

STAND. COM. REP. NO. 475

Honolulu, Hawaii

FEB 18, 2011

RE: H.B. No. 56  
H.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Sixth State Legislature  
Regular Session of 2011  
State of Hawaii

Sir:

Your Committee on Human Services, to which was referred H.B. No. 56 entitled:

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

begs leave to report as follows:

The purpose of this bill is to clarify the process for a petition of grandparents' visitation rights by:

- (1) Changing the criteria under which a court may award reasonable visitation rights to a grandparent;
- (2) Establishing a rebuttable presumption that a parent's decision regarding visitation is in the best interest of the child; and
- (3) Including factors the court may consider when ruling on a visitation petition.

Several concerned individuals supported this bill. A concerned individual opposed this measure. The American Civil Liberties Union of Hawaii, AngelGroup, and a concerned individual provided comments.

Although your Committee acknowledges the concerns raised by testifiers on this measure, these concerns appear to fall outside of the scope of the Committee on Human Services. As such, your

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Committee respectfully requests the Committee on the Judiciary, should it choose to hear this bill, to consider the following:

- (1) Whether there should be a minimum age for a child before a grandparent may petition for visitation, and if so, what that age should be;
- (2) Whether the following factors should be included in the list of those the court may consider when ruling on a visitation petition:
  - (A) The preference of the child, if the court finds the child is to be of sufficient maturity to make this decision;
  - (B) The mental and physical health of the child;
  - (C) The mental and physical health of the grandparent or great-grandparent;
  - (D) The good faith of the party in filing the petition;
  - (E) The good faith of the person denying the visitation;
  - (F) The quantity of visitation time requested and the potential for adverse impact the visitation may have on the child's customary activities; and
  - (G) Whether the grandparent or great-grandparent was a primary caretaker of the child for a period of no less than six consecutive months; and
- (3) Whether the right to petition should be extended to include civil unions.

Your Committee also notes the concerns raised regarding custody and visitation where issues of domestic violence are present. The parents of an abuser may not take safety concerns seriously and thus may expose a child to harm. The current language of the measure, however, does not distinguish between grandparents when granting the right to submit a petition for visitation. Consequently, your Committee respectfully requests that the Committee on Judiciary also consider whether an exemption should be included in cases involving domestic violence.

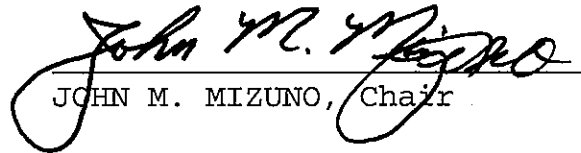


Your Committee has amended this bill by:

- (1) Changing the standard of evidence required to clear and convincing evidence to rebut the rebuttable presumption that a parent's decision regarding visitation is in the best interest of the child;
- (2) Changing the effective date to July 1, 2050, to encourage further discussion; and
- (3) Making technical, nonsubstantive amendments for clarity, consistency, and style.

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 H.B. No. 56, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 56, H.D. 1, and be referred to the Committee on Judiciary.

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

  
JOHN M. MIZUNO, Chair



State of Hawaii  
House of Representatives  
The Twenty-sixth Legislature

## Record of Votes of the Committee on Human Services

Bill/Resolution No.: <b>HB 56</b>	Committee Referral: <b>HUS, JUD</b>	Date: <b>2/14/2011</b>		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
<b>The recommendation is to:</b> <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
HUS Members	Ayes	Ayes (WR)	Nays	Excused
1. MIZUNO, John M. (C)	✓			
2. JORDAN, Jo (VC)	✓			
3. BELATTI, Della Au				✓
4. HANOHANO, Faye P.	✓			
5. LEE, Chris				✓
6. MORIKAWA, Dee	✓			
7. WOOLEY, Jessica	✓			
8. YAMANE, Ryan I.				✓
9. CHING, Corinne W.L.				✓
10. PINE, Kymberly Marcos	✓			
<b>TOTAL (10)</b>	<b>6</b>			<b>4</b>
<b>The recommendation is:</b> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <div style="text-align: center; font-size: small;">committee acronym(s)</div>				
<b>Vice Chair's or designee's signature:</b> _____				
<b>Distribution:</b> Original (White) – Committee    Duplicate (Yellow) – Chief Clerk's Office    Duplicate (Pink) – HMSO				