

STAND. COM. REP. NO.

2612

Honolulu, Hawaii

FEB 26 2010

RE: S.B. No. 2911

S.D. 2

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2010
State of Hawaii

Madam:

Your Committee on Judiciary and Government Operations, to which was referred S.B. No. 2911, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO THE POWER OF ARREST,"

begs leave to report as follows:

The purpose of this measure is to clarify the warrantless arrest powers under state law for the Federal Bureau of Investigation and Immigration and Customs Enforcement, to extend to these agencies the same arrest powers granted to the United States Customs and Border Protection Service and Citizenship and Immigration Services, and to update references to these agencies' names and personnel titles.

Your Committee received written comments in support of this measure from the Department of the Attorney General. Written testimony presented to the Committee may be reviewed on the Legislature's website.

Your Committee finds that this measure provides heightened security by enhancing federal law enforcement authority in this State. Federal agencies commonly make direct first hand contact with criminal suspects, in circumstances that cannot await the obtaining of an arrest warrant. However, your Committee finds that these arrest powers should only be extended to the Federal Bureau of Investigation and not to Immigration and Customs Enforcement officers. Further, as noted in testimony from the Department of the Attorney General, inclusion of the Citizenship



2612

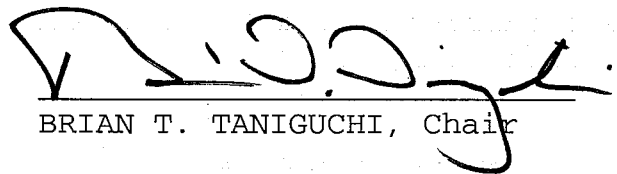
and Immigration Services officers is inappropriate, as those officers do not have authority under federal law to arrest aliens.

Your Committee has amended this measure by:

- (1) Deleting reference to Immigration and Customs Enforcement officers;
- (2) Removing reference to Citizenship and Immigration Services officers, as recommended by the Department of the Attorney General; and
- (3) Clarifying that any evidence obtained from a warrantless arrest by the named federal agencies is not admissible as evidence in state court.

As affirmed by the record of votes of the members of your Committee on Judiciary and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2911, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2911, S.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Government Operations,



BRIAN T. TANIGUCHI, Chair



The Senate
Twenty-Fifth Legislature
State of Hawaii

Record of Votes
Committee on Judiciary and Government Operations
JGO

Bill / Resolution No.:* <div style="font-size: 1.2em; font-family: cursive;">SB 2911, SD1</div>	Committee Referral: <div style="font-size: 1.2em; font-family: cursive;">PSM, JGO</div>	Date: <div style="font-size: 1.2em; font-family: cursive;">2/23/10</div>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="text-align: center;"> <input type="checkbox"/> Pass, unamended 2312 </div> <div style="text-align: center;"> <input checked="" type="checkbox"/> Pass, with amendments 2311 </div> <div style="text-align: center;"> <input type="checkbox"/> Hold 2310 </div> <div style="text-align: center;"> <input type="checkbox"/> Recommit 2313 </div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
TANIGUCHI, Brian T. (C)	✓			
TAKAMINE, Dwight Y. (VC)				✓
BUNDA, Robert				✓
GABBARD, Mike	✓			
NISHIHARA, Clarence K.	✓			
SLOM, Sam	✓			
TOTAL	4	-	-	2
Recommendation: <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted </div>				
Chair's or Designee's Signature: <div style="font-size: 1.5em; font-family: cursive; margin-top: 10px;">Clarence K. Nishihara</div>				
<div style="display: flex; justify-content: space-between; font-size: 0.8em;"> <div>Distribution:</div> <div>Original</div> <div>Yellow</div> <div>Pink</div> <div>Goldenrod</div> </div> <div style="display: flex; justify-content: space-between; font-size: 0.8em; margin-top: 5px;"> <div>File with Committee Report</div> <div>Clerk's Office</div> <div>Drafting Agency</div> <div>Committee File Copy</div> </div>				

*Only one measure per Record of Votes