

Honolulu, Hawaii

FEB 14 2013

RE: S.B. No. 1226
S.D. 1

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

Madam:

Your Committee on Human Services, to which was referred S.B. No. 1226 entitled:

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

begs 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;
- (2) Require the courts to establish a complaint process for child custody evaluators; and
- (3) Reserve the appointment of a child custody evaluator for the conducting of an investigation and analysis of the best interest of the child regarding disputed custody and visitation issues in complex cases where there is a possible risk to children; provided that the court shall not order such an evaluation unless there is credible information regarding possible harm to the child or impairment of parental duties.

Your Committee received testimony in support of this measure from the Law Office of John Kirimitsu and seven individuals. Your Committee received comments on this measure from the Judiciary.

Your Committee finds that Act 149, Session Laws of Hawaii 2008, 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 Committee further finds 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 Committee also finds 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 Committee has amended this measure by:

- (1) Specifying that the Judiciary, rather than the court, shall maintain a publicly accessible registry of child custody evaluators;
- (2) Requiring professionals who are willing and able to perform child custody evaluations to be responsible for providing the Judiciary with relevant information;
- (3) Requiring the Judiciary, rather than the court, to establish a complaint process regarding child custody



- evaluators appointed by the court and making a conforming amendment;
- (4) Requiring the Judiciary to also refer complaints to the appropriate licensing or certifying authority and submit to the Legislature an annual report on the complaints received; and
- (5) Deleting the language that reserved the appointment of a child custody evaluator, rather than a guardian ad litem, for investigation and analysis of disputed custody and visitation issues in complex cases and that prohibited the court from ordering such an evaluation unless there is credible information regarding possible harm to the child or impairment of parental abilities.

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. 1226, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1226, S.D. 1, and be referred to the Committees on Judiciary and Labor and Ways and Means.

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


SUZANNE CHUN OAKLAND, Chair



The Senate
 Twenty-Seventh Legislature
 State of Hawai'i

Record of Votes
Committee on Human Services
HMS

Bill / Resolution No.:* SB 1226	Committee Referral: HMS, JDL/WAM	Date: 2/12/13		
<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	2	1	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