STAND. COM. REP. NO.

Honolulu, Hawaii

March 5

2015

RE:

H.B. No. 147

H.D. 1

Honorable Joseph M. Souki Speaker, House of Representatives Twenty-Eighth State Legislature Regular Session of 2015 State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 147 entitled:

"A BILL FOR AN ACT RELATING TO CRIMINAL PROCEDURE,"

begs leave to report as follows:

The purpose of this measure is to improve eyewitness identifications in criminal investigations by specifying procedural and administrative requirements for law enforcement agencies and providing the defendant the right to challenge the identification.

The Office of the Public Defender, American Civil Liberties Union of Hawaii, Hawaii Innocence Project, Eyewitness Identification Reform Litigation Network, Community Alliance on Prisons, and a concerned individual testified in support of the measure. The Department of the Attorney General, Department of the Prosecuting Attorney of the City and County of Honolulu, Hawaii Police Department, and Office of the Prosecuting Attorney of the County of Kauai testified in opposition. The Judiciary provided comments and proposed amendments.

Your Committee has amended this measure to:

(1) Clarify the requirement for consistent appearance with respect to unique or unusual features for participants in the photo or live lineup;

- (2) Ensure that any identification actions, e.g., speaking or moving, are performed by all lineup participants in a live lineup;
- (3) Delete the provision for instructions to the jury regarding eyewitness identifications because it duplicates the Hawaii Supreme Court's requirements; and
- (4) Make 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. 147, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 147, H.D. 1, and be placed on the calendar for Third Reading.

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

KARL RHOADS, Chair

State of Hawaii House of Representatives The Twenty-eighth Legislature



Record of Votes of the Committee on Judiciary

| HB 147 | Committee Referral: | Date: | 2/24/18 | |
|---|---------------------|-----------|---------|----------|
| ☐ 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. RHOADS, Karl (C) | X | | | - |
| 2. SAN BUENAVENTURA, Joy A. | (VC) | | | |
| 3. BELATTI, Della Au | 1/4 | | | |
| 4. BROWER, Tom | X | | • | |
| 5. CREAGAN, Richard P. | X | | | |
| 6. HASHEM, Mark J. | X | | | |
| 7. KAWAKAMI, Derek S.K. | X | | | |
| 8. LEE, Chris | ✓ | | | |
| 9. MORIKAWA, Dee | χ | | 17801 | |
| 10. NAKASHIMA, Mark M. | X | | | |
| 11. TAKAYAMA, Gregg | X | | | |
| 12. WOODSON, Justin H. | X | | | |
| 13. MCDERMOTT, Bob | | , | | + |
| 14. THIELEN, Cynthia | X | | | |
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| TOTAL (14) | 13 | 0 | 0 | / |
| The recommendation is: Adopted If joint referral, did not support recommendation. committee acronym(s) | | | | |
| Vice Chair's or designee's signature: | | | | |
| Distribution: Original (White) - Committee Duplicate (Yellow) - Chief Clerk's Office Duplicate (Pink) - HMSO | | | | |