

Honolulu, Hawaii

FEB 28 2013

RE: S.B. No. 529
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 Judiciary and Labor, to which was referred
S.B. No. 529 entitled:

"A BILL FOR AN ACT RELATING TO PARENTAL RIGHTS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Prohibit family courts from awarding a person custody of or visitation with a child if the person has been convicted of rape or sexual assault and the child was conceived as a result of that offense; and
- (2) Authorize the family courts to terminate parental rights, with respect to a child, of a natural father who has been convicted of rape or sexual assault and the child was conceived as a result of the rape or sexual assault.

Your Committee received testimony in support of this measure from the Hawaii State Commission on the Status of Women, Sex Abuse Treatment Center, and two individuals.

Your Committee finds that state law does not prevent a natural father from claiming paternity rights and obtaining custody of or visitation with a child conceived as a result of sexual assault or rape. The father is afforded the same rights as any other father despite the sexual assault or rape against the victim-mother because Hawaii does not have a law restricting or



terminating those rights. Consequently, any natural father may assert paternity rights, including custody and visitation, forcing a victim-mother to confront the natural father on a recurring basis while raising a child conceived from a sexual assault or rape.

Your Committee notes that a child could be conceived as a result of a rape or sexual assault committed by a female. Thus, the natural father could be the victim of a rape or sexual assault committed by the natural mother. Upon the request of your Committee, the Sex Abuse Treatment Center developed language to apply this measure to a natural parent rather than a natural father to recognize that a mother or father could be a victim of a rape or sexual assault out of which a child was conceived.

Your Committee has amended this measure by:

- (1) Adopting the language developed by the Sex Abuse Treatment Center to:
 - (A) Specify that family courts may deny custody or visitation rights or terminate the parental rights of a natural parent, rather than father, who is convicted of rape or sexual assault if the child was conceived as a result of the rape or sexual assault;
 - (B) Specify that the convicted natural parent is still obligated to support the child if custody or visitation rights are denied or parental rights are terminated;
 - (C) Allow the court to order the convicted natural parent to pay child support;
 - (D) Specify that this measure does not apply to a convicted natural parent and custodial natural parent who cohabit and establish a mutual custodial environment for the child conceived as a result of the rape or sexual assault after the date of conviction; and
 - (E) Allow the custodial natural parent to petition the court to allow the convicted natural parent custody.




or visitation rights or reinstate the convicted natural parent's parental rights; and

- (2) 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 Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 529, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 529, S.D. 1.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,



CLAYTON HEE, Chair



