

Honolulu, Hawaii

FEB 13 2017

RE: S.B. No. 322  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Twenty-Ninth State Legislature  
Regular Session of 2017  
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred  
S.B. No. 322 entitled:

"A BILL FOR AN ACT RELATING TO COURT JURISDICTION,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Clarify that the circuit courts have concurrent jurisdiction with the family court over certain felonies when multiple offenses are charged and at least one of the offenses is a violation of the offense of endangering the welfare of a minor in the first degree, endangering the welfare of a minor in the second degree, or endangering the welfare of an incompetent person; and
- (2) Clarify that the district courts have concurrent jurisdiction with the family court of any violation of the offense of endangering the welfare of a minor in the second degree or endangering the welfare of an incompetent person when multiple offenses are charged and least one of the offenses is a criminal offense within the jurisdiction of the district courts.

Your Committee received testimony in support of this measure from the Office of the Prosecuting Attorney, County of Kaua'i; Department of the Prosecuting Attorney, County of Maui; and one individual.



Your Committee finds that circuit, district, and family courts each have exclusive, original jurisdiction over certain matters as provided by law. There may be circumstances in which an entire act may be comprised of charges for which courts have separate exclusive jurisdiction. For example, when a person operates a vehicle under the influence of an intoxicant with a minor as a passenger in that vehicle, this person could be charged with the offense of operating a vehicle under the influence of an intoxicant and the offense of endangering the welfare of a minor. Double jeopardy protections require that a defendant be charged with all known potential charges at the same time, but the family court does not have jurisdiction over operating a vehicle under the influence of an intoxicant cases unlike child endangerment cases. As a result, the State must choose between charging the defendant in district court for operating a vehicle under the influence of an intoxicant or in family court for the child endangerment. This measure will allow the circuit and district courts to have concurrent jurisdiction with the family court over certain endangerment offenses under certain circumstances to allow for proper charging and prosecution of these cases.

Your Committee has amended this measure by:

- (1) Inserting an effective date of January 7, 2059, to encourage further discussion; and
- (2) 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. 322, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 322, S.D. 1, and be placed on the calendar for Third Reading.

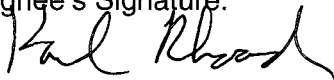
Respectfully submitted on  
behalf of the members of the  
Committee on Judiciary and  
Labor,

  
GILBERT S.C. KEITH-AGARAN, Chair



The Senate  
 Twenty-Ninth Legislature  
 State of Hawai'i

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

Bill / Resolution No.:* <b>SB 322</b>	Committee Referral: <b>JDL</b>	Date: <b>1/31/17</b>		
<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
KEITH-AGARAN, Gilbert S.C. (C)	✓			
RHOADS, Karl (VC)	✓			
GABBARD, Mike	✓			
KIM, Donna Mercado	✓			
THIELEN, Laura H.	✓			
<b>TOTAL</b>	<b>5</b>	<b>0</b>	<b>0</b>	<b>0</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> Original    Yellow    Pink    Goldenrod File with Committee Report    Clerk's Office    Drafting Agency    Committee File Copy				

\*Only one measure per Record of Votes