

STAND. COM. REP. NO. **194** -22

Honolulu, Hawaii
FEB 10 , 2022

RE: H.B. No. 1933
H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirty-First State Legislature
Regular Session of 2022
State of Hawaii

Sir:

Your Committee on Government Reform, to which was referred
H.B. No. 1933 entitled:

"A BILL FOR AN ACT RELATING TO PERSONS WORKING WITH
CHILDREN,"

begs leave to report as follows:

The purpose of this measure is to:

- (1) Establish rules of ethics applicable to persons who work with children pursuant to a contract with the State;
- (2) Establish additional procedures for persons contracted by the State to provide services to children, including fees, candor and fairness before a tribunal, standards of proof, and a process for filing complaints; and
- (3) Specify that the contracts of any person who violates the rules of ethics are voidable on behalf of the State.

Your Committee received testimony in support of this measure from the Hawaii Family Advocacy Team, Hawai'i Appleseed Center for Law and Economic Justice, and ten individuals. Your Committee received comments on this measure from the Hawai'i State Ethics Commission.

2022-1135 HB1933 HD1 HSCR HMSO-1



Your Committee finds that families with children who are involved in Family Court custody matters already encounter stressful and uncomfortable situations. The situation is made exponentially worse when one side feels they are not being treated fairly or are being discriminated against or that there is bias in the process.

Your Committee further finds that various professionals are hired by the State to provide evaluations, fact finding, and other information relating to the children involved in custody matters. However, there are currently no rules of ethics that these contracted professionals are bound to follow. This measure will provide accountability for those professionals by establishing a rule of ethics for persons contracted by the State to work with children and will help families who are disproportionately involved in custody disputes.

Your Committee recognizes the testimony submitted about the situation that Calvin Stremel faced as a result of a conflict of interest with the custody evaluator. This measure recognizes Calvin's tragic experiences and will ensure that no such conflict of interest will occur in cases where professionals who work with children are contracted by the State. Your Committee has accordingly amended this measure to be titled "Calvin's Law", in recognition of his story.

Your Committee has further amended this measure by:

- (1) Including trials, hearings, and custody evaluations in the definition of "matter";
- (2) Specifying that a concurrent conflict of interest exists between a contracted person and a client if there is a significant risk that the provision of services to the client will be materially limited by a pecuniary interest of the contracted person;
- (3) Requiring written consent from a client after consultation, prior to:
 - (A) A contracted person receiving compensation for the provision of services to the client from a person other than the client;

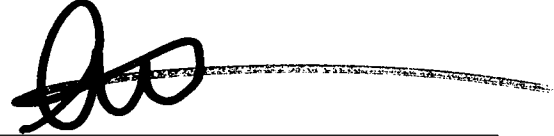


- (B) Services being provided by a contracted person who is related to another contracted person if the services are directly adverse to the client;
 - (C) Services being provided by a contracted person in any matter involving a lawyer or law firm with whom the covered person has a personal relationship; and
 - (D) Services being provided by a contracted person who has formerly served as a public officer or employee of the government, any contracted persons in a firm with which that contracted person is associated, and by a firm with which a contracted person with confidential government knowledge is associated;
- (4) Specifying that a contracted person who has formerly served as a public officer or employee of the government is subject to the existing restrictions in post-employment as stated in chapter 84, Hawaii Revised Statutes, relating to standards of ethics for government employees;
 - (5) Specifying that a contracted person shall not falsify or omit evidence;
 - (6) Clarifying that a contracted person making a recommendation to a tribunal shall base any and all recommendations on the relevant evidence standard, as defined in Rule of 401 of the Hawaii Rules of Evidence;
 - (7) Changing its effective date to July 1, 2112, to encourage further discussion; and
 - (8) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Government Reform that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1933, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1933, H.D. 1, and be referred to your Committee on Health, Human Services, & Homelessness.



Respectfully submitted on
behalf of the members of the
Committee on Government Reform,

A handwritten signature in black ink, appearing to be 'AM', with a long horizontal line extending to the right.

ANGUS L.K. McKELVEY, Chair



