for & language additions to HB349

Good Morning Chair Mizuno, Vice Chair Amato & House Human Service Committee Members,

While I applaud this proposal, may I urge you to please consider the inclusion of the following language at the following sections of HB349:

Under Section 4 subsection (f) line 3 (found on Page 10, Line 18) so as to read:

- The minor resides separately and apart from the minor's parents or legal guardian at the minor's own will, with or without the parents' or legal guardian's consent, and in absence of undue influence or coercion by any third party;

Under Section 4 subsection (f) line 8 (found on Page 11, Line 14) so as to read:

- The minor is not seeking emancipation under duress, including by coercion of a parent, ~~or~~ guardian or by any other third party;

As a Domestic Violence Survivor Advocate, I have a constant eye on how rules, laws, policies & procedures may be exploited by abusers and/or other parties with unholy intentions, so while the emancipation of a minor is clearly a family matter, my concern is what could happen if an *unrelated third party* were to be involved, ie: an abuser or child/human trafficker.

The appointment of a guardian ad litem to represent the interest of the minor throughout the pendency of the minor's emancipation proceedings and requirement for the minor to undergo a mental health evaluation conducted by a licensed mental health professional, which I presume would include interviews with the minor's parents or guardians, should safeguard the process as well as flush out or make known any nefarious third party involvement, BUT if a comprehensive professional assessment of the situation (to include interviews with the minor parents or guardians) is not a part of HB349, may I *strongly suggest* that such investigation be included so the court does not inadvertently emancipate a minor from protective parents and place him/her into the captivity of an abuser or child trafficker.

Thank you for this opportunity to provide testimony in support of & recommendations to HB349.

Respectfully,

Dara Carlin, M.A.

Domestic Violence Survivor Advocate