

STAND. COM. REP. NO.

2141

Honolulu, Hawaii

MAR 03 2022

RE: S.B. No. 2642
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. 2642 entitled:

"A BILL FOR AN ACT RELATING TO FAMILY,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Establish an exemption from mediation in paternity proceedings where there are allegations of domestic abuse; and
- (2) Amend the exemption from mediation in divorce proceedings by disallowing mediation when there are allegations of domestic violence.

Your Committee received testimony in support of this measure from the Domestic Violence Action Center, Hawaii State Democratic Women's Caucus, and two individuals. Your Committee received testimony in opposition to this measure from the Judiciary.

Your Committee finds that the waiver of the requirement to participate in mediation was included in the divorce statute many years ago. Your Committee further finds that many partners do not marry but rather cohabit and have children in common. If abuse occurs in the household, the issue of custody must be resolved when the relationship ends. Mediation is not the



appropriate intervention for resolving custody and visitation issues when there has been domestic violence. This measure amends the paternity statute so that it excludes the mediation requirement when there has been domestic violence similar to the mediation exclusion under the divorce statute.

Your Committee has amended this measure by:

- (1) Adopting changes recommended by the Judiciary as follows:
 - (A) Clarifying that in contested paternity proceedings where there are allegations of domestic abuse, the court shall not require a party alleging the domestic abuse to participate in any component of any mediation program against the wishes of that party;
 - (B) Prohibiting a mediator from engaging in mediation in paternity proceedings where there are allegations of domestic violence unless certain requisites are met;
 - (C) Specifying that in paternity proceedings if there is a temporary restraining or protective order in effect, the court shall not require a party alleging domestic abuse to participate in any component of any mediation program against the wishes of that party;
 - (D) Specifying that the court may order mediation in paternity proceedings where there are allegations of domestic abuse if there is no temporary restraining or protective order under certain circumstances;
 - (E) Clarifying that in contested divorce proceedings where there are allegations of domestic abuse, the court shall not require a party alleging the domestic abuse to participate in any component of any mediation program against the wishes of that party;



- (F) Prohibiting a mediator from engaging in mediation in divorce proceedings where there are allegations of domestic violence unless certain requisites are met;
 - (G) Specifying that in divorce proceedings, if there is a temporary restraining or protective order in effect, the court shall not require a party alleging domestic abuse to participate in any component of any mediation program against the wishes of that party; and
 - (H) Specifying that the court may order mediation in divorce proceedings where there are allegations of domestic abuse if there is no temporary restraining or protective order under certain circumstances;
- (2) Inserting an effective date of July 30, 2075, to encourage further discussion; and
 - (3) 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. 2642, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2642, 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
Thirty-First Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary
JDC

Bill / Resolution No.:* SB 2642	Committee Referral: JDC	Date: 02-17-22		
<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
RHOADS, Karl (C)	✓			
KEOHOKALOOLE, Jarrett (VC)	✓			
ACASIO, Laura	✓			
GABBARD, Mike	✓			
KIM, Donna Mercado	✓			
LEE, Chris	✓			
FEVELLA, Kurt	✓			
TOTAL	7	-	-	-
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Karl Rhoads</i>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes