

STAND. COM. REP. NO.

2945

Honolulu, Hawaii

MAR 04 2022

RE: S.B. No. 2835
S.D. 2

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. 2835, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO INSURANCE,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Prohibit health insurance companies from denying coverage on the basis of gender identity if the policy covers the treatment for purposes other than gender transition; and
- (2) Require insurance companies to provide applicants and insured persons with clear information about the coverage of gender transition services, including the process for appealing a claim denied on the basis of medical necessity.

Your Committee received testimony in support of this measure from the Hawai'i Civil Rights Commission, North Shore Ko'olau Diversity Collective, Northwest Society of Plastic Surgeons, American Society of Plastic Surgeons, Rainbow Family 808, Stonewall Caucus of the Democratic Party of Hawai'i, Hawai'i Health & Harm Reduction Center, Hawai'i Public Health Institute, National Center for Transgender Equality, Transgender Law Center, AF3IRM Hawai'i, and thirty-two individuals. Your Committee received



testimony in opposition to this measure from the Hawaii Medical Services Association. Your Committee received comments on this measure from the Department of Commerce and Consumer Affairs Insurance Division, Hawaii Employer-Union Health Benefits Trust Fund, and Kaiser Permanente Hawaii.

Your Committee finds that many transgender individuals have experienced discriminatory treatment from health insurance providers when seeking coverage for gender-affirming treatments. Your Committee further finds that health insurance policies often cover therapies such as feminizing or masculinizing hormone therapies, voice therapies, chest augmentations or reductions, and genital surgeries for other purposes but deny the same treatments for purposes of gender affirmation. This measure will prohibit health insurance companies from discriminating on the basis of gender identity.

Your Committee has amended this measure by:

- (1) Clarifying that references in the measure to a person's family member are to a person's transgender family member;
- (2) Removing language that would have required that no treatment or service shall be denied on the basis that it is not medically necessary unless a health care provider with experience in prescribing or delivering gender affirming treatment first reviews and confirms the appropriateness of the adverse benefit determination;
- (3) Specifying that a health care provider shall not apply categorical cosmetic or blanket exclusions to gender affirming treatment and, when prescribed as medically necessary gender affirming treatment, a health care provider shall not categorically exclude certain services;
- (4) Retaining the existing definitions of "actual gender identity" and "perceived gender identity";
- (5) Specifying that this measure is known as The Gender Affirming Treatment Act;



- (6) Specifying that nothing in this measure shall be construed to mandate coverage of a service that is not medically necessary and that this measure shall not be subject to any requirement pursuant to section 23-51, Hawaii Revised Statutes;
- (7) Inserting an effective date of July 30, 2075, to encourage further discussion; and
- (8) 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. 2835, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2835, S.D. 2.

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



KARL RHOADS, Chair



