

STAND. COM. REP. NO. 939

Honolulu, Hawaii

March 4, 2011

RE: H.B. No. 56
H.D. 2

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

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 56, H.D. 1, 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 provisions permitting the family court to award reasonable visitation of a minor child to the minor child's grandparent or grandparents. The bill establishes a rebuttable presumption that the parent's decisions regarding visitation are in the best interest of the child, which may only be rebutted by clear and convincing evidence that the denial of visitation with the grandparent or grandparents would cause "significant harm" to the child. The bill also identifies factors that the court may consider in awarding grandparent visitation.

The Family Court Interventions Task Force, and several individuals testified in support of this measure. Several individuals opposed this bill. A concerned individual commented on this measure.

Your Committee finds that there is support for permitting reasonable visitation for a grandparent or grandparents with their minor grandchild. Your Committee notes that some concerns have been raised about the need for adequate safeguards to protect children from situations where domestic violence might occur and where non-custodial parents might gain access to the child that

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would not otherwise be permitted. The Committee on Human Services requested that your Committee address domestic violence concerns and the inclusion of additional factors to be considered by the court.

Your Committee has considered these issues and amended the bill accordingly by:

- (1) Clarifying that the petitioner must show that the denial of visitation to the grandparent or grandparents will cause "significant demonstrable harm" to the child;
- (2) Requiring the court to consider all of the specified factors when making decisions regarding the granting of grandparent visitation; and
- (3) Including in the factors for consideration:
 - (A) Criteria from section 571-46(9) and (10), Hawaii Revised Statutes (pertaining to family violence), to ensure that concerns about domestic violence matters are adequately addressed; and
 - (B) Whether the grandparent or grandparents have previously violated, or assisted a parent of the child in violating, a temporary restraining order or protective order.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 56, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 56, H.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary,


GILBERT KEITH-AGARAN, Chair



