



SB 492

Measure Title:	RELATING TO CHILDREN.
Report Title:	Emancipation of Minors; Unaccompanied Minors; Children; Parents; Family Court
Description:	Provides a means by which an unaccompanied minor may petition the family court for emancipation, and directs the court regarding investigation of the petition, appointing counsel for the petitioner, and the findings necessary to grant the petition. Outlines the rights gained by the minor upon emancipation and jointly and severally obligates the parents to support the minor.
Companion:	
Package:	None
Current Referral:	HSH, JDL
Introducer(s):	CHUN OAKLAND



STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809-0339

February 16, 2015

Memorandum

TO: The Honorable Suzanne Chun Oakland, Chair
Senate Committee on Human Services and Housing

FROM: Rachael Wong, Director

SUBJECT: S.B. 492 Relating to Children
Hearing: Tuesday, February 17, 2015, 1:20 p.m.
Conference Room 016, State Capitol

PURPOSE: The purpose of this bill provides a means by which an unaccompanied youth may petition the family court for emancipation, directs the court regarding investigation of the petition, appoints counsel for the petitioner, and articulates the findings necessary to grant the petition. The bill provides that the court may mandate the child welfare services to investigate statements within the petition and file a report with the court. The bill also outlines the rights gained by the minor upon emancipation and jointly and severally obligates the parents to support the minor. The bill proposes that an unaccompanied emancipated minor may, amongst other things, apply for public benefits.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) respectfully opposes this measure on several grounds.

Child Welfare Services (CWS) provides services to children and families in the State of Hawaii when children have been abused and/or neglected and/or are at risk for abuse and/or neglect as mandated by The Child Protective Act, Chapter 587A, Hawaii Revised Statutes.

It is not within its current mandate or the expertise of the CWS to investigate petitions for emancipation by a minor.

If the petition is based upon allegations regarding possible abuse or neglect of the minor, section 350-1.1(a)(4) and (b), HRS, mandates court officials who have reason to believe that child abuse or neglect has occurred or may occur in the reasonably near future to report to CWS or the police. Upon receipt of such a report, CWS will initiate an investigation per Chapter 587A, HRS.

Furthermore, another reason to oppose the measure is with regard to public benefits: a single unaccompanied minor, without a dependent minor child, would not be eligible to apply for federal or state financial public assistance. To be eligible for federally funded Temporary Assistance for Needy Families (TANF) or state funded Temporary Assistance for Other Needy Families (TAONF) as a child-only case, the minor would have to be part of a larger household, generally with a specified adult relative who would be the applicant for minor.

A single unaccompanied minor would not be eligible for State funded General Assistance (GA) for single disabled adults, as it is limited to disabled adults, ages 18 through 64, without dependent minors. Similarly, Assistance to Aged, Blind and Disabled (AABD) is for adults 65 year or older.

Thank you for the opportunity to provide comments on this measure.



The Judiciary, State of Hawaii

Testimony to the Senate Committee on Human Services and Housing

Senator Suzanne Chun Oakland, Chair

Senator Josh Green, Vice Chair

Tuesday, February 17, 2015

1:20 p.m.

State Capitol, Conference Room 016

By

R. Mark Browning

Deputy Chief Judge, Senior Family Judge

Family Court of the First Circuit

Bill No. and Title: Senate Bill No 492, Relating to Children.

Purpose: Provides a means by which an unaccompanied minor may petition the family court for emancipation, and directs the court regarding investigation of the petition, appointing counsel for the petitioner, and the findings necessary to grant the petition. Outlines the rights gained by the minor upon emancipation and jointly and severally obligates the parents to support the minor.

Judiciary's Position:

The Family Court takes no position on Senate Bill No. 492 but respectfully requests that the Legislature consider the following suggested changes.

1. Page 1, line 4: The title of this section is more accurately "Emancipation of youth." This section is not just limited to youth who may be "unaccompanied." There might be confusion if a youth were "accompanied" by someone other than a parent or legal guardian.

2. Page 2, line 6: Delete "Appoint a guardian ad litem for the minor." And, insert, "Require the youth to receive a mental health evaluation from an appropriate mental health professional from the Department of Health." This requirement should be discretionary rather than mandatory. However, it is a discretion that may be crucial depending on the youth.



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3. Page 2, line 9: Insert a new section (1) “Appoint a guardian ad litem for the minor.” The rest of section (c) should be renumbered accordingly. A youth seeking emancipation is not yet emancipated. The youth and the court require an adult professional or trained volunteer to focus on the youth’s best interests, which may be different from the youth’s wishes.
4. Page 2, lines 9-10: Delete “at the State’s expense.” We are suggesting that the court be allowed to require parents and legal guardians to cover costs if they have the ability to do so.
5. Page 2, from line 18: Delete the current section (3) and replace with:

“Provide service of the petition and notice of hearing to the minor’s parents or legal guardians. The court appointed counsel shall assist the youth to locate the parents or legal guardians. Upon a showing of due diligence to locate the parents or legal guardians, the court may waive notice requirements; and”
6. Page 3, line 8: Change to o read: “after a hearing, it is found by clear and convincing evidence that”. The dissolution of the legal relationship between a minor and his/her parents and the termination of the parents’ responsibilities for the care and support of their child affect a socially recognized fundamental relationship and should require a higher standard of proof.
7. Page 3, line 14: A new section (3) to read: “The parents are unable or unwilling to provide basic material support to the minor in the form of food, shelter, clothing and medical care, or the parents have deserted or abandoned the minor; or”. The present section (3) should be renumbered (4). The “or” in line 13 should be deleted.
8. Page 6, line 1: Section (14) to read: “The right to make a will and other estate planning documents, including, but not limited to, trust documents, durable power of attorney, advance health care directive.”
9. Page 6, lines 7 to 14: This should be deleted because an “emancipated youth” is a minor who is emancipated by the court under these new provisions. Listing an incomplete definition can cause confusion.
10. Page 6, line 15: Throughout this bill, “youth” and “minor” are used interchangeably. We suggest that one term be used consistently *or* line 15 should read: “‘Minor’ or ‘youth’ mean a person under the age of majority.”
11. A new section to add (perhaps before or after section (g)): “The court may require the minor’s parents or legal guardians to pay for services court ordered for the minor, including,



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but not limited to, service of the petition, the guardian ad litem, counsel, mental health providers.”

Thank you for the opportunity to provide testimony on this matter.

TESTIMONY OF THOMAS D. FARRELL
Regarding Senate Bill 492, Relating to the Children

Committee on Human Services and Housing
Senator Suzanne Chun Oakland, Chair

Tuesday, February 17, 2015 1:20 p.m.
Conference Room 016, State Capitol

Dear Senator Chun Oakland and Members of the Committee:

I support SB 492.

This bill would create explicit legal authority, procedures, and standards for a minor to petition the family court for emancipation.

In the twenty years that I have practiced family law (out of almost thirty five total), I have occasionally been asked about emancipation. It doesn't come up often, but when it does there are usually unique circumstances that support the claim. Unlike most states, however, Hawaii does not have any statutory authority or process for emancipation.

SB 492 appears to impose reasonable limits and standards on emancipation, and I do not believe the family court will be flooded with emancipation petitions.

Thank you for the opportunity to testify this afternoon.

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Robert Olague, President
Judith F. Clark, Executive Director
American Civil Liberties Union of Hawaii
Bay Clinic, Inc.
Big Brothers Big Sisters of Honolulu
Big Island Substance Abuse Council
Blueprint for Change
Bobby Benson Center
Catholic Charities Hawaii
Child and Family Service
Coalition for a Drug Free Hawaii
Domestic Violence Action Center
EPIC, Inc.
Family Programs Hawaii
Family Support Hawaii
Hale Kipa, Inc.
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Hawaii Behavioral Health
Hawaii Student Television
Hina Mauka Teen Care
Hui Malama Learning Center
Ka 'analike
KEY (Kualoa-Heeia Ecumenical Youth)
Project
Kokua Kalihi Valley
Life Foundation
Marimed Foundation
Maui Youth and Family Services
Palama Settlement
P.A.R.E.N.T.S., Inc.
Parents and Children Together (PACT)
Planned Parenthood of Hawaii
Salvation Army Family Intervention Svcs.
Sex Abuse Treatment Center
Susannah Wesley Community Center
The Catalyst Group
The Children's Alliance of Hawaii
Waikiki Health Center
Women Helping Women
YWCA of Kauai

February 6, 2015

To: Senator Suzanne Chun Oakland, Chair
And members of the Committee on Human Services

TESTIMONY IN SUPPORT OF SB 492 RELATING TO CHILDREN

Hawaii Youth Services Network (HYSN), a statewide coalition of youth-serving organizations, supports the intent of SB 492 Relating to Children

Minors are a group of individuals with few responsibilities, many restrictions, and a complex legal status that maintains a dependency on adults for privilege and access to resources. Unemancipated minors face significant challenges; even when living independently, they cannot consent, rent, or borrow, and still can be picked up by the police as runaways. Removing these impediments is essential but the legal transformation of minor to adult should not solely be based on one's age or ability to manage financially. Emancipation of a minor should be case specific and involve systematic examination by the minor, their families, judicial, and state support services to ensure that the minor is capable of taking on all the responsibilities of adult living.

Often, teenagers will think of themselves as adults and capable of fully taking care of themselves, especially if the teen has been granted a great deal of independence or the burdened with an inordinate amount of responsibility. But, thinking oneself an adult and even acting as an adult, for example, moving out of the parental home, or getting a job should not be the only evidence evaluated in the emancipation a minor.

Minors seeking emancipation may not grasp the complete meaning of adult legal status. In that is ends significant aspects of the legal relationship between minors and their parents while reordering familial relationships in the process. Care should also be taken to ensure the minors emancipation is not facilitated by a parental abdication of caretaking responsibilities.

Emancipation should not be a method used to resolve intrafamilial disputing or conflict.

HYSN encourages legislature to appoint a task force to thoroughly examine the emancipation of minors in Hawaii and provide recommendations on the emancipation process for minors with safeguards to ensure the success of emancipated youth.

Thank you for this opportunity to testify.

Sincerely,

A handwritten signature in black ink that reads "Judith F. Clark". The signature is written in a cursive style with a large, sweeping initial "J".

Judith F. Clark, MPH
Executive Director

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TO: Senator Suzanne Chun Oakland, Chair
Senator Josh Green, Vice-Chair
Senate Committee on Human Services and Housing

FROM: Dyan M. Medeiros
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Phone: 524-5183

HEARING DATE: February 17, 2015 at 1:20 p.m.

RE: Testimony Regarding SB492 Relating to Children

Good morning Senator Shimabukuro, Senator Galuteria, Senator Chun Oakland, Senator Green, and members of the Committees. My name is Dyan Medeiros. I am a partner at Kleintop, Luria & Medeiros, LLP and have concentrated my practice solely in the area of Family Law for more than sixteen (16) years. I am also a past Chair of the Family Law Section of the Hawaii State Bar Association. I submit this testimony regarding SB492.

SB492 seeks to provide a mechanism for minors between the ages of 16 and 18 to emancipate themselves. Although the bill purports to require the minor to show that he or she is self-supporting or capable of being self-supporting, the bill also states that the parents of an emancipated minor are liable for supporting that minor. Simply put, these two concepts are inconsistent. If a child wishes to be emancipated and is emancipated by Court order, there should be no obligation on the part of that child's parents to further support that child. For this reason, I suggest that subsection (f) be deleted from this bill.

Thank you.