

STAND. COM. REP. NO.

1883

Honolulu, Hawaii

APR 04 2019

RE: H.B. No. 217
H.D. 1
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 Judiciary, to which was referred H.B. No. 217, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO CHILDREN,"

begs leave to report as follows:

The purpose and intent of this measure is to require that when an officer has custody of a child under the age of 16 for an alleged violation of law, the child shall consult with legal counsel before the child waives any constitutional rights and before any custodial interrogation.

Your Committee received testimony in support of this measure from the LGBT Caucus of the Democratic Party of Hawaii, Rainbow Family 808, Community Alliance on Prisons, and Human Rights for Kids. Your Committee received testimony in opposition to this measure from the Department of the Prosecuting Attorney of the City and County of Honolulu and Honolulu Police Department.

Your Committee finds that custodial interrogation of an individual by the State requires the individual be advised of the individual's rights to make a knowing, intelligent, and voluntary waiver of those rights before the interrogation proceeds. Your Committee further finds that children generally lack the maturity and experience to effectively understand and assert their rights. However, your Committee additionally finds that requiring children



to assert their right to legal counsel is potentially vulnerable to constitutional challenge.

Accordingly, your Committee has amended this measure by:

- (1) Requiring that a child in custody have contact with legal counsel or a parent or legal guardian instead of mandating consultation with legal counsel; 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 that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 217, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 217, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

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

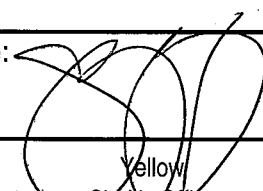


KARL RHOADS, Chair



The Senate
Thirtieth Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary
JDC

| | | | | |
|--|-----------------------------------|-------------------------|----------|----------|
| Bill / Resolution No.:* HB 217 HD1 | Committee Referral: JDC | Date: 3/14/19 | | |
| <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 |
| RHOADS, Karl (C) | ✓ | | | |
| WAKAI, Glenn (VC) | ✓ | | | |
| GABBARD, Mike | ✓ | | | |
| KIM, Donna Mercado | ✓ | | | |
| FEVELLA, Kurt | | | | ✓ |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| TOTAL | 4 | 0 | 0 | 1 |
| Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted | | | | |
| Chair's or Designee's Signature:  | | | | |
| Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy | | | | |

*Only one measure per Record of Votes