



The Senate
State of Hawaii

STATE CAPITOL
HONOLULU, HAWAII 96813
February 24, 2006

TO: Members of the Senate Committee on Judiciary and Hawaiian Affairs
FROM: Sen. Colleen Hanabusa, Chair
SUBJECT: Chair's inclinations for decision making on Monday, February 27, 9:00 a.m.

The following measures were previously heard on Wednesday, February 15 and deferred from Wednesday, February 22 and Friday, February 24:

Bill NO.	Description	Referral
SB 1042	RELATING TO ELECTIONS. Prohibits use of a registered voter's social security number on nomination papers filed in behalf of a candidate. Chair's inclination: Hold.	JHW

The following measures were previously heard on Friday, February 17 and deferred from Friday, February 24:

Bill NO.	Description	Referral
SB 2930	RELATING TO CRUELTY TO ANIMALS. Clarifies that animal care costs incurred for abused or neglected animals will be the responsibility of the abuser. Chair's inclination: SD1 -- Amend to: 1) include defendants who plead guilty or no contest to the surrender or forfeiture of animals; 2) delete reference to humane society and instead insert law enforcement agency, which includes humane societies appointed pursuant to HRS § 711-1110; and 3) delete the provision subjecting the forfeiture of equipment and animals to the requirements of chapter 712A.	JHW

The following measures were previously heard on Wednesday, February 22 and deferred from Friday, February 24:

Bill NO.	Description	Referral
SB 2343	RELATING TO CRIMINAL HISTORY RECORD CHECKS. Requires criminal history record checks on persons providing care or having access to residents of healthcare facilities. (SD1) Chair's inclination: SD2 -- Amend to further incorporate amendments proposed by the Department of Health to: 1) conform the definition of "relevant crime" to the definition of "conviction for relevant crime"; 2) remove any requirement that the Federal Bureau of Investigation provide background information to the Department of Human Services and the Department of Health; 3) insert a requirement that applicants subject to criminal history record checks sign a waiver form stating that the Departments shall not be liable to the applicant in order to protect the State from liability; and 4) make technical, non-substantive amendments.	HTH/HMS, JHW

The following measures were previously heard on Thursday, February 23:

Bill NO.	Description	Referral
SB 2581	<p>RELATING TO THE BACKLOG IN UNSERVED ARREST WARRANTS.</p> <p>Requires the judiciary to adopt procedures to reduce backlog of unserved arrest warrants by: (1) establishing amnesty program by which persons charged with an offense for which fines, but no imprisonment, are authorized and for whom an arrest warrant was issued may surrender without being arrested or having to post bail; and (2) authorizing service of warrants by retired police and public safety officers.</p> <p>Chair's inclination: SD1 – Amend to 1) delete the amnesty program in section 1 of the bill because the subject does not suggest a logical connection that is germane to the title relating to the backlog in unserved arrest warrants and 2) delete the reporting requirement since the portion pertaining to the judiciary has been removed from the bill. The Chair also recommends a task force to address the backlog in unserved arrest warrants in accordance with testimony on this issue, which can be accomplished by resolution.</p>	JHW
SB 2242 (SSCR2172)	<p>RELATING TO GOVERNMENT TORT LIABILITY.</p> <p>Makes permanent the liability protections for warning signs in public beach park cases and the liability protections in lifeguard cases, which will sunset on 6/30/07.</p> <p>Chair's inclination: Hold. This bill is identical to SB 2412, which was also heard by this Committee.</p>	BED/IGA, JHW
SB 2134 SD1 (SSCR2002)	<p>RELATING TO INTERNATIONAL MATCHMAKING.</p> <p>Adds abuse orders of protection issued against the person as information that must be disclosed by a Hawaii resident as part of the resident's marital history information in dealings with international matchmaking organizations. (SD1)</p> <p>Chair's inclination: SD2 – Technical, non-substantive amendment.</p>	EIA, JHW
SB 2357 (SSCR2179)	<p>RELATING TO SECTION 13 OF ACT 380, SESSION LAWS OF HAWAII 1997.</p> <p>Removes the sunset date (07/01/07) on the use of new safe harbor agreements, habitat conservation plans, and incidental take licenses as recovery options for conserving and protecting the State's endangered species.</p> <p>Chair's inclination: Pass As Is.</p>	EIA/WLA, JHW
SB 2850 SD1 (SSCR2018)	<p>RELATING TO LITTER CONTROL.</p> <p>Increases the mandatory minimum fines for littering violations, including littering from a motor vehicle, littering in public, and criminal littering. (SD1)</p> <p>Chair's inclination: SD2 – Amend to: 1) reduce the minimum fine for littering from vehicles in section 291C-132 and litter control in section 339-8 from \$500 to \$250; and 2) make technical, non-substantive amendments.</p>	EIA/IGA, JHW

SB 2795 SD1 (SSCR2435)	RELATING TO EDUCATION. Repeals the transfer of functions from the department of human services to the department of education regarding employment background checks specified in Act 51, Session Laws of Hawaii 2004. (SD1) Chair's inclination: Hold because the testimony submitted preferred SB 2720, SD1 instead of this measure.	HMS/EDM, JHW
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SB 2733 SD1 (SSCR2381)	RELATING TO EDUCATION. Assigns burden of proof to the DOE in initial challenges to IEP in administrative hearings brought under the Individuals with Disabilities Education Act; shifts burden to parent or guardian in subsequent challenges following ruling adverse to parent or guardian. (SD1) Chair's inclination: SD2 – Amend to: 1) require that in any appeal of the administrative hearing, the department shall have the burden of presentation, and the party bringing the appeal shall have the burden of proof; and 2) make technical, non-substantive amendments.	EDM, JHW
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SB 3273 SD1 (SSCR2482)	RELATING TO SUBSTANCE ABUSE. Makes permanent provisions allowing a child who violates the zero tolerance policy for drugs and alcohol in public schools to return to school earlier than indicated in the original disciplinary determination following the completion of a substance abuse assessment and related treatment or counseling. Requires public schools to screen students facing substance abuse-related discipline to determine if there is a need for a substance abuse assessment referral. Requires the parent or legal guardian of a child facing discipline but who has been assessed as not needing treatment to consent to follow-up counseling for the child's family. Requires school administrators to review and determine the nature and severity of the child's offense, its impact on others, the offender's age, and whether the child is a repeat offender. Allows certified substance abuse counselors to conduct substance abuse assessments qualifying individuals for substance abuse-related insurance benefits. Requires assessments to be completed within ten days for children facing substance abuse-related school discipline. (SD1) Chair's inclination: SD2 – Amend to 1) incorporate the amendment proposed by HMSA for consistency with HRS 431M and 2) make technical, non-substantive amendments.	EDM/HTH, JHW
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The following measures were previously heard on Friday, February 24 at 9am:

Bill NO.	Description	Referral
SB 2158 SD1 (SSCR2509)	RELATING TO IDENTITY THEFT. Requires that the first five digits of an individual's social security number contained in family court records or judgments affecting title to land be redacted before the records or judgments are released for public inspection. (SD1) Chair's inclination: SD2 – Amend to insert a defective effective date of July 1, 2050 in order to keep this measure alive for continued discussion.	CPH/MAT, JHW

<p>SB 2159 SD1 (SSCR2508)</p>	<p>RELATING TO IDENTITY THEFT. Increases penalties for identity theft. Makes it a crime to intentionally or knowingly possess the confidential personal information of another. (SD1) Chair's inclination: SD2 – Incorporate the amendments recommended by the Office of the Attorney General to 1) delete the amendments to the definition of "personal information" and 2) amend the affirmative defense provision to correctly refer to the term "confidential personal information," which will strengthen the affirmative defense by protecting individuals who had a reasonable belief that they were authorized by law to possess the confidential personal information.</p>	<p>CPH/MAT, JHW</p>
<p>SB 2290 SD1 (SSCR2532) (Proposed SD2)</p>	<p>RELATING TO PROTECTION FROM SECURITY BREACHES. Requires businesses that experience a security breach to notify affected people of the breach. (SD1) Chair's inclination: Defer to Tuesday, February 28, 2006 at 9:00 a.m. in CR 229.</p>	<p>CPH/MAT, JHW</p>
<p>SB 2292 SD1 (SSCR2513) (Proposed SD2)</p>	<p>RELATING TO DESTRUCTION OF PERSONAL INFORMATION RECORDS. Requires businesses that maintain or possess personal information of Hawaii residents to protect against unauthorized access to or use of the information after its disposal by destroying the personal information. (SD1) Chair's inclination: Defer to Tuesday, February 28, 2006 at 9:00 a.m. in CR 229.</p>	<p>CPH/MAT, JHW</p>
<p>SB 2289 SD1 (SSCR2472) (Proposed SD2)</p>	<p>RELATING TO CONSUMER CREDIT REPORTING AGENCIES. Allows consumers who are victims of identity theft to place a security freeze on their credit reports which will prohibit a consumer reporting agency from releasing any information to unauthorized parties without the consumer's express consent and provide consumers more control over who has access to their credit report. (SD1) Chair's inclination: Defer to Tuesday, February 28, 2006 at 9:00 a.m. in CR 229.</p>	<p>CPH/MAT, JHW</p>
<p>SB 3021 SD1 (SSCR2421)</p>	<p>RELATING TO EMPLOYMENT PRACTICES. Prohibits an employer from discharging or otherwise punishing an employee for the lawful use of the employee's accrued and available sick leave. (SD1) Chair's inclination: Defer to Tuesday, February 28, 2006 at 9:00 a.m. in CR 229.</p>	<p>LBR, JHW</p>
<p>SB 3050 SD1 (SSCR2290)</p>	<p>RELATING TO EMPLOYER INTIMIDATION. Prohibits employers from coercing employees into attending employer-sponsored meetings on the employer's religious or political opinions. (SD1) Chair's inclination: Hold.</p>	<p>LBR, JHW</p>
<p>SB 3033 SD1 (SSCR2422)</p>	<p>RELATING TO EMPLOYMENT SECURITY. Establishes job security requirements to protect employees when the business for which the employees work is sold or transferred to another employing entity. (SD1) Chair's inclination: Defer to Tuesday, February 28, 2006 at 9:00 a.m. in CR 229.</p>	<p>LBR, JHW</p>

SB 2914 SD1 (SSCR2417)	RELATING TO CIVIL RIGHTS. Prohibits discrimination against persons with a lack of proficiency in English; creates language access law; establishes language access director and language access advisory council in the DLIR; makes appropriation to staff office of language access director and language access advisory council. (SD1) Chair's inclination: Hold. This bill includes an appropriation and was not properly referred to WAM. The companion house bills for this measure are anticipated to crossover to the Senate.	TGO/LBR, JHW
SB 3016 SD1 (SSCR2287)	RELATING TO PREVAILING WAGES. Allows a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 to institute an action for injunctive and other relief against an employer that fails to pay its employees the prevailing wage. (SD1) Chair's inclination: Defer to Tuesday, February 28, 2006 at 9:00 a.m. in CR 229.	LBR, JHW

The following measures were previously heard on Friday, February 24 at 10am:

Bill NO. SB 2006 SD1 (SSCR2127)	Description PROHIBITING SALES OF OPIHI. Prohibits the selling of opihi. (SD1) Chair's inclination: SD2 – Amend to insert a defective effective date of July 1, 2050 in order to keep this measure alive for continued discussion in light of concerns expressed regarding the bill's impact on the residents of Niihau.	Referral WLA, JHW
SB 2358 SD1 (SSCR2359)	RELATING TO PROTECTION OF FOREST RESERVES. Establishes general administrative penalties for violations under chapter 183. Increases fines for timber trespass. (SD1) Chair's inclination: SD2 – Technical, non-substantive amendments.	WLA, JHW
SB 2412 (SSCR2190)	RELATING TO STATE AND COUNTY TORT LIABILITY. Repeals the sunset date of Act 190, SLH 1996, which establishes conclusive presumptions regarding the duty of public entities to warn of dangers at public beach parks. Repeals the sunset date of Act 170, SLH 2002, which provides an exception to liability for county lifeguard services. Chair's inclination: SD1 – Amend to change the sunset date of Act 170, SLH 2002, which provides an exception to liability for county lifeguard services, to 2008.	WLA/IGA, JHW
SB 2421 SD1 (SSCR2131)	RELATING TO ADVERSE POSSESSION. Bars claims to kuleana lands based on adverse possession. (SD1) Chair's inclination: Pass As Is.	WLA, JHW

SB 2423 SD1 (SSCR2132)	RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS. Eliminates requirement that DLNR approve an OHA land management plan for the management of kuleana lands before the lands can escheat to OHA; makes OHA a party to all actions to quiet title to kuleana lands in which escheat is an issue, regardless of when the escheat is alleged to have occurred. (SD1) Chair's inclination: SD2 – Technical, non-substantive amendments.	WLA, JHW
SB 2479 (SSCR2491)	PROPOSING AN AMENDMENT TO ARTICLE VII, SECTION 12, OF THE HAWAII STATE CONSTITUTION. Proposes a constitutional amendment to authorize the State to issue SPRBs and use the proceeds from the bonds to assist agricultural businesses operating on important agricultural land. Chair's inclination: Pass As Is.	WLA, JHW
SB 2492 SD1 (SSCR2355)	RELATING TO OFFENSES AGAINST PROPERTY RIGHTS. Establishes intentionally and knowingly damaging the agricultural or aquacultural equipment, supplies, or products of another as the crime of criminal property damage. (SD1) Chair's inclination: Pass As Is.	WLA, JHW
SB 2986 SD1 (SSCR2195)	RELATING TO EMINENT DOMAIN. Provides regulations for property taken by eminent domain. (SD1) Chair's inclination: Defer to Tuesday, February 28, 2006 at 9:00 a.m. in CR 229.	WLA/IGA, JHW
SB 3191 SD1 (SSCR2196)	RELATING TO EMINENT DOMAIN. Prohibits use of power of eminent domain to take and transfer private property to a private entity that had an expressed interest in purchasing the same property for development purposes or other private use. (SD1) Chair's inclination: Defer to Tuesday, February 28, 2006 at 9:00 a.m. in CR 229.	WLA/IGA, JHW
SB 3094 SD1 (SSCR2186)	RELATING TO THE LAND COURT. Provides that a landowner may not file claim for accreted lands caused by landowner's planting and maintaining vegetation on the seaward boundary of the property affected. (SD1) Chair's inclination: Defer to Tuesday, February 28, 2006 at 9:00 a.m. in CR 229. There may be a problem with the title of the bill and the Chair has requested a review by the Office of the Attorney General.	WLA, JHW

The following measures were previously heard on Friday, February 24 at 11am:

Bill NO. SB 2909 SD1 (SSCR2395)	Description RELATING TO PERMIT APPROVALS. Allows a county to opt out of the automatic permit approval law by adopting an ordinance to exempt the county as a whole or any county agency from the law. (SD1) Chair's inclination: Pass As Is.	Referral IGA/TGO, JHW
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<p>SB 2559 SD1 (SSCR2408)</p>	<p>RELATING TO ETHICS. Clarifies that members of county boards and commissions are subject to their respective county code of ethics, whether the board or commission member is appointed or elected. (SD1) Chair's inclination: Hold because no testimony was submitted to either IGA or this Committee.</p>	<p>IGA, JHW</p>
<p>SB 2403 SD1 (SSCR2397)</p>	<p>RELATING TO EXCEPTIONS TO TORT ACTIONS. Provides specific exceptions to tort actions. (SD1) Chair's inclination: Hold. The Chair will include these exceptions to tort actions for consideration by the task force recommended when the Committee voted to hold SB 2251, which also relates to tort actions.</p>	<p>IGA, JHW</p>
<p>SB 2430 SD1 (SSCR2407)</p>	<p>RELATING TO ELECTION. Directs judiciary to notify county clerk of a felony conviction at time of actual sentencing of the felon. (SD1) Chair's inclination: Defer to Tuesday, February 28, 2006 at 9:00 a.m. in CR 229.</p>	<p>IGA, JHW</p>
<p>SB 2073 SD1 (SSCR2409)</p>	<p>RELATING TO THE POWER OF ARREST. Extends the power of federal officers to make arrests under state law, currently limited to Customs and Immigrations Service officers, to agents of the Federal Bureau of Investigation, Drug Enforcement Administration, Bureau of Alcohol, Tobacco, Firearms, and Explosives, United States Secret Service, and United States Marshal Service. (SD1) Chair's inclination: SD2 – Technical, non-substantive amendments.</p>	<p>IGA, JHW</p>
<p>SB 2263 SD1 (SSCR2410)</p>	<p>RELATING TO CHAPTER 134. Amends chapter 134 to comply with certain provisions of the federal law contained in the "Brady Bill" by: (1) reflecting the current federal requirement that state firearms registration records include place of birth, country of citizenship, and for non-citizens, an alien or admission number; (2) reflecting the federal mandate that the national instant criminal background check system and the immigration and customs enforcement databases be checked prior to the issuance of firearms permits; (3) prohibiting a person's possession of firearms under state law if the person is prohibited from possessing firearms under federal law. (SD1) Chair's inclination: Pass As Is.</p>	<p>IGA, JHW</p>
<p>SB 2667 SD1 (SSCR2415)</p>	<p>RELATING TO FIREWORKS. Clarifies fireworks terminology to be consistent with federal law; repeals and amends definitions. (SD1) Chair's inclination: SD2 – Incorporate the amendments proposed by the State Fire Council and the Legislative Information Service of Hawaii to insert consumer fireworks, which was inadvertently removed.</p>	<p>IGA, JHW</p>