

Honolulu, Hawaii

FEB 17 2012

RE: S.B. No. 3057
S.D. 1

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

Sir:

Your Committee on Human Services, to which was referred S.B. No. 3057 entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Establish a rebuttable presumption that a custodial parent's decision regarding visitation is in the best interests of the child; and
- (2) Require the Family Court to consider various factors in awarding parental visitation rights.

Your Committee received testimony in support of this measure from four individuals. Your Committee received testimony in opposition to this measure from the Family Law Section of the Hawaii State Bar Association and one individual. Your Committee received comments on this measure from the Department of the Attorney General.

Your Committee finds that the amendments proposed by this measure would determine visitation rights between a custodial and non-custodial parent. Your Committee understands the concerns that these amendments may allow a custodial parent in a child custody dispute to control the non-custodial parent's visitation rights. This may result in custody battles between parents that are not in a child's best interest. Your Committee also



understands the concerning regarding a potential unfair presumption in favor of a custodial parent. Your Committee therefore concludes that amendments addressing these issues are necessary.

Your Committee also notes that the Department of the Attorney General has raised concerns that this measure's title, "Relating to Child Custody", may not encompass the subject matter of this measure, which addresses child visitation.

Your Committee has amended this measure by:

- (1) Deleting language that established a rebuttable presumption that a custodial parent's decision regarding visitation is in the best interests of the child and deleting language that set out factors for the Family Court to consider when determining parental visitation rights;
- (2) Establishing a rebuttable presumption that joint custody should be awarded if certain factors exist;
- (3) Adding language to permit the Family Court to award reasonable visitation rights for the grandparents of a minor child if denial of reasonable visitation rights would cause significant demonstrable harm to the child;
- (4) Adding language to establish a rebuttable presumption that a parent's decision regarding grandparent visitation is in the best interests of a child and setting forth additional factors for the Family Court to consider when awarding grandparent visitation; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

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 S.B. No. 3057, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3057, S.D. 1, and be referred to the Committee on Judiciary and Labor.



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

Suzanne Chun Oakland

SUZANNE CHUN OAKLAND, Chair



