

STAND. COM. REP. NO.

775

Honolulu, Hawaii

MAR 06 2009

RE: S.B. No. 1088
S.D. 2

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Madam:

Your Committee on Judiciary and Government Operations, to which was referred S.B. No. 1088, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO PUBLIC ACCESS,"

begs leave to report as follows:

The purpose of this measure is to create a private right of action to enforce public access to public property in the courts.

This measure also amends the offense of obstructing access to public property to include installing visual and other impediments to intentionally prevent a member of the public from accessing the sea, the shoreline, or an inland public recreational area.

Your Committee finds that, although public access is protected by state law, development pressure is making it difficult for residents to access beach and shoreline areas. On Oahu, insufficient public access to the shore has prompted multiple studies by State agencies to address conflicts between beachfront property owners and the general public. Similarly on Maui, coastline development plans have raised the issue of adequate public access to the beach from Paia through Baldwin beaches. On Kauai, public access routes have not been claimed by either the State or the County and are obstructed, preventing public access to the shoreline.

Your Committee further finds that providing a private right of action to enforce public access will allow communities to enforce laws when the agencies responsible for enforcing public



access lack necessary resources or are unresponsive. This measure also ensures that needless litigation will not occur by requiring that notice an opportunity to cure the violation are given to the violator prior to the filing of a lawsuit.

Your Committee has amended this measure by making technical, nonsubstantive amendments.

As affirmed by the record of votes of the members of your Committee on Judiciary and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1088, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1088, S.D. 2.


Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Government Operations,


BRIAN T. TANIGUCHI, Chair



The Senate
Twenty-Fifth Legislature
State of Hawaii

Record of Votes
Committee on Judiciary and Government Operations
JGO

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 1088, SD1	NTL, JGO	2/27/09		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
TANIGUCHI, Brian T. (C)	✓			
TAKAMINE, Dwight Y. (VC)	✓			
BUNDA, Robert				✓
GABBARD, Mike	✓			
NISHIHARA, Clarence K.				✓
SLOM, Sam		✓		
TOTAL	3	1	0	2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes