

Honolulu, Hawaii

MAR 22 2013

RE: H.B. No. 1137
H.D. 1
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Madam:

Your Committees on Human Services and Judiciary and Labor, to which was referred H.B. No. 1137, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO FAMILY COURT,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Clarify the appointment requirements and qualifications for child custody evaluators; and
- (2) Require the Judiciary to establish a complaint process regarding a child custody evaluator appointed by the court.

Your Committees received testimony in support of this measure from the National Association of Social Workers, Hawaii Chapter; Institute on Violence, Abuse, and Trauma at Alliant International University; and nine individuals. Your Committees received testimony in opposition to this measure from three individuals. Your Committees received comments on this measure from the Judiciary and Department of Commerce and Consumer Affairs, Professional and Vocational Licensing Division.

Your Committees find that Act 149, Session Laws of Hawaii 2008 (Act 149), requires the court to define the requirements to be a court-appointed child custody evaluator; the standards of practice, ethics, policies, and procedures required of court-



appointed child custody evaluators in the performance of their duties for all courts; and the powers of the courts over child custody evaluators to effectuate the best interests of a child in a contested custody dispute. Act 149 further provides that where there is no child custody evaluator available that meets the requirements and standards, or any child custody evaluator to serve indigent parties, the court may appoint a person otherwise willing and available.

Your Committees further find that actions for divorce, separation, annulment, separate maintenance, or any other proceeding where there is at issue a dispute as to the custody of a minor child, allow the family court, during the pendency of the action, at the final hearing, or any time during the minority of the child, to make an order for the custody of the minor child as may seem necessary or proper. For this purpose, section 571-46, Hawaii Revised Statutes, allows the court to appoint a child custody evaluator to investigate and report concerning the care, welfare, and custody of any minor child of the parties, or any party to produce an expert, whose skill, insight, knowledge, or experience is such that the person's or expert's testimony is relevant to a just and reasonable determination of what is for the best physical, mental, moral, and spiritual well-being of the child whose custody is at issue.

Your Committees also find that Act 149 needs clarification in the interests of expediting the establishment of a system of child custody evaluators in order to ensure competent evidence and a fair determination of awarding child custody.

Your Committees have amended this measure by:

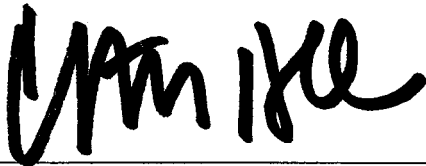
- (1) Deleting language that would have allowed a person to be appointed as a child custody evaluator if a child custody evaluator with specialized knowledge and training certifies that the person has prior experience as a court custody evaluator;
- (2) Inserting language that allows a person to be appointed as a child custody evaluator if the individual has obtained education and training that meet nationally recognized competencies and standards of practice in child custody evaluation;



- (3) Deleting language that would have required the Judiciary to establish a complaint process so that parties may file a complaint regarding a child custody evaluator appointed by the court;
- (4) Inserting language requiring the Judiciary to establish a referral process to refer a party to the appropriate licensing or certifying authority upon notification by the party of an intent to file a complaint against a child custody evaluator appointed by the court;
- (5) Inserting language to require the Judiciary to submit an annual report to the Legislature regarding the number of complaints processed through the referral process;
- (6) Adding language to allow a complaint against a child custody evaluator who does not meet the qualifications proposed by this measure to be resolved through civil litigation; and
- (7) 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 Human Services and Judiciary and Labor that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1137, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1137, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committees on Human Services
and Judiciary and Labor,



CLAYTON HEE, Chair



SUZANNE CHUN OAKLAND, Chair



The Senate
 Twenty-Seventh Legislature
 State of Hawai'i

Record of Votes
Committee on Human Services
HMS

Bill / Resolution No.:* HB 1137, HDI	Committee Referral: HMS/JDL, WAM	Date: 3/19/13		
<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
CHUN OAKLAND, Suzanne (C)	✓			
GREEN, Josh (VC)	✓			
KIDANI, Michelle N.				✓
TANIGUCHI, Brian T.	✓			
SLOM, Sam				✓
TOTAL	3	0	0	2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes

