

Honolulu, Hawaii

March 23, 2012

RE: S.B. No. 2588
S.D. 1
H.D. 2

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 2588, S.D. 1, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO LIMITATION OF ACTIONS,"

begs leave to report as follows:

The purpose of this measure is to provide victims of sexual abuse additional time to bring a civil action against an individual or entity. Specifically, this measure:

- (1) Extends the statute of limitations to allow individuals subjected to sexual offenses as a minor to bring a civil action after they have reached the age of majority against the individual who committed the offense;
- (2) Provides a two-year window period for a victim of child sexual abuse to bring a civil action against the abuser, even though the statute of limitations period has lapsed;
- (3) Authorizes the court to award the recovery of attorney's fees to the defendant if the sexual abuse accusation was made with no basis in fact and with malicious intent; and
- (4) Requires a plaintiff to file with the court a certificate of merit that shall be sealed and remain



confidential and includes a notarized statement, provided by a mental health care professional or other specified professional, upon which it can be reasonably concluded the plaintiff was a victim of a sexual offense.

The Sex Abuse Treatment Center and four individuals testified in support of this measure. The Department of Corporation Counsel of the City and County of Honolulu testified in support of the intent of this measure. The Hawaii Catholic Conference testified in opposition to this measure. The Department of the Attorney General provided comments.

Your Committee has amended this measure by:

- (1) Including the State and its political subdivisions as entities potentially liable for gross negligence in certain actions for a period of two years after enactment of this measure;
- (2) Deleting the requirement that the mental health care professional or other specified professional making the notarized statement in the certificate of merit must not be currently treating or ever have treated the plaintiff in the civil action; and
- (3) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2588, S.D. 1, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as S.B. No. 2588, S.D. 1, H.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary,


GILBERT KEITH-AGARAN, Chair



