

STAND. COM. REP. NO. 2962

Honolulu, Hawaii

FEB 27 2020

RE: S.B. No. 2603
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2020
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B.
No. 2603 entitled:

"A BILL FOR AN ACT RELATING TO FAMILY COURTS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Clarify that if a court determines that a parent has a felony conviction for a violent or sexual offense in which the victim was a minor, or if a parent is required to register as a sex offender, such classification raises a rebuttable presumption that it is detrimental and not in the best interest of the child to grant that parent custodial rights;
- (2) Clarify that no child shall be placed in a home in which a person resides who has committed family violence, has a felony conviction for a violent or sexual offense in which the victim was a minor, or is required to register as a sex offender, nor have unsupervised visitation with that person, unless the court states the reasons for its findings in writing or on the record;
- (3) Establish that no person shall be granted physical or legal custody of, or unsupervised visitation with, a child if anyone residing in that person's household is



required to register as a sex offender (where the victim is not a minor) unless the court finds there is no significant risk to the child and states its reasons in writing or on the record;

- (4) Establish that the requirement that a person register as a sex offender as a result of a felony conviction in which the victim was a minor shall be prima facie evidence that the child is at significant risk;
- (5) Establish that no person shall be granted custody of, or unsupervised visitation with, a child if the person has been convicted of murder in the first degree and the victim of the murder was the other parent of the child, unless the court finds there is no risk to the child's health, safety, and welfare, and states the reasons for its findings in writing or on the record; and
- (6) Clarify that no court shall disclose the custodial parent's place of residence, place of employment, or the child's school, unless the court finds disclosure would be in the best interests of the child.

Your Committee received testimony in support of this measure from the LGBT Caucus of the Democratic Party of Hawai'i, Rainbow Family 808, Hawaii Family Advocacy Team; The Sex Abuse Treatment Center, and twenty-one individuals.

Your Committee finds that existing law does not adequately safeguard children from being placed in the custody of or permitting visitation with a parent who may have committed a violent or sexual offense against a non-family member minor, or a parent who lives with a person who has committed such an offense. This measure creates a rebuttable presumption of significant risks to a child to ensure that children are not placed in custody or unsupervised visitation with persons who are deemed likely to harm the child or jeopardize the child's safety.

Your Committee has amended this measure by:

- (1) Deleting language that would have provided that the presumption shall not apply if there are mitigating factors, including whether a party seeking custody or



visitation is required, as the result of a felony conviction in which the victim was a minor, to register as a sex offender;

- (2) Clarifying that when making a determination regarding significant risk to the child, the court shall deem a person who is required, as a result of a felony conviction in which the victim was a minor, to register as a sex offender, to constitute a presumption of risk, affecting the burden of producing evidence;
- (3) Inserting a defective date of August 26, 2050, to encourage further discussion; and
- (4) 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 S.B. No. 2603, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2603, 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.:* SB 2603	Committee Referral: JDC	Date: 1/31/20		
<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)	/			
KEOHOKALOLE, Jarrett (VC)	/			
GABBARD, Mike				/
KIM, Donna Mercado	/			
FEVELLA, Kurt	/			
TOTAL	4			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**