

STAND. COM. REP. NO. 397

Honolulu, Hawaii  
February 20, 2015

RE: H.B. No. 148  
H.D. 1

Honorable Joseph M. Souki  
Speaker, House of Representatives  
Twenty-Eighth State Legislature  
Regular Session of 2015  
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 148 entitled:

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

begs leave to report as follows:

The purpose of this measure is to establish a process for innocently convicted and incarcerated individuals to be compensated by the State. It also provides for immediate services to be available for qualifying individuals.

The Hawaii Innocence Project, Community Alliance on Prisons, the Innocence Project, and several dedicated individuals testified in support. The Department of the Attorney General and the Hawaii Paroling Authority testified in opposition. The Judiciary, State of Hawaii, and the Hawaii Employer-Union Health Benefits Trust Fund provided comments on the measure.

Your Committee finds that the proposal to compensate wrongfully incarcerated individuals generates many viewpoints on the State's responsibility in these unique circumstances. Your Committee further finds that wrongful convictions and the subsequent incarceration may be the result of many causes, including eyewitness misidentification, false confessions, improper forensic science, and government misconduct. The aim of any means of compensation is to discern those individuals who can be deemed innocent of a crime from those who are not. It is,



therefore, critical to precisely craft the requirements for how an individual would demonstrate true innocence.

Your Committee has, accordingly, amended this measure by:

- (1) Conforming the language to better fit with Hawaii laws, such as how the claim is presented;
- (2) Changing the innocence requirement from "grounds not inconsistent with innocence" to "grounds consistent with innocence and supported by findings that clearly state such consistency";
- (3) Allowing a claim for compensation to be presented by authorized representative if claimant is incapacitated;
- (4) Inserting claim award amounts of \$50,000 minimum for each year of imprisonment and \$25,000 minimum for each year of parole, probation, or registration as sex offender;
- (5) Capping reasonable attorneys' fees at \$75,000, exclusive of expenses;
- (6) For expungement purposes, requiring the Judiciary to issue an order which then the department of the Attorney General will process, instead of requiring the successful claimant to separately apply to the Attorney General;
- (7) Clarifying the written notice requirements to wrongfully imprisoned persons including adopting the Judiciary's recommendation that the Governor provide the notice in pardon situations;
- (8) Clarifying the intent of the measure in preamble; and
- (9) 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 H.B. No. 148, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 148, H.D. 1, and be referred to the Committee on Finance.



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



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KARL RHOADS, Chair



