

Honolulu, Hawaii

APR 26 2024

RE: S.B. No. 2439
S.D. 1
H.D. 1
C.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2024
State of Hawaii

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirty-Second State Legislature
Regular Session of 2024
State of Hawaii

Sirs:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 2439, S.D. 1, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO LIMITATION OF ACTIONS,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to extend the statute of limitations for a one-year period beginning on July 1, 2024, for civil actions brought by adult victims of acts that occurred after June 30, 2014, that constituted or would have constituted a criminal sexual offense.

Your Committee on Conference finds that victims of sexual abuse may face certain obstacles when filing a civil action against their abusers, such as requiring additional time before they are ready to file a lawsuit. This measure will allow more victims to seek justice by extending the statute of limitations for civil actions



brought by persons subjected to sexual offenses as an adult against the person who committed the act.

Your Committee on Conference has amended this measure by:

- (1) Deleting language that would have made amendments to section 657-1.8, Hawaii Revised Statutes, that would have:
 - (A) Beginning July 1, 2024, authorized a person eighteen years of age or older who is a victim of sexual abuse that occurred after June 30, 2014, to file a claim for a period of one year if the victim was barred from filing a claim against the victim's abuser due to the expiration of the applicable civil statute of limitations in effect before July 1, 2024;
 - (B) Clarified that a civil cause of action for sexual abuse of a person more than eighteen years of age shall be based upon sexual acts that constituted or would have constituted a criminal offense under existing sexual offense provisions;
 - (C) Authorized a psychologist licensed pursuant to chapter 465, Hawaii Revised Statutes, to notarize a statement included in the certificate of merit; and
 - (D) Clarified that the notarized statement shall include the facts and opinions of acts specified in section 657-1.8(b), Hawaii Revised Statutes;
- (2) Inserting language that creates a new section in chapter 657, Hawaii Revised Statutes, that:
 - (A) Beginning July 1, 2024, revives for a two-year period certain actions for which the statute of limitations had previously lapsed if the abuse occurred after June 30, 2012, in the State when the person who is a victim of sexual abuse was eighteen years or older;
 - (B) Establishes provisions for claims against legal entities during the two-year window period if there is a finding of gross negligence;
 - (C) Clarifies that a civil cause of action for sexual abuse of a person that occurred when the person was eighteen years of age or older shall be based upon



sexual acts that constituted or would have constituted a criminal offense under existing sexual offense provisions;

- (D) Allows a victim of sexual abuse to file a civil claim against a legal entity under certain circumstances;
 - (E) Authorizes a defendant to recover attorney's fees if the court determines that a false accusation was made with no basis in fact and with malicious intent;
 - (F) Requires the submission of a certificate of merit, filed by the attorney for the plaintiff, that shall be sealed and remain confidential;
 - (G) Requires the certificate of merit to include a notarized statement by a marriage and family therapist licensed pursuant to chapter 451J, Hawaii Revised Statutes; mental health counselor licensed pursuant to chapter 453D, Hawaii Revised Statutes; psychologist licensed pursuant to chapter 465, Hawaii Revised Statutes; or clinical social worker licensed pursuant to chapter 467E, Hawaii Revised Statutes; and
 - (H) Clarifies that the notarized statement is required to include the facts and opinions that were relied upon to form a reasonable belief that the plaintiff was subject to acts that constituted or would have constituted a criminal offense under part V of chapter 707, Hawaii Revised Statutes;
- (3) Deleting the sunset date of July 1, 2025;
 - (4) Making it effective upon its approval; and
 - (5) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2439, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2439, S.D. 1, H.D. 1, C.D. 1.




Respectfully submitted on behalf
of the managers:

ON THE PART OF THE HOUSE



DAVID A. TARNAS
Co-Chair



SCOTT Y. NISHIMOTO
Co-Chair

ON THE PART OF THE SENATE




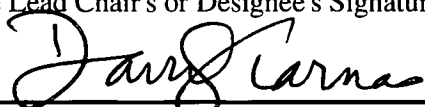
KARL RHOADS
Chair



Hawai'i State Legislature

CCR 119-24

Record of Votes of a
Conference Committee

Bill / Concurrent Resolution No.: SB 2439, SD 1, HD 1					Date/Time: 04/25/24 1:49PM					
<input checked="" type="checkbox"/> The recommendation of the House and Senate managers is to pass with amendments (CD).										
<input type="checkbox"/> The Committee is reconsidering its previous decision.										
<input type="checkbox"/> The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure					<input type="checkbox"/> The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.					
Senate Managers	A	WR	N	E	House Managers	A	WR	N	E	
RHOADS, Karl, Chr.	✓				TARNAS, David A., Co-Chr.	✓				
ELEFANTE, Brandon J.C.	✓				NISHIMOTO, Scott Y., Co-Chr.	✓				
AWA, Brenton				✓	HOLT, Daniel	✓				
					ICHIYAMA, Linda	✓				
					SOUZA, Kanani	✓				
TOTAL	2	3	0	0	1	TOTAL	5	0	0	0
A = Aye		WR = Aye with Reservations			N = Nay		E = Excused			
Senate Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted					House Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted					
Senate Lead Chair's or Designee's Signature: 					House Lead Chair's or Designee's Signature: 					
Distribution: Original Yellow Pink Goldenrod File with Conference Committee Report House Clerk's Office Senate Clerk's Office Drafting Agency										