

STAND. COM. REP. NO. 1623

Honolulu, Hawaii

April 9, 2009

RE: S.B. No. 931  
S.D. 1  
H.D. 1

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. 931, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO EPIDEMIOLOGIC INVESTIGATIONS,"

begs leave to report as follows:

The purpose of this bill is to protect the public's health and welfare when there is reasonable cause for an investigation of a disease or series of injuries deemed by the Department of Health (DOH) to threaten public health or safety by providing DOH with the powers necessary to authorize select DOH staff to enter onto any premises, public or private, to secure or collect any plant, animal, food, or environmental samples deemed necessary to successfully conduct an investigation.

DOH supported this bill.

Your Committee understands that DOH may benefit from explicit statutory authority to obtain a search warrant in the case of epidemiologic investigations, even though exigent circumstances are, as a matter of general law, a sufficient exception to a warrant requirement for an investigation by an agency with police powers. Your Committee remains concerned that any new type of warrant carries with it the potential for misuse.

SB931 HD1 HSCR JUD HMS 2009-3704



Accordingly, your Committee has amended this measure by:

- (1) Requiring the Director of Health to issue a written opinion as to the immediate threat to public health or safety and state that immediate testing is necessary;
- (2) Emphasizing that if the property owner does not consent to the investigation and an administrative warrant must be obtained, it must be specific to the property to be searched and the types of samples or specimens sought;
- (3) Deleting the definition of "administrative investigation" as this is unnecessary for DOH to obtain the warrant it seeks;
- (4) Revising the references to "environmental samples" to read "natural resource or hazardous material" samples; and
- (5) Changing the effective date to January 1, 2046, to promote further discussion.

Technical, nonsubstantive amendments were also made 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. 931, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 931, S.D. 1, H.D. 1.

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

  
JON RIKI KARAMATSU, Chair



