

Honolulu, Hawaii

FEB 11 2016

RE: S.B. No. 2409

S.D. 1

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
S.B. No. 2409 entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Delete duplicative language awarding grandparents reasonable visitation rights from section 571-46, Hawaii Revised Statutes, relating to the criteria and procedure in awarding custody and visitation; and
- (2) Add language to section 571-46.3, Hawaii Revised Statutes, regarding grandparents' visitation rights that:
 - (A) Requires the courts to make a finding that awarding grandparent visitation is in the best interest of the child and denial of grandparent visitation would cause actual or potential harm to the child;
 - (B) Establishes a rebuttable presumption that a parent's decision regarding visitation is in the best interest of the child, which may be rebutted by a preponderance of the evidence; and
 - (C) Clarifies the court shall be guided by all standards, considerations, and procedures for



parent visitation under section 571-46, Hawaii Revised Statutes.

Your Committee received testimony in support of this measure from one individual. Your Committee received testimony in opposition to this measure from one individual. Your Committee received comments on this measure from two individuals.

Your Committee finds that grandparents today are taking on increasing responsibilities in helping to raise their grandchildren, especially when the children's own parents are unable or unwilling to do so themselves as a result of a lack of financial self-sufficiency, abandonment, mental disorder, minor status, substance abuse, or incarceration. Grandparents may help foster a child's healthy emotional and psychological development, further a child's education, and positively influence a child's well-being.

However, your Committee notes that grandparents may also present an added obstacle in determining whether reasonable visitation rights of grandparents are in the best interest of the child. Your Committee is concerned that in cases of family violence, grandparents may violate the terms and conditions of the court's order without consequence, which may result in assisting family violence perpetrators and enabling perpetuation of family violence. Your Committee further notes that violating the terms and conditions of reasonable visitation is contrary to the best interest of the child, and that court-ordered sanctions are necessary to ensure compliance.

Accordingly, your Committee has amended this measure by:

- (1) Adding language that clarifies that if a grandparent or grandparents of a child violate the terms and conditions of an order awarding reasonable visitation rights, the grandparent or grandparents shall be subject to sanctions or contempt of court;
- (2) Inserting an effective date of January 7, 2059, to encourage further discussion; and
- (3) 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. 2409, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2409, S.D. 1, and be placed on the calendar for Third Reading.

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


GILBERT S.C. KEITH-AGARAN, Chair



