

STAND. COM. REP. NO.

689

Honolulu, Hawaii

March 5, 2009

RE: H.B. No. 1229
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 H.B. No. 1229 entitled:

"A BILL FOR AN ACT RELATING TO NOTICE,"

begs leave to report as follows:

The purpose of the bill is to increase the protection for individuals facing harassment by allowing:

- (1) Service of the notice of a hearing on a petition for an injunction against harassment to be made by publication under certain conditions; and
- (2) The courts to authorize notice by publication of any order issued at a hearing if the requirements for service of the notice of hearing by publication are met and the respondent fails to appear for the hearing.

Two concerned individuals testified in support of this bill. The Office of the Public Defender testified in opposition to this measure.

Your Committee has amended this bill by:

- (1) Specifying that the petitioner must search for the respondent for at least 15 days after filing the petition rather than allowing the petitioner to conduct

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the search either before or after the filing of the petition;

- (2) Requiring that the inability to locate the address or residence of a respondent is proven by clear and convincing evidence presented to the court;
- (3) Requiring the court to make written findings of fact and conclusions of law to support the issuance of an order for notice of a hearing by publication;
- (4) Allowing an order issued by the court to be set aside for good cause if the respondent moves to set aside the order within 30 days of the receipt of actual notice;
- (5) Changing the effective date to January 1, 2046, to encourage further discussion; and
- (6) Making technical, nonsubstantive amendments 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 H.B. No. 1229, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1229, H.D. 1, and be placed on the calendar for Third Reading.

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


JON RIKI KARAMATSU, Chair



