

Honolulu, Hawaii

MAR 05 2009

RE: S.B. No. 65

S.D. 1

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. 65 entitled:

"A BILL FOR AN ACT RELATING TO THE HAWAII RULES OF EVIDENCE,"

begs leave to report as follows:

The purpose of this measure is to amend the Hawaii Rules of Evidence to provide, with regard to character evidence, that evidence of an accused person's trait of character for aggressiveness is admissible when offered by the prosecution against the accused, if the alleged victim's trait of character for aggressiveness is offered by the accused and admitted into evidence.

Your Committee received testimony in support of this measure from Judiciary-Hawaii Supreme Court Standing Committee on the Rules of Evidence; Department of the Prosecuting Attorney-Honolulu; Office of the Prosecuting Attorney-Hawaii; and the Department of the Prosecuting Attorney-Maui. Testimony in opposition was received from the Office of the Public Defender. Written testimony presented to the Committee may be reviewed on the Legislature's website.

This measure conforms a specific provision in the Hawaii Rules of Evidence to its counterpart in the Federal Rules of Evidence. However, your Committee is not entirely convinced that the rule will not result in inherent procedural unfairness to the defendant in a jury trial. Your Committee believes that more study and analysis is necessary.



Your Committee has amended this measure by changing the effective date to July 1, 2050, to ensure continued discussions on this matter.

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. 65, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 65, 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
Government Operations,

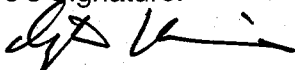


BRIAN T. TANIGUCHI, Chair



The Senate
Twenty-Fifth Legislature
State of Hawaii

Record of Votes
Committee on Judiciary and Government Operations
JGO

| | | | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|-------------------------|----------|----------|
| Bill / Resolution No.:* SB 65 | Committee Referral: JGO | Date: 2/10/09 | | |
| <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 | ✓ | | | |
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| TOTAL | 5 | 0 | 0 | 1 |
| 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