

STAND. COM. REP. NO. **246**

Honolulu, Hawaii

FEB 18 2015

RE: S.B. No. 771
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 Public Safety, Intergovernmental and
Military Affairs, to which was referred S.B. No. 771 entitled:

"A BILL FOR AN ACT RELATING TO LAW ENFORCEMENT,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require law enforcement officers and officers of justice to request and obtain a person's voluntary and informed consent prior to conducting a search of the person, the person's belongings, the person's residence, or the person's vehicle when conducting the search without a search warrant; and
- (2) Provide an exception for law enforcement officers or officers of justice who have probable cause to believe that a person is armed and presents a danger to the officer's safety.

Your Committee received testimony in support of this measure from the Community Alliance on Prisons and Hawaii Association of Criminal Defense Lawyers. Your Committee received testimony in opposition to this measure from the Department of Public Safety, Honolulu Police Department, County of Hawaii Police Department, Hawaii Innocence Project, and two individuals.

Your Committee finds that many people in the State are unaware of their rights when interacting with law enforcement



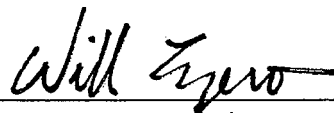
officers. A specific area of concern is a law enforcement officer's power to search a person without a search warrant. The legal validity of purported consents to search is an often litigated issue in criminal cases. Implementation of this measure will protect law enforcement officers from false claims of wrongdoing and ensure the efficiency and effectiveness of the State's criminal justice system.

Your Committee has amended this measure by:

- (1) Expanding the exception for law enforcement officers or officers of justice to include a search that is constitutionally justified by another precise, well-established and judicially approved exception to the search warrant requirement; and
- (2) Making a technical, nonsubstantive amendment for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Public Safety, Intergovernmental and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 771, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 771, S.D. 1, and be referred to the Committee on Judiciary and Labor.

Respectfully submitted on
behalf of the members of the
Committee on Public Safety,
Intergovernmental and Military
Affairs,



WILL ESPERO, Chair



The Senate
 Twenty-Eighth Legislature
 State of Hawai'i

Record of Votes
Committee on Public Safety, Intergovernmental and Military Affairs
PSM

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 771	PSM, JDL	2-10-2015		
<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
ESPERO, Will (C)	✓			
BAKER, Rosalyn H. (VC)	✓			
GALUTERIA, Brickwood	✓			
KEITH-AGARAN, Gilbert S.C.				✓
SLOM, Sam				✓
TOTAL	3	-	-	2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes