

Honolulu, Hawaii

FEB 14 2019

RE: S.B. No. 449
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. 449 entitled:

"A BILL FOR AN ACT RELATING TO CHILDREN,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Establish in the Department of the Attorney General a child abuse investigation unit;
- (2) Allow the Department of the Attorney General to intervene in adjudications in family court;
- (3) Enact the Uniform Child Witness Testimony by Alternative Methods Act, which authorizes courts to allow for children to testify in a place other than an open forum or away from the finder of fact, court, or parties; and
- (4) Require the court and the prosecution to take appropriate action to ensure a prompt trial in order to minimize the length of time a child abuse victim or minor witness must endure the stress of the child's involvement in the proceedings.

Your Committee received testimony in support of this measure from the Commission to Promote Uniform Legislation, Malama O Puna,



O'ahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i, Kapi'olani Medical Center for Women and Children, and two individuals. Your Committee received testimony in opposition to this measure from the Office of the Public Defender, State of Hawai'i and Hawai'i Supreme Court Standing Committee on the Hawai'i Rules of Evidence. Your Committee received comments on this measure from the Department of the Attorney General and Department of Human Services.

Your Committee finds that child abuse victims have as much a right to a speedy trial as do defendants and adult perpetrators of child abuse. Your Committee further finds that the failure to provide a speedy trial to child abuse victims further traumatizes the child, who may develop childhood memories of a haunting assault, particularly sexual assault. Additionally, over time and as a coping mechanism, a child may suppress details of the abuse, which are critical in the child's testimony. Your Committee also finds that requiring children to testify in person may cause child abuse victims emotional distress. This measure will require an expedited disposition of cases in all criminal proceedings involving abuse of minors, so they are not forced to continue to relive their trauma.

Your Committee further finds that this measure authorizes child abuse victims to testify via alternative methods, as an attempt to shield a child abuse victim from further emotional distress that may be caused by in-person testimony before a defendant. However, your Committee has heard testimony that this measure, as written, raises potential constitutional concerns. Amendments to this measure are therefore needed to address these concerns, and other concerns raised in testimony.

Your Committee has amended this measure by:

- (1) Removing language that would have established a child abuse investigation unit within the Department of the Attorney General; adopted the Uniform Child Witness Testimony by Alternative Methods Act; and authorized the Attorney General to intervene in any adjudication under the Child Protective Act;
- (2) Clarifying that the expedited proceedings requirements proposed are for criminal proceedings of criminal

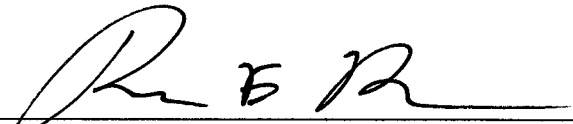


offenses perpetuated against a minor or any other criminal proceedings involving minor victims or witnesses, rather than civil proceedings;

- (3) Permitting judicial discretion when good cause is shown for purposes of granting continuances, commencing trial, and imposing sanctions;
- (4) Updating the purpose section; and
- (7) 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. 449, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 449, S.D. 1, and be referred to your Committees on Judiciary and Ways and Means.

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.:* SB449	Committee Referral: HMS, JDC/WAM	Date: 2/11/19		
<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	3	0	0	2
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