

STAND. COM. REP. NO. 1574

Honolulu, Hawaii

Apr: 17, 2009

RE: S.B. No. 932
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. 932, S.D. 2, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO INFECTIOUS DISEASE TESTING,"

begs leave to report as follows:

The purpose of this bill is to improve early diagnosis of human immunodeficiency virus (HIV) infections by removing specific procedural barriers to HIV testing. This bill clarifies that a health care provider is not required to obtain specific written informed consent from a patient prior to testing and provide HIV pre-test counseling.

In addition, this bill, among other things:

- (1) Requires the health care provider to provide all positive and indeterminate HIV test results to the person taking the test and offer HIV post-test counseling; and
- (2) Allows, rather than requires, the Department of Health (DOH) to adopt rules to regulate HIV testing.

DOH, Gregory House Programs, Hawaii HIV/AIDS Community Planning Group Steering Committee, Life Foundation, Hawaii Medical Association, Waikiki Health Center, American College of Obstetricians and Gynecologists Hawaii Section, and a concerned

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individual supported this bill. The American Civil Liberties Union of Hawaii opposed this bill.

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

- (1) In lieu of the provisions removing specific procedural barriers to HIV testing, allowing a health care provider to conduct an HIV test after:
 - (A) Orally disclosing to the person being tested that certain personalized test results are maintained by DOH and that free and anonymous HIV testing is available through DOH and certain community agencies;
 - (B) Providing the person reasonable opportunity to decline the test; and
 - (C) Receiving the person's express oral consent to the test;
- (2) Allowing a health care provider to use a written consent form in lieu of the oral-consent procedure; and
- (3) Making technical, nonsubstantive amendments for style, clarity, and consistency.

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. 932, 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. 932, S.D. 2, H.D. 2.

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



JON RIKI KARAMATSU, Chair



