

Honolulu, Hawaii

FEB 12 2019

RE: S.B. No. 210
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2019
State of Hawaii

Sir:

Your Committee on Human Services, to which was referred S.B. No. 210 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) Require the family court to terminate parental rights if the court determines, by clear and convincing evidence, that a natural parent committed sexual assault of the other natural parent; the child was conceived as a result of the sexual assault by the parent; and termination of parental rights is in the best interests of the child, under certain conditions; and
- (2) Require the family court to suspend custody and visitation, after proper filing of a petition and a hearing, to any child whose parent or legal guardian is charged for a sexual assault or other offense, under certain conditions.

Your Committee received testimony in support of this measure from the O'ahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i, The Sex Abuse Treatment Center, and three individuals. Your Committee received comments on this



measure from The Judiciary, Department of the Attorney General, and Hawaii Women's Coalition.

Your Committee finds that the impact of sexual violence is significant. Victims face not only emotional trauma, but also significant physical consequences, including pregnancy. Your Committee further finds that in cases where a victim is co-parenting a child with the parent charged for sexually assaulting the victim, the no contact orders of the criminal court and the temporary restraining order issued by civil courts may still allow that parent continued custody or visitation with the victim's child. This enables the parent charged for sexually assaulting the victim to continue exercising influence and control on the victim through their child, which places the child in a potentially dangerous and traumatic situation.

This measure requires the family court to terminate parental rights on a finding by clear and convincing evidence that the natural parent committed sexual assault of the other natural parent and the child was conceived as a result of the sexual assault and allows a victim to petition in family court for an order suspending custody and visitation for a parent charged for sexually assaulting the victim, with a rebuttable presumption that such suspension is in the best interest of the child. Your Committee further finds that this measure preserves the integrity of criminal justice proceedings and protects the safety and well-being of victims of sexual assault and their children.

Your Committee has amended this measure by:

- (1) Adopting language suggested by the Department of the Attorney General that:
 - (A) Requires the court to consider the best interests of the child when issuing stay away orders for a defendant out on release; and
 - (B) Permits the termination of parental rights under certain circumstances, even when the termination does not facilitate the child's adoption; 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 Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 210, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 210, S.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Human Services,



RUSSELL E. RUDERMAN, Chair



The Senate
Thirtieth Legislature
State of Hawai'i

Record of Votes
Committee on Human Services
HMS

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 210	HMS, JDC	1/30/19		
<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 type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
RUDERMAN, Russell E. (C)	✓			
RHOADS, Karl (VC)	✓			
IHARA, Jr., Les		✓		
RIVIERE, Gil	✓			
FEVELLA, Kurt	✓			
TOTAL	4	1	0	0
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Karl Rhoads</i>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes