

Honolulu, Hawaii

MAR 04 2022RE: S.B. No. 2072
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2022
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B.
No. 2072, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO COURT-APPOINTED ATTORNEYS,"

begs leave to report as follows:

The purpose and intent of this measure is to require the court to appoint counsel to indigent parents upon the filing of a petition for custody or family supervision and make every effort to do so at the first hearing attended by the parents.

Your Committee received testimony in support of this measure from the Health Committee of the Democratic Party of Hawai'i, National Coalition for a Civil Right to Counsel, and ACLU of Hawai'i.

Your Committee finds that the Hawaii Supreme Court held in *In re L.I.*, 149 Hawaii 118 (2021), that parents are constitutionally entitled to counsel upon the filing of a petition for either custody or family supervision and that the failure to timely appoint counsel in those cases constitutes structural error requiring reversal. Your Committee further finds that as currently written, the Hawaii Revised Statutes does not require the court to appoint counsel to indigent parents in custody or family supervision proceedings. Instead, as currently written, the appointment of counsel to indigent parents is discretionary. This measure therefore requires that the court appoint counsel to



indigent parents in custody or family supervision proceedings, which will ensure that indigent parents have the right to counsel when a child's placement and care is at stake.

Your Committee notes that there are questions as to whether the scope of the measure adequately addresses which proceedings parents should be appointed counsel for and whether it includes proceedings involving the termination of parental rights.

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. 2072, S.D. 1, and recommends that it pass Third Reading.

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



KARL RHOADS, Chair



