

Honolulu, Hawaii

APR 08 2011

RE: H.B. No. 299
H.D. 1
S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred
H.B. No. 299, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO COURTS OF APPEAL,"

begs leave to report as follows:

The purpose and intent of this measure is to expedite the finality of judgments on appeal by shortening the time period to file an application for a writ of certiorari with the Hawaii Supreme Court from ninety days to thirty days, with an extension of up to an additional thirty days upon request.

Your Committee received testimony in support of this measure from the Judiciary and the Office of the Public Defender.

Your Committee finds that currently, the application for a writ of certiorari must be filed within ninety days of filing of the judgment or dismissal order of the Intermediate Court of Appeals. Due to the availability of an appeal from an Intermediate Court of Appeals' decision, the judgment on appeal is not final until the ninety-first day, even if no application for a writ of certiorari is submitted. This may have adverse consequences for litigants. For example, an incarcerated criminal defendant who has won a conviction reversal by the Intermediate Court of Appeals' judgment may be required to remain in prison until the judgment becomes effective.

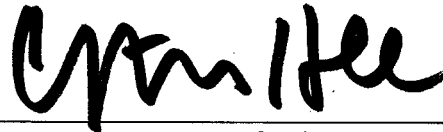


Your Committee notes that the ninety-day period has applied only since 2006, when the appellate courts were restructured and the Hawaii Supreme Court became a certiorari court. Prior to 2006, the writ of certiorari application filing period was thirty days. Your Committee also notes that this measure will allow a litigant an extension of thirty days if a litigant needs additional time.

Your Committee has amended this measure by making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 299, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 299, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

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



CLAYTON HEE, Chair



The Senate
Twenty-Sixth Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* HB299, HDI	Committee Referral: JDL	Date: 4/4/11		
<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
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile (VC)	✓			
GABBARD, Mike	✓			
IHARA, Jr., Les	✓			
SLOM, Sam	✓			
TOTAL	5			
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
Distribution: <div style="display: flex; justify-content: space-between; font-size: small;"> <div>Original File with Committee Report</div> <div>Yellow Clerk's Office</div> <div>Pink Drafting Agency</div> <div>Goldenrod Committee File Copy</div> </div>				

*Only one measure per Record of Votes