

STAND. COM. REP. NO.

505

Honolulu, Hawaii

MAR 03 2011

RE: S.B. No. 1054
S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 1054 entitled:

"A BILL FOR AN ACT RELATING TO TEMPORARY RESTRAINING ORDERS,"

begs leave to report as follows:

The purpose and intent of this measure is to streamline the process of obtaining a temporary restraining order (TRO) against harassment and domestic abuse by allowing a TRO to be issued upon the submission of oral sworn testimony or complaint to a judge by electronic means.

Your Committee received testimony in support of this measure from the Department of the Prosecuting Attorney of the City and County of Honolulu, Ala Kuola, and one individual. Your Committee received testimony in opposition to this measure from the Office of the Public Defender and the Family Law Section of the Hawaii State Bar Association. Your Committee received comments on this measure from the Judiciary and the Domestic Violence Action Center.

Your Committee finds that this measure is intended to streamline and improve the current process and timeline for obtaining a TRO. The inconvenience of having to access the limited number of court locations and hours that currently provide access to the TRO process means that the most commonly used legal tool for protection from domestic abuse is often delayed from helping as quickly as it could. Additionally, there are concerns in many areas of the neighbor islands and parts of rural Oahu that

2011-1255 SSCR SMA.doc



the geographic distances from court locations contribute significantly to the lack of access for many rural, low-income communities.

Although the Supreme Court has attempted to address some of these problems through a 2007 pilot project for the filing of TROs via facsimile in Maui County, the result is a piecemeal process, where different judicial circuits have different rules for electronic or facsimile filing. Your Committee believes that while the Judiciary acknowledges the logistical difficulties for obtaining TROs, the Judiciary has not adequately used its power under article VI, section 7, of the Hawaii State Constitution, which vests the Supreme Court with the "power to promulgate rules and regulations in all civil and criminal cases for all courts relating to process, practice, procedure, and appeals, which shall have the force and effect of law." Accordingly, although the Judiciary has the power to streamline the process and has exercised it in an extremely limited manner, the TRO process still poses a barrier to effective protection for vulnerable individuals in many rural, low-income communities.

Your Committee has amended this measure by:

- (1) Inserting an effective date of July 1, 2050, to allow for further discussion; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1054, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1054, 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
Labor,

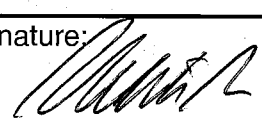


CLAYTON HEE, Chair



The Senate
 Twenty-Sixth Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* SB1054	Committee Referral: JDL	Date: 2/7/11		
<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
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile (VC)	✓			
GABBARD, Mike				✓
IHARA, Jr., Les	✓			
SLOM, Sam	✓			
TOTAL	4	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