

Honolulu, Hawaii

FEB 15 2012

RE: S.B. No. 2304
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 Judiciary and Labor, to which was referred S.B. No. 2304 entitled:

"A BILL FOR AN ACT RELATING TO RIGHTS OF THE ACCUSED,"

begs leave to report as follows:

The purpose and intent of this measure is to require state and county law enforcement agencies to adopt uniform procedures for conducting live lineups and photo lineups for eyewitness identification in an effort to improve the State's criminal justice system.

Your Committee received testimony in support of this measure from the Office of the Public Defender; the Community Alliance on Prisons; the American Civil Liberties Union of Hawaii; the Innocence Project; and one private individual. Testimony in opposition to this measure was submitted by the Department of the Prosecuting Attorney of the City and County of Honolulu and the Maui Police Department.

Your Committee finds that the most common causes of wrongful conviction are mistaken eyewitness identification and false confessions. This measure is an effort to improve the State's eyewitness identification procedures by adopting uniform standards that are designed to reduce erroneous identifications. However, the Department of the Prosecuting Attorney of the City and County of Honolulu raised a number of concerns regarding this measure. The Department indicated that existing law requires that eyewitness identifications be reviewed under "totality of the



circumstances" because there are many case-specific factors that need to be taken into account; thus, adopting uniform standards for eyewitness identifications may be overly restrictive and unnecessary.

Your Committee notes these concerns and encourages the City and County of Honolulu Prosecuting Attorney to work on streamlining the language in this measure as it moves through the legislative process.

Your Committee has amended this measure by:

- (1) Inserting an effective date of July 1, 2050, to ensure 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. 2304, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2304, S.D. 1, and be referred to the Committee on Ways and Means.

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.:* SB2304	Committee Referral: JDL, WAM	Date: 2/7/12
--	--	------------------------

The committee is reconsidering its previous decision on this measure.
 If so, then the previous decision was to: _____

The Recommendation is:

Pass, unamended 2312
 Pass, with amendments 2311
 Hold 2310
 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile (VC)	✓			
GABBARD, Mike	✓			
IHARA, Jr., Les	✓			
SLOM, Sam				✓
TOTAL	4			1

Recommendation:
 Adopted
 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