

Honolulu, Hawaii

MAR 23

, 2018

RE: S.B. No. 2189
S.D. 1
H.D. 1

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

Sir:

Your Committee on Labor & Public Employment, to which was referred S.B. No. 2189, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO VICTIM RIGHTS,"

begs leave to report as follows:

The purpose of this measure is to provide that a failure of any state or county officer or employee to carry out or comply with the requirements of chapter 801D, Hawaii Revised Statutes, relating to victims' and witnesses' rights in criminal proceedings, shall provide a basis for disciplinary action as may be appropriate by competent authority. This measure also removes protection from civil liability for such a failure or noncompliance by state and county officers and employees.

The Oahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i, Ho'omanapono Political Action Committee, Ho'omana Pono, LLC, and several individuals supported this measure. The Office of the Prosecuting Attorney of the County of Kauai, Department of the Prosecuting Attorney of the City and County of Honolulu, and Honolulu Police Department opposed this measure. The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO offered comments on this measure.



Your Committee notes that this measure addresses the impact of state and county employees' conduct on victims of crimes. Your Committee further notes that any further adverse effects and harm to victims outweighs some of the issues raised in testimony and warrants continuing this policy discussion.

Additionally, your Committee notes there were some concerns raised in testimony submitted for the public hearing that warrants further scrutiny. First, testimony stated that the measure would mandate disciplinary action upon an officer or employee who fails to carry out or comply with chapter 801D, Hawaii Revised Statutes (chapter 801D). Should your Committee on Judiciary consider this measure, your Committee requests that it may want to consider drafting language that allows for disciplinary action that accounts for type and severity of actions.

Second, testimony stated that the measure did not provide any procedures and did not identify the appropriate authority responsible for enforcement. Your Committee notes that the federal Crime Victims' Rights Act has a similar immunity provision for federal employees as the one being deleted in this measure. See 18 U.S.C. § 3771(d)(6). However, the federal Crime Victims' Rights Act mandates procedures be implemented for compliance by the federal Department of Justice. 18 U.S.C. § 3771(e). Should your Committee on Judiciary consider this measure, your Committee requests that it consider this concern.

As such, your Committee has amended this measure by changing its effective date to January 1, 2050, to promote further discussion.

As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2189, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2189, S.D. 1, H.D. 1, and be referred to your Committee on Judiciary.



Respectfully submitted on
behalf of the members of the
Committee on Labor & Public
Employment,



AARON ERIC JOHANSON, Chair



