

STAND. COM. REP. NO. 541

Honolulu, Hawaii

FEB 25 2015

RE: S.B. No. 643  
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 Judiciary and Labor, to which was referred  
S.B. No. 643 entitled:

"A BILL FOR AN ACT RELATING TO CHILD VISITATION,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Remove duplicative provisions in awarding grandparents reasonable visitation rights;
- (2) Add to the prerequisites for awarding reasonable visitation rights to a grandparent when the court finds that awarding visitation is in the best interest of the child and that denial of reasonable visitation rights would cause actual or potential harm to the child; and
- (3) Clarify procedures in awarding reasonable grandparent visitation rights.

Your Committee received comments on this measure from the Department of the Attorney General and one individual.

Your Committee finds that this measure addresses the concerns raised by the Hawaii Supreme Court by clarifying that parents have a fundamental privacy right in making childrearing decisions and that there is a presumption that their decisions regarding visitation are in their child's best interest and requiring that if a grandparent challenges the visitation decisions made by a



parent, the court must find that the denial of visitation would cause actual or potential harm to the child. However, the Department of the Attorney General indicated in written testimony that the Hawaii Supreme Court held that the standard is not a showing of actual or potential harm, but that the denial of visitation would cause significant harm to the child.

Accordingly, your Committee has amended this measure by:

- (1) Adopting the language suggested by the Department of the Attorney General that replaces a showing of actual or potential harm with a showing of significant harm to the child;
- (2) Inserting an effective date of January 7, 2059, to encourage further discussion; and
- (3) Making a technical, nonsubstantive amendment for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 643, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 643, S.D. 1, and be placed on the calendar for Third Reading.

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



GILBERT S.C. KEITH-AGARAN, Chair



The Senate  
Twenty-Eighth Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Judiciary and Labor**  
**JDL**

Bill / Resolution No.:* <div style="font-size: 1.2em; font-family: cursive;">SB 643</div>	Committee Referral: <div style="font-size: 1.2em; font-family: cursive;">JDL</div>	Date: <div style="font-size: 1.2em; font-family: cursive;">2/3/15</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
KEITH-AGARAN, Gilbert S.C. (C)	✓			
SHIMABUKURO, Maile S.L. (VC)	✓			
ESPERO, Will				✓
GABBARD, Mike	✓			
IHARA, Jr., Les				✓
THIELEN, Laura H.	✓			
SLOM, Sam	✓			
<b>TOTAL</b>	5			2
Recommendation: <input checked="" type="checkbox"/> Adopted <span style="margin-left: 100px;"><input type="checkbox"/> Not Adopted</span>				
Chair's or Designee's Signature: <div style="font-size: 1.5em; font-family: cursive; margin-left: 50px;">[Signature]</div>				
<b>Distribution:</b> <div style="display: flex; justify-content: space-between; font-size: 0.8em;"> <span>Original File with Committee Report</span> <span>Yellow Clerk's Office</span> <span>Pink Drafting Agency</span> <span>Goldenrod Committee File Copy</span> </div>				

\*Only one measure per Record of Votes