

STAND. COM. REP. NO. 633-22

Honolulu, Hawaii

FEB 18 , 2022

RE: H.B. No. 886

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. 886 entitled:

"A BILL FOR AN ACT RELATING TO PROFESSIONALLY LICENSED OR  
CERTIFIED GOVERNMENT EMPLOYEES,"

begs leave to report as follows:

The purpose of this measure is to amend the law relating to personal liability requirements of professionally licensed or certified employees of the State by:

- (1) Clarifying that the State shall be exclusively liable for civil tort claims resulting from the negligent or wrongful act or omission of a professionally licensed or certified employee of the State acting within the course and scope of the employee's office or employment if the State agrees to be fully liable; and
- (2) Precluding civil actions or proceedings for money damages against the employee, except for claims arising from employment with an employer other than the State.

Your Committee received testimony in support of this measure from the Department of the Attorney General, Department of Public Safety, and Hawaii Association for Justice.

2022-1589 HB886 HSCR HMSO



Your Committee finds that state employees are generally afforded qualified privilege or immunity for torts as a result of actions taken while in the course and scope of their employment. However, in Slingluff v. State, the Intermediate Court of Appeals found that prison physicians are not entitled to a qualified immunity for the exercise of their professional medical judgment.

Your Committee further finds that the potential for personal liability prevents qualified professionals from applying for jobs with the State. This measure addresses challenges in the recruitment and retention of prison physicians by extending the qualified immunity granted to other government employees to professionally licensed or certified employees exercising their professional judgement in the course and scope of their state employment.

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. 886 and recommends that it pass Second Reading and be referred to your Committee on Finance.

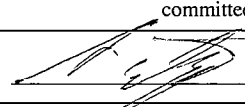
Respectfully submitted on  
behalf of the members of the  
Committee on Judiciary &  
Hawaiian Affairs,



MARK M. NAKASHIMA, Chair



Record of Votes of the Committee on Judiciary & Hawaiian Affairs

Bill/Resolution No.: <b>HB 880</b>	Committee Referral: <b>JHA, FIN</b>	Date: <b>2-16-22</b>		
<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.	✓			
<del>10. TODD, Chris</del>				
11. TOKIOKA, James Kunane				✓
12. WARD, Gene	✓			
<b>TOTAL (12)</b>	<b>10</b>	<b>2</b>	<b>2</b>	<b>1</b>
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. _____ committee acronym(s)				
Vice Chair's or designee's signature: 				
Distribution: Original (White) – Committee    Duplicate (Yellow) – Chief Clerk's Office    Duplicate (Pink) – HMSO				