

Honolulu, Hawaii

APR 24 2014

RE: S.B. No. 2687
S.D. 1
H.D. 2
C.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawaii

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawaii

Madam and Sir:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 2687, S.D. 1, H.D. 2, entitled:

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

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to amend section 657-1.8, Hawaii Revised Statutes, by:

- (1) Extending the statutory period from two to four years after April 24, 2012, to allow a victim of child sexual abuse to bring a civil action against the victim's abuser or a legal entity with a duty of care, if the victim is barred from filing a claim due to the expiration of the applicable statute of limitations that was in effect prior to April 24, 2012; and



- (2) Changing the legal standard used by the court to award damages against a legal entity from a finding of gross negligence to a finding of negligence on the part of the legal entity.

Your Committee on Conference finds that child sexual abuse is an epidemic that unfortunately is not adequately addressed because a vast majority of child sexual abuse victims fail to report their sexual assaults to the authorities. Studies have estimated that between sixty to eighty percent of child sexual abuse victims withhold disclosure. Furthermore, studies examining latency in disclosure report an average delay of three to eighteen years.

In response to this issue, the Legislature passed Act 68, Session Laws of Hawaii 2012 (Act 68), to extend the statute of limitations for civil actions brought by a victim of sexual offenses as a minor against the person who committed the act and establish a two-year window to allow a victim of sexual abuse to bring a cause of action if bringing such an action was barred due to the expiration of the statute of limitations that was in effect prior to April 24, 2012. Your Committee on Conference further finds that the two-year window to allow a victim of child sexual abuse to bring a cause of action that is otherwise barred will sunset on April 24, 2014, if legislative action is not taken. This measure provides an opportunity for a victim to file a cause of action if the statute of limitations has lapsed.

Your Committee on Conference has amended this measure by:

- (1) Reinstating the legal standard used by the court to award damages against a legal entity from a finding of negligence to a finding of gross negligence on the part of the legal entity; and
- (2) Changing the effective date from July 1, 2080, to upon approval.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2687, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2687, S.D. 1, H.D. 2, C.D. 1.



Respectfully submitted on behalf
of the managers:

ON THE PART OF THE HOUSE

Mele Carroll

MELE CARROLL, Co-Chair

Karl Rhoads

KARL RHOADS, Co-Chair

ON THE PART OF THE SENATE

Clayton Hee

CLAYTON HEE, Chair

Maile S.L. Shimabukuro

MAILE S.L. SHIMABUKURO, Co-Chair



Hawaii State Legislature

CUR 44-14

**Record of Votes of a
Conference Committee**

Bill / Concurrent Resolution No.: SB 2687, SD 1, HD 2	Date/Time: <i>4/24/14 3:53 pm</i>
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The recommendation of the House and Senate managers is to pass with amendments (CD).

The Committee is reconsidering its previous decision.

<input type="checkbox"/> The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure	<input type="checkbox"/> The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.
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Senate Managers	A	WR	N	E	House Managers	A	WR	N	E
HEE, Clayton, Chr.	✓				CARROLL, Mele, Co-Chr.	✓			
SHIMABUKURO, Maile S.L., Co-Chr.	✓				RHOADS, Karl, Co-Chr.	✓			
GALUTERIA, Brickwood	✓				BROWER, Tom	✓			
					FUKUMOTO, Beth				✓
TOTAL	3				TOTAL	3			1

A = Aye WR = Aye with Reservations N = Nay E = Excused

Senate Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted	House Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted
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Senate Lead Chair's or Designee's Signature: 	House Lead Chair's or Designee's Signature:
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