

Honolulu, Hawaii

A-204, 2008

RE: S.B. No. 2879
S.D. 2
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

Sir:

Your Committee on Finance, to which was referred S.B. No. 2879, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO EDUCATION,"

begs leave to report as follows:

The purpose of this bill is to protect the educational, civil, and legal rights of Hawaii's disabled population by:

- (1) Establishing a power of attorney for assisting in the development and implementation of individualized education plans for special education;
- (2) Establishing a process to appoint a surrogate decision maker for an adult student or emancipated minor student who lacks capacity; and
- (3) Clarifying the authority of a guardian of an adult or emancipated minor.

The Hawaii Maternal Child Health Leadership Education in Neurodevelopmental Disabilities and Related Disorders Program of the University of Hawaii, Special Education Advisory Council, Chapter 56/60 Community Workgroup, Family Voices of Hawaii, Hawaii Disability Rights Center, Community Children's Council Legislative Committee, and a concerned individual testified in support of this bill. The Department of Education testified in opposition to this



measure. The State Council on Developmental Disabilities and The Judiciary of the State of Hawaii provided comments on this measure.

Your Committee has amended this bill by, among other things:

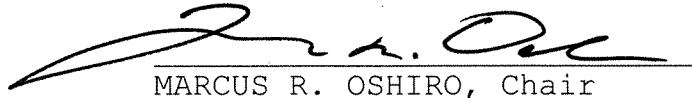
- (1) Replacing all references to "surrogate decision maker" with the term "educational representative";
- (2) Deleting the term "emancipated minor" and replacing it with the term "adult student";
- (3) Changing the title of the new part to read:
"PART . ADULT SPECIAL EDUCATION TRANSFER OF RIGHTS FOR STUDENTS WITH DISABILITIES UPON REACHING THE AGE OF MAJORITY";
- (4) Specifying that when a student reaches the age of majority, all rights are presumed to transfer to the adult student and the adult student may then execute a power of attorney for special education;
- (5) Clarifying the procedures necessary to establish the power of attorney;
- (6) Clarifying when the authority of the agent acting on behalf of the adult student shall be effective and shall cease to be effective;
- (7) Deleting the obligations of supervising teachers before and when implementing a special education decision made for an adult student;
- (8) Deleting language providing immunities for teachers or institutions acting in good faith and in accordance with generally accepted educational standards;
- (9) Deleting the sections specifying what effects and applications the bill is intended to have;
- (10) Deleting the section providing for judicial relief for adult students;
- (11) Changing the effective date to July 1, 2050; and



- (12) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2879, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2879, S.D. 2, H.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Finance,



MARCUS R. OSHIRO, Chair



State of Hawaii
House of Representatives
The Twenty-fourth Legislature

HSCR 1707-08

Record of Votes of the Committee on Finance

Bill/Resolution No.: SB 2879, SD2	Committee Referral: FIN	Date: 3-31-2008		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
FIN Members	Ayes	Ayes (WR)	Nays	Excused
1. OSHIRO, Marcus R. (C)	✓			
2. LEE, Marilyn B. (VC)	✓			
3. AWANA, Karen Leinani	✓			
4. BELATTI, Della Au				✓
5. BROWER, Tom	✓			
6. CARROLL, Mele	✓			
7. HANOHANO, Faye P.	✓			
8. HAR, Sharon E.	✓			
9. KARAMATSU, Jon Riki	✓			
10. MAGAOAY, Michael Y.	✓			
11. MANAHAN, Joey	✓			
12. MIZUNO, John	✓			
13. NAKASONE, Bob				✓
14. RHOADS, Karl	✓			
15. SAGUM, Roland D., III	✓			
16. TOKIOKA, James Kunane	✓			
17. MEYER, Colleen Rose		✓		
18. PINE, Kymberly Marcos	✓			
19. WARD, Gene, Ph.D.	✓			
TOTAL (19)	16	1	0	2
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <div style="text-align: center; margin-left: 100px;">committee acronym(s)</div>				
Vice Chair's or designee's signature: _____ <div style="text-align: center; margin-left: 100px;"><i>Marilyn B. Lee</i></div>				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office				