

Honolulu, Hawaii

MAR 03 2016

RE: S.B. No. 2811
S.D. 2

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. 2811, S.D. 1, 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) 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 termination of parental rights is in the best interest of the child if the child was conceived as a result of the rape or sexual assault.

Your Committee received testimony in support of this measure from the Department of the Attorney General, Hawaii State Commission on the Status of Women, The Sex Abuse Treatment Center, Women's Caucus of the Democratic Party of Hawai'i, Planned Parenthood Votes Northwest and Hawaii, and two individuals.

Your Committee finds that there are approximately 32,000 rape-related pregnancies each year in the United States. Rape is one of the most under-prosecuted serious crimes, and rapists may use the threat of pursuing custody or parental rights to coerce the survivors into not prosecuting rape. The clear and convincing



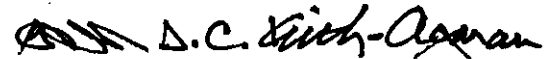
evidence standard is the most common for terminating parental rights among the fifty states. By changing the standard for termination of parental rights from beyond a reasonable doubt to a clear and convincing evidence standard in cases where a victim of rape or sexual assault became pregnant, this measure satisfies due process while also allowing victims of rape or sexual assault to petition for termination of the perpetrator's parental rights without requiring a criminal conviction.

Your Committee has amended this measure by:

- (1) Inserting an effective of January 7, 2059, to encourage further discussion; 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. 2811, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2811, S.D. 2.

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



GILBERT S.C. KEITH-AGARAN, Chair



