STAND. COM. REP. NO. **583** 

Honolulu, Hawaii

, 2021

FEB 19

RE: H.B. No. 540

H.D. 2

Honorable Scott K. Saiki Speaker, House of Representatives Thirty-First State Legislature Regular Session of 2021 State of Hawaii

Sir:

Your Committee on Judiciary & Hawaiian Affairs, to which was referred H.B. No. 540, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO LIABILITY,"

begs leave to report as follows:

The purpose of this measure is to make a health care provider who acts in good faith during an emergency immune from civil or criminal liability if they adhere to crisis standards of care.

Your Committee received testimony in support of this measure from the Hawaii Substance Abuse Coalition, Queen's Health Systems, and one individual. Your Committee received testimony in opposition to this measure from the Hawaii Association for Justice. Your Committee received comments on this measure from the Department of the Attorney General and one individual.

Your Committee finds that during a surge response to a catastrophic emergency event, such as what occurred during the COVID-19 pandemic, demand for healthcare services may substantially exceed supply, which forces health care providers to shift from normal standards of care to crisis standards of care. Your Committee further finds that health care providers should not be in a position of liability when they are forced to make patient care decisions under the duress of a global pandemic and surge conditions.

Your Committee has amended this measure by:

- (1) Adding exceptions that would subject a health care provider to civil or criminal liability in cases of willful misconduct, gross negligence, or recklessness;
- (2) Including under the circumstances for which a health care provider shall be immune from civil or criminal liability situations where the health care provider is engaged in emergent care functions directly related to the declared state of emergency or local state of emergency; and
- (3) Inserting a definition for "health care provider".

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. 540, H.D. 1, as amended herein, and recommends that it be referred to your Committee on Finance in the form attached hereto as H.B. No. 540, H.D. 2.

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

MARK M NAKASHIMA Chair

## State of Hawaii House of Representatives The Thirty-first Legislature

HSCR 583

## Record of Votes of the Committee on Judiciary & Hawaiian Affairs

Bill/Resolution No.:	Committee Referral:				
HB 540 HDI	F, AHL, PDP, JHA, F	DP, JHA, FIN L-11-21			
☐ The committee is reconsidering its previous decision on the measure.					
The recommendation is to:  □ Pass, unamended (as is) Pass, with amendments (HD) □ Hold □ 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)					
				15	
3. ICHIYAMA, Linda					
4. KOBAYASHI, Dale T.					
5. LoPRESTI, Matthew S.				t en en en	
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6. LOWEN, Nicole E.					
7 McKELVEV Anguel K					
7. McKELVEY, Angus L.K.					
8. NAKAMURA, Nadine K.				to	
OI IMARAMATACANA, IMMINICAN	V				
9. TAKUMI, Roy M.					
10. TODD, Chris				ett sametalani ett i störra ar servar singuijae	
11. TOKIOKA, James Kunane		والمستوادية والمستوادية والمستوادية والمستوادية والمستوادية والمستوادية والمستوادية والمستوادية والمستوادية وا		va	
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12. WARD, Gene					
TOTAL (12)	7	3	<u>Q</u>	7	
The recommendation is:	eferral,	Not Adopted did not support recommendation.			
Vice Chair's or designee's signature:					
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO					