

STAND. COM. REP. NO.

2716

Honolulu, Hawaii

FEB 29 2008

RE: S.B. No. 3204
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 3204 entitled:

"A BILL FOR AN ACT RELATING TO POST CONVICTION PROCEEDINGS,"

begs leave to report as follows:

The purpose of this measure is to reduce the number of
repetitious and vexatious challenges to criminal convictions by
establishing a time limitation for filing habeas corpus complaints
and limiting successive complaints.

The Department of the Attorney General, Hawaii County Office
of the Prosecuting Attorney, and Maui County Department of the
Prosecuting Attorney submitted testimony in support of this
measure. The Office of the Public Defender submitted testimony in
opposition.

Presently, a petition for post-conviction relief is the only
method of challenging judgment and custody that does not have a
statute of limitation. As a result, some defendants have
repeatedly used this method to challenge convictions and custody
long after the events at issue. Your Committee finds that this
measure promotes the finality of judgments and sentences while
permitting a defendant a reasonable period of time to discover,
prepare, and file an action to challenge a conviction and custody.

The permanent Committee on Rules of Penal Procedure and
Circuit Court Criminal Rules, proposed a five year limitation on a
petition for post-conviction relief under Rule 40 of the Hawaii

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Rules of Penal Procedure. The proposal was rejected by the Hawaii Supreme Court because it conflicted with the Legislature's authority regarding habeas corpus. Your Committee finds that the five-year limitation period should be adopted.

Part XI of chapter 844D, Hawaii Revised Statutes, permits a person who was convicted of and sentenced for, or acquitted by reason of physical or mental disease, disorder, or defect of, a crime to file a motion, at any time, for DNA analysis of evidence. As currently worded, this measure bars such a person from presenting DNA evidence that exonerates the person if it is discovered more than five years after a judgment. Your Committee finds that this would be a grave injustice to a wrongly charged or convicted person.

Upon further consideration, your Committee has amended this measure by:

- (1) Establishing a time limitation for filing a petition for post-conviction relief under Hawaii Rules of Penal Procedure, as well as for complaints for a writ of habeas corpus under chapter 660, Hawaii Revised Statutes;
- (2) Providing that the time limitation shall not apply to any motion, petition, or appeal filed pursuant to part XI of chapter 844D; and
- (3) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3204, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3204, 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
Labor,



BRIAN T. TANIGUCHI, Chair



The Senate
 Twenty-Fourth Legislature
 State of Hawaii

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:*	Committee Referral:	Date:
SB 3204	JDL	2/25/08

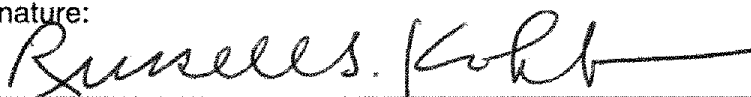
The committee is reconsidering its previous decision on this measure.
 If so, then the previous decision was to: _____

The Recommendation is:

Pass, unamended 2312 Pass, with amendments 2311 Hold 2310 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
TANIGUCHI, BRIAN T. (C)	/			
HEE, Clayton (VC)				/
GABBARD, Mike	/			
KOKUBUN, Russell S.	/			
NISHIHARA, Clarence K.				/
SLOM, Sam	/			
TOTAL	4			2

Recommendation: Adopted Not Adopted

Chair's or Designee's Signature:


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*Only one measure per Record of Votes