

STAND. COM. REP. NO. 791-20

Honolulu, Hawaii

FEB 27 , 2020

RE: H.B. No. 1744
H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirtieth State Legislature
Regular Session of 2020
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 1744 entitled:

"A BILL FOR AN ACT RELATING TO EYEWITNESS IDENTIFICATION,"

begs leave to report as follows:

The purpose of this measure is to amend Act 281, Session Laws of Hawaii 2019 (Act 281), to provide clarification and flexibility in eyewitness identification procedures.

Your Committee received testimony in support of this measure from the Department of the Prosecuting Attorney of the City and County of Honolulu, Office of the Prosecuting Attorney of the County of Kauai, Department of the Prosecuting Attorney of the County of Maui, Honolulu Police Department, and Stolen Stuff Hawaii. Your Committee received testimony in opposition to this measure from the Hawaii Innocence Project and Community Alliance on Prisons. Your Committee received comments on this measure from the Office of the Public Defender.

Your Committee finds that Act 281 codified investigation procedures for law enforcement to conduct eyewitness identifications. Your Committee further finds that Act 281 does not take effect until June 1, 2020. Your Committee believes that further amendments are needed to make Act 281 more practical for real life application.

HB1744 HD1 HSCR JUD HMS 2020-1214



Your Committee has amended this measure by:

- (1) Reinstating language that requires:
 - (A) Law enforcement to record in writing as complete a description as possible of the possible perpetrator provided by the eyewitness in the eyewitness' own words before conducting a photo lineup or live lineup;
 - (B) An investigator to state in writing the reason why it is impracticable for a blind administrator to conduct a showup; and
 - (C) A video record or, if it is impracticable, an audio record of the identification procedure, and documentation of the reason why a video record of the procedure is impracticable;
- (2) Clarifying that if an eyewitness makes an identification, the administrator must seek and document a clear statement from the eyewitness of the eyewitness' confidence in the identification;
- (3) Changing the effective date to July 1, 2050, to encourage further discussion; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

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. 1744, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1744, H.D. 1, and be placed on the calendar for Third Reading.



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



CHRIS LEE, Chair



