

STAND. COM. REP. NO.

2986

Honolulu, Hawaii

APR - 1 2010

RE: H.B. No. 2061
H.D. 1
S.D. 2

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2010
State of Hawaii

Madam:

Your Committee on Judiciary and Government Operations, to which was referred H.B. No. 2061, H.D. 1, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO CHILDREN,"

begs leave to report as follows:

The purpose of this measure is to establish a procedure within the Family Court for custody and visitation of minor children in the event of the deployment of either or both of the minor's parents.

Written comments in support of the measure were submitted by the Family Law Section of the Hawaii Bar Association. Written comments in support of the intent of the measure, with suggested amendments, were submitted by one state agency, two private organizations, and one individual. Comments regarding the measure were submitted by the United States Department of Defense and the Judiciary. Written comments presented to your Committee may be reviewed on the Legislature's website.

Your Committee finds that deployment of a child's parent on active military service where the child may not accompany the parent presents special problems in terms of custody and visitation arrangements. Nonetheless, as reflected in the comments submitted regarding this measure, there appears to be some disagreement as to how to adequately address these problems.



Your Committee received written comments expressing concerns from the United States Department of Defense that the demands of military service should not abrogate the service member's parental rights. Specifically, the Department of Defense indicated that provisions should be included in the measure indicating that past absence due to military service should not serve as the sole basis for altering a custody order in place prior to the absence and that the custody order in place before the absence of a military parent should be reinstated within a set time upon the return of the military parent, absent proof that the best interests of the child would be undermined, and that the non-absent parent should bear the burden of proof.

Your Committee also received written comments expressing concerns from the Judiciary, indicating that the measure may increase litigation and uncertainty by creating small anomalies. Among other things, the Judiciary maintained that the fact of deployment should not "trump" all other factors for either parents when determining custody or visitation and that the measure may conflict with the provisions of the Uniform Child-Custody Jurisdiction and Enforcement Act, codified at chapter 583A, Hawaii Revised Statutes, relating to the "home state" jurisdiction over the child.

Your Committee believes that these concerns should be addressed and discussed more fully when the measure is heard during Conference Committee hearings.

Your Committee has amended this measure by:

- (1) Inserting an effective date of September 14, 2047, to ensure further discussion regarding the concerns expressed in testimony; and
- (2) Making technical, nonsubstantive changes for purposes of style, clarity, and consistency with the Hawaii Revised Statutes.

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. 2061, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2061, H.D. 1, S.D. 2.



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

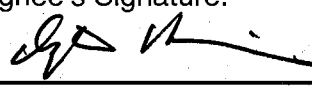


BRIAN T. TANIGUCHI, Chair



The Senate
Twenty-Fifth Legislature
State of Hawaii

Record of Votes
Committee on Judiciary and Government Operations
JGO

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 2061, HDL, SDI	PSM/HMS, JGO	3/24/10		
<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)	✓			
TAKAMINE, Dwight Y. (VC)	✓			
BUNDA, Robert	✓			
GABBARD, Mike		✓		
NISHIHARA, Clarence K.	✓			
SLOM, Sam			✓	
TOTAL	4	1	1	0
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