

Honolulu, Hawaii

FEB 29 2008

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

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

Madam:

Your Committee on Ways and Means, to which was referred S.B. No. 2879, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO EDUCATION,"

begs leave to report as follows:

The purpose of this measure is to:

- (1) Establish a power of attorney for special education;
- (2) Establish a process to appoint a surrogate decision maker for an adult or emancipated minor who lacks capacity; and
- (3) Clarify the authority of a guardian of an adult or emancipated minor student.

The State Council on Developmental Disabilities, Special Education Advisory Council, Hawaii Disability Rights Center, Community Workgroup, and Family Voices of Hawaii submitted testimony in support of this measure. The Department of Education submitted testimony in opposition to this measure. The Judiciary submitted comments.

When a special education student reaches age eighteen, the presumption is that the student is now capable of making decisions in the student's own educational interest without the consent of either parent. Parents who need or want to continue to participate and provide input in the special educational needs of



their adult or emancipated minor children because those children lack capacity are forced to petition the court for guardianship.

This measure attempts to establish a less restrictive alternative to guardianship that balances the continued participation of parents in the special education process with the rights of adult and emancipated minor students. This measure is in response to, in part, the cost and complexity of existing guardianship proceedings.

Your Committee finds that there is a need for a mechanism that includes parents in the special education process without unduly constraining the autonomy of adults or emancipated minors with special education needs.

The proponents of this measure recognize that there are areas of concern that need to be addressed and are actively working to resolve them. Therefore, your Committee has left the effective date of July 1, 2050 in the measure to encourage further discussion. In addition, your Committee has amended this measure by:

- (1) Deleting the appropriation; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

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


Respectfully submitted on
behalf of the members of the
Committee on Ways and Means,


ROSALYN H. BAKER, Chair



The Senate
Twenty-Fourth Legislature
State of Hawaii

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:* SB2879, SD1	Committee Referral: ED4/JDL, WAM	Date: 2/25/08		
<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
BAKER, Rosalyn H. (C)	/			
TSUTSUI, Shan S. (VC)	/			
CHUN OAKLAND, Suzanne	/			
ENGLISH, J. Kalani	/			
FUKUNAGA, Carol	/			
HOOSER, Gary L.	/			
INOUYE, Lorraine R.				/
KIM, Donna Mercado	/			
MENOR, Ron	/			
TOKUDA, Jill N.	/			
HEMMINGS, Fred	/			
WHALEN, Paul	/			
TOTAL	11	0	0	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes