

Honolulu, Hawaii

MAR 0 1 2012

RE: S.B. No. 2900
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. 2900 entitled:

"A BILL FOR AN ACT RELATING TO POST CONVICTION PROCEEDINGS,"

begs leave to report as follows:

The purpose and intent of this measure is to impose a time limit of five years during which inmates may seek post-conviction relief in the state courts, and limit the number of successive complaints a petitioner may file.

Your Committee received testimony in support of this measure from the Department of the Attorney General, the Office of the Prosecuting Attorney of the County of Hawaii, and the Department of the Prosecuting Attorney of the County of Maui. Testimony in opposition to this measure was submitted by the Office of the Public Defender, the Community Alliance on Prisons, and the American Civil Liberties Union of Hawaii.

Your Committee finds that existing law does not have a statute of limitations on petitions for post-conviction relief in state courts. Defendants are able to file challenges to their convictions and custody long after the actual events, which makes it difficult to address the merits of the challenges and, if necessary, to hold retrials or new hearings. Establishing a five-year statute of limitation ensures that conviction and custody challenges are reviewed and decided upon when the record and witnesses are more likely to be available. Furthermore, a statute of limitations promotes finality to convictions and sentences



within a more reasonable timeframe and prevents the filing of numerous frivolous and repetitive petitions.

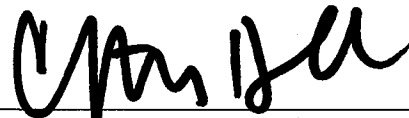
Your Committee recognizes the testimony submitted in opposition to this measure that indicates this measure may unfairly prevent defendants from seeking relief in the courts for a wrongful conviction thereby potentially penalizing them for circumstances that may be beyond their control. For example, the number of exonerations is rising due to post-conviction DNA testing, which is a test that may not have been available at the time of a defendant's conviction.

Accordingly, your Committee has amended this measure by:

- (1) Inserting an exemption for post-conviction DNA testing under part XI of chapter 844D, Hawaii Revised Statutes;
- (2) Inserting an effective date of July 1, 2050, to ensure further discussion; and
- (3) 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. 2900, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2900, 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.:* SB 2900	Committee Referral: JDL	Date: 2-22-12		
<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	3	-	-	2
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