



The Senate
State of Hawaii

STATE CAPITOL

HONOLULU, HAWAII 96813

February 27, 2006

TO: Members of the Senate Committee on Judiciary and Hawaiian Affairs
FROM: Sen. Colleen Hanabusa, Chair
SUBJECT: Chair's inclinations for decision making on Tuesday, February 28, 9:00 a.m.

The following measures were previously heard on Friday, February 24 at 9am and deferred from Monday, February 27:

Bill NO.	Description	Referral
SB 2290 SD1 (SSCR2532) (Proposed SD2)	RELATING TO PROTECTION FROM SECURITY BREACHES. Requires businesses that experience a security breach to notify affected people of the breach. (SD1) Chair's inclination: SD2 – Amend to: 1) incorporate the amendments reflected in the Proposed SD2 removing the exclusion of "government agency" from the definition of "business" and adding a monetary damages penalty; 2) add two new definitions for "government agency" and "redacted"; 3) insert an exemption for banks and thrift institutions by referencing federal law in accordance with the testimony from the Hawaii Bankers' Association; 4) insert an exemption for health plans or healthcare providers in accordance with the testimony from HMSA; 5) exempt government agencies from the penalties provisions; and 6) make technical, non-substantive amendments.	CPH/MAT, JHW
SB 2292 SD1 (SSCR2513) (Proposed SD2)	RELATING TO DESTRUCTION OF PERSONAL INFORMATION RECORDS. Requires businesses that maintain or possess personal information of Hawaii residents to protect against unauthorized access to or use of the information after its disposal by destroying the personal information. (SD1) Chair's inclination: SD2 – Amend to: 1) incorporate the amendments reflected in the Proposed SD2 removing the exclusion of "government agency" from the definition of "business" and adding a monetary damages penalty; 2) add a new definition for "government agency"; 3) add references throughout to clarify that the provisions also apply to government agencies; 4) insert an exemption for banks and thrift institutions by referencing federal law in accordance with the testimony from the Hawaii Bankers' Association; 5) exempt government agencies from the penalties provisions; and 6) make technical, non-substantive amendments.	CPH/MAT, JHW

SB 2289 SD1 (SSCR2472) (Proposed SD2)	RELATING TO CONSUMER CREDIT REPORTING AGENCIES. Allows consumers who are victims of identity theft to place a security freeze on their credit reports which will prohibit a consumer reporting agency from releasing any information to unauthorized parties without the consumer's express consent and provide consumers more control over who has access to their credit report. (SD1) Chair's inclination: SD2 – Amend to: 1) incorporate the amendments reflected in the proposed SD2 adding a monetary damages penalty and correcting a drafting error on placement of new language related to insurance; 2) add the purpose section to HRS; 3) clarify that a security freeze shall apply to a period of time only, and not to a specific party or parties; and 4) make technical, non-substantive amendments.	CPH/MAT, JHW
SB 3021 SD1 (SSCR2421)	RELATING TO EMPLOYMENT PRACTICES. Prohibits an employer from discharging or otherwise punishing an employee for the lawful use of the employee's accrued and available sick leave. (SD1) Chair's inclination: SD2 – Amend to insert a defective effective date of July 1, 2050 to allow for continued discussion on this measure.	LBR, JHW
SB 3033 SD1 (SSCR2422)	RELATING TO EMPLOYMENT SECURITY. Establishes job security requirements to protect employees when the business for which the employees work is sold or transferred to another employing entity. (SD1) Chair's inclination: SD2 – Amend to insert a defective effective date of July 1, 2050 to allow for continued discussion on this measure.	LBR, JHW
SB 3016 SD1 (SSCR2287)	RELATING TO PREVAILING WAGES. Allows a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 to institute an action for injunctive and other relief against an employer that fails to pay its employees the prevailing wage. (SD1) Chair's inclination: SD2 – Amend to insert a defective effective date of July 1, 2050 to allow for continued discussion on this measure.	LBR, JHW

The following measures were previously heard on Friday, February 24 at 10am and deferred from Monday, February 27:

Bill NO.	Description	Referral
SB 2986 SD1 (SSCR2195)	RELATING TO EMINENT DOMAIN. Provides regulations for property taken by eminent domain. (SD1) Chair's inclination: SD2 – Technical, non-substantive amendments.	WLA/IGA, JHW
SB 3191 SD1 (SSCR2196)	RELATING TO EMINENT DOMAIN. Prohibits use of power of eminent domain to take and transfer private property to a private entity that had an expressed interest in purchasing the same property for development purposes or other private use. (SD1) Chair's inclination: Pass As Is.	WLA/IGA, JHW

SB 3094 SD1 (SSCR2186)	RELATING TO THE LAND COURT. Provides that a landowner may not file claim for accreted lands caused by landowner's planting and maintaining vegetation on the seaward boundary of the property affected. (SD1) Chair's inclination: Hold. There is a problem with the title of the bill as noted in the testimony from the Office of the Attorney General. Furthermore, the Chair does not want to pass a law that would make the measure applicable to accreted land in the land court system, but not to regular system accreted land.	WLA, JHW
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The following measure was previously heard on Friday, February 24 at 11am and deferred from Monday, February 27:

Bill NO. SB 2430 SD1 (SSCR2407)	Description RELATING TO ELECTION. Directs judiciary to notify county clerk of a felony conviction at time of actual sentencing of the felon. (SD1) Chair's inclination: SD2 – Amend to require the Hawaii Paroling Authority to submit reports to the county clerk when the HPA grants or revokes parole to comply with HRS 831-2, which limits the voting rights for persons sentenced for a felony from the time of the person's sentence until discharge or suspension of the sentence.	Referral IGA, JHW
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The following measures were previously heard on Monday, February 27 at 9am:

Bill NO. SB 2161 SD1 (SSCR2524)	Description RELATING TO FOSTER CHILDREN. Establishes a foster children's bill of rights. (SD1) Chair's inclination: SD2 – Amend to 1) incorporate the amendment proposed by OHA recognizing the right to culturally appropriate care and placement with foster parents of Hawaiian ancestry for a foster child of Hawaiian ancestry and 2) incorporate the following amendments from the Hawaii Foster Youth Coalition: a) insert language inadvertently excluded when this bill was merged with SB 2221 to provide that children be treated with respect, free from unreasonable searches, free to make and receive confidential phone calls, and allowed to work and develop job skills at an age-appropriate level; b) add lanaguage allowing for the foster child to exercise parental and decision-making authority over his or her own child and to reasonable accommodation for the child; and c) add language allowing the foster child to contact the department of human services confidentially and free from harassment and retaliation.	Referral HMS, JHW
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<p>SB 2162 SD1 (SSCR2429)</p>	<p>RELATING TO FOSTER CHILDREN. Allows foster children to apply for a driver's license with the written consent of the Department of Human Services. Requires the child's biological parents to pay for vehicle insurance and provides for free insurance if the child's parents cannot pay. Allows higher education board allowances to be paid directly to former foster children. (SD1) Chair's inclination: SD2 – Amend to insert a defective effective date of July 1, 2050 to allow for continued discussion on this measure. The Committee Report will reflect the concern noted by the Hawaii Insurers Council that the bill has a technical flaw in that it seeks to provide insurance to the minor under foster care, but HRS 431:10C-104 requires insurance coverage be purchased for the vehicle, not the driver.</p>	<p>HMS, JHW</p>
<p>SB 2166 SD1 (SSCR2430)</p>	<p>RELATING TO MINORS. Allows a minor under certain circumstances to consent to the provision of medical care and services. (SD1) Chair's inclination: SD2 – Technical, non-substantive amendments.</p>	<p>HMS/HTH, JHW</p>
<p>SB 3254 SD1 (SSCR2237)</p>	<p>RELATING TO HOME AND COMMUNITY-BASED SERVICES. Removes the sunset date for the licensing of home and community-based case management agencies and the certification of community care foster family homes until. (SD1) Chair's inclination: SD2 – Technical, non-substantive amendments.</p>	<p>HMS, JHW</p>
<p>SB 2615 SD1 (SSCR2542)</p>	<p>RELATING TO CHILD PROTECTION. Affirms the importance of kinship placement and a child's attachment and bonding with a kin or non-kin foster caregiver. Requires the department of human services to make a good faith effort, which includes consulting with the Na Kupuna Tribunal, to identify family members for possible placement of a child. (SD1) Chair's inclination: SD2 – Defer to Wednesday, March 1, 2006, time and place to be announced.</p>	<p>HMS, JHW</p>
<p>SB 2688 SD1 (SSCR2434)</p>	<p>RELATING TO CORRECTIONS. Requires implementation of policies and procedures, protocols, and a quality assurance program to ensure adequate youth correctional facility staff training. Provides for comprehensive assessments of all persons committed to youth correctional facilities. Revises duties and responsibilities of regional advisory boards. (SD1) Chair's inclination: SD2 – Technical, non-substantive amendments.</p>	<p>HMS, JHW</p>

<p>SB 3233 SD1 (SSCR2235)</p>	<p>RELATING TO PARENTING PLANS. Authorizes the court or the parties to change a parenting plan at any time during the minority of the child without requiring a material change of circumstances. (SD1) Chair's inclination: SD2 – Amend to: 1) incorporate the amendments proposed by the Judiciary deleting reference to the court in the first sentence because the court may revise and amend the parenting plan at any time during the minority of the child without a showing of a change in circumstances of either party or any child of the parties and make other clarifying amendments and 2) incorporate the change proposed by a member of the Hawaii Children's Rights Council that the parties may agree to any revisions or amendments to the parenting plan that are consistent with or allowed by any existing order, parenting plan, or decree.</p>	<p>HMS, JHW</p>
<p>SB 3219 SD1 (SSCR2234)</p>	<p>RELATING TO COMMUNITY PLACEMENT. Directs the departments of health and human services to maintain an inventory of all facilities licensed or certified under their jurisdiction and their vacancies to facilitate the placement of individuals in community-based facilities. (SD1) Chair's inclination: SD2 – Amend to incorporate the amendments proposed by the Department of Health to: 1) include language that requires all community-based care providers report vacancy information to the department on a regular basis and 2) delete adult foster homes from this measure.</p>	<p>HMS/HTH, JHW</p>
<p>SB 2188 SD1 (SSCR2213)</p>	<p>RELATING TO A COMMISSION ON FATHERHOOD. Replaces the director of the office of children and youth with the director of public safety, or a designee, as a member of the commission. (SD1) Chair's inclination: Pass As Is.</p>	<p>HMS, JHW</p>
<p>SB 3200 SD1 (SSCR2231)</p>	<p>RELATING TO CHILD PROTECTION. Provides immunity from prosecution for leaving an unharmed newborn at a hospital, fire station, or police station within seventy-two hours of its birth. Provides immunity for personnel receiving a newborn. Requires medical history from a person relinquishing a newborn. (SD1) Chair's inclination: SD2 – Technical, non-substantive amendments.</p>	<p>HMS, JHW</p>
<p>SB 2328 SD1 (SSCR2217)</p>	<p>RELATING TO NOTICE TO FOSTER PARENTS FOR CHAPTER 587, HAWAII REVISED STATUTES, CHILD PROTECTIVE ACT HEARINGS. Authorizes a child's current foster parents to attend and participate as parties in all Child Protective Act proceedings subsequent to a disposition hearing. (SD1) Chair's inclination: SD2 – Technical, non-substantive amendments.</p>	<p>HMS, JHW</p>

SB 2332 SD1 (SSCR2338)	RELATING TO HOUSING. Amends the definitions of "public housing project" and "tenant" for purposes of evictions from federal public housing. Amends references to the time period in which a public housing tenant has to request a grievance hearing in the written notice of eviction to conform to the recently amended grievance procedure rules. Amends reference to public housing project or complex in the residential landlord-tenant code. (SD1) Chair's inclination: SD2 – Amend to: 1) insert a savings clause and 2) make technical, non-substantive amendments.	CPH/HMS, JHW
SB 2327 SD1 (SSCR2216)	RELATING TO CHILD ABUSE OR NEGLECT REPORTING. Requires staff members of public or private schools, agency, or institutions who, in their professional capacity, have reason to believe that child abuse or neglect has occurred, or that there exists a substantial risk that a child may be abused or neglected in the foreseeable future, to immediately report the abuse or neglect directly to the DHS. Chair's inclination: SD2 – Technical, non-substantive amendments.	HMS, JHW
SB 2443 SD1 (SSCR2220)	RELATING TO THE ESTABLISHMENT OF A TASK FORCE TO DETERMINE VISITATION RIGHTS FOR GRANDPARENTS AND HANAI INDIVIDUALS WHO ARE INFORMALLY RAISING THESE CHILDREN. Establishes a joint legislative task force to determine visitation rights of grandparents and hanai individuals who raise grandchildren they have informally raised when biological parent is unable to do so. (SD1) Chair's inclination: Pass As Is.	HMS, JHW
SB 2938 SD1 (SSCR2406)	RELATING TO COMMUNITY NOTIFICATION. Requires that community organizations such as neighborhood boards and community associations be notified when halfway houses, clean and sober homes, or drug rehabilitation homes are being proposed to be situated in their community. (SD1) Chair's inclination: Pass As Is.	IGA/HMS, JHW
SB 2079 SD1 (SSCR2468)	RELATING TO CHILDREN. Establishes a motor vehicle violation that prohibits leaving a child unsupervised in a motor vehicle. Requires the examiner of drivers to test driver's license applicants for knowledge of this offense. (SD1) Chair's inclination: SD2 – Technical, non-substantive amendments.	HMS, JHW

The following measures were previously heard on Monday, February 27 at 10am:

Bill NO.	Description	Referral
SB 2213 SD1 (SSCR2053)	RELATING TO TORT ACTIONS. Makes effective minor's waiver of liability for injuries from use of motorsports facilities; provides qualified immunity to a public entity and public employees from injuries from such use. (SD1) Chair's inclination: SD2 – Amend to insert a defective effective date of July 1, 2050 to allow for continued discussion on this measure. The Committee Report will reflect the concern noted by the Consumer Lawyers of Hawaii that this measure creates government immunities that are overly broad.	TGO/BED, JHW

<p>SB 2215 SD1 (SSCR2293)</p>	<p>RELATING TO USE OF INTOXICANTS WHILE OPERATING A MOTOR VEHICLE. Increases sanctions for driving with a high blood alcohol level. (SD1) Chair's inclination: SD2 – Amend to delay the effective date to January 1, 2007 to provide the Judiciary with sufficient time to transition.</p>	<p>TGO, JHW</p>
<p>SB 2385 SD1 (SSCR2312)</p>	<p>RELATING TO HIGHWAY SAFETY. Increases the penalties for motorists who violate Hawaii's crosswalk law. (SD1) Chair's inclination: Pass As Is.</p>	<p>TGO, JHW</p>
<p>SB 2746 (SSCR2149)</p>	<p>RELATING TO OUTDOOR ADVERTISING. Prohibits advertising on a vehicle engaged in business when the vehicle is operated or parked in a public place, or private place if viewed from a public place, if the primary purpose is advertising. Chair's inclination: Hold. This bill presents potential First amendment constitutional problems as noted in the testimony from the Office of the Attorney General. The testimony reflected a preference for the House companion to SB 2745, or HB 2708, which is expected to be amended by the House Judiciary Committee to address the First amendment constitutional problems.</p>	<p>TGO/IGA, JHW</p>
<p>SB 2712 SD1 (SSCR2026)</p>	<p>RELATING TO ADMINISTRATIVE PROCEDURE. Clarifies quorum requirement under sunshine law to allow for action to be taken by a majority of the number of members to which a board is statutorily entitled minus vacancies. (SD1) Chair's inclination: Hold because no testimony was submitted on this measure.</p>	<p>TGO/IGA, JHW</p>