

STAND. COM. REP. NO. 394

Honolulu, Hawaii

FEB 14, 2007

RE: H.B. No. 1249
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fourth State Legislature
Regular Session of 2007
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 1249 entitled:

"A BILL FOR AN ACT RELATING TO APPEALS,"

begs leave to report as follows:

The purpose of this bill is to preclude appeals based upon erroneous jury instructions unless the alleged error was:

- (1) Objected to when it was committed; or
- (2) Brought to the attention of the court in an appropriate manner before the jury had retired to consider its verdict.

The court may consider the alleged error if it seriously affected the fairness, integrity, or reputation of the trial and likely affected its outcome.

The Department of the Attorney General, County of Maui Department of the Prosecuting Attorney, County of Hawaii Police Department, and the City and County of Honolulu Department of the Prosecuting Attorney testified in support of this bill. The Office of the Public Defender opposed this measure.

Your Committee finds that the proposed change to the right of appeal based upon erroneous jury instructions is a departure from accepted practice which entrusts the court with making correct

HB1249 HD1 HSCR JUD HMS 2007-1794



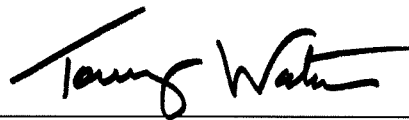
decisions on jury instructions affecting the defendant's substantial rights. However, your Committee believes that discussion should continue on this matter.

Your Committee has amended this bill by:

- (1) Inserting a defective date of January 1, 2050; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1249, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1249, H.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary,



TOMMY WATERS, Chair



45CR 394

State of Hawaii
House of Representatives
The Twenty-fourth Legislature


Record of Votes of the Committee on Judiciary

Bill/Resolution No.: HB 1249	Date: 2/1/07
Committee Referral: JUD	<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.
The recommendation is to: <input type="checkbox"/> Pass, unamended <input checked="" type="checkbox"/> Pass, with amendments <input type="checkbox"/> Hold <input type="checkbox"/> Pass, with amendments, for recommittal for further consideration	

JUD Members	Ayes	Ayes (WR)	Nays	Excused
1. WATERS, Tommy (C)	✓			
2. OSHIRO, Blake K. (VC)	✓			
3. CALDWELL, Kirk		✓		
4. EVANS, Cindy	✓			
5. GREEN, Josh, M.D.		✓		
6. ITO, Ken	✓			
7. LUKE, Sylvia		✓		
8. McKELVEY, Angus L.K.	✓			
9. MORITA, Hermina M.		✓		
10. SONSON, Alex M.	✓			
11. SOUKI, Joseph M.				✓
12. TSUJI, Clift	✓			
13. YAMANE, Ryan I.	✓			
14. YAMASHITA, Kyle T.	✓			
15. MARUMOTO, Barbara C.	✓			
16. PINE, Kymberly Marcos	✓			
17. THIELEN, Cynthia				✓
TOTAL	11	4		2

The recommendation is: Adopted
 Not Adopted

If joint referral, _____ did not support recommendation.
 committee acronym(s)

Vice Chair's or designee's signature: 

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