

PROPOSED

THE SENATE
TWENTY-THIRD LEGISLATURE, 2006
STATE OF HAWAII

S.B. NO. 2607
S.D. 1

A BILL FOR AN ACT

RELATING TO TRANSFER OF APPEALS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 602-58, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§602-58 Application for transfer to the supreme court.**

4 (a) The [~~intermediate appellate~~] supreme court, in the manner
5 and within the time provided by the rules of court, [~~may~~
6 ~~entertain~~] shall grant an application [~~at any time before its~~
7 ~~issuance of a decision requesting~~] to transfer [~~of an appeal~~]
8 any case within the jurisdiction of the intermediate appellate
9 court to the supreme court[-] upon the grounds that the case
10 involves:

11 (1) A question of imperative or fundamental public
12 importance;

13 (2) An appeal from a decision of any court or agency when
14 appeals are allowed by law:

15 (A) Invalidating an amendment to the state
16 constitution; or

17 (B) Determining a state statute, county ordinance, or
18 agency rule to be invalid on the grounds that it

1 was invalidly enacted or is unconstitutional, on
2 its face or as applied, under either the
3 constitution of the State or the United States;
4 or

5 (3) A sentence of life imprisonment without the
6 possibility of parole.

7 ~~[(b) The moving party shall state the grounds of the~~
8 ~~application, indicating how the case on appeal involves a~~
9 ~~question of such imperative or fundamental public importance as~~
10 ~~to warrant a direct appeal to the supreme court.~~

11 ~~(e)]~~ (b) The supreme court, in a manner and within the
12 time provided by the rules of court, may grant an application to
13 transfer any case within the jurisdiction of the intermediate
14 appellate court to the supreme court upon the grounds that the
15 case involves:

16 (1) A question of first impression or a novel legal
17 question; or

18 (2) Issues upon which there is an inconsistency in the
19 decisions of the intermediate appellate court or of
20 the supreme court.

21 (c) The [issuance] grant or denial of [a certificate] an
22 application for transfer [to the supreme court] shall be



1 discretionary [~~upon the intermediate appellate court, and~~
2 ~~acceptance or rejection of such certification shall be~~
3 ~~discretionary upon the supreme court. Neither the failure to~~
4 ~~issue such certification by the intermediate appellate court nor~~
5 ~~the rejection of such certification by the supreme court]~~ and
6 shall not be subject to further review [~~and shall reinstate the~~
7 ~~appeal to the intermediate appellate court]~~."

8 SECTION 2. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 3. This Act shall take effect on July 1, 2006.



PROPOSED

Report Title:

Judicial Appeal; Transfer of Cases from ICA to Supreme Court

Description:

Authorizes the supreme court to entertain an application to transfer any case within the jurisdiction of the intermediate appellate court to the supreme court; specifies grounds for transfer. (SD1)

