

Honolulu, Hawaii

APR 23 2010 , 2010

RE: S.B. No. 2716
S.D. 2
H.D. 2
C.D. 1

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

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fifth State Legislature
Regular Session of 2010
State of Hawaii

Madam and Sir:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 2716, S.D. 2, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO CHILD PROTECTIVE ACT,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to create within the jurisdiction of the family court a new Child Protective Act to make paramount the safety and health of children who have been harmed or are in life circumstances that threaten harm. This measure also ensures that the Child Protective Act is in conformity with Federal Title IV-E provisions.

Your Committees on Conference have amended the measure by:

- (1) Clarifying the definition of "adjudication" to include a finding by a court by preponderance of the evidence that



the child has been subject to threatened harm by the acts or omissions of the child's family;

- (2) Defining "birth parent" and "biological parent" and clarifying that that the term "birth" is interchangeable with the term "natural", as that term is used in chapter 578, Hawaii Revised Statutes;
- (3) Replacing all references to "natural parent", "natural mother", and "natural father", with "birth parent", "birth mother", and "birth father", respectively;
- (4) Defining "foster parent", "foster family", and "resource family" and clarifying that these terms may be used interchangeably;
- (5) Redefining "party" to specify that the child's current parents or resource family are discretionary parties, along with other persons whose participation is in the best interest of the child;
- (6) Amending the safe family home factors to additionally consider whether any alleged perpetrator has acknowledged and accepted responsibility for the harm to the child;
- (7) Requiring attorneys for incapacitated adults to take instructions from the incapacitated adult's guardian ad litem, unless otherwise ordered by the court;
- (8) Notwithstanding the 15-day deadline for filing reports, allowing the Department of Human Services and other authorized agencies to file additional information for certain hearings upon showing that the information could not be obtained before the deadline;
- (9) Clarifying that court may order the court and the parties to view a video of the child's interview;
- (10) For service plan notification purposes, providing that the parents' failure to provide a safe family home within two years from the date when the child was first placed under foster custody by the court, may, rather than shall, result in the parents' parental rights being terminated;
- (11) For return hearing purposes, if aggravated circumstances are present, setting a 60-day deadline within which the



court shall file a motion to set the case for a termination of parental rights hearing;

- (12) For permanency hearing purposes, requiring the Department of Human Services to file a motion to set the matter for termination of parental rights if the child has been in foster care for a total of twelve consecutive months;
- (13) Deleting the ability of a parent whose parental rights have been terminated to file a motion to reinstate the terminated parental rights;
- (14) Changing the effective date of the measure to September 1, 2010 to allow the Judiciary to prepare forms and update family court procedures to comply with the new Child Protective Act; and
- (15) Making technical, nonsubstantive amendments for the purposes of style and clarity.

Your Committee on Conference finds that it is vitally important to the children of Hawaii to have adequate protection under the law. There are many children that are abused each year, and as a society we are responsible for making sure that they are safe from harm. Your Committee notes that this was a multi-faceted effort, with numerous entities coming together to assist in ensuring that children are protected through the family courts in Hawaii. Your Committee has amended this measure accordingly so that the concerns of the groups involved in the family court process regarding these children have been addressed.

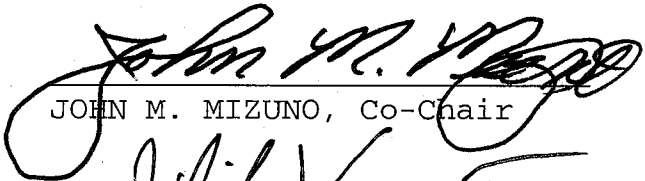
As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2716, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2716, S.D. 2, H.D. 2, C.D. 1.

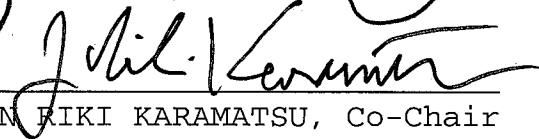



Respectfully submitted on behalf
of the managers:

ON THE PART OF THE HOUSE


ON THE PART OF THE SENATE


JOHN M. MIZUNO, Co-Chair


JON RIKI KARAMATSU, Co-Chair


MARCUS R. OSHIRO, Co-Chair


SUZANNE CHUN OAKLAND, Chair


BRIAN T. TANIGUCHI, Co-Chair



Hawaii State Legislature

Record of Votes of a Conference Committee

112-10

Bill / Concurrent Resolution No.: SB 27 16, SD 2, HD 2	Date/Time: 4/21/10 9:30a.m.
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The recommendation of the House and Senate managers is to pass with amendments (CD).

The Committee is reconsidering its previous decision.

<input type="checkbox"/> The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure	<input type="checkbox"/> The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.
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Senate Managers	A	WR	N	E	House Managers	A	WR	N	E
CHUN OAKLAND, Suzanne, Chr.	✓				MIZUNO, John M., Co-Chr.	✓			
TANIGUCHI, Brian T., Co-Chr.	✓				KARAMATSU, Jon Riki, Co-Chr.	✓			
SLOM, Sam	✓				OSHIRO, Marcus R., Co-Chr.	✓			
					BROWER, Tom	✓			
					WARD, Gene				✓
TOTAL	3	0	0	0	TOTAL	4			1

A = Aye WR = Aye with Reservations N = Nay E = Excused

Senate Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted	House Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted
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Senate Lead Chair's or Designee's Signature: 	House Lead Chair's or Designee's Signature:
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Distribution:
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