

STAND. COM. REP. NO.

2491

Honolulu, Hawaii

MAR 01 2012

RE: S.B. No. 2505

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. 2505 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 allow the court
to issue a temporary restraining order (TRO) based on sworn oral
testimony communicated to the court by telephone, radio, or other
means of electronic voice communication when exigent circumstances
exist that prevent the applicant from appearing in person.

Your Committee received testimony in opposition to this
measure from the Judiciary, the Office of the Public Defender, the
Hawaii State Commission on the Status of Women, the Hawaii State
Coalition Against Domestic Violence, the Windward Oahu Branch of
the American Association of University Women, and one private
individual.

Your Committee finds that under current law a court may grant
an ex parte TRO based on a written application that serves as a
sworn statement describing the reasons a TRO is necessary.
Thereafter a judge will review the application and determine
whether to issue a TRO based on the statements in the application.

Your Committee is particularly concerned with situations
where an abused victim needs a TRO immediately in order to protect
oneself from further harm, but due to exigent circumstances, is
unable to submit a written application to the court. This measure

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provides the means for such victims to immediately obtain a TRO by allowing courts to accept sworn oral testimony by telephone, radio, and other means of electronic voice communication.

Your Committee is aware of the testimonies in opposition to this measure, and the concerns raised regarding how sworn oral testimony will be accepted and verified, whether the courts have the means to implement this measure, and whether this measure may diminish the enforceability of a temporary restraining order.

Your Committee believes the intent of this measure can be developed and effectively implemented to enable victims of abuse the opportunity to more easily protect themselves using current electronic technologies.

Your Committee has amended this measure by inserting an effective date of July 1, 2050, to ensure further discussion.

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. 2505, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2505, 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.:* SB2505	Committee Referral: JDL	Date: 2/3/12		
<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	5			
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