

STAND. COM. REP. NO.

1058

Honolulu, Hawaii

MAR 25 2015

RE: H.B. No. 1370  
H.D. 1  
S.D. 1

Honorable Donna Mercado Kim  
President of the Senate  
Twenty-Eighth State Legislature  
Regular Session of 2015  
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred  
H.B. No. 1370, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO DIVORCE,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require the Employees' Retirement System to directly pay a portion of a member's pension or related benefit to the former spouse of the member, in response to an award in a divorce action; and
- (2) Appropriate unspecified sums to the Employees' Retirement System for the administration of direct payment benefits to a former spouse of an Employees' Retirement System member.

Your Committee received testimony in support of this measure from the Family Law Section of the Hawaii State Bar Association, Hydroponics Alternatives LLC, and two individuals. Your Committee received testimony in opposition to this measure from the Employees' Retirement System Board of Trustees and University of Hawaii Professional Assembly.

Your Committee finds that this measure will ensure that a member's or retirant's pension or related benefits are correctly divided pursuant to a divorce action award and promptly paid, with



the appropriate tax consequences for both the member or retirant and the former spouse. This requirement will also help align chapter 88, Hawaii Revised Statutes, to the federal Employee Retirement Income Security Act, which applies only to private employers.

Your Committee notes that the Employees' Retirement System testified that it prefers the language in the companion measure under S.B. No. 1324, S.D. 2 (Regular Session of 2015) because the companion measure provides additional specifications regarding the contents of the judgment, order, or decree; distribution of a portion of the pension, annuity, retirement allowance, or refunded contributions of the member or retirant that is required to be paid directly to the spouse or former spouse of the member or retirant; and responsibilities of the Employees' Retirement System and member or retirant. As a result, the Employees' Retirement System testified that adopting the language under S.B. No. 1324, S.D. 2 would provide a cost savings of \$1,000,000 to implement compared to this measure.

Accordingly, your Committee has amended this measure by:

- (1) Deleting its contents and inserting language from S.B. No. 1324, S.D. 2 (Regular Session of 2015), that:
  - (A) Requires the Employees' Retirement System to make direct payment to a former spouse of a member or retirant of benefits or portion thereof pursuant to a valid court judgment, order, or decree;
  - (B) Establishes requirements for the content of a court judgment, order, or decree in a divorce action for a portion of the pension, annuity, retirement allowance, or refunded contributions of the member or retirant;
  - (C) Establishes the timing of and limitations to direct payment of a portion of a member's or retirant's pension or related benefit to the former spouse of the member or retirant, in response to an award in a divorce action and under various circumstances that may impact the direct payment to a former spouse of a member or retirant;



- (D) Establishes conditions in which the Employees' Retirements System shall not be bound by a judgment, decree, or order made pursuant to a domestic relations law of this State or another state;
  - (E) Requires the Employees' Retirement System to adopt rules and authorizes the Board of Trustees of the Employees' Retirement System to establish and revise from time to time a filing fee and schedule of charges for legal and actuarial services incurred by the Employees' Retirement System for the processing and review of judgments, orders, and decrees;
  - (F) Makes conforming amendments to section 88-91, Hawaii Revised Statutes; and
  - (G) Appropriates unspecified sums to the Employees' Retirement System for fiscal years 2015-2016 and 2016-2017 for the administration of direct payment benefits to a former spouse of Employees' Retirement System members and retirants; and
- (2) Inserting an effective date of January 1, 2016.

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 H.B. No. 1370, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1370, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

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

  
GILBERT S.C. KEITH-AGARAN, Chair



The Senate  
 Twenty-Eighth Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Judiciary and Labor**  
**JDL**

Bill / Resolution No.:* <b>HB1370 HDI</b>	Committee Referral: <b>JDL, WAM</b>	Date: <b>3/20/15</b>		
<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
KEITH-AGARAN, Gilbert S.C. (C)	✓			
SHIMABUKURO, Maile S.L. (VC)	✓			
ESPERO, Will	✓			
GABBARD, Mike	✓			
IHARA, Jr., Les				✓
THIELEN, Laura H.	✓			
SLOM, Sam	✓			
<b>TOTAL</b>	<b>6</b>			<b>1</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes