

**Electronically Filed
Supreme Court
SCMF-23-0000343
15-MAY-2023
10:11 AM
Dkt. 1 ORD**

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

In the Matter of the
RURAL PATERNITY ADVOCATE PILOT PROJECT IN THE THIRD CIRCUIT

ORDER ESTABLISHING A RURAL PATERNITY ADVOCATE
PILOT PROJECT IN THE THIRD CIRCUIT

(By: Recktenwald, C.J., McKenna, and Eddins, JJ., and Intermediate Court of Appeals Chief Judge Ginoza and Intermediate Court of Appeals Judge Leonard, assigned by reason of vacancies)

Upon consideration of the request by the Legal Aid Society of Hawai‘i, to establish a pilot project for the Family Court of the Third Circuit limited to family court cases involving issues related to paternity, child custody and visitation, we note with approval the purpose of the pilot project is to establish a program to provide assistance to self-represented parties who qualify under the income guidelines established by the Legal Aid Society of Hawai‘i. Therefore,

IT IS HEREBY ORDERED that the Rural Paternity Advocate Pilot Project is established in the Family Court of the Third Circuit of the State of Hawai‘i, effective upon the entry of this

order and expiring on Friday, May 30, 2025 (herein, "Program Deadline"), unless extended or made permanent by order of this court. Materials related to the pilot project are appended to this order as Exhibit "A".

IT IS FURTHER ORDERED:

A. Procedure. The presiding judge of the Family Court of the Third Circuit of the State of Hawai'i, on application by the Legal Aid Society of Hawai'i, is authorized to consent to the appearance of a qualified Advocate in family court cases involving issues related to paternity, child custody and visitation and such consent shall be filed in the record of the court. The application to have an Advocate appear in the case should set forth: (1) that the client has consented in writing to such appearance; and (2) that a supervising attorney has indicated in writing approval of such appearance.

B. Duration of authorization. The presiding judge of the Family Court of the Third Circuit shall have the discretion to revoke the Advocate's authority to appear in the case. In addition, the authority of the Advocate to appear in the case shall terminate at the Program Deadline, which deadline may be extended or made permanent by order of this court.

IT IS FURTHER ORDERED that the Legal Aid Society of Hawai'i shall submit a report on the pilot project to this court on or before Friday, February 7, 2025. The report shall set forth:

(1) the pilot project's performance (e.g., the number of matters included in the project); (2) a recommendation regarding the long-term or permanent implementation of the pilot project; and, (3) any other information to determine whether the pilot project has achieved the benefits envisioned by the proposal. The report may also include a request to extend the program.

A copy of the report shall be served on the Access to Justice Commission (AJC) and the Hawai'i State Bar Association (HSBA) for comment, and the AJC and HSBA may submit any comments on the program to the court within 60 days after service. The Legal Aid Society of Hawai'i, AJC or HSBA may request an extension of these deadlines for good cause.

DATED: Honolulu, Hawai'i, May 15, 2023.

/s/ Mark E. Recktenwald

/s/ Sabrina S. McKenna

/s/ Todd W. Eddins

/s/ Lisa M. Ginoza

/s/ Katherine G. Leonard



RURAL PATERNITY ADVOCATE PROJECT

1. Purpose

The purpose of the Rural Paternity Advocate Project is to establish a program to provide representation by advocates, working under the supervision of a Hawai'i-licensed attorney, for self-represented clients in paternity or other practice areas as authorized by the Hawai'i Supreme Court in which low-income parties are significantly underrepresented.

The program will help to alleviate continuing critical unmet needs in paternity cases as most litigants are unrepresented by attorneys in paternity cases. While the Child Support Enforcement Agency will work to establish paternity and child support, they do not get involved in the custody and visitation issues that are often raised in these cases.

This program will also focus on our neighbor island communities where the number of attorneys is lower and access to justice services more limited. This project would also be an opportunity to have advocates who are familiar and engaged in their communities provide valuable and longer-term service in promoting increased access to justice.

The advocates selected will be supervised by a Hawaii-licensed attorney and in accordance with Hawai'i Rules of Professional Conduct ("HRPC") Rule 5.3 and all other pertinent rules and statutory authority.

2. Process

- a. The project will be established by the Hawai'i Supreme Court as a pilot project for Legal Aid Society of Hawai'i in the field of paternity law or other practice areas authorized by the Hawai'i Supreme Court in the Third Circuit.¹
- b. For the pilot period, only advocates currently employed by the Legal Aid Society of Hawai'i will take part in the training. These advocates will be designated as an "Advocate."
- c. Training: A draft of the curriculum is attached. Briefly, the curriculum would consist of 14 classroom hours; 5 courtroom observation hours; and 20 to 50 hours shadowing an attorney working paternity cases.
- d. The Advocate must have the following qualifications:
 - A college degree from an accredited university; or
 - An ABA-approved paralegal certificate or degree; or
 - Seven years of relevant experience.

¹ The Chief Justice's December 23, 2016 letter to the Access to Justice Commission states: "In addition to landlord/tenant issues, the court would also be open to the possibility of these services being applicable to domestic violence, paternity or other family court cases, if the Commission finds it appropriate."

e. Scope of Practice:

- Obtain the facts that are pertinent to the client.
- Inform the client of applicable procedures, including deadlines, documents which must be filed, and the anticipated course of the legal proceeding.
- Inform the client of applicable procedures for proper service of process and the filing of documents.
- Review documents or exhibits that the client has received from the opposing party and explain their relevancy to the client.
- Conduct appropriate legal research.
- Draft and cause to be filed all necessary documents relevant to the case; provided, all pleadings and documents shall be reviewed and approved by the supervising licensed attorney before filing.
- Obtain the necessary documents or records relevant to his/her case.
- Interact with self-represented opposing parties or their legal representatives, including participating in a mediation and/or negotiating a resolution.
- Provide full representation in court.

f. Limitations:

- The Advocate will be supervised by a Hawaii-licensed attorney in the employ of Legal Aid Society of Hawai'i. In accordance with HRPC Rule 5.3, the attorney is responsible for the conduct of the Advocate and shall make reasonable efforts to ensure that the Advocate's conduct is compatible with the professional obligations of the attorney.
- The Advocate is prohibited from independently engaging in the practice of law, outside the scope of this project.
- The clients must be eligible for services by the Legal Aid Society of Hawai'i.
- The client must not be represented by an attorney.

3. Pilot Period

The pilot period for this model project is at least eighteen months (18) after approval of the establishment of the Advocate program in order to provide adequate time for training, court observation and shadowing and ample time for advocacy such that the evaluation can take place.

Rural Paternity Advocate Project

14 classroom hours covering:

Paternity Law
 Paternity Law Civil Procedure
 Paternity Law Case Strategy
 Mediation
 Paternity Law Court Advocacy
 Client Interviewing
 Ethics

5 courtroom observation hours

10 to 50 hours shadowing an attorney working on paternity cases

Subject / Course:	Rural Paternity Advocacy Preparation Course
Topic:	Paternity Law
Place/Date/Time	Via On-Line Platform, Date and Time TBD
Lesson 1.	Basics of Paternity Law (1 hour)
Lesson Objectives:	<ul style="list-style-type: none"> • Identify all of the statutes on the topic of paternity law
Summary of activities:	<ul style="list-style-type: none"> • Review HRS§584 and discuss relevant case law • Provide real world examples of application • Discuss interface between voluntary establishment of paternity and paternity.
Lesson 2.	Child Custody, Visitation and Child Support (1 hour)
Lesson Objectives:	<ul style="list-style-type: none"> • Understand legal standards used for child custody and visitation • Understand how child support is calculated and the role of the Child Support Enforcement Agency in Paternity cases
Summary of activities:	<ul style="list-style-type: none"> • Review child custody and visitation standards and applicable case law • Discuss how child custody decisions are made • Practice child support calculations
Lesson 3.	Paternity Pleadings and Procedure (1 hour)
Lesson Objectives:	<ul style="list-style-type: none"> • Understand the initial pleadings needed for the Establishment of Paternity and the Establishment of Custody After Voluntary Establishment of Paternity
Summary of activities:	<ul style="list-style-type: none"> • Go over initial pleadings and their relationship to the statute and court rules • Practice completion of initial sample pleadings

Instructors:	Legal Aid Society of Hawai'i Attorney Staff
---------------------	---

Subject / Course:	Rural Paternity Advocacy Preparation Course
Topic:	Paternity Law Civil Procedure
Place/Date/Time	Via On-Line Platform, Date and Time TBD
Lesson 4.	Evidence (1 hour)
Lesson Objectives:	<ul style="list-style-type: none"> • Understand the potential contested issues in paternity cases • Understand the evidence that can be used • Understand how the discovery process works and intersection with fact finders and social studies
Summary of activities:	<ul style="list-style-type: none"> • Review sample initial pleadings and identify potential defenses or areas which can be contested • In each contested issue, begin to identify evidence that can be used to support or oppose the issue and understand what is admissible and what would not be admissible in court
Instructors:	Legal Aid Society of Hawai'i Attorney Staff

Subject / Course:	Rural Paternity Advocacy Preparation Course
Topic:	Case Strategy
Place/Date/Time	Via On-Line Platform, Date and Time TBD
Lesson 5.	Developing a Legal Strategy in a Paternity Case (2 hours)
Lesson Objectives:	<ul style="list-style-type: none"> • Understand how to develop a legal theory of a case and create a legal strategy for paternity case issues: <ul style="list-style-type: none"> ○ establishing and defending against paternity ○ custody ○ visitation ○ child support
Summary of activities:	<ul style="list-style-type: none"> • Overview of how to develop a legal theory with evidence. • Creating of a legal strategy for various hypothetical cases involving the establishment of and defense against paternity and custody, visitation, and child support.
Instructors:	Legal Aid Society of Hawai'i Attorney Staff

Subject / Course:	Rural Paternity Advocacy Preparation Course
Topic:	Mediation
Place/Date/Time	Via On-Line Platform, Date and Time TBD
Lesson 6.	Mediation (1 hour)
Lesson Objectives:	<ul style="list-style-type: none"> • Understanding of the mediation process and how it may be used in paternity, custody and visitation cases
Summary of activities:	<ul style="list-style-type: none"> • Presentation by mediation service providers on how mediation works
Instructors:	Legal Aid Society of Hawai'i Attorney Staff Mediation Program Staff

Subject / Course:	Rural Paternity Advocacy Preparation Course
Topic:	Court Advocacy
Place/Date/Time	Via On-Line Platform, Date and Time TBD
Lesson 7.	Court Advocacy Part I: Court Proceedings (1 hour)
Lesson Objectives:	<ul style="list-style-type: none"> • Understand how paternity cases are handled in the courtroom and procedures that will need to be followed in the different hearings • Introduction of family court rules of procedure
Summary of activities:	<ul style="list-style-type: none"> • Overview of what happens in court, the different types of hearings and what to expect. • Practice on making appearances. • Begin overview of family court rules of procedure.
Lesson 8.	Court Advocacy Part 2: Court Rules (1 hour)
Lesson Objectives:	<ul style="list-style-type: none"> • Continued learning of family court rules of procedure • Introduction of evidentiary rules and objections
Summary of activities:	<ul style="list-style-type: none"> • Continued discussion of family court rules of procedure and applicability • Overview of evidentiary rules and objections
Lesson 9.	Court Advocacy Part 3: Exhibits (1 hour)
Lesson Objectives:	<ul style="list-style-type: none"> • Understand how to create an exhibit list • Understand how to introduce an exhibit
Summary of activities:	<ul style="list-style-type: none"> • Continued discussion of family court rules of procedure and applicability • Overview of evidentiary rules and objections
Lesson 10.	Court Advocacy Part 4: Examination Overview (1 hour)
Lesson Objectives:	<ul style="list-style-type: none"> • Understand how to conduct a direct examination and cross-examination
Summary of activities:	<ul style="list-style-type: none"> • Coverage of rules on direct examination and cross-examination as well as objections • Observation of good and bad examinations as well as practical tips on examination
Lesson 11.	Court Advocacy Part 5: Examination Practice (1 hour)
Lesson Objectives:	<ul style="list-style-type: none"> • Understand how to conduct a direct examination and cross-examination
Summary of activities:	<ul style="list-style-type: none"> • Practice direct and cross examination and objections • Receive feedback on practice

Instructors:	Legal Aid Society of Hawai'i Attorney Staff
---------------------	---

Subject / Course:	Rural Paternity Advocacy Preparation Course
Topic:	Client Interviewing
Place/Date/Time	Via On-Line Platform, Date and Time TBD
Lesson 12.	Client Interviewing (1 hour)
Lesson Objectives:	<ul style="list-style-type: none"> • Learn techniques for effective and efficient client interviewing and relationship building
Summary of activities:	<ul style="list-style-type: none"> • Introduction of techniques • Client interview practice and feedback
Instructor:	Legal Aid Society of Hawai'i Attorney Staff

Subject / Course:	Rural Paternity Advocacy Preparation Course
Topic:	Ethics
Lesson 13.	Lesson 13. Basic Legal Ethics (1 hour)
Place/Date/Time	Via On-Line Platform, Date and Time TBD
Lesson Objectives:	<ul style="list-style-type: none"> • Understand and application of confidentiality, privilege, conflicts of interest, and scope of unauthorized practice of law exemption
Summary of activities:	<ul style="list-style-type: none"> • Overview of ethics rules • Application of ethic rules to potential case situations
Instructors:	Legal Aid Society of Hawai'i Attorney Staff

Subject / Course:	Rural Paternity Advocacy Preparation Course
Topic:	Practice
Place/Date/Time	Family Court and Other Locations, Date and Time TBD
Courtroom and Practice Observation (5 hours)	
Lesson Objectives:	<ul style="list-style-type: none"> • To become familiar with court processes and procedures in paternity cases
Summary of activities:	<ul style="list-style-type: none"> • Be physically present in a courtroom with paternity cases and take notes on procedure, substance, and issues • Be physically present during mediations and other client meetings and take notes on observations • Discuss observations with and ask questions of supervising attorney
Shadowing and Practice (10 - 50 hours)	
Lesson Objectives:	<ul style="list-style-type: none"> • To put into practice under close supervision of supervising attorney the handling of paternity cases from start to finish
Summary of activities:	<ul style="list-style-type: none"> • Client interview, pleadings drafting, case strategy development, discovery, motion drafting, preparation for court appearance, and court appearances under supervision of supervising attorney
Instructors:	Legal Aid Society of Hawai'i Attorney Staff