STAND. COM. REP. NO. 97

Honolulu, Hawaii March , 2013 RE: H.B. No. 1059 H.D. 2

Honorable Joseph M. Souki Speaker, House of Representatives Twenty-Seventh State Legislature Regular Session of 2013 State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 1059, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO COURT ADVISEMENT CONCERNING ALIEN STATUS,"

begs leave to report as follows:

The purpose of this measure is to protect the rights of noncitizens and allow a non-citizen defendant the opportunity to make a knowing, voluntary, and intelligent plea of guilty or no contest. Specifically, this measure requires the court to advise criminal defendants of the effects of a guilty or no contest plea on their alien status in the United States prior to the entry of a guilty or no contest plea.

The Department of the Attorney General; Department of the Prosecuting Attorney, City and County of Honolulu; Department of the Prosecuting Attorney, County of Maui; and Maui Police Department supported this measure. The Office of the Public Defender offered comments on this bill.

Your Committee has amended this measure by:

 Requiring the court to administer, verbatim, two advisements concerning alien status to a criminal defendant:



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- (A) One at a defendant's arraignment and plea hearing for an offense punishable as a crime under state law; and
- (B) One prior to the commencement of trial or a defendant's entry of a plea of guilty or nolo contendere;
- (2) Clarifying the content of the two contextually appropriate advisements that must be given to a defendant; and
- (3) Making technical, nonsubstantive amendments 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 H.B. No. 1059, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1059, H.D. 2.

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

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KARL RHOADS, Chair



State of Hawaii House of Representatives The Twenty-seventh Legislature



Record of Votes of the Committee on Judiciary

Bill/Resolution No.:	Committee Referral:	Date:		·
HB1059, HD1	VMI, JUD	3	1 13	
□ The committee is reconsidering its previous decision on the measure.				
The recommendation is to: Dess, unamended (as is)				
Pass short form bill with HD to recommit for future public hearing (recommit)				
JUD Members	Ayes	Ayes (WR)	Nays	Excused
1. RHOADS, Karl (C)	X			
2. HAR, Sharon E. (VC)	X			
3. BELATTI, Della Au				
4. BROWER, Tom	X			
5. CABANILLA, Rida T.R.	χ			
6. CARROLL, Mele				X
7. ITO, Ken				
8. KAWAKAMI, Derek S.K.				X
9. LEE, Chris	X			1-
10. TSUJI, Clift	X			
11. WOOLEY, Jessica	$ \chi $			
12. MCDERMOTT, Bob				X
13. THIELEN, Cynthia				Ϋ́
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TOTAL (13)	8			5
The recommendation is:				
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				