

Honolulu, Hawaii

MARCH 24, 2016

RE: S.B. No. 2815
S.D. 2
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 S.B. No. 2815, S.D. 2, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO PROFESSIONALLY LICENSED OR CERTIFIED GOVERNMENT EMPLOYEES,"

begs leave to report as follows:

The purpose of this measure is to mitigate the personal monetary risk of professionally licensed or certified State or county employees by:

- (1) Specifying that the State and the counties are exclusively liable for the claims of their respective professionally licensed or certified employees for injury or loss of property, or personal injury or death, arising or resulting from the negligent or wrongful act or omission of the respective employee while acting within the scope of employment; and
- (2) Precluding any civil action or proceeding for money damages arising out of or related to the same subject matter against the employee or the employee's estate without regard to when the act or omission occurred.

The Department of Public Safety, Department of Taxation, Department of Accounting and General Services, Department of Transportation, City and County of Honolulu Board of Water Supply, City and County of Honolulu Department of Human Resources, and

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Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO testified in support of this measure. The Department of the Attorney General supported this measure with comments. Hawaii Association for Justice testified in opposition to this measure.

Your Committee finds that the purpose of this measure is to mitigate the personal monetary risk of professionally licensed or certified State and county employees. Your Committee also finds unacceptable the actions of a state-employed physician that the Intermediate Court of Appeals held to have been a "classic medical malpractice case," which caused an individual incarcerated at a state correctional facility to suffer serious medical injuries including gangrene, amputation of the scrotal sac, multiple skin grafts, prolonged hospitalization, and infertility. *Slingluff v. State*, 317 P.3d 683 (Haw. App. 2013). It is not your Committee's intention that this measure lead State- or county-employed professionals to believe that they do not need to follow the applicable professional standards because they believe they will not be personally liable.

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 S.B. No. 2815, S.D. 2, H.D. 1, and recommends that it be referred to your Committee on Finance.

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



KARL RHOADS, Chair



