

STAND. COM. REP. NO. 204-12

Honolulu, Hawaii

Feb 8, 2012

RE: H.B. No. 2193

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committee on Human Services, to which was referred H.B. No. 2193 entitled:

"A BILL FOR AN ACT RELATING TO ADULT GUARDIANSHIP AND PROTECTIVE PROCEEDINGS JURISDICTION,"

begs leave to report as follows:

The purpose of this measure is to address the challenges Hawaii has encountered in dealing with issues surrounding interstate adult guardianships and protective orders by adopting the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act. Adoption of this Act will establish guidelines to determine which court, in this State or another State, has jurisdiction to appoint a guardian or conservator for an incapacitated adult and to determine the disposition of out-of-state guardianship and protective orders.

The Executive Office on Aging; the Commission to Promote Uniform Legislation; Alzheimer's Association, Aloha Chapter; and a concerned individual supported the measure. The Judiciary offered comments on the measure.

Your Committee notes that there was much testimony in support for the measure. The Commission to Promote Uniform Legislation testified that this measure will provide uniformity and reduce conflicts among the states. The Commission added that approximately 30 jurisdictions including the District of Columbia have adopted the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act, and four others, including Hawaii,

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are considering its adoption this year. The Act is supported by the Council of State Governments, Alzheimer's Association, Conference of Chief Justices, National Academy of Elder Law Attorneys, National College of Probate Judges, and National Guardianship Foundation.


Your Committee also notes that the Judiciary testified that this measure may not be necessary and may subject families and guardians to increased complexity and additional procedures. For example, under Hawaii law, the circuit court has jurisdiction over protective proceedings and the family court has jurisdiction over guardianship proceedings. Hawaii law defines "protective proceeding" as a "proceeding held pursuant to part 4 of article V" of the Uniform Probate Code, Chapter 560, Hawaii Revised Statutes relating to the protection of property of protected persons. Under the uniform law, which is the subject of this measure, however, "protective proceeding" is defined as "a judicial proceeding in which a protective order is sought or has been issued."

The Judiciary testified that families are able to seek guardianship for challenged minors before they reach 18 years of age, thus providing seamless protection after the minor reaches the age of majority. This bill appears to not allow that as it applies only to an "incapacitated person" who is an adult.

In addition, the Judiciary testified that the measure would require changes to court policies, procedures and rules, and this measure might consume valuable and limited staff resources.

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. 2193 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

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

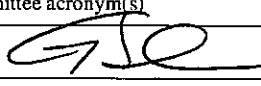

JOHN M. MIZUNO, Chair



State of Hawaii
House of Representatives
The Twenty-sixth Legislature

HSCR 204-12

Record of Votes of the Committee on Human Services

Bill/Resolution No.: HB 2193	Committee Referral: HUS, JUD, FIN	Date: Feb 2, 2012		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input checked="" type="checkbox"/> Pass, unamended (as is) <input 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				✓
TOTAL (10)	7			3
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <div style="text-align: center; margin-left: 100px;">committee acronym(s)</div>				
Vice Chair's or designee's signature: _____ <div style="text-align: center; margin-left: 100px;">  </div>				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				