

STAND. COM. REP. NO. 2207

Honolulu, Hawaii

FEB 12 2008

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

Honorable Colleen Hanabusa  
President of the Senate  
Twenty-Fourth State Legislature  
Regular Session of 2008  
State of Hawaii

Madam:

Your Committees on Education and Judiciary and Labor, to which was referred S.B. No. 2879 entitled:

"A BILL FOR AN ACT RELATING TO EDUCATION,"

beg leave to report as follows:

The purpose of this measure is to establish a power of attorney for special education.

This measure also:

- (1) Establishes a process for the appointment of a surrogate decision maker for an adult student that lacks capacity;
- (2) Clarifies the authority of a guardian of an adult student; and
- (3) Appropriates funds for implementation of the Act.

Testimony in support of the measure was submitted by the State Council on Developmental Disabilities, the Disability & Communication Access Board, the Hawaii Disability Rights Center, the Special Education Advisory Council, the Community Children's Council Office, Family Voices of Hawaii, the Chapter 56/60 Community Workgroup, and four individuals. Testimony in opposition of the measure was submitted by the Department of Education. Comments on the measure were also submitted by the Judiciary.



Your Committees find that, in 2007, the Department of Education convened the Chapter 56/60 Community Workgroup to assist the Department in adopting administrative rules that would be in alignment with the reauthorization of the Individuals with Disabilities Act of 2004 (IDEA). Necessary changes of the administrative rules were to be considered for chapter 56, Hawaii Administrative Rules, with the new rules to be adopted as a new chapter 60, Hawaii Administrative Rules. Your Committees further find that the Community Workgroup considered input from interested parties and made several recommendations to the Department. This measure addresses the requirement of the IDEA that the states establish procedures for the appointment of a representative for a student who is incapable of making decisions or providing informed consent on education issues.

Testimony provided has indicated that the measure requires further consideration and attention to address the concerns raised by the Department and the interested parties. Your Committees believe that the stakeholders should continue to work toward resolution of existing issues to ensure that a less cost-prohibitive alternative to legal guardianship is established that will address the needs of adult students of varying capacity levels. Provisions must be crafted to address the entire spectrum of adult students to provide for their educational decision making needs, including adult students who maintain the capacity for decision making and may provide informed consent, adult students who have the capacity but cannot provide informed consent, and adult students who lack capacity and cannot provide informed consent.

Accordingly, your Committees have amended this measure by changing its effective date to July 1, 2050, to facilitate further discussion and to provide the interested parties the opportunity to continue to work together to develop an appropriate process.

As affirmed by the records of votes of the members of your Committees on Education and Judiciary and Labor that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2879, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2879, S.D. 1, and be referred to the Committee on Ways and Means.



Respectfully submitted on  
behalf of the members of the  
Committees on Education and  
Judiciary and Labor,

  
BRIAN T. TANIGUCHI, Chair



  
NORMAN SAKAMOTO, Chair





The Senate  
 Twenty-Fourth Legislature  
 State of Hawaii

**Record of Votes**  
**Committee on Judiciary and Labor**  
**JDL**

Bill / Resolution No.:* <b>SB 2879</b>	Committee Referral: <b>EDU/JDL, WAM</b>	Date: <b>2/6/08</b>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
TANIGUCHI, BRIAN T. (C)	✓			
HEE, Clayton (VC)	✓			
GABBARD, Mike	✓			
KOKUBUN, Russell S.				✓
NISHIHARA, Clarence K.	✓			
SLOM, Sam	✓			
<b>TOTAL</b>	<b>5</b>			<b>1</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:  				
<b>Distribution:</b> Original    Yellow    Pink    Goldenrod File with Committee Report    Clerk's Office    Drafting Agency    Committee File Copy				

\*Only one measure per Record of Votes