

Honolulu, Hawaii

FEB 15 2023

RE: S.B. No. 406
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. 406 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) Allow grandparents of a minor child to petition the court for an order granting reasonable visitation rights when the child's parent is unable to exercise parental visitation rights due to death or incarceration;
- (2) Set forth procedures, considerations, and standards for the court to grant grandparent visitation rights; and
- (3) Specify that any person who violates the terms and conditions of a court order granting reasonable grandparent visitation rights may be held in contempt of court.

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

Your Committee finds that many grandparents in the State desire to maintain their relationship with or assist in caring for their minor grandchildren when their child, who is a parent of the



minor, is otherwise unable to provide necessary care due to incarceration or death. This measure will allow the court to award reasonable grandparent visitation rights in certain circumstances while preserving the right of parents or custodians to make decisions concerning the care, custody, and control of their children.

Your Committee further finds that, per testimony submitted by the Department of the Attorney General and the Judiciary, amendments to this measure are necessary to address constitutional concerns and satisfy existing federal and state legal precedent.

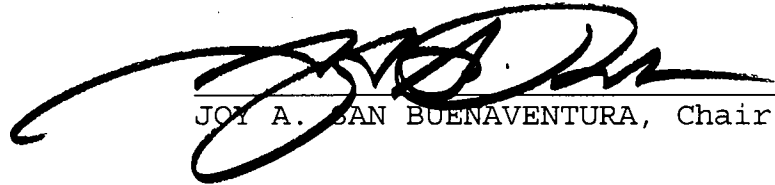
Accordingly, your Committee has amended this measure by:

- (1) Requiring the court, in its determination of awarding reasonable grandparent visitation rights, to find that denial of reasonable grandparent visitation rights would cause significant harm to the child;
- (2) Clarifying that the presumption that a parent or custodian's decision regarding visitation is in the best interest of the child may be rebutted by clear and convincing evidence, rather than a preponderance of the evidence, that denial of reasonable grandparent visitation rights would cause significant harm to the child;
- (3) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (4) 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. 406, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 406, 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.:* <i>SB 406</i>	Committee Referral: <i>HHS, JDC</i>	Date: <i>1/30/2023</i>
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The Committee is reconsidering its previous decision on this measure.
 If so, then the previous decision was to: _____

The Recommendation is:

Pass, unamended
 Pass, with amendments
 Hold
 Recommit
2312 2311 2310 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	5			

Recommendation:
 Adopted
 Not Adopted

Chair's or Designee's Signature:

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***Only one measure per Record of Votes**