

Honolulu, Hawaii

MAR 05 2009

RE: S.B. No. 1184
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. 1184 entitled:

"A BILL FOR AN ACT RELATING TO THE CIVIL RIGHTS COMMISSION,"

begs leave to report as follows:

The purpose of this measure is to define "confidential witness" to clarify the distinction between the parties to a complaint filed with the Civil Rights Commission and the witnesses that may have provided information to the Commission during its intake and investigation of the complaint.

Your Committee received testimony in support of this measure from the Hawaii Civil Rights Commission. Written testimony presented to the Committee may be reviewed on the Legislature's website.

The Committee finds that chapter 368, Hawaii Revised Statutes (HRS) makes references to the "complainant" and "respondent", and collectively refers to them as the "parties" to the complaint. In addition, the chapter makes references to "witnesses" without a clear indication that the references to a witness statement, either confidential or not confidential in section 368-4, Hawaii Revised Statutes, is not intended to include the statements of either of the parties to the complaint. Factual information from witnesses who do not request confidentiality and statements of the parties to the complaint acquired by the Commission may be disclosed, and used by the Commission as evidence in its investigation, conciliation and litigation.



While all statements made by the complainant or respondent may be disclosed under certain conditions, statements by witnesses that request confidentiality may not be disclosed or used as evidence by the Commission, unless otherwise allowed by law. The intent of this measure is to clarify the distinction between statements made by the complainant and the respondent, the parties to the complaint, from statements made by witnesses that are not parties to the complaint.

Your Committee has amended this measure by:

- (1) Clarifying the definition of "confidential witness", and authorizing the use of factual matters obtained in the course of an investigation by the Commission as evidence, on the recommendation of the Hawaii Civil Rights Commission;
- (2) Changing the effective date to July 1, 2050, for the purpose of encouraging further discussion; and
- (3) Making a technical, nonsubstantive amendment.

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. 1184, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1184, 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 1184	Committee Referral: JGO	Date: 2/4/09		
<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	6	0	0	0
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution:	Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy

*Only one measure per Record of Votes