

STAND. COM. REP. NO.

2163

Honolulu, Hawaii

FEB 09 2018

RE: S.B. No. 2745
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 2745 entitled:

"A BILL FOR AN ACT RELATING TO CONFIDENTIAL PERSONAL INFORMATION,"

begs leave to report as follows:

The purpose and intent of this measure is to amend the definition of "confidential personal information" in section 708-800, Hawaii Revised Statutes, to eliminate unconstitutionally vague provisions in the law as determined by the Supreme Court of the State of Hawaii in *State v. Pacquing*, 139 Haw. 302, 389 P.3d 897 (2016).

Your Committee received testimony in support of this measure from the Department of the Attorney General and Department of the Prosecuting Attorney of the City and County of Honolulu.

Your Committee finds that the Court in *State v. Pacquing*, held that certain provisions in the definition of "confidential personal information" are unconstitutionally vague. This measure will amend the definition of "confidential personal information" to eliminate those vague provisions.

Your Committee has heard the testimony of the Department of the Attorney General and the Department of the Prosecuting Attorney of the City and County of Honolulu expressing concern



that this measure does not adequately protect personal information in which a person has a significant privacy interest. Your Committee further finds that S.B. No. 2178 contains amendments to the definition of "confidential personal information" that specifically identify types of information in which a person has a significant privacy interest, including usernames and passwords that provide access to protected information, as falling within the definition of "confidential personal information". The language of S.B. No. 2178 is therefore preferable because it addresses the unconstitutionally vague provisions identified by the Supreme Court of the State of Hawaii while providing superior protection for information in which a person has a significant privacy interest.

Your Committee has amended this measure by:

- (1) Deleting its contents and inserting the contents of S.B. No. 2178, a substantively similar measure, which amends the definition of "confidential personal information" in section 708-800, Hawaii Revised Statutes, to eliminate unconstitutionally vague provisions in the law as determined by the Supreme Court of the State of Hawaii in *State v. Pacquing*, 139 Haw. 302, 389 P.3d 897 (2016); and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

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. 2745, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2745, S.D. 1, and be placed on the calendar for Third Reading.

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


BRIAN T. TANIGUCHI, Chair



The Senate
Twenty-Ninth Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary
JDC

Bill / Resolution No.:* SB 2745	Committee Referral: JDC	Date: 2/2/18		
<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
TANIGUCHI, Brian T. (C)	✓			
RHOADS, Karl (VC)	✓			
GABBARD, Mike				✓
KIM, Donna Mercado	✓			
THIELEN, Laura H.	✓			
TOTAL	4	0	0	1
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