

Honolulu, Hawaii

**MAR 06 2015**

RE: S.B. No. 152  
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  
S.B. No. 152 entitled:

"A BILL FOR AN ACT RELATING TO THE RETENTION OF BIOLOGICAL  
EVIDENCE,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Specify the criminal offenses for which biological evidence must be retained for a certain period following a conviction and the standards for uses of retained evidence; and
- (2) Establish a process for the disposal of biological evidence earlier than the prescribed period for retention.

Your Committee received testimony in support of this measure from the Department of the Attorney General; Department of the Prosecuting Attorney, City and County of Honolulu; Department of the Prosecuting Attorney, County of Maui; Office of the Prosecuting Attorney, County of Kauai; Police Department, City and County of Honolulu; Police Department, County of Maui; and Police Department, County of Hawaii. Your Committee received testimony in opposition to this measure from the Office of the Public Defender and Community Alliance on Prisons. Your Committee received comments on this measure from the Judiciary.



Your Committee finds that the existing requirements for the retention of biological evidence are broad and require the police to retain all evidence that may contain biological evidence in any case in which there has been a conviction. The requirements apply to all felony, misdemeanor, and petty misdemeanor cases that resulted in convictions regardless of whether the identity of the perpetrator was an issue. This measure establishes reasonable and manageable requirements for the retention of biological evidence while providing convicted defendants the opportunity to object to the disposal of the biological evidence that are related to their case.

Your Committee has amended this measure by:

- (1) Deleting the public defender as a recipient of the filed notification of proposed disposal of the evidence if the defendant's attorney of record is unavailable to be served;
- (2) Authorizing the court to order that service of the filed notification of proposed disposal of the evidence be made by publication of the notice under certain conditions;
- (3) Authorizing the court to allow the evidence custodian to dispose of portions of evidence under certain conditions;
- (4) Inserting an effective date of January 7, 2059, to encourage further discussion; and
- (5) 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. 152, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 152, S.D. 1, and be placed on the calendar for Third Reading.



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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>SB152</b>	Committee Referral: <b>JDL</b>	Date: <b>2/25/15</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				
<b>Members</b>	<b>Aye</b>	<b>Aye (WR)</b>	<b>Nay</b>	<b>Excused</b>
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>4</b>	<b>1</b>	<b>0</b>	<b>2</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