Honolulu, Hawaii

March 2

, 2018

RE: H.B. No. 1851

H.D. 2

Honorable Scott K. Saiki Speaker, House of Representatives Twenty-Ninth State Legislature Regular Session of 2018 State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 1851, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO PORNOGRAPHY,"

begs leave to report as follows:

The purpose of this measure, as received by your Committee, is to:

- (1) Define "in loco parentis" for purposes of exemption from the offense of promoting pornography for minors under Hawaii's obscenity laws; and
- (2) Clarify that the offense of promoting pornography for minors does not apply to a person who acts within the person's capacity and scope of employment as a member of the staff of any school.

For the purposes of a public hearing on this bill, your Committee circulated H.B. No. 1851, H.D. 2 PROPOSED (Proposed Draft), and notified the public that it would be accepting testimony on the Proposed Draft, which defines "in loco parentis" for purposes of exemption under Hawaii's obscenity law and does not include language regarding persons acting within the scope of employment at a school.

The Department of the Attorney General and City and County of Honolulu Department of the Prosecuting Attorney provided comments on the measure as received by your Committee.

The Honolulu Police Department testified in support of the Proposed Draft. The Department of the Attorney General supported the intent of the Proposed Draft. The Department of Education provided comments.

Your Committee considered the merits of both H.B. No. 1851, H.D. 1, as received by your Committee, and the Proposed Draft and, upon careful consideration, adopted the Proposed Draft.

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. 1851, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1851, H.D. 2.

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

SCOTT Y. NISHIMOTO, Chair

## State of Hawaii House of Representatives The Twenty-ninth Legislature

## Record of Votes of the Committee on Judiciary

| Bill/Resolution No.:  | Committee Referral: Date: |           |            | _  |
|---|---------------------------|-----------|------------|--|
| HB 1851 HOI   | EDN, JUD                  |           | 02/22/2018 |  |
| ☐ The committee is reconsidering its previous decision on the measure.  |                           |           |            |  |
| The recommendation is to:  Pass, unamended (as is)  Pass, with amendments (HD)  Hold  Pass short form bill with HD to recommit for future public hearing (recommit) |                           |           |            |  |
| JUD Members   | Ayes                      | Ayes (WR) | Nays       | Excused  |
| 1. NISHIMOTO, Scott Y. (C)  |                           |           |            |  |
|   |                           |           |            |  |
| 2. SAN BUENAVENTURA, Joy A.   | (VC)                      |           |            |  |
|   |                           |           |            |  |
| 3. BROWER, Tom  |                           |           |            |  |
| 4. LEE, Chris   |                           |           |            |  |
|   |                           |           |            |  |
| 5. MORIKAWA, Dee  |                           |           |            |  |
|   |                           |           |            |  |
| 6. TAKAYAMA, Gregg  |                           |           |            |  |
|   |                           |           |            |  |
| 7. McDERMOTT, Bob   |                           |           |            |  |
| 9 THIELEN Cynthia   |                           | ·         |            | in the state of th |
| 8. THIELEN, Cynthia   |                           |           |            |  |
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| TOTAL (8)   | 6                         | 2         |            |  |
| The recommendation is:  Adopted  If joint referral, did not support recommendation.  committee acronym(s)   |                           |           |            |  |
| Vice Chair's or designee's signature:   |                           |           |            |  |
| Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO  |                           |           |            |  |