

Honolulu, Hawaii

FEB 18 2009

RE: S.B. No. 134

S.D. 1

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

Madam:

Your Committee on Human Services, to which was referred S.B. No. 134 entitled:

"A BILL FOR AN ACT RELATING TO CHILDREN,"

begs leave to report as follows:

The purpose of this measure is to ensure that the Department of Human Services is afforded the opportunity to select the best course of action for children held by the Department under temporary foster custody by extending the number of days the Department has to conduct an investigation and requiring the Department to conduct an ohana conference prior to deciding upon a course of action.

Testimony in support of this measure was received from the Department of Human Services and two individuals. The Legal Aid Society of Hawai'i submitted testimony in opposition to this measure. Copies of written testimony are available for review on the Legislature's website.

Your Committee finds that it is important to involve family members in formulating a plan to ensure a child's safety and guarantee adequate supports for the child's family. Ohana conferences will allow more children to remain safely in their homes, provide families with the opportunity to resolve risk and safety issues, and give family members the opportunity to offer input in creating a workable plan tailored to the specific needs of the child and the child's family



Your Committee further finds that if the length of time the Department of Human Services has to investigate claims of harm to children is extended to five days, a parent would potentially be deprived of custody of his or her child for up to eleven days without an opportunity to be heard. Further, if an ohana conference is mandatory, a parent's right to due process may be violated because information relating to the alleged harm to a child would be provided to ohana conference parties without any court finding as to the harm and without the consent of the parent. Further, the child would be left in the custody of the instigator of the harm or threatened harm for the time it would take to schedule the ohana conference.

Your Committee has amended this measure by:

- (1) Giving legal custodians the option of convening an ohana conference within five days after the assumption of temporary custody of a child; and
  - (A) Ensuring visitation between the child and the legal custodian as soon as possible, but in any event prior to the ohana conference, and;
  - (B) Proceeding by relinquishing or continuing the assumption of custody based on the results of the ohana conference;
- (2) Maintaining the three-day time limit for the Department of Human Services to conduct an investigation of the harm or threatened harm leading to the Department's assumption of custody if the legal custodian does not wish to convene an ohana conference or if the legal custodian cannot be located; and
- (3) Permitting the Department of Human Services to refer child custody matters to other appropriate, authorized agencies which may then file a petition with the courts for custody of the child.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 134, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 134, S.D. 1, and



be referred to the Committee on Judiciary and Government Operations.


Respectfully submitted on behalf of the members of the Committee on Human Services,

*Suzanne Chun Oakland*  
SUZANNE CHUN OAKLAND, Chair



The Senate  
Twenty-Fifth Legislature  
State of Hawaii

**Record of Votes**  
**Committee on Human Services**  
**HMS**

Bill / Resolution No.:* <b>SB 134</b>	Committee Referral: <b>HMS, JGO</b>	Date: <b>2/10/09</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
CHUN OAKLAND, Suzanne (C)	✓			
IHARA, Jr., Les (VC)	✓			
GREEN, M.D., Josh	✓			
HEMMINGS, Fred				✓
<b>TOTAL</b>	<b>3</b>	<b>0</b>	<b>0</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