

STAND. COM. REP. NO. 319

Honolulu, Hawaii

FEB 15 2023

RE: S.B. No. 407
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2023
State of Hawaii

Sir:

Your Committee on Health and Human Services, to which was referred S.B. No. 407 entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Establish a definition for "immediate harm" and amend the definition of "imminent harm" for the purpose of the Child Protective Act; and
- (2) Require a police officer who assumes protective custody of a child who is subject to immediate harm without a court order to provide a written report detailing the observations justifying the immediate removal to the Department of Human Services within twenty-four hours of assuming custody of the child.

Your Committee received testimony in support of this measure from one individual. Your Committee received testimony in opposition to this measure from the Hawaii Coalition for Protective Child Reform and two individuals. Your Committee received comments on this measure from the Department of Human Services, Judiciary, and Department of the Attorney General.



Your Committee finds that research is clear that removal of children from their family's custody, including necessary removals, are harmful to children, and that the psychological and emotional harm to children must always be considered throughout their contact with a system meant to protect them. Your Committee further finds that in more than eighty percent of foster custody cases in Hawaii, children are removed from the custody of their parents without a court order based on a police officer's determination that the child is subject to imminent harm. It is reported that Hawaii relies on removals without court orders far more than many other jurisdictions in the Western United States.

Your Committee further finds that one of the reasons for the State's high rate of child removals without a court order is the overly broad statutory definition of "imminent harm", which allows immediate removal if, "without intervention within the next ninety days, there is reasonable cause to believe that harm to the child will occur or reoccur". Your Committee finds that the ninety-day period is an excessive amount of time to allow the police or the Department of Human Service's Child Protective Services Branch to petition and obtain a court order for removal of the child from the family's custody. This measure seeks to better balance the safety of the child with the rights of the parents.

Your Committee notes the testimony submitted by the Judiciary recommending a number of amendments to this measure to remove ambiguities and make other conforming amendments.

Accordingly, your Committee has amended this measure by:

- (1) Amending the definition of "immediate harm" to mean an active, present danger to a child that is observable, and that, without immediate intervention, there is reasonable cause to believe that serious harm to the child will result in the time it would take to obtain a court order pursuant to section 587A-12, Hawaii Revised Statutes;
- (2) Requiring the Department of Human Services to file a petition for a protective order on behalf of the child that shall attach a copy of the initial police report within twenty-four hours of receiving an initial police



report from a police officer who assumed protective custody of a child without a court order;

- (3) Making conforming amendments to provisions in the Child Protective Act that govern:
 - (A) Court orders based on a finding that the child is subject to immediate harm that require a police officer to immediately take a child into protective custody and the Department of Human Services to immediately assume temporary foster custody of the child; and
 - (B) Temporary foster custody hearings;
- (4) Inserting an effective date of December 31, 2050, to encourage further discussion; and
- (5) 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 Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 407, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 407, S.D. 1, and be referred to your Committee on Judiciary.

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

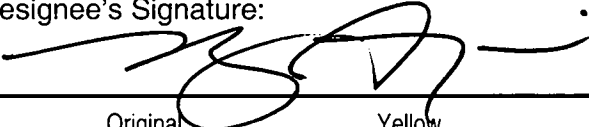


JOY A. SAN BUENAVENTURA, Chair



The Senate
 Thirty-Second Legislature
 State of Hawai'i

Record of Votes
Committee on Health and Human Services
HHS

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 407	HHS, JDC	1/30/2023		
<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
SAN BUENAVENTURA, Joy A. (C)	✓			
AQUINO, Henry J.C. (VC)	✓			
MORIWAKI, Sharon Y.	✓			
SHIMABUKURO, Maile S.L.	✓			
AWA, Brenton			✓	
TOTAL	4		1	
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

*Only one measure per Record of Votes