

Honolulu, Hawaii

APR 04 , 2019

RE: S.B. No. 2
H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirtieth State Legislature
Regular Session of 2019
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 2
entitled:

"A BILL FOR AN ACT RELATING TO CRIMINAL DEFENSE,"

begs leave to report as follows:

The purpose of this measure as received by your Committee is
to amend the affirmative defense of extreme mental or emotional
disturbance for which there was a reasonable explanation in a
prosecution for murder or attempted murder by:

- (1) Prohibiting explanations based solely on the defendant's
discovery, knowledge, or disclosure of the victim's
gender, gender identity or expression, or sexual
orientation; and
- (2) Requiring the court to instruct the jury to disregard
bias and prejudice regarding the victim's actual or
perceived gender, gender identity or expression, or
sexual orientation if a defendant's explanation includes
the discovery of a victim's gender, gender identity or
expression, or sexual orientation.

The LGBT Caucus of the Democratic Party of Hawai'i, Filipino
Law Student Association, and several individuals testified in
support of S.B. No. 2, as received by your Committee. An



individual provided testimony in opposition to S.B. No. 2, as received by your Committee. GLSEN-HI provided comments.

For the purposes of a public hearing on this bill, your Committee circulated a Proposed S.B. No. 2, H.D. 1 (Proposed Draft), and notified the public that it would be accepting testimony on the Proposed Draft, which:

- (1) Establishes a time limitation for filing habeas corpus complaints and petitions for post-conviction judicial proceedings; and
- (2) Limits successive complaints.

The Department of the Attorney General, Department of the Prosecuting Attorney of the City and County of Honolulu, and Honolulu Police Department testified in support of the Proposed Draft. The Office of the Public Defender, Hawai'i Innocence Project, American Civil Liberties Union of Hawai'i, LGBT Caucus of the Democratic Party of Hawai'i, Community Alliance on Prisons, Pride@Work Hawaii, Hawaii Kai Homeless Task Force, and several individuals testified in opposition to the Proposed Draft. The Judiciary, Filipino Law Student Association, and a few individuals provided comments.

Your Committee considered the merits of both S.B. No. 2, as received by your Committee, and the Proposed Draft, and upon careful consideration, decided to amend this measure to establish a post-conviction relief task force to review and propose potential updates to Hawaii's laws and court rules regarding post-conviction relief.

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. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2, 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



