

Honolulu, Hawaii

APR 09 2009

RE: H.B. No. 819  
H.D. 2  
S.D. 2

Honorable Colleen Hanabusa  
President of the Senate  
Twenty-Fifth State Legislature  
Regular Session of 2009  
State of Hawaii

Madam:

Your Committee on Judiciary and Government Operations, to which was referred H.B. No. 819, H.D. 2, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO CRIME,"

begs leave to report as follows:

The purpose of this measure is to require the Family Court to waive jurisdiction and order a minor to be held in a youth correctional facility for criminal proceedings if, after a full investigation and hearing, the Family Court finds that:

- (1) The minor is alleged to have committed an act that would constitute murder in the first degree or second degree if committed by an adult; and
- (2) The minor is at least fifteen years of age, but less than eighteen years of age.

This measure also provides that subsequent to a waiver by the Family Court, upon motion by the defendant, the Circuit Court may remand the minor back to the jurisdiction of the Family Court if the Circuit Court finds that the rehabilitation of the minor would be seriously impaired if the minor remained under the jurisdiction of the Circuit Court, or that the minor is committable to an institution for the mentally defective or retarded or the mentally ill.



Your Committee notes the testimony of the Judiciary to the effect that nearly all of the petitions for waiver of Family Court jurisdiction of minors charged with murder have been granted, and that the existing statutory schemes have not resulted in inconsistent outcomes or in outcomes that would be to the detriment of public safety. According to the Judiciary, the case that gave rise to this measure does not reflect the normal timetable for waiver cases because it involved complexities that required more time for the parties to resolve.

Your Committee has amended this measure by:

- (1) Limiting its applicability to murder in the first degree and to cases where the minor has not been charged with any other criminal offenses arising from the same incident; and
- (2) Changing the effective date to July 1, 2050 to continue the discussions.

As affirmed by the record of votes of the members of your Committee on Judiciary and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 819, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 819, H.D. 2, S.D. 2.

Respectfully submitted on  
behalf of the members of the  
Committee on Judiciary and  
Government Operations,

  
BRIAN T. TANIGUCHI, Chair



