

STAND. COM. REP. NO.

31

Honolulu, Hawaii

FEB 04 2019

RE: S.B. No. 214
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2019
State of Hawaii

Sir:

Your Committee on Human Services, to which was referred S.B. No. 214 entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to require the court to appoint counsel to indigent parents in foster care cases and make every effort to do so at the first hearing attended by the parent.

Your Committee received testimony in support of this measure from Hawai'i Access to Justice Commission, Lawyers for Equal Justice, National Coalition for a Civil Right to Counsel, and O'ahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i. Your Committee received comments on this measure from the Department of Human Services.

Your Committee finds that the Hawaii Supreme Court held in *In the Interest of T.M.*, 131 Haw. 419 (2014), that under the due process clause of the Hawaii State Constitution, indigent parents are guaranteed the right to a court-appointed counsel in termination of parental rights proceedings. Your Committee further finds that as currently written, the Hawaii Revised Statutes does not require the court to appoint counsel to indigent parents in termination of parental rights proceedings. Instead, as currently written, the appointment of counsel to indigent



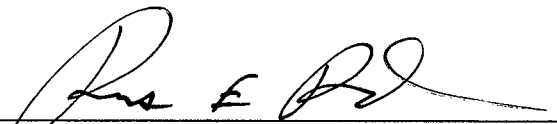
parents is discretionary. This measure therefore requires that the court appoint counsel to indigent parents in termination of parental rights proceedings, which will ensure that indigent parents have the right to counsel when their parental rights are in jeopardy.

Your Committee has amended this measure by:

- (1) Removing language that would have limited the appointment of an attorney to indigent parents in parental rights proceedings to solely foster care cases; and
- (2) 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. 214, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 214, S.D. 1, and be referred to your Committee on Judiciary.

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



RUSSELL E. RUDERMAN, Chair



The Senate
Thirtieth Legislature
State of Hawai'i

Record of Votes
Committee on Human Services
HMS

Bill / Resolution No.:* SB 214	Committee Referral: HMS, JDC	Date: 1/30/19		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
RUDERMAN, Russell E. (C)	✓			
RHOADS, Karl (VC)	✓			
IHARA, Jr., Les	✓			
RIVIERE, Gil	✓			
FEVELLA, Kurt	✓			
TOTAL	5	0	0	0
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Karl Rhoads</i>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes