

STAND. COM. REP. NO.

169

Honolulu, Hawaii

FEB 13 2017

RE: S.B. No. 506

S.D. 1

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

Sir:

Your Committee on Public Safety, Intergovernmental, and  
Military Affairs, to which was referred S.B. No. 506 entitled:

"A BILL FOR AN ACT RELATING TO SEXUAL ASSAULT,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Provide certain rights to sexual assault victims;
- (2) Institute mandatory sexual assault evidence kit testing requirements in accordance with guidelines established by the Department of the Attorney General through the malama kakou project;
- (3) Require the Department of the Attorney General to report annually to the Legislature on statistical data pertaining to the testing of sexual assault evidence collection kits; and
- (4) Require the Department of the Attorney General to report to the legislature by the beginning of the 2018 regular session on the progress of implementing the guidelines.

Your Committee received testimony in support of this measure from the Hawaii State Commission on the Status of Women; Office of the Prosecuting Attorney, County of Hawai'i; Department of the Prosecuting Attorney for the City and County of Honolulu; Honolulu Police Department; American Association of University Women

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Hawaii; Community Alliance on Prisons; Hawaii Women's Coalition; Planned Parenthood Votes Northwest and Hawaii; The Sex Abuse Treatment Center; Hawaii State Coalition Against Domestic Violence; Joyful Heart Foundation; and one individual. Your Committee received comments on this measure from the Department of the Attorney General.

Your Committee finds that the efficient and proper testing of sexual assault evidence kits is essential to maintaining the health, safety, and welfare of the public. An inventory of all stored sexual assault evidence collection kits as required by the Legislature in 2016 found that regular and systematic testing of these kits by county police departments has been inadequate. Further, the Legislature directed the Department of the Attorney General to convene a working group, referred to as the malama kakou project, to develop statewide standards and practices for the testing of sexual assault evidence collection kits. The project developed a plan to reform the testing of sexual assault evidence collection kits and established guidelines to determine whether a kit should be tested, a priority order for kits that are to be tested, and a process for police departments to follow in implementing the defined criteria and priorities. Implementation of these guidelines and corresponding accountability measures should increase the frequency of the testing of sexual assault evidence collection kits and help to better protect the rights of sexual assault victims.

Your Committee acknowledges the concerns of the Director of the City and County of Honolulu's Scientific Investigation Center that an accredited outside laboratory may be too busy to accept a sexual assault evidence collection kit from a law enforcement agency within an established ninety-day deadline.

Your Committee is also concerned that simply applying a deadline for a law enforcement agency to submit a request to an accredited outside laboratory for the testing of a sexual assault evidence collection kit may not result in actually obtaining test results. Therefore, your Committee believes that an amendment to this measure is necessary to require a submitting law enforcement agency to follow up on any testing submitted to an accredited outside laboratory.

Your Committee also understands the concerns that the Office of the Prosecuting Attorney of the County of Hawai'i and The Sex Abuse Treatment Center raised in their testimony about the



inapplicability of sexual assault survivor's rights to backlogged sexual assault evidence collection kits currently being tested. According to the testimony, survivors of past sexual assaults may experience trauma if they are notified that a tested kit did not result in any actionable "hits". It has therefore been recommended to your Committee that survivors of past sexual assaults be allowed to request test results, but not be affirmatively notified.

Your Committee is unclear, however, as to why a survivor of a sexual assault this year can be affirmatively notified of the test results, but a survivor of a sexual assault last year would be traumatized by a similar affirmative notification. Your Committee finds that there may be a justification for treating test result notification for older sexual assault evidence collection kits differently than more recent kits, but on its face, such a requirement appears inconsistent and to grant less notification and rights to survivors of all previous sexual assaults compared to prospective survivors. Perhaps, as this measure moves forward, the testifying organizations may be able to provide some clarification addressing your Committee's concerns.

Your Committee has amended this measure by:

- (1) Requiring the law enforcement agency that submits a request for the testing of a sexual assault evidence collection kit to an accredited outside laboratory to follow up on the testing to obtain test results within ninety days of the request; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

Your Committee acknowledges the testimony of the Department of the Attorney General requesting funding for additional prospective sexual assault evidence collection kits that are not covered by federal Sexual Assault Kit Initiative (SAKI) grants. The Department of the Attorney General's request appears to be a request to cover operational costs of law enforcement, and the specific amount appears to be an estimate based on the number of sexual assault evidence collection kits tested in prior years. Your Committee recommends that this matter of funding be considered by your Committees on Judiciary and Labor and Ways and Means if they choose to hear this measure.



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. 506, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 506, S.D. 1, and be referred to your Committees on Judiciary and Labor and Ways and Means.

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

*Clarence K. Nishihara*

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CLARENCE K. NISHIHARA, Chair



The Senate  
 Twenty-Ninth Legislature  
 State of Hawai'i

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

Bill / Resolution No.:* <b>SB 506</b>	Committee Referral: <b>PSM, JDL/WAM</b>	Date: <b>2/7/17</b>
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The Committee is reconsidering its previous decision on this measure.  
 If so, then the previous decision was to: \_\_\_\_\_

The Recommendation is:

Pass, unamended 2312    
  Pass, with amendments 2311    
 Hold 2310    
 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
NISHIHARA, Clarence K. (C)	✓			
WAKAI, Glenn (VC)	✓			
BAKER, Rosalyn H.	✓			
IHARA, Jr., Les				✓
THIELEN, Laura H.	✓			
<b>TOTAL</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>1</b>

Recommendation:  Adopted      Not Adopted

Chair's or Designee's Signature: 

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\*Only one measure per Record of Votes