

Honolulu, Hawaii

MAR 02 2012

RE: S.B. No. 2225
S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committee on Ways and Means, to which was referred S.B. No. 2225 entitled:

"A BILL FOR AN ACT RELATING TO PRISON LITIGATION,"

begs leave to report as follows:

The purpose and intent of this measure is to reduce frivolous litigation while preserving prisoner rights, by imposing certain conditions on prisoner lawsuits brought in forma pauperis (without having to pay court fees).

Specifically, this measure, among other things:

- (1) Requires any prisoner seeking to file a lawsuit in forma pauperis to submit financial documents, certified by the correctional facility, indicating the prisoner's inability to pay court filing fees;
- (2) Authorizes courts to require prisoners to make partial payments of filing fees as funds become available in the prisoner's account, when the prisoner's lawsuit does not meet the requirements for in forma pauperis actions; and
- (3) Provides that after a prisoner has had four or more in forma pauperis civil actions or appeals dismissed by a court as frivolous or malicious, or for failure to state a claim, the prisoner must pay the full filing fee in advance for any future lawsuits during the period of



incarceration, unless the prisoner is in imminent danger of serious injury.

Your Committee received written comments in opposition to this measure from the Community Alliance on Prisons.


Your Committee finds that a prisoner may bring a court action in forma pauperis if the prisoner demonstrates an inability to pay court fees. This measure structures the process for filing these prisoner lawsuits to eliminate fraudulent assertions of poverty and reduce frivolous lawsuits that divert government resources away from other litigation that have or may have merit.

Your Committee has amended this measure by:

- (1) Clarifying an internal cross-reference with respect to the payment of the full amount of costs ordered in a judgment against a prisoner in an in forma pauperis action; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2225, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2225, S.D. 1.

Respectfully submitted on
behalf of the members of the
Committee on Ways and Means,



DAVID Y. IGE, Chair



The Senate
Twenty-Sixth Legislature
State of Hawai'i

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:* <i>SB 2225</i>	Committee Referral: <i>PGM/JDL, WAM</i>	Date: <i>2-23-12</i>		
<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
IGE, David Y. (C)	✓			
KIDANI, Michelle N. (VC)	✓			
CHUN OAKLAND, Suzanne	✓			
DELA CRUZ, Donovan M.	✓			
ENGLISH, J. Kalani	✓			
ESPERO, Will	✓			
FUKUNAGA, Carol	✓			
KIM, Donna Mercado	✓			
KAHELE, Gilbert	✓			
KOUCHI, Ronald D.	✓			
RYAN, Pohai	✓			
TOKUDA, Jill N.	✓			
WAKAI, Glenn	✓			
SLOM, Sam	✓			
TOTAL	<i>14</i>	<i>0</i>	<i>0</i>	<i>0</i>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Michelle N. Kidani</i>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes