STAND. COM. REP. NO. 1688

Honolulu, Hawaii

RE: S.B. No. 1005

> S.D. 2 H.D. 2

Honorable Calvin K.Y. Say Speaker, House of Representatives Twenty-Fifth State Legislature Regular Session of 2009 State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 1005, S.D. 2, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO PUBLICITY RIGHTS,"

begs leave to report as follows:

The purpose of this bill is to encourage and protect artists and other persons in Hawaii's performing arts and related industries by:

- (1)Establishing a property right in the commercial use of a person's name, voice, signature, photograph, or likeness; and
- Providing remedies for infringements on the right.

Genoa Keawe Records Inc., and Kanikapila Records Inc., supported this bill. The Office of Hawaiian Affairs supported this measure with amendments. The Motion Picture Association of America Inc., Surfside Hawaii Inc., Cord International & Hana Ola Records, and a concerned individual submitted comments.

Your Committee has amended this bill by, among other things:

Deleting references to "photographs" as a protected (1)attribute as it is covered under the term "likeness" as images and representations;

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- (2) Setting an unspecified number of years after death that the publicity right may be asserted by a successor in interest;
- (3) Inserting an unspecified amount for a minimum damages award for infringement upon the right granted by this bill;
- (4) Requiring all transferees of publicity rights to register with the Department of Commerce and Consumer Affairs;
- (5) Providing that common law rights or other statutory rights, whether derived from state or federal law, or the enforcement of those rights are not infringed upon;
- (6) Inserting a severability clause; and
- (7) Making technical, nonsubstantive changes for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1005, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1005, S.D. 2, H.D. 2.

Respectfully submitted on behalf of the members of the Committee on Judiciary,

JON RIKI KARAMATSU, Chair

State of Hawaii House of Representatives The Twenty-fifth Legislature

HSCR 1688

Record of Votes of the Committee on Judiciary

SB 1005, SD Z, HD EBM	Referral:	Date	4/7/6	9
☐ 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)				
JUD Members	Ayes	Ayes (WR)	Nays	Excused
1. KARAMATSU, Jon Riki (C)	V			
2. ITO, Ken (VC)			Indiga Was emiliani wa maja wa	
3. BELATTI, Della Au				
4. CABANILLA, Rida				
5. CARROLL, Mele				V
6. HERKES, Robert N.				
7. LUKE, Sylvia				
8. McKELVEY, Angus L.K.			100	
9. MIZUNO, John M. 10. MORITA, Hermina M.				
11. OSHIRO, Blake K.				
12. SOUKI, Joseph M.				
13. TSUJI, Clift				
14. WAKAI, Glenn				
15. MARUMOTO, Barbara C.				
16. THIELEN, Cynthia				
			fa:	
TOTAL (16)	12	l		3
The recommendation is: Adopted If joint referral, did not support recommendation.				
Vice Chair's or designee's signature:				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				