

Honolulu, Hawaii
February 19, 2016

RE: H.B. No. 2340

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committee on Human Services, to which was referred H.B. No. 2340 entitled:

"A BILL FOR AN ACT RELATING TO CRIMINAL HISTORY RECORDS CHECKS UNDER THE CHILD PROTECTIVE ACT,"

begs leave to report as follows:

The purpose of this measure is to ensure the safety of children by authorizing the Department of Human Services to conduct with or without consent and upon receiving a report that a child is subject to imminent harm, has been harmed, or is subject to threatened harm, a criminal history record check of the alleged perpetrator and all adults living in the family home.

The Department of Human Services, Kapiolani Child Protection Center, and an individual testified in support of this measure. Two individuals opposed this measure.

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 H.B. No. 2340 and recommends that it pass Second Reading and be referred to your Committee on Judiciary.



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



DEE MORIKAWA, Chair



Honolulu, Hawaii
February 19, 2016

RE: H.B. No. 2344
H.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committee on Human Services, to which was referred H.B. No. 2344 entitled:

"A BILL FOR AN ACT RELATING TO ORDERS FOR IMMEDIATE PROTECTION,"

begs leave to report as follows:

The purpose of this measure is to clarify the Department of Human Services' (Department) statutory duty to seek an order for immediate protection where the Department believes that an incident of incurred or probable abuse of a vulnerable adult has or will occur. Specifically, this measure specifies that the Department may exercise its discretion in determining whether the provision of an order for immediate protection is necessary.

The Department testified in support of this measure.

Your Committee has amended this measure by changing its effective date to July 1, 2060, to encourage further discussion.

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 H.B. No. 2344, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2344, H.D. 1, and be referred to your Committee on Judiciary.



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



DEE MORIKAWA, Chair



A BILL FOR AN ACT

RELATING TO ORDERS FOR IMMEDIATE PROTECTION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 346-231, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) If the department believes that a person is a
4 vulnerable adult and it appears probable that the vulnerable
5 adult has incurred abuse or is in danger of abuse if immediate
6 action is not taken and the vulnerable adult consents, or if the
7 vulnerable adult does not consent and there is probable cause to
8 believe that the vulnerable adult lacks the capacity to make
9 decisions concerning the vulnerable adult's person, the
10 department [~~shall~~] may seek an order for immediate protection in
11 accordance with this section."

12 Section 2. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 Section 3. This Act shall take effect on July 1, 2060.



Report Title:

Orders For Immediate Protection

Description:

Amends section 346-231, Hawaii Revised Statutes, to address inconsistencies in statutory requirements regarding orders for immediate protection; and allows the Department of Human Services discretion when to seek an order for immediate protection of vulnerable adults. (HB2344 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



Honolulu, Hawaii
February 19, 2016

RE: H.B. No. 2585
H.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committee on Human Services, to which was referred H.B. No. 2585 entitled:

"A BILL FOR AN ACT RELATING TO JURY DUTY,"

begs leave to report as follows:

The purpose of this measure is to meet the health needs of Hawaii's mothers and babies by exempting mothers who breastfeed or express breast milk from jury duty, provided that the exemption ends when the mother is no longer breastfeeding or expressing breast milk.

Office of Hawaiian Affairs; the Hawaii State Commission on the Status of Women; Hawaii Women's Coalition; the American Association of University Women, Hawaii; Planned Parenthood Votes Northwest and Hawaii; and two individuals testified in support of this measure. The Judiciary offered comments on this measure.

Your Committee made revisions to this measure by changing the effective date to July 1, 2060, to facilitate further discussion.

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 H.B. No. 2585, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2585, H.D. 1, and be referred to your Committee on Judiciary.



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



DEE MORIKAWA, Chair



A BILL FOR AN ACT

RELATING TO JURY DUTY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature recognizes that breastfeeding
2 benefits both mothers and children. The American Academy of
3 Pediatrics (AAP) supports evidence that breastfeeding protects
4 against a variety of diseases and conditions in the infant,
5 including bacteremia, diarrhea, respiratory and urinary tract
6 infections, type 1 and type 2 diabetes, lymphoma, leukemia, and
7 childhood obesity. There are also maternal health benefits to
8 breastfeeding, such as decreased postpartum bleeding and more
9 rapid uterine involution, decreased menstrual blood loss, and
10 decreased risk of breast and ovarian cancers. The societal
11 benefits of breastfeeding include lower health insurance costs
12 and higher worker productivity.

13 The AAP recommends exclusive breastfeeding for about six
14 months, with continuation of breastfeeding for one year or
15 longer as mutually desired by mother and infant: the World
16 Health Organization and the Institute of Medicine concur with
17 this recommendation.



1 According to the Centers for Disease Control and
2 Prevention's 2010 Breastfeeding Report Card, three out of four
3 mothers in the United States start out breastfeeding, but at the
4 end of six months, breastfeeding rates fall to forty-three per
5 cent, with only thirteen per cent of babies exclusively
6 breastfed. Furthermore, in Hawaii, only one in five children
7 receives the absolute minimum of six months exclusive
8 breastfeeding as recommended by the AAP.

9 The legislature finds that jury duty places a hardship on
10 mothers who breastfeed their children, with mother-child
11 separation presenting a serious challenge to continue
12 breastfeeding. It costs nothing to exempt a breastfeeding woman
13 from jury duty, as the exemption allows the woman to serve on
14 jury duty at a later time. The exemption can make a big
15 difference in preserving the breastfeeding relationship.

16 A woman should not have to worry about how she is going to
17 feed her baby while required to sit in a courtroom, or while
18 sequestered. Additionally, not every woman has the necessary
19 pump and supplies to pump milk for her baby. According to the
20 National Conference of State Legislatures, seventeen states



1 exempt breastfeeding mothers from jury duty or allow jury
2 service to be postponed.

3 The purpose of this Act is to meet the health needs of
4 Hawaii's mothers and babies by exempting mothers who breastfeed
5 or express breast milk from jury duty; provided that this
6 exemption shall end when a mother is no longer breastfeeding or
7 expressing breast milk.

8 SECTION 2. Section 612-6, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "§612-6 Exempt when. A person may claim exemption from
11 service as a juror if the person is:

- 12 (1) An elected official while the legislature is in
13 session, or a judge of the United States, State, or
14 county;
- 15 (2) An actively practicing physician or dentist;
- 16 (3) A member of the armed forces or militia when on active
17 service and deployed out-of-state;
- 18 (4) An active member of a police or fire department;
- 19 (5) A person who has served as a juror, either in a court
20 of this State or the United States District Court for



- 1 the District of Hawaii, within one year preceding the
- 2 time of filling out the juror qualification form;
- 3 (6) An active member of an emergency medical services
- 4 agency;
- 5 (7) A person living more than seventy miles from the court
- 6 for which jury service is required; [~~or~~]
- 7 (8) A person eighty years of age or older~~[-]~~; or
- 8 (9) A mother who is breastfeeding a child or expressing
- 9 breast milk; provided that this exemption shall end
- 10 when a mother is no longer breastfeeding or expressing
- 11 breast milk.

12 For purposes of this section, "emergency medical services
 13 agency" means any government agency, private agency, or company
 14 that provides ambulance services, emergency medical services, or
 15 disaster medical services."

16 SECTION 3. Statutory material to be repealed is bracketed
 17 and stricken. New statutory material is underscored.

18 SECTION 4. This Act shall take effect on July 1, 2060.



Report Title:

Breastfeeding; Jury Duty; Exemption

Description:

Exempts mothers who breastfeed or express breast milk from jury duty; provided that this exemption shall end when a mother is no longer breastfeeding or expressing breast milk. (HB2585 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



Honolulu, Hawaii

February 19, 2016

RE: H.B. No. 2717

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committee on Human Services, to which was referred H.B. No. 2717 entitled:

"A BILL FOR AN ACT RELATING TO MEDICAL ASSISTANCE,"

begs leave to report as follows:

The purpose of this measure is to require the Director of Human Services to adopt rules that apply annual cost of living increases to the income and asset thresholds for Medicaid eligibility.

The Department of Human Services commented on this measure.

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 H.B. No. 2717 and recommends that it pass Second Reading and be referred to your Committee on Finance.

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



DEE MORIKAWA, Chair



Honolulu, Hawaii
February 19, 2016

RE: H.B. No. 2131
H.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committee on Human Services, to which was referred H.B. No. 2131 entitled:

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

begs leave to report as follows:

The purpose of this measure is to clarify the procedures through which grandparents may be given reasonable visitation rights to their grandchildren by amending standards for the court to use in awarding visitation rights to grandparents. Specifically, this measure:

- (1) Deletes duplicative provisions of awarding grandparents reasonable visitation rights; and
- (2) Adds as a prerequisite to awarding visitation that the court finds that awarding custody to a grandparent is in the best interest of the child and that denial of reasonable grandparent visitation rights would cause actual or potential harm to the child.

The Department of the Attorney General provided comments.

Your Committee has amended this measure by:

- (1) Amending the standard required for an award of grandparent visitation to a showing of significant harm if visitation were denied; and



- (2) Allowing a rebuttable presumption that a parent's decision regarding visitation is in the best interest of a child to be rebutted by evidence that denial of reasonable grandparent visitation rights would cause significant harm to the child.

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 H.B. No. 2131, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2131, H.D. 1, and be referred to your Committee on Judiciary.

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



DEE MORIKAWA, Chair



A BILL FOR AN ACT

RELATING TO CHILD VISITATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that many grandparents
2 today are stepping in to raise their grandchildren when the
3 children's own parents, many of whom are minors themselves, are
4 not able or willing to do so. The high cost of living in Hawaii
5 often necessitates that one or both parents work full-time or
6 part-time jobs, some while also attending school, college, or
7 vocational education, to provide for their family and thus
8 require grandparents to raise their grandchildren while the
9 parents are at work or in school or both. The financial impact
10 of raising a family in Hawaii is further compounded for single-
11 parent households who often have to work two jobs to support
12 their family. In addition, grandparents sometimes take on the
13 responsibility to raise their grandchildren when the child's own
14 parents abandon them or when the children can no longer live
15 with them because of the parent's mental disorder, substance
16 abuse, or incarceration. Grandparents may have the added burden
17 of caring for children who suffered from abuse or neglect from



1 their own parents. These children may feel insecure and afraid,
2 and may be angry at their situation and even embarrassed by it.

3 Raising a second generation brings many rewards for
4 grandparents, including the fulfillment of giving grandchildren
5 a sense of security, developing a deeper relationship, and
6 keeping the family together. The bond between a grandparent and
7 grandchild may run deeper than the relationship between parent
8 and child. Hawaiian and non-Hawaiian grandparents can be great
9 role models and influences for children, and they can provide a
10 sense of cultural heritage and family history. Hawaiian and
11 non-Hawaiian grandparents can also educate their grandchildren
12 about Hawaii and Hawaiian culture and traditions. Grandparents
13 can further provide their grandchildren with love, have their
14 best interests at heart, and can make them feel safe.

15 Grandparents also encourage a child's healthy development.
16 Overnight trips to Grandma's house, for example, may be less
17 traumatic than sleepovers with peers and can help children
18 develop independence. Grandparents may have lots of time to
19 spend playing and reading to their grandchildren. Such
20 dedicated attention only improves a child's developmental and
21 learning skills.



1 The purpose of this Act is to provide guidelines for the
2 court to consider in awarding visitation rights to grandparents.

3 SECTION 2. Section 571-46, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) In actions for divorce, separation, annulment,
6 separate maintenance, or any other proceeding where there is at
7 issue a dispute as to the custody of a minor child, the court,
8 during the pendency of the action, at the final hearing, or any
9 time during the minority of the child, may make an order for the
10 custody of the minor child as may seem necessary or proper. In
11 awarding the custody, the court shall be guided by the following
12 standards, considerations, and procedures:

13 (1) Custody should be awarded to either parent or to both
14 parents according to the best interests of the child,
15 and the court also may consider frequent, continuing,
16 and meaningful contact of each parent with the child
17 unless the court finds that a parent is unable to act
18 in the best interest of the child;

19 (2) Custody may be awarded to persons other than the
20 father or mother whenever the award serves the best
21 interest of the child. Any person who has had de



1 factio custody of the child in a stable and wholesome
2 home and is a fit and proper person shall be entitled
3 prima facie to an award of custody;

4 (3) If a child is of sufficient age and capacity to
5 reason, so as to form an intelligent preference, the
6 child's wishes as to custody shall be considered and
7 be given due weight by the court;

8 (4) Whenever good cause appears therefor, the court may
9 require an investigation and report concerning the
10 care, welfare, and custody of any minor child of the
11 parties. When so directed by the court, investigators
12 or professional personnel attached to or assisting the
13 court, hereinafter referred to as child custody
14 evaluators, shall make investigations and reports that
15 shall be made available to all interested parties and
16 counsel before hearing, and the reports may be
17 received in evidence if no objection is made and, if
18 objection is made, may be received in evidence;
19 provided the person or persons responsible for the
20 report are available for cross-examination as to any
21 matter that has been investigated; and provided



1 further that the court shall define, in accordance
2 with section 571-46.4, the requirements to be a court-
3 appointed child custody evaluator, the standards of
4 practice, ethics, policies, and procedures required of
5 court-appointed child custody evaluators in the
6 performance of their duties for all courts, and the
7 powers of the courts over child custody evaluators to
8 effectuate the best interests of a child in a
9 contested custody dispute pursuant to this section.
10 Where there is no child custody evaluator available
11 that meets the requirements and standards, or any
12 child custody evaluator to serve indigent parties, the
13 court may appoint a person otherwise willing and
14 available in accordance with section 571-46.4;

15 (5) The court may hear the testimony of any person or
16 expert, produced by any party or upon the court's own
17 motion, whose skill, insight, knowledge, or experience
18 is such that the person's or expert's testimony is
19 relevant to a just and reasonable determination of
20 what is for the best physical, mental, moral, and

1 spiritual well-being of the child whose custody is at
2 issue;

3 (6) Any custody award shall be subject to modification or
4 change whenever the best interests of the child
5 require or justify the modification or change and,
6 wherever practicable, the same person who made the
7 original order shall hear the motion or petition for
8 modification of the prior award;

9 (7) Reasonable visitation rights shall be awarded to
10 parents, [~~grandparents,~~] siblings, and any person
11 interested in the welfare of the child in the
12 discretion of the court, unless it is shown that
13 rights of visitation are detrimental to the best
14 interests of the child;

15 (8) The court may appoint a guardian ad litem to represent
16 the interests of the child and may assess the
17 reasonable fees and expenses of the guardian ad litem
18 as costs of the action, payable in whole or in part by
19 either or both parties as the circumstances may
20 justify;

1 (9) In every proceeding where there is at issue a dispute
2 as to the custody of a child, a determination by the
3 court that family violence has been committed by a
4 parent raises a rebuttable presumption that it is
5 detrimental to the child and not in the best interest
6 of the child to be placed in sole custody, joint legal
7 custody, or joint physical custody with the
8 perpetrator of family violence. In addition to other
9 factors that a court shall consider in a proceeding in
10 which the custody of a child or visitation by a parent
11 is at issue, and in which the court has made a finding
12 of family violence by a parent:

13 (A) The court shall consider as the primary factor
14 the safety and well-being of the child and of the
15 parent who is the victim of family violence;

16 (B) The court shall consider the perpetrator's
17 history of causing physical harm, bodily injury,
18 or assault or causing reasonable fear of physical
19 harm, bodily injury, or assault to another
20 person; and



- 1 (C) If a parent is absent or relocates because of an
2 act of family violence by the other parent, the
3 absence or relocation shall not be a factor that
4 weighs against the parent in determining custody
5 or visitation;
- 6 (10) A court may award visitation to a parent who has
7 committed family violence only if the court finds that
8 adequate provision can be made for the physical safety
9 and psychological well-being of the child and for the
10 safety of the parent who is a victim of family
11 violence;
- 12 (11) In a visitation order, a court may:
- 13 (A) Order an exchange of a child to occur in a
14 protected setting;
- 15 (B) Order visitation supervised by another person or
16 agency;
- 17 (C) Order the perpetrator of family violence to
18 attend and complete, to the satisfaction of the
19 court, a program of intervention for perpetrators
20 or other designated counseling as a condition of
21 the visitation;



- 1 (D) Order the perpetrator of family violence to
- 2 abstain from possession or consumption of alcohol
- 3 or controlled substances during the visitation
- 4 and for twenty-four hours preceding the
- 5 visitation;
- 6 (E) Order the perpetrator of family violence to pay a
- 7 fee to defray the costs of supervised visitation;
- 8 (F) Prohibit overnight visitation;
- 9 (G) Require a bond from the perpetrator of family
- 10 violence for the return and safety of the child.
- 11 In determining the amount of the bond, the court
- 12 shall consider the financial circumstances of the
- 13 perpetrator of family violence;
- 14 (H) Impose any other condition that is deemed
- 15 necessary to provide for the safety of the child,
- 16 the victim of family violence, or other family or
- 17 household member; and
- 18 (I) Order the address of the child and the victim to
- 19 be kept confidential;
- 20 (12) The court may refer but shall not order an adult who
- 21 is a victim of family violence to attend, either



1 individually or with the perpetrator of the family
2 violence, counseling relating to the victim's status
3 or behavior as a victim as a condition of receiving
4 custody of a child or as a condition of visitation;

5 (13) If a court allows a family or household member to
6 supervise visitation, the court shall establish
7 conditions to be followed during visitation;

8 (14) A supervised visitation center shall provide a secure
9 setting and specialized procedures for supervised
10 visitation and the transfer of children for visitation
11 and supervision by a person trained in security and
12 the avoidance of family violence;

13 (15) The court may include in visitation awarded pursuant
14 to this section visitation by electronic communication
15 provided that the court shall additionally consider
16 the potential for abuse or misuse of the electronic
17 communication, including the equipment used for the
18 communication, by the person seeking visitation or by
19 persons who may be present during the visitation or
20 have access to the communication or equipment; whether
21 the person seeking visitation has previously violated



1 a temporary restraining order or protective order; and
2 whether adequate provision can be made for the
3 physical safety and psychological well-being of the
4 child and for the safety of the custodial parent;

5 (16) The court may set conditions for visitation by
6 electronic communication under paragraph (15),
7 including visitation supervised by another person or
8 occurring in a protected setting. Visitation by
9 electronic communication shall not be used to:

10 (A) Replace or substitute an award of custody or
11 physical visitation except where:

12 (i) Circumstances exist that make a parent
13 seeking visitation unable to participate in
14 physical visitation, including military
15 deployment; or

16 (ii) Physical visitation may subject the child to
17 physical or extreme psychological harm; or

18 (B) Justify or support the relocation of a custodial
19 parent; and

20 (17) Notwithstanding any provision to the contrary, no
21 natural parent shall be granted custody of or



1 visitation with a child if the natural parent has been
2 convicted in a court of competent jurisdiction in any
3 state of rape or sexual assault and the child was
4 conceived as a result of that offense; provided that:

5 (A) A denial of custody or visitation under this
6 paragraph shall not affect the obligation of the
7 convicted natural parent to support the child;

8 (B) The court may order the convicted natural parent
9 to pay child support;

10 (C) This paragraph shall not apply if subsequent to
11 the date of conviction, the convicted natural
12 parent and custodial natural parent cohabituate
13 and establish a mutual custodial environment for
14 the child; and

15 (D) A custodial natural parent may petition the court
16 to grant the convicted natural parent custody and
17 visitation denied pursuant to this paragraph, and
18 upon such petition the court may grant custody
19 and visitation to the convicted natural parent
20 where it is in the best interest of the child."



1 SECTION 3. Section 571-46.3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§571-46.3 Grandparents' visitation rights; petition;
4 notice; order. (a) A grandparent or the grandparents of a
5 minor child may file a petition with the court for an order of
6 reasonable visitation rights. The court may award reasonable
7 visitation rights provided that the following [~~criteria are~~
8 ~~met-~~] findings are made:

9 (1) This State is the home state of the child at the time
10 of the commencement of the proceeding; [and

11 ~~(2) Reasonable visitation rights are in the best interests~~
12 ~~of the child.]~~

13 (2) Grandparent visitation is in the best interest of the
14 child; and

15 (3) Denial of reasonable grandparent visitation rights
16 would cause significant harm to the child.

17 (b) No hearing for an order of reasonable visitation
18 rights under this section shall be had unless each of the living
19 parents and the child's custodians shall have had due notice,
20 actual or constructive, of the allegations of the petition and
21 of the time and place of the hearing thereof.



1 (c) In any proceeding on a petition filed under this
2 section, there shall be a rebuttable presumption that a parent's
3 decision regarding visitation is in the best interest of the
4 child. The presumption may be rebutted by evidence that denial
5 of reasonable grandparent visitation rights would cause
6 significant harm to the child.

7 (d) In awarding reasonable grandparent visitation, the
8 court shall be guided by all standards, considerations, and
9 procedures for parent visitation under section 571-46.

10 (e) An order made pursuant to this section shall be
11 enforceable by the court, and the court may issue other orders
12 to carry out these enforcement powers if in the best interests
13 of the child."

14 SECTION 4. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 5. This Act shall take effect on July 1, 2016.



Report Title:

Child Custody; Grandparent Visitation

Description:

Adds as a prerequisite to awarding grandparent visitation that the court finds that denial would cause significant harm to the child. Clarifies procedures for awarding visitation. (HB2131 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



Honolulu, Hawaii

February 19, 2016

RE: H.B. No. 2169
H.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committee on Human Services, to which was referred H.B. No. 2169 entitled:

"A BILL FOR AN ACT RELATING TO SOCIAL WORKERS,"

begs leave to report as follows:

The purpose of this measure is to clarify the supervision requirements for licensure of clinical social workers, including permitting the supervision requirements to be met through face-to-face supervision or via a Health Insurance Portability and Accountability Act of 1996-compliant video conference service.

The National Association of Social Workers, Hawaii Chapter and numerous concerned individuals supported this measure. The Department of Commerce and Consumer Affairs provided comments.

Your Committee has amended this measure by:

- (1) Requiring the supervision of social worker applicants to include the review of assessments;
- (2) Changing the effective date to July 1, 3000, to encourage further discussion; and
- (3) Making technical, nonsubstantive amendments for clarity, consistency, and style.



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 H.B. No. 2169, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2169, H.D. 1, and be referred to your Committee on Consumer Protection & Commerce.

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



DEE MORIKAWA, Chair



A BILL FOR AN ACT

RELATING TO SOCIAL WORKERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that social workers in
2 Hawaii who are working to complete their licensed clinical
3 social worker requirements must complete three thousand hours of
4 supervised work experience, one hundred hours of which must be
5 by direct face-to-face supervision. The legislature further
6 finds that certain social workers, particularly those living on
7 the less populated islands, in rural areas, and those employed
8 by the United States Department of Veterans Affairs, may
9 experience difficulty meeting the direct face-to-face
10 supervision requirement. This is especially true for social
11 workers in rural areas, as there are a limited number of rural
12 social workers who are qualified to provide supervision for
13 applicants for licensure as clinical social workers.

14 The legislature additionally finds that telehealth has
15 become standard practice in social work and the mental health
16 field and should be permitted as a means of meeting the



1 supervision requirements needed for licensure as a clinical
2 social worker.

3 Accordingly, the purpose of this Act is to clarify the
4 supervision requirements for licensure of clinical social
5 workers, including permitting the supervision requirements to be
6 met through face-to-face supervision or via a Health Insurance
7 Portability and Accountability Act-compliant video conferencing
8 service.

9 SECTION 2. Section 467E-7, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "§467E-7 Licensing requirements. Every applicant for a
12 license as a social worker shall submit evidence satisfactory to
13 the director that the applicant meets the following
14 requirements:

15 (1) For the licensed bachelor social worker, the
16 applicant:

17 (A) Holds a bachelor's degree from a college or
18 university in a social work program accredited by
19 or deemed to be equivalent to a program
20 accredited by the Council on Social Work
21 Education; and



- 1 (B) Has passed the basic level national examination
2 given by the Association of Social Work Boards;
- 3 (2) For the licensed social worker, the applicant:
- 4 (A) Holds a master's degree from a college or
5 university in a social work program accredited by
6 or deemed to be equivalent to an accredited
7 program by the Council on Social Work Education
8 or a doctoral degree from a doctoral degree
9 program in social work accredited by the Western
10 Association of Schools and Colleges or a
11 comparable regional accreditation body; and
- 12 (B) Has passed the intermediate or higher level
13 national examination given by the Association of
14 Social Work Boards; and
- 15 (3) For the licensed clinical social worker, the
16 applicant:
- 17 (A) Has met the educational requirements in paragraph
18 (2);
- 19 (B) Has passed the clinical level national
20 examination given by the Association of Social
21 Work Boards; and



1 (C) Has provided evidence of successful completion of
2 at least three thousand hours of post masters
3 clinical social work experience under supervision
4 completed within no fewer than two years, but
5 within no more than five years. Clinical social
6 work experience shall include a minimum of two
7 thousand hours of assessment, clinical diagnosis,
8 and psychotherapy; no more than a maximum of nine
9 hundred hours of client-centered advocacy,
10 consultation, and evaluation; and at least one
11 hundred hours of [~~direct face to face~~]
12 supervision. At least sixty of the one hundred
13 hours of [~~direct face to face~~] supervision [~~shall~~
14 ~~have been individualized supervision~~] may be
15 face-to-face or via a Health Insurance
16 Portability and Accountability Act of 1996-
17 compliant video conference service and the
18 remaining forty hours may have been under small
19 group (up to six supervisees) supervision;
20 provided that:



- 1 (i) The supervisor shall have been a licensed
2 clinical social worker with at least four
3 thousand five hundred hours of post masters
4 clinical social work experience;
- 5 (ii) For the first five years after July 1, 2004,
6 the following individuals shall be deemed to
7 have satisfied the requirements of a
8 supervisor: a person with a master's degree
9 in social work with at least four thousand
10 five hundred hours post masters clinical
11 social work experience; an individual who
12 holds a diplomate in clinical social work or
13 a board certified diplomate certification;
14 or a board certified psychiatrist,
15 psychologist, advanced practice registered
16 nurse who has a minimum of four thousand
17 five hundred hours of post masters clinical
18 experience in assessment, clinical
19 diagnosis, and psychotherapy; and
- 20 (iii) Supervision shall have [~~occurred in an~~
21 ~~agency setting that provides~~] included



1 review of assessment, clinical diagnosis,
2 and psychotherapy.

3 An applicant who submits evidence of
4 certification as a qualified clinical social
5 worker or diplomate in clinical social work by the
6 National Association of Social Workers or as a
7 board certified diplomate by the American Board
8 of Examiners shall be deemed to have satisfied
9 the experience requirements of this
10 subparagraph."

11 SECTION 3. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 4. This Act shall take effect on July 1, 3000.



Report Title:

Social Workers; Licensed Clinical Social Workers; Licensing Requirements; Supervision

Description:

Clarifies the supervision requirements for licensure of clinical social workers, including permitting the supervision requirements to be met through face-to-face supervision or via a Health Insurance Portability and Accountability Act-compliant video conferencing service. (HB2169 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



Honolulu, Hawaii

February 19, 2016

RE: H.B. No. 2282
H.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committee on Human Services, to which was referred H.B. No. 2282 entitled:

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

begs leave to report as follows:

The purpose of this measure is to:

- (1) Allow the family court to terminate parental rights if the court determines by clear and convincing evidence that a child was conceived during an act of rape or sexual assault perpetrated by the parent whose rights are sought to be terminated; and
- (2) Create a presumption that the termination of parental rights is in the best interest of the child if the child was conceived as a result of rape or sexual assault.

The Department of the Attorney General, Hawaii State Commission on the Status of Women, Sex Abuse Treatment Center, Hawaii Women's Coalition, American Association of University Women in Hawaii, Hawaii State Coalition Against Domestic Violence, and Planned Parenthood Votes Northwest and Hawaii supported this measure.

Your Committee has amended this measure by making technical, nonsubstantive amendments for clarity, consistency, and style.



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 H.B. No. 2282, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2282, H.D. 1, and be referred to your Committee on Judiciary.

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



DEE MORIKAWA, Chair



A BILL FOR AN ACT

RELATING TO PARENTAL RIGHTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Prior to the termination of parental rights of
2 a child conceived as a result of a rape or sexual assault,
3 Hawaii requires that the natural parent has been convicted in a
4 court of competent jurisdiction in any state of the rape or
5 sexual assault. A "clear and convincing evidence standard" is
6 being sought in the termination of parental rights to allow a
7 judge to terminate the alleged perpetrator's rights to the child
8 in a civil proceeding with a lower burden of proof than the
9 "beyond a reasonable doubt" standard required in criminal court.
10 In May 2015, President Obama signed the Rape Survivor Child
11 Custody Act (Act), Public Law No. 114-22, that boosts funding
12 for states that allow women to petition for the termination of
13 parental rights based on clear and convincing evidence that a
14 child was conceived through rape. The reasons cited for the
15 passage of the Act included: rape is one of the most under-
16 prosecuted serious crimes, with estimates of criminal conviction
17 occurring in less than five per cent of rapes; the Supreme Court



1 established that the clear and convincing evidence standard
 2 satisfies due process for allegations to terminate or restrict
 3 parental rights in Santosky v. Kramer, 455 U.S. 745 (1982); the
 4 clear and convincing evidence standard is the most common
 5 standard for termination of parental rights among the fifty
 6 States, the territories, and the District of Columbia; and the
 7 rapist may use the threat of pursuing custody or parental rights
 8 to coerce survivors into not prosecuting rape, or otherwise
 9 harass, intimidate, or manipulate them.

10 SECTION 2. Section 571-61, Hawaii Revised Statutes, is
 11 amended by amending subsection (b) to read as follows:

12 "(b) Involuntary termination.

13 (1) The family courts may terminate the parental rights in
 14 respect to any child as to any legal parent:

15 (A) Who has deserted the child without affording
 16 means of identification for a period of at least
 17 ninety days;

18 (B) Who has voluntarily surrendered the care and
 19 custody of the child to another for a period of
 20 at least two years;



- 1 (C) Who, when the child is in the custody of another,
2 has failed to communicate with the child when
3 able to do so for a period of at least one year;
- 4 (D) Who, when the child is in the custody of another,
5 has failed to provide for care and support of the
6 child when able to do so for a period of at least
7 one year;
- 8 (E) Whose child has been removed from the parent's
9 physical custody pursuant to legally authorized
10 judicial action under section 571-11(9), and who
11 is found to be unable to provide now and in the
12 foreseeable future the care necessary for the
13 well-being of the child;
- 14 (F) Who is found by the court to be mentally ill or
15 intellectually disabled and incapacitated from
16 giving consent to the adoption of or from
17 providing now and in the foreseeable future the
18 care necessary for the well-being of the child;
19 or
- 20 (G) Who is found not to be the child's natural or
21 adoptive father.



- 1 (2) The family courts may terminate the parental rights in
2 respect to any minor of any natural but not legal
3 father who is an adjudicated, presumed or concerned
4 father under chapter 578, or who is named as the
5 father on the child's birth certificate:
- 6 (A) Who falls within subparagraph (A), (B), (C), (D),
7 (E), or (F) of paragraph (1);
- 8 (B) Whose child is sought to be adopted by the
9 child's stepfather and the stepfather has lived
10 with the child and the child's legal mother for a
11 period of at least one year;
- 12 (C) Who is only a concerned father who has failed to
13 file a petition for the adoption of the child or
14 whose petition for the adoption of the child has
15 been denied; or
- 16 (D) Who is found to be an unfit or improper parent or
17 to be financially or otherwise unable to give the
18 child a proper home and education.
- 19 (3) In respect to any proceedings under paragraphs (1) and
20 (2), the authority to terminate parental rights may be
21 exercised by the court only when a verified petition,



1 substantially in the form above prescribed, has been
 2 filed by some responsible adult person on behalf of
 3 the child in the family court of the circuit in which
 4 the parent resides or the child resides or was born
 5 and the court has conducted a hearing of the petition.
 6 A copy of the petition, together with notice of the
 7 time and place of the hearing thereof, shall be
 8 personally served at least twenty days prior to the
 9 hearing upon the parent whose rights are sought to be
 10 terminated. If personal service cannot be effected
 11 within the State, service of the notice may be made as
 12 provided in section 634-23 or 634-24.

13 (4) The family courts may terminate the parental rights in
 14 respect to any child as to any natural father who is
 15 not the child's legal, adjudicated, presumed or
 16 concerned father under chapter 578.

17 (5) The family courts may terminate the parental rights in
 18 respect to any child of any natural parent upon a
 19 finding by clear and convincing evidence that the
 20 natural parent [~~has been convicted in a court of~~
 21 ~~competent jurisdiction in any state of~~] committed rape



1 or sexual assault or pursuant to a similar law of
 2 another state, territory, possession, or Native
 3 American tribe where the offense occurred and the
 4 child was conceived as a result of the rape or sexual
 5 assault perpetrated by the parent whose rights are
 6 sought to be terminated; provided that:

7 (A) The court shall accept a guilty plea or
 8 conviction of the child's natural parent for the
 9 rape or sexual assault or as pursuant to similar
 10 laws in another state, territory, possession, or
 11 Native American tribe where the offense occurred
 12 as conclusive proof that the child was conceived
 13 by rape or sexual assault;

14 ~~[(A)]~~ (B) The termination of parental rights shall not
 15 affect the obligation of the ~~[convicted]~~ child's
 16 natural parent to support the child;

17 ~~[(B)]~~ (C) The court may order the ~~[convicted]~~ child's
 18 natural parent to pay child support;

19 (D) It is presumed that termination of parental
 20 rights is in the best interest of the child if



1 the child was conceived as a result of the sexual
2 assault or rape;

3 ~~[-(C)-]~~ (E) This paragraph shall not apply if subsequent
4 to the date of conviction, the ~~[convicted]~~
5 child's natural parent and custodial natural
6 parent cohabit and establish a mutual
7 custodial environment for the child; and

8 ~~[-(D)-]~~ (F) The custodial natural parent may petition
9 the court to reinstate the convicted natural
10 parent's parental rights terminated pursuant to
11 this paragraph.

12 Such authority may be exercised under this chapter only
13 when a verified petition, substantially in the form above
14 prescribed, has been filed by some responsible adult person on
15 behalf of the child in the family court of the circuit in which
16 the parent resides or the child resides or was born, and the
17 court has conducted a hearing of the petition.

18 If the mother of the child files with the petition an
19 affidavit representing that the identity or whereabouts of the
20 child's father is unknown to her or not ascertainable by her or
21 that other good cause exists why notice cannot or should not be



1 given to the father, the court shall conduct a hearing to
2 determine whether notice is required.

3 If the court finds that good cause exists why notice cannot
4 or should not be given to the child's father, and that the
5 father is neither the legal nor adjudicated nor presumed father
6 of the child, nor has he demonstrated a reasonable degree of
7 interest, concern, or responsibility as to the existence or
8 welfare of the child, the court may enter an order authorizing
9 the termination of the father's parental rights and the
10 subsequent adoption of the child without notice to the father."

11 SECTION 3. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 4. This Act shall take effect upon its approval.



Report Title:

Involuntary Termination of Parental Rights

Description:

Provides that a parent's rights may be terminated if the court determines, by clear and convincing evidence, that the child was conceived during an act of rape or sexual assault creating a presumption that termination of parental rights is in the best interest of the child. (HB2282 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



Honolulu, Hawaii

February 19, 2016

RE: H.B. No. 2349

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committee on Human Services, to which was referred H.B. No. 2349 entitled:

"A BILL FOR AN ACT RELATING TO YOUTH TRANSITIONING FROM FOSTER CARE,"

begs leave to report as follows:

The purpose of this measure is to:

- (1) Clarify the payment framework and duration of higher education stipends;
- (2) Afford former foster youth a longer timeline to access higher education by extending from age 22 to age 26, the age limit applicable to former foster youth who are applying for a higher education stipend;
- (3) Specify that financial assistance available to Hawaii's former foster youth encompasses all related higher education costs, rather than just room and board costs;
- (4) Clarify that the higher education stipend amount is based on the financial support the Department of Human Resources (DHS) provides in accordance with rules adopted by the DHS;
- (5) Clarify the eligibility and program requirements of the Young Adult Voluntary Foster Care Program; and



- (6) Repeal the requirement that DHS submit an annual report to the legislature.

DHS; Family Programs Hawaii; Hawaii Youth Services Network; EPIC 'Ohana, Inc.; and several individuals testified in support of this measure.

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 H.B. No. 2349 and recommends that it pass Second Reading and be referred to your Committee on Finance.

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



DEE MORIKAWA, Chair



