



The Senate
State of Hawaii

STATE CAPITOL

HONOLULU, HAWAII 96813

February 28, 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 Wednesday, March 1, 2:45 pm in CR 212.

The following measures were previously heard on Monday, February 27 at 9am:

Bill NO.	Description	Referral
SB 2615 SD1 (SSCR2542)	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 – Amend the measure to delete its contents and insert a portion from SB 2161, SD1 to require that current foster care providers be the presumptive choice for adoption of a child placed in their care for more than one year unless it can be shown that it is not in the best interest of the child.	HMS, JHW

The following measures were previously heard on Tuesday, February 28 at 9am:

Bill NO.	Description	Referral
SB 2345	RELATING TO THE UNIFORM ENVIRONMENTAL COVENANTS ACT. Provides for "environmental covenants" for contaminated property to assure long-term compliance with requirements needed to protect the public and environment when complete removal of contaminants is not feasible, practical, or necessary. Chair's inclination: SD1 – Since JHW is the second committee, a draft is not available for distribution. Nevertheless, the Chairs agreed to remove portions of the penalties or sections 11.1 to 11.5 and to make technical, non-substantive amendments.	EIA/JHW
SB 917 SD1 (SSCR378)	RELATING TO THE COMMISSION ON WATER RESOURCE MANAGEMENT. Amends the nominating committee for the water resource management commission by removing one committee member that is appointed by the governor and adding one committee member that shall be appointed by the office of Hawaiian affairs. (SD1) Chair's inclination: SD2 – Incorporate the recommendation of DLNR and OHA that instead of replacing one of the two persons appointed by the Governor, a fifth member will be added to the nominating committee to be appointed by OHA. The odd number of members will also serve the purpose of avoiding tie votes.	WLA, JHW

<p>SB 918 SD1 (SSCR336)</p>	<p>RELATING TO COASTAL ZONE MANAGEMENT. Requires the CZM public advisory body members to be appointed by the director of the lead agency in consultation with the chairperson of the board of trustees for OHA. (SD1) Chair's inclination: Pass As Is. The Committee report will note that while OHA is appreciative of the overtures made by the Department of Business, Economic Development & Tourism regarding the importance of Hawaiian interests in the selection of the members of the Marine and Coastal Zone Advocacy Council (MACZAC), OHA still requests this measure be adopted.</p>	<p>WLA, JHW</p>
<p>SB 679</p>	<p>PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE STATE OF HAWAII RELATING TO TESTIMONY OF DEFENDANTS IN CRIMINAL CASES. Proposes an amendment to the Constitution to permit testifying criminal defendants to be impeached with evidence of prior convictions for crimes involving dishonesty. Chair's inclination: SD1 – Technical, non-substantive amendments. The Committee report will note that this measure will put Hawaii in line with the federal law and will not take away any rights afforded defendants under rules 403 and 609 of the Hawaii Rules of Evidence.</p>	<p>JHW</p>
<p>SB 2243</p>	<p>RELATING TO BIOLOGICAL EVIDENCE. Provides for the immediate DNA testing of all felons who are currently incarcerated. Allows for post conviction DNA testing for those who were not convicted but were acquitted of a crime on the ground of physical or mental disease, disorder, or defect. Chair's inclination: SD1 – Technical, non-substantive amendments.</p>	<p>JHW</p>
<p>SB 940 SD1 (SSCR589)</p>	<p>RELATING TO THE PATIENTS' BILL OF RIGHTS AND RESPONSIBILITIES ACT. Amends the review procedure process under the patients' bill of rights and responsibilities act. Preserves commissioner's discretion to convene panel to hear cases for consumers in non-ERISA plans. Requires the commissioner to determine whether requests for external review concerns an ERISA plan and to direct all requests for review of ERISA plan benefits to an independent review organization selected by the commissioner. Chair's inclination: SD2 – Amend to make technical, non-substantive amendments and insert a defective effective date of July 1, 2050 to allow for continued discussion. The Committee report will reflect that the testifiers requesting amendments to this measure noted that this may be the only vehicle alive to address this issue.</p>	<p>CPH/HTH, JHW</p>

- SB 2551 RELATING TO INTOXICATING LIQUOR. IGA, JHW
SD1 Authorizes the liquor commission to extend the time from 30 days to 45 days for giving a
(SSCR2399) decision to grant or refuse an application. Allows commission to remove names from
registered voter list for lack of residency. Deems an application denied if the commission
does not make a decision granting or refusing an application. Exempts hearings from
chapter 91. (SD1)
Chair's inclination: Pass As Is. The Committee report will note that the proposed
amendment allowing the liquor commission to remove names from the registered voter
list for lack of residency is not binding on the Office of Elections. Furthermore, the
Attorney General by request of the chair responded to a concern relayed by the subject
matter chair that the automatic denial of an application is a policy issue that should
withstand due process concerns.
- SB 2408 RELATING TO LIABILITY OF FIREARM OWNERS. JHW
Excepts government entities from the definition of "owner" in statute that imposes strict
liability on firearms owner for injury or damage proximately caused by the firearm.
Chair's inclination: SD1 – Technical, non-substantive amendments. The Committee
report will note that this measure was originally proposed by the County of Hawaii.
Nevertheless, discussions with the Attorney General indicate that this bill will not
override Doe Parents v. State of Hawaii, 100 Haw. 3, 58 P.3d 545 (2002).