

STAND. COM. REP. NO. 2568

Honolulu, Hawaii

FEB 18 2022

RE: S.B. No. 2422
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 Human Services, to which was referred S.B. No. 2422 entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require certain persons to immediately submit a written report to the court if the person has reasons to believe that a child in foster custody has suffered an injury that may arise to a tort claim; and
- (2) Establish procedures for Family Court to follow when appointing a master to investigate a potential tort claim and when authorizing the filing of a tort claim on behalf of an injured child, including the opportunity for an injured child to obtain outside legal representation.

Your Committee received testimony in support of this measure from Potts & Potts, Hawai'i Trial Attorneys; and four individuals. Your Committee received testimony in opposition to this measure from the Judiciary. Your Committee received comments on this measure from the Department of Human Services and Department of the Attorney General.



Your Committee finds that when a child in foster custody suffers an injury caused by others, the medical costs are covered by the State; however, the child is unable to obtain legal representation to file a civil tort claim for personal injuries, including seeking damages for pain and suffering. This measure requires certain persons to report directly to Family Court injuries suffered by a child that may arise to a tort claim and provides disenfranchised children who suffer harm while in foster custody the opportunity to be compensated for their injuries.

Your Committee notes the testimony of the Department of the Attorney General raising concerns of a possible conflict of interest for the master, since this measure does not include a source of payment for the master to conduct a thorough, unbiased investigation other than filing a lawsuit against the alleged perpetrator to recover the master's costs.

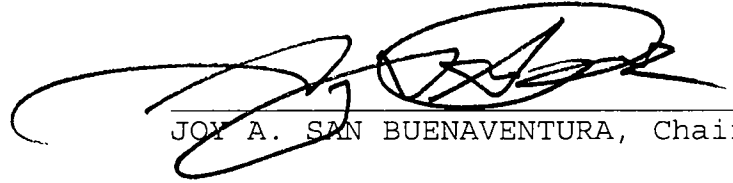
Your Committee has amended this measure by:

- (1) Deleting the provisions that require the court-appointed master to investigate and determine the merits of the potential tort claim;
- (2) Deleting the provisions relating to the court's issuance of an order authorizing the filing of a tort claim on behalf of the injured child, including provisions relating to appointment of outside counsel to represent the injured child;
- (3) Appropriating an unspecified amount of funds for the Judiciary to compensate a court-appointed master pursuant to this measure; and
- (4) Changing the effective date to conform with the added appropriation provision.

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. 2422, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2422, 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,

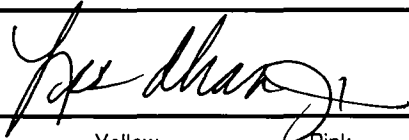


JOY A. SAN BUENAVENTURA, Chair



The Senate
Thirty-First Legislature
State of Hawai'i

Record of Votes
Committee on Human Services
HMS

Bill / Resolution No.:* SB2422	Committee Referral: HMS, JDC	Date: 2/15/22		
<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
SAN BUENAVENTURA, Joy A. (C)	✓			
IHARA, Jr., Les (VC)	✓			
ACASIO, Laura	✓			
MISALUCHA, Bennette E.	✓			
FEVELLA, Kurt	✓			
TOTAL	5	0	0	0
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