STAND. COM. REP. NO. 3045

Honolulu, Hawaii

MAR 2 3 2016

RE: H.B. No. 1046

H.D. 2 S.D. 1

Honorable Ronald D. Kouchi President of the Senate Twenty-Eighth State Legislature Regular Session of 2016 State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred H.B. No. 1046, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO WRONGFUL IMPRISONMENT,"

begs leave to report as follows:

The purpose and intent of this measure is to provide a procedure for persons who are actually innocent of crimes for which they were convicted and imprisoned to seek compensation from the State.

Your Committee received testimony in support of this measure from the Department of the Attorney General, Community Alliance on Prisons, American Civil Liberties Union of Hawai'i, The CHOW Project, Innocence Project, and seven individuals.

Your Committee finds that the language in this measure is substantially similar to the draft legislation proposed by the Hawaii Chapter of the American Judicature Society special committee on redress for unlawful imprisonment. The special committee reviewed statutes from other states on issues such as the eligibility for compensation, evidence of innocence, evidence of a claim, burdens of proof, decision making entities, exclusions, amounts of compensation, types of eligible benefits, attorney's fees, and tax implications. This measure balances the interests of an allegedly wrongfully imprisoned petitioner with the State's limited resources.

Your Committee has amended this measure by:

- (1) Inserting specific amounts for the amount the court is required to award a successful petitioner for each year of actual confinement, the maximum amount awarded to a petitioner in additional compensation for extraordinary circumstances, and the maximum amount in reasonable attorneys' fees;
- (2) Changing the effective date from July 1, 2030, to upon approval; and
- (3) 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. 1046, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1046, H.D. 2, S.D. 1, and be referred to your Committee on Ways and Means.

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

GILBERT S.C. KEITH-AGARAN, Chair

The Senate Twenty-Eighth Legislature State of Hawai'i

Record of Votes Committee on Judiciary and Labor JDL

Bill / Resolution No.:* Commit	Committee Referral: Date:			
HB 1046 HD2 JDL, WAM 3/15/16				
The Committee is reconsidering its previous decision on this measure.				
If so, then the previous decision was to:				
The Recommendation is:				
Pass, unamended Pass, with amendments Hold Recommit 2312 2311 2310 2313				
Members	Aye	Aye (WR)	Nay	Excused
KEITH-AGARAN, Gilbert S.C. (C)				
SHIMABUKURO, Maile S.L. (VC)				
GABBARD, Mike				
KAHELE, Kaialiʻi				
KIM, Donna Mercado				
THIELEN, Laura H.				
SLOM, Sam				
				
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TOTAL				2
Recommendation: Adopted Not Adopted				
Chair's or Designee's Signature:				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes