

STAND. COM. REP. NO. **2215**

Honolulu, Hawaii

FEB 10 2022

RE: S.B. No. 2878
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. 2878 entitled:

"A BILL FOR AN ACT RELATING TO CHILDREN,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Expand the original jurisdiction of family court to include proceedings for declaration of emancipation of minors;
- (2) Expand the circumstances under which a minor shall be deemed to be emancipated;
- (3) Specify the rights of an emancipated minor;
- (4) Allow a minor who has reached the age of sixteen years to petition the family court for a declaration of emancipation;
- (5) Allow certain parties to petition the family court for voidance or rescission of a declaration of emancipation;
- (6) Set forth court procedures and standards in issuing, voiding, and rescinding a declaration of emancipation;
and



- (7) Allow parties to appeal the court's decisions pertaining to emancipation to the Intermediate Court of Appeals.

Your Committee received testimony in support of this measure from Hawaii Youth Services Network, Opportunity Youth Action Hui, Stonewall Caucus of the Democratic Party of Hawaii, and one individual. Your Committee received comments on this measure from the Department of Human Services and Judiciary.

Your Committee finds that not all minors in Hawaii have parents or families that can or are willing to provide them with the necessary food, shelter, clothing, opportunity for education, and health care. While various government agencies and non-profit organizations strive to provide these minors with these necessities, your Committee acknowledges that there are certain circumstances in which it may be in the best interest of the child to be emancipated--freed from the custody and control of the parents and be given the rights and responsibilities of an adult. However, under existing Hawaii law, the only way a minor can be emancipated is to get married. This measure allows minors to voluntarily petition the court for a declaration of emancipation based on other reasons and sets forth the procedures and standards for the court to issue, void, and rescind such declarations.

Your Committee notes the testimony of the Hawaii Youth Services Network recommending that the measure include provisions to ensure that the minor is not seeking emancipation under duress.

Your Committee further notes the testimony of the Department of Human Services, requesting the deletion of the provision in this measure that requires Child Welfare Services to investigate the allegations set forth in a petition for declaration for emancipation and report the results to the court, due to the fact that the Department does not have staff or resources to perform these tasks.

Your Committee also notes the testimony of the Judiciary, providing comments and concerns on various provisions in the measure.

Accordingly, your Committee has amended this measure by:



- (1) Deleting from the basis of emancipation, the minor being on active duty with the armed forces of the United States;
- (2) Clarifying that emancipation does not prevent the minor from continuing to receive educational, mental health, or other services the minor is receiving solely due to the minor's age;
- (3) Requiring the petition for declaration of emancipation to be filed on behalf of a minor seeking emancipation, by a youth service organization recognized by the Department of Human Services or the minor's attorney;
- (4) Deleting the requirements that the court, upon receiving a petition for declaration of emancipation:
 - (A) Appoint a legal counsel to represent the interest of the minor;
 - (B) Require Child Welfare Services to investigate the allegations set forth in a petition and report the results to the court; and
 - (C) Provide the minor with a pamphlet written in plain language and counseling that informs the minor of the rights and responsibilities of an emancipated minor and alternative options to emancipation available to the minor;
- (5) Clarifying that clear and convincing evidence that the minor is not seeking emancipation under duress, including by coercion of a parent or guardian is required for the court to issue a declaration of emancipation; and
- (6) 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 Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2878, as amended herein, and recommends that it pass Second



Reading in the form attached hereto as S.B. No. 2878, S.D. 1, and
be referred to your Committee on Judiciary.

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.:*	Committee Referral:	Date:
SB 2878	HMS, JDC	02/03/2022

The Committee is reconsidering its previous decision on this measure.
If so, then the previous decision was to: _____

The Recommendation is:

Pass, unamended 2312 Pass, with amendments 2311 Hold 2310 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	4	0	0	01

Recommendation: Adopted Not Adopted

Chair's or Designee's Signature: 

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*Only one measure per Record of Votes