

A JOINT LEGISLATIVE EFFORT

E-Mail: JGOtestimony@Capitol.hawaii.gov

Regarding: Senate JGO Committee

Hearing on: February 24, 2009 @ 9:00 a.m in the Auditorium

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Date: February 20, 2009

To: Senate Committee on Judiciary & Government Operations
Sen. Brian T. Taniguchi, Chair
Sen. Dwight Y. Takamine, Vice-Chair

From: Dennis Arakaki
Executive Director
Hawaii Family Forum / Hawaii Catholic Conference

Re: **STRONG OPPOSITION TO HB 444 HD1 Relating to Civil Unions**

1. Civil Unions = Same Sex Marriage without the Title

Civil Unions (CUs) are simply same sex marriages by a different title. The bill text reads: "**Same benefits, protections, and responsibilities as marriage.** Partners to a civil union lawfully entered into pursuant to this chapter shall have all the same rights, benefits, protections, and responsibilities under law, whether derived from statutes, administrative rules, court decisions, the common law, or any other source of civil law, as are granted to spouses in a marriage validly entered into pursuant to chapter 572."

2. The People Have Spoken: NO to Same Sex Marriage

Civil Unions re-open the community controversy. The people of Hawaii have spoken on the same-sex marriage issue and have overwhelmingly rejected the idea. The decade of the 90s saw countless hours of debate to finally resolve this contentious issue. Let's not re-argue the same sex marriage fight via civil unions when the people have spoken so clearly (nearly 70% support for the constitutional amendment).

3. Hawaii Confers Significant Benefits through the Reciprocal Beneficiary Law

- a) Part of the compromise during the same-sex marriage debate was passage of Hawaii's reciprocal beneficiary (RB) legislation. The RB law provides significant benefits to many more people in need — separate from their sex partner status.
- b) Under the current RB law, elderly siblings residing together can access important benefits. Under the civil unions proposal, only same-sex couples can access the benefits.

Some of the RB benefits include:

- health care coverage
- hospital visitation privileges
- uniform health care decision making rights
- property rights, including tenancy in the entirety rights
- probate rights, including survivorship rights
- worker's compensation
- state employee retirement beneficiary rights
- automobile insurance coverage
- mental health commitment approvals and notifications
- family and funeral leave
- disaster relief loans
- public lands leases
- legal standing for wrongful death
- legal standing for victim's rights
- domestic violence family status
- University of Hawaii facility use
- Anatomical gift rights
- Government vehicle emergency use

c) If there is something the Legislature wants to fix with the current set of benefits, like the health insurance provisions, it should simply go ahead and fix the RB statute.

4. Reciprocal Beneficiaries were and are Progressive & Have Been a Model for Discussion Elsewhere - Vast Majority of States Grant NO Benefits

RBs were a progressive solution at the time and still provide many more benefits than the vast majority of states in the country. Hawaii remains progressive. Most states have neither CUs nor RBs. Most states simply provide NO SUCH BENEFITS.

5. Hawaii has many more Pressing Problems — Re-Arguing the Settled Same Sex Marriage Issue is an Unwise Use of Limited Resources

Hawaii is facing serious problems affecting many more people than this narrow, controversial and divisive issue. It is hard to understand why the Legislature would want to re-open this wound that divided our community for so many years without any clear identification of the need for it.

6. Civil Unions Sought Now but Marriage Benefits WITH Title Change Will Be Sought Next

It is absolutely undeniable: if you were to pass civil unions, gay marriage advocates WILL be back arguing “that everything is the same and fundamental fairness suggests you should simply change the title as well.” In October of 2006, New Jersey established Civil Unions. Only two years later, December 2008, the New Jersey Civil Union Review Commission issued a report stating that civil unions are not working and that same-sex couples are not equal under current law. The commission is now recommending that New Jersey become the next U.S. state to legalize same-sex marriage. In other states that recognize civil unions, couples are already suing the state for equal marriage status. Right here in Hawaii, current supporters of HB 444 HD1 are already on record stating that nothing but same-sex marriage, including the title, will be acceptable and they will be back.

7. Actual Reason for Bill Still Unclear

Proponents should be clear about the primary reasons for this bill. Many of the items frequently mentioned are already available under the current law. Some benefits not currently available are limited state-only tax benefits and parenting rights.

8. Legally Complicated and Socially Explosive — Children Adversely Affected

The two most controversial aspects of this will be: parenting issues and what is taught to children about the law. How will the law confer parenting benefits and responsibilities to the same sex partner of a mother without adversely affecting the parenting rights of the mother and the parental rights of a birthfather? The civil union aspects related to children and parenting raise extremely complicated issues of family law and are unfortunately focused on the rights of the adults and not on the needs of the children.

This opens a nearly-unending number of legal possibilities, which will require complicated and expensive litigation to resolve. **Again, what justification exists to upend our legal system for a very small number of cases?**

Finally, what will be taught to children in public school? Will children be taught that the law says same-sex couples are just like married couples but with a different title? If not, why not? That would be the law. If it would be taught, then, we’re right back to the heart of the same sex marriage debate and this issue is among the primary reasons people opposed same sex marriage in the first place.

Mahalo for your kind consideration we ask you to oppose HB 444 HD 1.