

STAND. COM. REP. NO.

793

Honolulu, Hawaii

FEB 22, 2023

RE: H.B. No. 781
H.D. 2

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirty-Second State Legislature
Regular Session of 2023
State of Hawaii

Sir:

Your Committee on Judiciary & Hawaiian Affairs, to which was referred H.B. No. 781, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO CHILDREN,"

begs leave to report as follows:

The purpose of this measure is to require that when an officer has custody of a child under eighteen years of age for an alleged violation of law, the child shall have contact with legal counsel and, to the extent practicable, a parent or legal guardian before the child waives any right against self-incrimination and before a custodial interrogation.

Your Committee received testimony in support of this measure from the Community Alliance on Prisons, Human Rights for Kids, and four individuals. Your Committee received testimony in opposition to this measure from one individual. Your Committee received comments on this measure from the Office of the Public Defender.

Your Committee finds that developmental and neurological science concludes that the process of cognitive brain development continues into adulthood, and that the human brain undergoes dynamic changes throughout adolescence and well into young adulthood. Your Committee further finds that custodial interrogation of an individual by the State requires that the individual be advised of the individual's rights to make a

2023-1875 HB781 HD2 HSCR HMSO



knowing, intelligent, and voluntary waiver of those rights before the interrogation proceeds. Your Committee believes that children under eighteen years of age cannot sufficiently comprehend the meaning of their rights and the consequences of a waiver.

Your Committee has amended this measure by:

- (1) Clarifying that, to the extent practicable, the child shall have contact with a parent, guardian, or legal custodian before the child waives any right against self-incrimination and before a custodial interrogation;
- (2) Deleting language that would have established an exemption regarding the admissibility of statements made by the child if:
 - (A) The officer who questioned the child reasonably believed that the information the officer sought was necessary to protect life or property from an imminent threat; and
 - (B) The officer's questions were limited to those questions that were reasonably necessary to obtain the information sought; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.


Your Committee believes that the county police departments will need to change their policies and procedures to implement this measure and carry out programs to educate officers on this measure.

As affirmed by the record of votes of the members of your Committee on Judiciary & Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 781, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 781, H.D. 2.



797

Respectfully submitted on
behalf of the members of the
Committee on Judiciary &
Hawaiian Affairs,



DAVID A. TARNAS, Chair



Record of Votes of the Committee on Judiciary & Hawaiian Affairs

Bill/Resolution No.: HB 781, HD1	Committee Referral: HUS, JHA	Date: 2/16/2023		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
JHA Members	Ayes	Ayes (WR)	Nays	Excused
1. TARNAS, David A. (C)	✓			
2. TAKAYAMA, Gregg (VC)	✓			
3. GANADEN, Sonny	✓			
4. HOLT, Daniel	✓			
5. HASHIMOTO, Troy N.	/			
6. ICHIYAMA, Linda	/			
7. ILAGAN, Greggor	/			
8. KONG, Sam Satoru	/			
9. MIZUNO, John M.	/			
10. SOUZA, Kanani	/			
TOTAL (10)	10	-	-	-
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
If joint referral, _____ did not support recommendation. <small>committee acronym(s)</small>				
Vice Chair's or designee's signature: _____ <i>Greggor Ilagan</i>				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				