

Honolulu, Hawaii

FEB 12, 2024

RE: H.B. No. 2428  
H.D. 1

Honorable Scott K. Saiki  
Speaker, House of Representatives  
Thirty-Second State Legislature  
Regular Session of 2024  
State of Hawaii

Sir:

Your Committee on Human Services, to which was referred H.B. No. 2428 entitled:

"A BILL FOR AN ACT RELATING TO THE CHILD PROTECTIVE ACT,"

begs leave to report as follows:

The purpose of this measure is to amend the Child Protective Act by:

- (1) Adding a definition of "exigent circumstances" and amending the definitions of "harm" and "imminent harm";
- (2) Clarifying when the police may take a child into protective custody and when the Department of Human Services may take temporary foster custody of a child without first obtaining a court order; and
- (3) Authorizing the court to order a child to be placed into protective custody and temporary foster custody without notice or a hearing.

Your Committee received testimony in support of this measure from the Department of the Attorney General; Department of Human Services; and one individual. Your Committee received testimony in opposition to this measure from the Judiciary.



Your Committee finds that the intent behind this measure is to prevent the unnecessary removal of children from their parents. However, your Committee notes the testimony from the Judiciary, expressing strong concerns with the language of this measure as introduced. Primarily, the Judiciary raised concerns that this measure does not require the Department of Human Services to file a court petition at the time it seeks an ex parte order from the court directing the police to remove children from their homes. The Judiciary noted that a petition is necessary during a child welfare investigation as it allows the Family Court to invoke its jurisdiction, provides critical information to the court and parties, and triggers the court's obligation to appoint counsel for indigent parents and set a hearing within two days.

Your Committee understands these concerns and recognizes that a petition must be filed if a court is asked to invoke its jurisdiction and make an extraordinary order of taking custody of a child without notice and without a hearing. Your Committee notes that the Judiciary has suggested amendments for this measure to address these concerns.

Accordingly, your Committee has amended this measure by:

- (1) Removing language concerning the necessity of temporary foster custody in the definition of "exigent circumstances";
- (2) Clarifying that a police officer must have reasonable cause based on certain factors to assume protective custody of a child without a court order in cases of exigent circumstances;
- (3) Amending the circumstances for the Department of Human Services to seek an order for protective custody in cases of a child who is subject to imminent harm by:
  - (A) Requiring the Department to file a petition, rather than a written application, with the court;
  - (B) Authorizing the Department to contemporaneously file an ex parte motion for immediate protective custody along with the petition and giving the court discretion to issue an order for protective custody without notice and a hearing; and



- (C) Specifying that the applicable custody hearing will proceed after the court rules on the ex parte motion;
- (4) Changing the effective date to July 1, 3000, to encourage further discussion; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

Your Committee notes that the Department of Human Services indicated to your Committee that it would prefer an extended effective date of July 1, 2025, to provide the Department time to develop policies and procedures and ensure all Department staff and the community receive appropriate training on the processes proposed by this measure.

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 H.B. No. 2428, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2428, H.D. 1, and be referred to your Committee on Judiciary & Hawaiian Affairs.

Respectfully submitted on  
behalf of the members of the  
Committee on Human Services,

  
\_\_\_\_\_  
LISA MARTEN, Chair



Record of Votes of the Committee on Human Services

Bill/Resolution No.: <b>HB 2428</b>	Committee Referral: <b>HUS, JHA</b>	Date: <b>02.06.2024</b>
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The committee is reconsidering its previous decision on the measure.

The recommendation is to:  Pass, unamended (as is)  Pass, with amendments (HD)  Hold  
 Pass short form bill with HD to recommit for future public hearing (recommit)

HUS Members	Ayes	Ayes (WR)	Nays	Excused
1. MARTEN, Lisa (C)	✓			
2. AMATO, Terez (VC)	✓			
3. BELATTI, Della Au	✓			
4. ILAGAN, Greggor	✓			
5. KOBAYASHI, Bertrand	✓			
6. TAKENOUCHI, Jenna	✓			
7. NISHIMOTO, Scott Y.	✓			
8. GARCIA, Diamond			✓	
<b>TOTAL (8)</b>	<b>7</b>	<b>0</b>	<b>1</b>	<b>0</b>

The recommendation is:  Adopted  Not Adopted  
 If joint referral, \_\_\_\_\_ did not support recommendation.  
committee acronym(s)

Vice Chair's or designee's signature: Jay Lura

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