

STAND. COM. REP. NO. 3572

Honolulu, Hawaii

APR 08 2016

RE: H.B. No. 939

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred H.B. No. 939 entitled:

"A BILL FOR AN ACT RELATING TO AMENDING IDENTITY OF REGISTRANT'S PARENT ON A BIRTH CERTIFICATE,"

begs leave to report as follows:

The purpose and intent of this measure is to clarify that the Department of Health may amend birth certificates to establish or change parenthood only pursuant to a court order or other legal establishment of parenthood and that the amendment shall not be considered a correction of a personal record under the Uniform Information Practices Act.

Your Committee received testimony in support of this measure from the Department of the Attorney General, Department of Health, and Office of Information Practices. Your Committee received comments on this measure from one individual.

Your Committee finds that births are required to be registered in the State, and birth certificates are used as prima facie evidence to prove important factors such as identity, citizenship, parenthood, age, sex, and race. There are legal presumptions regarding parenthood that are established by law, and the rights of parents, which are protected by the federal and state constitutions, can be significantly impacted by birth certificate amendments regarding parenthood. Existing law allows persons to file late birth certificates or amend birth certificates upon submitting proof required by the Department of Health. However, because the Department of Health is not



qualified to evaluate anecdotal or genetic evidence of parenthood and has no means to afford due process to existing parents whose rights would effectively be terminated by an amendment that changes a parent on a birth certificate, individuals have sued the Department and been awarded attorney's fees and other costs. This measure would assure that changes to parental rights arising from birth certificate amendments would be subject to judicial determination and existing legal presumptions regarding parenthood, support the Department of Health's longstanding interpretation of its own law and rules, maintain the accuracy of vital records in Hawaii, and protect the State from significant unnecessary costs and attorney's fees.

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 H.B. No. 939, and recommends that it pass Third Reading.

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


GILBERT S.C. KEITH-AGARAN, Chair



The Senate
 Twenty-Eighth Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

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|--|--|------------------------|------------|----------------|
| Bill / Resolution No.:* HB 939 | Committee Referral: CPH, JDL | Date: 4/6/16 | | |
| <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 checked="" type="checkbox"/> Pass, unamended 2312 <input type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313 | | | | |
| Members | Aye | Aye (WR) | Nay | Excused |
| KEITH-AGARAN, Gilbert S.C. (C) | / | | | |
| SHIMABUKURO, Maile S.L. (VC) | / | | | |
| GABBARD, Mike | / | | | |
| KAHELE, Kaiali'i | / | | | |
| KIM, Donna Mercado | / | | | |
| THIELEN, Laura H. | | | | / |
| SLOM, Sam | | | | / |
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| TOTAL | 5 | | | 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