

Honolulu, Hawaii

FEB 20 2015

RE: S.B. No. 492
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawaii

Madam:

Your Committee on Human Services and Housing, to which was referred S.B. No. 492 entitled:

"A BILL FOR AN ACT RELATING TO CHILDREN,"

begs leave to report as follows:

The purpose and intent of this measure is to provide a means for unaccompanied minors to petition the family court for emancipation.

Your Committee received testimony in support of this measure from Farrell and Associates; Hawaii Youth Services Network; and Kleintop, Luria, and Medeiros. Your Committee received testimony in opposition to this measure from the Department of Human Services. Your Committee received comments on this measure from the Judiciary.

Your Committee finds that while emancipation of a minor should not be used as a method to resolve intrafamilial disputes, unemancipated and independent youth face significant challenges due to a complex legal status that maintains their dependency on adults for privilege and access to resources. Your Committee further finds that emancipation of a minor should be a very case-specific determination that involves the minor, the minor's parents or legal guardians, the courts, and state support services to ensure that the minor is capable of taking on all of the responsibilities of adult living.

Your Committee has amended this measure by:

2015-1646 SSCR SMA.doc



- (1) Deleting the word "unaccompanied" from the section title so that the new statutory section applies to all youth;
- (2) Making the appointment of a guardian ad litem mandatory instead of discretionary for youth seeking emancipation;
- (3) Inserting a provision that gives the court discretionary authority to order a youth seeking emancipation to receive a mental health evaluation;
- (4) Deleting language that requires the State to pay for client-directed counsel to represent a minor throughout emancipation proceedings;
- (5) Amending the notice requirement to mandate service of the petition and notice of hearing to the minor's parents or legal guardians and require the court appointed counsel to assist the minor in locating the parents or legal guardians;
- (6) Establishing clear and convincing evidence as the standard of proof required for a court to declare a minor emancipated;
- (7) Inserting a provision that allows the court to declare a minor emancipated if the court finds that a minor's parents are unable or unwilling to provide basic material support to the minor in the form of food, shelter, clothing, and medical care, or the parents have deserted or abandoned the minor;
- (8) Inserting language to establish that a minor emancipated by court order is considered emancipated for the purposes of making a will and other estate planning documents, including trust documents, durable power of attorney, and an advance health care directive;
- (9) Deleting the provision that obligates parents jointly and severally to support their minor child once the minor has been emancipated by court order;
- (10) Inserting a provision that authorizes the court to require parents or legal guardians to pay for court ordered services for the minor, including service of the



petition, the guardian ad litem, counsel, and mental health providers;

- (11) Deleting the definition of "emancipated youth" to prevent confusion;
- (12) Including the term "youth" with the defined term "minor" to clarify that the terms are used interchangeably in the new statutory section; and
- (13) 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 and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 492, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 492, S.D. 1, and be referred to the Committee on Judiciary and Labor.

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


SUZANNE CHUN OAKLAND, Chair



The Senate
Twenty-Eighth Legislature
State of Hawai'i

Record of Votes
Committee on Human Services and Housing
HSH

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| Bill / Resolution No.:* <div style="font-size: 1.5em; font-family: cursive;">SB 492</div> | Committee Referral: <div style="font-size: 1.5em; font-family: cursive;">HSH, JDL</div> | Date: <div style="font-size: 1.5em; font-family: cursive;">4/17/15</div> | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____ | | | | | | | | | | | | | | | | | | | | |
| The Recommendation is: <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="text-align: center;"> <input type="checkbox"/> Pass, unamended 2312 </div> <div style="text-align: center;"> <input checked="" type="checkbox"/> Pass, with amendments 2311 </div> <div style="text-align: center;"> <input type="checkbox"/> Hold 2310 </div> <div style="text-align: center;"> <input type="checkbox"/> Recommit 2313 </div> </div> | | | | | | | | | | | | | | | | | | | | |
| Members | Aye | Aye (WR) | Nay | Excused | | | | | | | | | | | | | | | | |
| CHUN OAKLAND, Suzanne (C) | ✓ | | | | | | | | | | | | | | | | | | | |
| GREEN, Josh (VC) | ✓ | | | | | | | | | | | | | | | | | | | |
| HARIMOTO, Breene | ✓ | | | | | | | | | | | | | | | | | | | |
| RIVIERE, Gil | ✓ | | | | | | | | | | | | | | | | | | | |
| SLOM, Sam | ✓ | | | | | | | | | | | | | | | | | | | |
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| TOTAL | 5 | 0 | 0 | 0 | | | | | | | | | | | | | | | | |
| Recommendation: <div style="display: flex; justify-content: space-around; margin-top: 10px;"> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted </div> | | | | | | | | | | | | | | | | | | | | |
| Chair's or Designee's Signature: <div style="font-size: 1.5em; font-family: cursive; margin-left: 100px;">JDL</div> | | | | | | | | | | | | | | | | | | | | |
| <table style="width: 100%; font-size: 0.8em;"> <tr> <td style="width: 25%;">Distribution:</td> <td style="width: 25%;">Original</td> <td style="width: 25%;">Yellow</td> <td style="width: 25%;">Pink</td> </tr> <tr> <td></td> <td>File with Committee Report</td> <td>Clerk's Office</td> <td>Drafting Agency</td> </tr> <tr> <td></td> <td></td> <td></td> <td>Goldenrod</td> </tr> <tr> <td></td> <td></td> <td></td> <td>Committee File Copy</td> </tr> </table> | | | | | Distribution: | Original | Yellow | Pink | | File with Committee Report | Clerk's Office | Drafting Agency | | | | Goldenrod | | | | Committee File Copy |
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| | | | Goldenrod | | | | | | | | | | | | | | | | | |
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*Only one measure per Record of Votes