

Honolulu, Hawaii

February 18, 2016

RE: H.B. No. 1046  
H.D. 1

Honorable Joseph M. Souki  
Speaker, House of Representatives  
Twenty-Eighth State Legislature  
Regular Session of 2016  
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 1046 entitled:

"A BILL FOR AN ACT RELATING TO WRONGFUL IMPRISONMENT,"

begs leave to report as follows:

The purpose of this measure is to ensure that persons who are wrongfully convicted and imprisoned by the State receive immediate services upon release and, when able to demonstrate damages under appropriate circumstances, compensation from the State.

Your Committee finds that compensation for wrongful imprisonment generates many viewpoints about the State's responsibility in these circumstances. Wrongful convictions and the subsequent incarcerations may be the result of many factors, including eyewitness misidentification, false confessions, improper forensic science, and government misconduct. The conundrum confronting any compensation scheme is to identify deserving individuals who are innocent of crimes from those who are not.

There are more than 15,000 persons listed on The National Registry of Exonerations, including three persons convicted in Hawaii. Innocent persons who have been wrongly convicted of crimes and subsequently imprisoned have been uniquely victimized, have distinct challenges re-entering society, and have difficulty achieving legal redress due to a variety of substantive and technical obstacles in the law. Your Committee believes that this



measure will help wrongfully convicted persons transition back into society and increase their future self-sufficiency.

Your Committee heard a similar measure in the 2015 Regular Session; however, it decided to hear a revised version this session due to the significance of the underlying purpose of legislation for the State to compensate wrongfully incarcerated individuals. During the 2015 legislative interim, the American Judicature Society - Hawaii Chapter convened a special committee on redress for unlawful imprisonment to work on language with various stakeholders. As an independent, nonpartisan collection of a wide range of state and federal judicial representatives and legal, educational, and community representatives, the special committee was uniquely positioned to develop consensus language. The suggestions of the American Judicature Society - Hawaii Chapter were incorporated into H.B. No. 1046, H.D. 1, Proposed.

For purposes of facilitating public input on the proposed H.D. 1 version of this measure, your Committee posted notice of and circulated H.B. No. 1046, H.D. 1, Proposed, prior to holding a public hearing on February 2, 2016, on this measure.

Your Committee received testimony in support of H.B. No. 1046, H.D. 1, Proposed, from the following agencies, organizations, and individuals: The Department of the Attorney General; Community Alliance on Prisons; The CHOW Project; Hawaii Innocence Project; Ho'omana Pono, LLC; and several individuals.

Upon careful consideration, your Committee has amended this measure by deleting its contents and inserting the language of H.B. No. 1046, H.D. 1, Proposed, which provides compensation and expungement of conviction to persons who can demonstrate that they were wrongfully convicted and imprisoned when actually innocent.

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 H.B. No. 1046, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1046, H.D. 1, and be referred to your Committee on Finance.



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

*Karl Rhoads*

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KARL RHOADS, Chair



