



STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 01/30/2018
Time: 09:30 AM
Location: 329
Committee: House Health and Human Services

Department: Education

Person Testifying: Dr. Christina M. Kishimoto, Superintendent of Education

Title of Bill: HB 1859 RELATING TO CHILDREN.

Purpose of Bill: Allows a minor to petition the Family Court for emancipation, and directs the court regarding investigation of the petition, appointment of legal counsel and a guardian ad litem for the petitioner, and the findings necessary to grant the petition. Specifies the rights gained by the minor upon emancipation and authorizes the court to require the minor's parents or legal guardians to pay for any services ordered by the court.

Department's Position:

The Department of Education supports the intent of HB 1859 to allow a minor to petition the Family Court for emancipation.

Minors who have petitioned and have been declared by the court emancipated will be empowered to make educational and health-related decisions necessary to attain their personal aspirations, including access to financial aid for college and/or vocational training.

Thank you for the opportunity to provide testimony on HB 1859.

The Hawaii State Department of Education seeks to advance the goals of the Strategic Plan which is focused on student success, staff success, and successful systems of support. This is achieved through targeted work around three impact strategies: school design, student voice, and teacher collaboration. Detailed information is available at www.hawaiipublicschools.org.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2018**

ON THE FOLLOWING MEASURE:

H.B. NO. 1859, RELATING TO CHILDREN.

BEFORE THE:

HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES

DATE: Tuesday, January 30, 2018 **TIME:** 9:30 a.m.

LOCATION: State Capitol, Room 329

TESTIFIER(S): Russell A. Suzuki, First Deputy Attorney General, or
Ian T. Tsuda, Deputy Attorney General

Chair Mizuno and Members of the Committee:

The Department of the Attorney General appreciates the intent of this bill and provides the following comments.

The purpose of this bill is to allow minors to petition the Family Court for emancipation. This bill establishes the circumstances under which a minor may file a petition, the procedural requirements of the emancipation process, the findings necessary to grant the petition, the rights gained by the minor upon emancipation, and the court's authority to require the minor's parents to pay for any ordered services.

There are three concerns the Department has for this bill as currently written. First, subsection (c)(1) is overly broad and may subject the Department of Human Services (DHS) to investigate issues that are outside the scope of its duties and responsibilities. Under the Child Protective Act (CPA), the DHS is tasked with investigating reports of harm, imminent harm, and threatened harm against children by the acts or omissions of their family. See, Hawaii Revised Statutes (HRS) §§ 587A-4 and 587A-11. However, under the current version of this bill the DHS may be required by the court to investigate any "statements made in the petition," regardless of whether they involve an allegation of child abuse or neglect. To remedy this, the Department recommends that subsection (c)(1) on page 2, lines 17-19, be amended to read as follows:

“(1) Require child welfare services to investigate any reports or allegations of child abuse or neglect and to file a report of that investigation with the court; or”

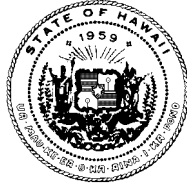
Second, subsection (c)(2) could require the Department of Health (DOH) to arrange for a mental health evaluation for a minor who otherwise would not qualify for such services, nor have issues that rise to the level of behavioral health treatment. When the DOH makes arrangements for a minor to undergo a mental health evaluation, its goals are the assessment and treatment of a minor who has been identified as having behavioral health concerns. However, this subsection could obligate the DOH to become unnecessarily involved in every petition for emancipation, regardless of the need for treatment. Thus, the Department recommends that subsection (c)(2) on page 3, lines 1-3, be amended to read as follows:

“(2) Require the minor to receive a mental health evaluation from an appropriate mental health professional, as arranged for by the court or the minor’s parent(s) or guardian(s).”

Third, the Department is concerned what the effect of granting a petition for emancipation would have if the child is simultaneously under the custody or supervision of the DHS. A minor in a CPA case can have one of three outcomes before case closure: (1) reunification with a safe and fit parent or legal custodian, (2) permanency through adoption or legal guardianship by an appropriate person(s), or (3) permanent custody to an authorized agency. See, HRS §§ 587A-4, 587A-30, 587A-31, and 587A-32. These outcomes would be difficult to implement if a minor is emancipated prior to case closure because he/she will have virtually all the legal rights of an adult *and* still be considered a “child” under the CPA, thereby having no recourse to conclude that case prior to reaching the age of majority. See, HRS § 587A-4. As a result, the minor’s CPA case may remain in limbo for a significant amount of time due to this paradox.

To remedy this, the Department proposes the addition of a subsection stating that “if the minor has an active case under chapter 587A pursuant to sections 571-11(9) and 587A-5, these proceedings shall be stayed until the final disposition of the chapter 587A case.”

We request that the bill be amended as recommended.



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

January 29, 2018

TO: The Honorable Representative John M. Mizuno, Chair
House Committee on Health & Human Services

FROM: Pankaj Bhanot, Director

SUBJECT: **HB 1859 - Relating to Children**

Hearing: Tuesday, January 30, 2018 at 9:30 a.m.
Conference Room 329, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) has reservations and offers comments related to Department of Human Services related issues only. DHS defers to the Judiciary and the Department of the Attorney General.

PURPOSE: The purpose of the bill is to allow a minor to petition the Family Court for emancipation, and directs the court regarding investigation of the petition, appointment of legal counsel and a guardian ad litem for the petitioner, and the findings necessary to grant the petition. The bill also specifies the rights gained by the minor upon emancipation and authorizes the court to require the minor's parents or legal guardians to pay for any services ordered by the court.

The department recommends the (highlighted below) insertion of "regarding allegations of child abuse and neglect" after the word "statements" on page 2, line 18 of the bill,

- (1) Require child welfare services to investigate the statements regarding allegations of child abuse and neglect made in the petition and file a report of that investigation with the court; or[.]

This would make this chapter consistent with Chapter 350 Child Abuse and 587A Child Protective Act, Hawaii Revised Statutes.

As drafted, section (e) 2 is the definition of neglect and would necessitate an investigation by DHS. DHS recommends that section (e) 2 include language from (e) 3 which states, “that the best interest for the minor will be served by separation from the minor’s parents or legal guardians, that the minor is currently self-supporting or is capable of self-support and of managing the minor’s own financial affairs, and that emancipation is in the best interest of the minor.”

Thank you for the opportunity to testify on this bill.

HAWAII YOUTH SERVICES NETWORK

677 Ala Moana Boulevard, Suite 904 Honolulu, Hawaii 96813

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Web site: <http://www.hysn.org> E-mail: info@hysn.org

Rick Collins, President

Judith F. Clark, Executive Director

Bay Clinic

Big Brothers Big Sisters of
Hawaii

Bobby Benson Center

Child and Family Service

Coalition for a Drug Free Hawaii

Domestic Violence Action Center

EPIC, Inc.

Family Programs Hawaii

Family Support Hawaii

Friends of the Children of
West Hawaii

Hale Kipa, Inc.

Hale 'Opio Kauai, Inc.

Hawaii Children's Action
Network

Hawaii Student Television

Ho'ola Na Pua

Kahi Mohala

Kokua Kalihi Valley

Maui Youth and Family Services

P.A.R.E.N.T.S., Inc.

Parents and Children Together
(PACT)

Planned Parenthood of the
Great Northwest and
Hawaiian Islands

PHOCUSED

Salvation Army Family

Intervention Services

Sex Abuse Treatment Center

Susannah Wesley Community
Center

The Catalyst Group

January 26, 2018

To: Representative John Mizuno
And members of the Committee on Health and Human Services

COMMENTS ON HB 1859 RELATING TO CHILDREN

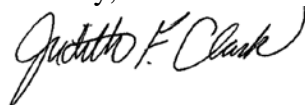
Hawaii Youth Services Network (HYSN), a statewide coalition of youth-serving organizations, is providing comments on HB 1859 Relating to Children.

The bill does not provide clear guidelines about what constitutes "self-supporting" or how the minor's capacity to provide self-support and manage the minor's own financial affairs will be assessed. Furthermore, the ability to manage one's own affairs goes far beyond financial support – managing health care needs, for example.

It is not clear whether youth who are in the custody of Child Welfare Services would be eligible to apply for emancipation. Further clarification is needed on what services designed for minors the youth would still be able to access, such as those provided by the Child and Adolescent Mental Health Division. Would emancipated minors continue to be eligible for health care through their parents' health insurance plans?

Thank you for this opportunity to testify.

Sincerely,



Judith F. Clark, MPH
Executive Director