

Honolulu, Hawaii

March 24, 2006

RE: S.B. No. 3218
S.D. 1
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committees on Human Services and Health, to which was referred S.B. No. 3218, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO PLACEMENT OF HARMED CHILDREN,"

beg leave to report as follows:

The purpose of this bill is to preserve the cultural needs of native Hawaiian children involved in custody proceedings by, among other things:

- (1) Establishing the Na Kupuna Tribunal (Tribunal) to have exclusive jurisdiction over any child custody proceeding involving a native Hawaiian child;
- (2) Authorizing the Tribunal to accept federal grants for native Hawaiian child and family service programs;
- (3) Requiring the Tribunal to work with certain agencies to prepare a report on the feasibility of providing native Hawaiian children with schools and programs that promote traditional and customary rights, and native Hawaiian national history;
- (4) Establishing a one-year pilot project to implement the Tribunal, with the assistance of the Department of Human Services (DHS), to develop procedures and protocols for the Tribunal; and



- (5) Authorizing the Tribunal to enter into agreements and develop necessary procedures and protocols with DHS and the family court to implement the pilot project.

HCAP Leeward District, Na Kupuna O Wai'anae, the Coalition Against the Involuntary Termination of Parental Rights, Na Kupuna Tribunal, Legacy Coalition, Na Kupuna O Kahana, and several concerned individuals supported this bill. DHS supported the intent of this measure. The Attorney General (AG) and Judiciary offered comments.

Your Committees were educated by the compelling testimony provided by the testifiers on this measure. Representatives of the native Hawaiian community shared their unique situation and discussed the cultural needs of native Hawaiian children. The AG and Judiciary raised serious concerns about this measure. Your Committees hope that stakeholders will work together to resolve these issues.

Your Committees respectfully request interested parties to consider whether the Tribunal can participate as guardians ad litem, particularly in cases involving a native Hawaiian child.

Your Committees acknowledge that this is a complex issue and there was inadequate time to fully consider this proposal to meet legislative deadlines and that this measure is a work-in-progress. Nonetheless, your Committees are sympathetic to the plight of the individuals involved in these situations and are encouraged by DHS's willingness to participate and work with the kupuna.

Accordingly, your Committees have amended this bill by:

- (1) Making changes to the purpose and findings;
- (2) Requiring DHS to take necessary action to assist in the Tribunal's jurisdiction over native Hawaiian child custody proceedings;
- (3) Removing the family court as a coordinator of the pilot project;
- (4) Limiting DHS's services to Tribunal cases to programs and services under DHS's differential response system;



- (5) Establishing the Tribunal Oversight Task Force to oversee the Tribunal's functions and to review the manner in which courts handle cases involving children with cultural needs;
- (6) Changing the effective date to July 1, 2022, to encourage further discussion; and
- (7) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Human Services and Health that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 3218, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 3218, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Respectfully submitted on
behalf of the members of the
Committees on Human Services
and Health,



DENNIS A. ARAKAKI, Chair



ALEX M. SONSON, Chair



