

STAND. COM. REP. NO. 1688

Honolulu, Hawaii

Aug 19, 2009

RE: S.B. No. 1005
S.D. 2
H.D. 2

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 1005, S.D. 2, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO PUBLICITY RIGHTS,"

begs leave to report as follows:

The purpose of this bill is to encourage and protect artists and other persons in Hawaii's performing arts and related industries by:

- (1) Establishing a property right in the commercial use of a person's name, voice, signature, photograph, or likeness; and
- (2) Providing remedies for infringements on the right.

Genoa Keawe Records Inc., and Kanikapila Records Inc., supported this bill. The Office of Hawaiian Affairs supported this measure with amendments. The Motion Picture Association of America Inc., Surfside Hawaii Inc., Cord International & Hana Ola Records, and a concerned individual submitted comments.

Your Committee has amended this bill by, among other things:

- (1) Deleting references to "photographs" as a protected attribute as it is covered under the term "likeness" as images and representations;

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- (2) Setting an unspecified number of years after death that the publicity right may be asserted by a successor in interest;
- (3) Inserting an unspecified amount for a minimum damages award for infringement upon the right granted by this bill;
- (4) Requiring all transferees of publicity rights to register with the Department of Commerce and Consumer Affairs;
- (5) Providing that common law rights or other statutory rights, whether derived from state or federal law, or the enforcement of those rights are not infringed upon;
- (6) Inserting a severability clause; and
- (7) Making technical, nonsubstantive changes 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 S.B. No. 1005, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1005, S.D. 2, H.D. 2.

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


JON RIKI KARAMATSU, Chair



