

Honolulu, Hawaii

APR 05 2012

RE: H.B. No. 2227
H.D. 1
S.D. 2

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committees on Judiciary and Labor and Ways and Means, to which was referred H.B. No. 2227, H.D. 1, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO BIRTH CERTIFICATES,"

beg leave to report as follows:

The purpose and intent of this measure is to amend the conditions under which the Department of Health is required to establish a new birth certificate for a birth registrant whose gender differs from the gender designation on the birth registrant's original birth certificate. Specifically, this measure:

- (1) Establishes procedures to change a birth registrant's gender designation on the birth registrant's birth certificate, including requiring:
 - (A) A written request from the birth registrant for the Department of Health to issue a new birth certificate reflecting the gender designation change;
 - (B) A notarized statement from the birth registrant's treating or evaluating physician that states the birth registrant's gender designation was entered incorrectly, or the birth registrant has undergone surgical, hormonal, or other treatment appropriate for the purpose of gender transition; and



- (C) An official copy of the legal name change document if the birth registrant is requesting a name change on the new birth certificate;
- (2) Emphasizes that the new birth certificates shall not reveal the original certificate language or that the certificate was amended; and
- (3) Requires that opening of the sealed documents containing the original certificate and the evidence supporting the preparation of the new certificate can only be done by a court order or by the request of the birth registrant.

Your Committees received testimony in support of this measure from the Gay, Lesbian, Bisexual and Transgender Caucus of the Democratic Party of Hawaii, Young Women's Christian Association of Oahu, Pride At Work Hawaii, American Civil Liberties Union of Hawaii, Women's Caucus of the Democratic Party of Hawaii, Planned Parenthood of Hawaii, Community Alliance of Prisons, and six private individuals. The Department of the Attorney General submitted comments.

Your Committees find that structures or policies that provide for discrimination against certain populations of the State should be remedied. This measure is not intended to expand access to anyone's birth certificate in the State, but is intended to broaden the allowable methods to change the gender designation on birth certificates.

Your Committees note the concerns raised by the Department of the Attorney General regarding the reliability of a notarized statement from the birth registrant's treating or evaluating physician verifying that the birth registrant has undergone hormonal or other treatment appropriate for gender transition without a court order. This situation potentially authorizes the treating or evaluating physician to determine that a change in gender designation on a birth certificate is necessary when the birth registrant has undergone hormonal or other non-surgical treatment, but may not have undergone treatment to the extent that the registrant's gender transition was completed. The Department indicated that a Hawaii court order should verify the treating or evaluating physician's findings that the birth registrant has undergone hormonal or other appropriate treatment appropriate for gender transition and that the birth registrant's gender



designation should be changed. Accordingly, the Department submitted proposed language to your Committees that addresses and remedies these concerns.

Your Committees have amended this measure by:

- (1) Adopting the language suggested by the Department of the Attorney General that:
 - (A) Retains and amends existing provisions in section 338-17.7(a)(4), Hawaii Revised Statutes, to require the Department of Health to establish a new birth certificate for a birth registrant upon receipt of an affidavit of a licensed physician who has examined the registrant and determined that the birth registrant's gender designation was entered incorrectly on the birth certificate; or that the birth registrant has undergone a sex change operation and the birth registrant's certificate is no longer accurate;
 - (B) Inserts language to require a court order, in cases where a birth registrant has undergone hormonal or other non-surgical treatment for a gender transition, to establish that there is medical evidence from the birth registrant's licensed physician that supports the finding that the birth registrant has undergone hormonal or other treatment appropriate for the purpose of gender transition and, in the opinion of the physician, the birth registrant's certificate should be changed accordingly; and
 - (C) Deletes language that allows a sealed document to be opened by the request of the birth registrant; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Judiciary and Labor and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2227, H.D. 1, S.D. 1, as amended

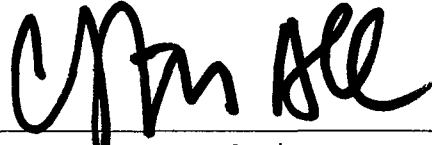


herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 2227, H.D. 1, S.D. 2.

Respectfully submitted on behalf of the members of the Committees on Judiciary and Labor and Ways and Means,



DAVID Y. IGE, Chair




CLAYTON HEE, Chair



The Senate
Twenty-Sixth Legislature
State of Hawai'i

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 2227 HDI SDI	HTH, JDL/WAM	4-3-12		
<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
IGE, David Y. (C)	/	/		
KIDANI, Michelle N. (VC)		/		
CHUN OAKLAND, Suzanne				/
DELA CRUZ, Donovan M.		/		
ENGLISH, J. Kalani	/			
ESPERO, Will				/
FUKUNAGA, Carol	/			
KIM, Donna Mercado		/		
KAHELE, Gilbert	/			
KOUCHI, Ronald D.	/	/		
RYAN, Pohai				/
TOKUDA, Jill N.	/			
WAKAI, Glenn		/		
SLOM, Sam			/	
TOTAL	45	45	1	3
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

*Only one measure per Record of Votes