

STAND. COM. REP. NO. 3917

Honolulu, Hawaii

APR - 8 2022

RE: H.B. No. 886
H.D. 1
S.D. 2

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2022
State of Hawaii

Sir:

Your Committees on Judiciary and Ways and Means, to which was referred H.B. No. 886, H.D. 1, S.D. 1, entitled:

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

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Clarify when the State shall be exclusively liable for claims for injury or loss of property, or personal injury or death, resulting from the negligent or wrongful act or omission of any professionally licensed or certified employee of the State while acting within the course and scope of the employee's office or employment;
- (2) Preclude civil actions or proceedings for money damages against the employee, except for claims based on liability other than an employee's course and scope of employment with the State or other employer; and
- (3) Clarify liability when the State agrees to assume full or partial responsibility in a civil action against a professional licensed or certified employee.



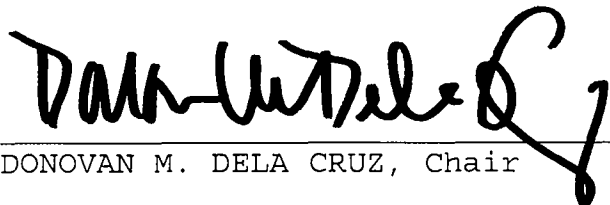
Your Committees received testimony in support of this measure from the Department of the Attorney General and Hawaii Association for Justice.

Your Committees find that in the decision of *Slingluff v. State*, 131 Hawai'i 239, 317 P.3d 683 (Haw. Ct. App. 2013), the Intermediate Court of Appeals held that "physicians employed by the State, including prison doctors, exercising purely medical discretion in the diagnosis and treatment of potentially injured or sick people, are not protected from medical malpractice claims by the doctrine of qualified immunity under Hawai'i law." Your Committees find that the *Slingluff* holding is contrary to legislative intent and public policy. To address the ramifications of *Slingluff*, and in an effort to attract and retain doctors, the State has taken steps to obtain professional liability insurance covering claims of individual liability for physicians in the Department of Public Safety. The cost of this insurance is borne by the State and is expected to rise over time as claims are made against those policies. This measure amends the law to supersede and override the Intermediate Court of Appeals' holding in *Slingluff*, which will make it unnecessary for the State to purchase certain insurance.

Your Committees have amended this measure by making it effective upon its approval.

As affirmed by the records of votes of the members of your Committees on Judiciary and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 886, H.D. 1, S.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 886, H.D. 1, S.D. 2.

Respectfully submitted on
behalf of the members of the
Committees on Judiciary and
Ways and Means,



DONOVAN M. DELA CRUZ, Chair


KARL RHOADS, Chair



The Senate
Thirty-First Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary
JDC

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 886, HDI, SDI	LCA, JDC/WAM	04-05-22		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
RHOADS, Karl (C)	/			
KEOHOKALOLE, Jarrett (VC)	/			
ACASIO, Laura	/			
GABBARD, Mike	/			
KIM, Donna Mercado	/			
LEE, Chris	/			
FEVELLA, Kurt			/	
TOTAL	6	-	1	-
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

*Only one measure per Record of Votes

The Senate
Thirty-First Legislature
State of Hawai'i

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:*	Committee Referral:	Date:
HB006, HD1, SD1	LCA, JDC/WAM	4/5/22

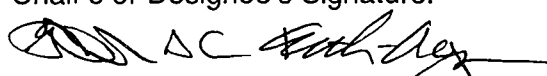
The Committee is reconsidering its previous decision on this measure.
If so, then the previous decision was to: _____

The Recommendation is:

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

Members	Aye	Aye (WR)	Nay	Excused
DELA CRUZ, Donovan M. (C)	X			
KEITH-AGARAN, Gilbert S.C. (VC)	X			
INOUYE, Lorraine R.	X			
KANUHA, Dru Mamo	X			
KIDANI, Michelle N.				X
MISALUCHA, Bennette E.	X			
MORIWAKI, Sharon Y.	X			
SHIMABUKURO, Maile S.L.	X			
TANIGUCHI, Brian T.	X			
WAKAI, Glenn	X			
FEVELLA, Kurt			X	
TOTAL	9		1	1

Recommendation: Adopted Not Adopted

Chair's or Designee's Signature:


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