

STAND. COM. REP. NO.

591

Honolulu, Hawaii

FEB 13

, 2025

RE: H.B. No. 166
H.D. 1

Honorable Nadine K. Nakamura
Speaker, House of Representatives
Thirty-Third State Legislature
Regular Session of 2025
State of Hawaii

Madame:

Your Committee on Judiciary & Hawaiian Affairs, to which was referred H.B. No. 166 entitled:

"A BILL FOR AN ACT RELATING TO THE DEFENSE OF STATE EMPLOYEES,"

begs leave to report as follows:

The purpose of this measure is to:

- (1) Declare that the State has a duty to defend professionally licensed or certified state employees from civil actions when the employee's actions were within the scope of employment and were not grossly negligent or wanton, as long as the employee is cooperating with the State's defense;
- (2) Clarify that professionally licensed or certified state employees may employ their own attorneys at their own expense;
- (3) Require the Attorney General to work with the professionally licensed or certified state employee to amicably transfer representation to the successor counsel chosen by the employee if the State declines to defend the employee from a civil action on certain grounds; and

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- (4) Require the Attorney General to file a confidential motion to withdraw as counsel if the Attorney General and professionally licensed or certified state employee cannot amicably transfer representation to the successor counsel.

Your Committee received testimony in support of this measure from the Hawaii Association for Justice; Hawaii State AFL-CIO; and Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO. Your Committee received testimony in opposition to this measure from one individual.

Your Committee finds that this measure would further strengthen the legal protections for governmental employees when exercising their professional judgment, which will enable the State to attract and retain qualified employees who may otherwise fear that they would be held personally and financially liable.

Your Committee has amended this measure by:

- (1) Changing the effective date to July 1, 3000, to encourage further discussion; and
- (2) Making a technical, nonsubstantive amendment for clarity, consistency, and style.

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. 166, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 166, H.D. 1, and be referred to your Committee on Finance.



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



DAVID A. TARNAS, Chair



