

STAND. COM. REP. NO. **798** -22

Honolulu, Hawaii

MAR 03 , 2022

RE: H.B. No. 1541

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirty-First State Legislature
Regular Session of 2022
State of Hawaii

Sir:

Your Committee on Judiciary & Hawaiian Affairs, to which was referred H.B. No. 1541 entitled:

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

begs leave to report as follows:

The purpose of this measure is to clarify the acceptable procedure for initiating criminal complaints to include a signature by the prosecuting officer.

Your Committee received testimony in support of this measure from the Department of the Attorney General, Department of the Prosecuting Attorney of the City and County of Honolulu, Department of the Prosecuting Attorney for the County of Maui, Office of the Prosecuting Attorney for the County of Kaua'i, Office of the Prosecuting Attorney of the County of Hawaii, Honolulu Police Department, Hawai'i Police Department, Kauai Police Department, Mothers Against Drunk Driving Hawaii Advisory Board, and Hawai'i State Coalition Against Domestic Violence. Your Committee received testimony in opposition to this measure from the Office of the Public Defender.

Your Committee finds that the Hawaii Supreme Court recently held that district court criminal complaints must strictly comply with section 805-1, Hawaii Revised Statutes, which requires the written complaint to be subscribed by the complainant under oath or be made by declaration in accordance with the rules of the

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court. The Court's ruling, however, did not specify who constituted a complainant or who could make the declaration, which has led to inconsistent rulings in the district courts across the State and cases being dismissed with or without prejudice based on the form of the complaint rather than the merits of the case. This measure addresses this issue by allowing prosecuting attorneys to review the evidence, decide which criminal charges are appropriate, and create a written complaint that the prosecuting attorney signs before filing. This process reflects how district court non-felony cases were initiated, and, for the most part, continue to be initiated, before the Court's decision.

As affirmed by the record of votes of the members of your Committee on Judiciary & Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1541 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary &
Hawaiian Affairs,



MARK M. NAKASHIMA, Chair



Record of Votes of the Committee on Judiciary & Hawaiian Affairs

Bill/Resolution No.: HB 1541	Committee Referral: JHA	Date: 2-1-22		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input checked="" type="checkbox"/> Pass, unamended (as is) <input type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
JHA Members	Ayes	Ayes (WR)	Nays	Excused
1. NAKASHIMA, Mark M. (C)	✓			
2. MATAYOSHI, Scot Z. (VC)	✓			
3. ICHIYAMA, Linda	✓			
4. KOBAYASHI, Dale T.			✓	
5. LoPRESTI, Matthew S.				✓
6. LOWEN, Nicole E.	✓			
7. McKELVEY, Angus L.K.	✓			
8. NAKAMURA, Nadine K.	✓			
9. TAKUMI, Roy M.	✓			
10. TODD, Chris	✓			
11. TOKIOKA, James Kunane	✓			
12. WARD, Gene	✓			
TOTAL (12)	10	0	1	1
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <div style="text-align:center; font-size: small;">committee acronym(s)</div>				
Vice Chair's or designee's signature:				
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