

Honolulu, Hawaii

Feb. 17

, 2006

RE: S.B. No. 2602
S.D. 1

Honorable Robert Bunda
President of the Senate
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committee on Judiciary and Hawaiian Affairs, to which was referred S.B. No. 2602 entitled:

"A BILL FOR AN ACT RELATING TO ADULT PROBATION RECORDS,"

begs leave to report as follows:

The purpose of this measure is to add persons and entities to the list of those who are allowed access to adult probation records.

The Judiciary, The City and County of Honolulu Prosecutor's Office, the Domestic Violence Clearinghouse and Legal Hotline, the Salvation Army Addiction Treatment Services, and Hina Mauka submitted testimony in support of this measure. The Office of the Public Defender submitted testimony in opposition to this measure.

Your Committee finds that there are concerns regarding a defendant's privacy and the ability of case management, assessment, or treatment providers to use information in a defendant's adult probation records to selectively grant certain defendants access to a treatment program.

Your Committee amended this measure to incorporate the changes that were agreed upon by the Judiciary and the Office of the Public Defender. Those changes were to:

- (1) Allow state or federal court programs access to a copy of any adult probation case record; and



- (2) Provide that any person, agency, or entity receiving records or contents of records shall be subject to the same restrictions on disclosure as Hawaii adult probation offices.

Your Committee also amended this measure to balance privacy and other issues raised by the Office of Public Defender, by:

- (1) Allowing a victim to access the name and contact information of the defendant's probation officer but not allow the defendant's contact information to be made accessible;
- (2) Providing that records and information relating to the defendant's risk assessment and need for treatment services or information relating to the defendant's past treatment and assessments may be provided to a case management, assessment, or treatment provider only upon the acceptance or admittance of the defendant into a treatment program; and
- (3) Assess a fine of no more than \$500 if any person uses the information covered by this measure for purposes inconsistent with the intent of the measure or in a manner that is outside the scope of the person's official duties.

As affirmed by the record of votes of the members of your Committee on Judiciary and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2602, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2602, 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
Hawaiian Affairs,



COLLEEN HANABUSA, Chair



