

STAND. COM. REP. NO. 858

Honolulu, Hawaii

MAR 03 2017

RE: S.B. No. 674
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Sir:

Your Committees on Judiciary and Labor and Ways and Means, to which was referred S.B. No. 674 entitled:

"A BILL FOR AN ACT RELATING TO CRIMINAL PROCEDURE,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Create procedural and administrative requirements for law enforcement agencies for eyewitness identifications of suspects in criminal investigations;
- (2) Establish jury instructions when the court determines that the eyewitness identification is admissible; and
- (3) Require the Attorney General to establish procedures for the implementation of uniform statewide eyewitness identification procedures.

Your Committees received testimony in support of this measure from the Community Alliance on Prisons. Your Committees received testimony in opposition to this measure from the Police Department, County of Hawai'i. Your Committees received comments on this measure from the Judiciary.

Your Committees find that the use of proper eyewitness identification procedures by law enforcement is critical to



protecting individual rights and personal liberty. While law enforcement agencies in the State have their own procedures for eyewitness identifications, there are no uniform standards. This measure ensures that law enforcement agencies engage in the best practices that offer the greatest protections for individuals.

Your Committees note the concerns raised in written testimony submitted by the Judiciary that the jury instruction provisions in this measure may infringe upon and constrain the judgment and discretion of a trial judge and pose an unnecessary burden on the defendant's constitutional right to conduct the defendant's own defense.

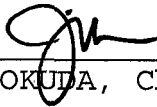
Accordingly, your Committees have amended this measure by:

- (1) Clarifying that law enforcement shall perform a photo lineup or live lineup whenever reasonably practicable, but if a showup is unavoidably necessary, law enforcement is required to comply with certain procedures;
- (2) Deleting language regarding jury instructions when the court determines that the eyewitness identification is admissible;
- (3) Inserting an effective date of January 7, 2059, to encourage further discussion; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Judiciary and Labor and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 674, as amended herein, and recommend that it pass Third Reading in the form attached hereto as S.B. No. 674, S.D. 1.



Respectfully submitted on
behalf of the members of the
Committees on Judiciary and
Labor and Ways and Means,



JILL N. TOKUDA, Chair



GILBERT S.C. KEITH-AGARAN, Chair



The Senate
 Twenty-Ninth Legislature
 State of Hawai'i

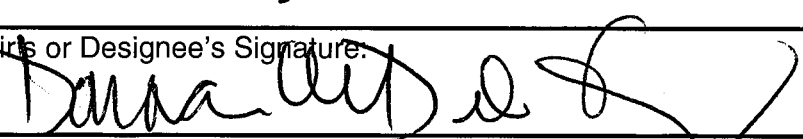
Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* SB674	Committee Referral: PSM, JDL/WAM	Date: 2/28/17		
<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)	✓			
RHOADS, Karl (VC)	✓			
GABBARD, Mike				✓
KIM, Donna Mercado				✓
THIELEN, Laura H.	✓			
TOTAL	3	0	0	2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Karl Rhoads</i>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes

The Senate
 Twenty-Ninth Legislature
 State of Hawai'i

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:* SB 674	Committee Referral: PSM, SDL/WAM	Date: 2/28/17		
<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
TOKUDA, Jill N. (C)	/			
DELA CRUZ, Donovan M. (VC)	/			
ENGLISH, J. Kalani	/			
GALUTERIA, Brickwood	/			
HARIMOTO, Breene	/			
INOUE, Lorraine R.				/
KAHELE, Kaiali'i	/			
RIVIERE, Gil	/			
SHIMABUKURO, Maile S.L.	/			
TANIGUCHI, Brian T.	/			
WAKAI, Glenn				/
TOTAL	9			2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

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