

Honolulu, Hawaii

FEB 15 2019

RE: S.B. No. 128
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2019
State of Hawaii

Sir:

Your Committees on Judiciary and Government Operations, to which was referred S.B. No. 128 entitled:

"A BILL FOR AN ACT RELATING TO LEGAL REPRESENTATION,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Clarify that the Attorney General shall not represent the Legislature and individual legislators acting in their official capacity; and
- (2) Require the respective house to provide legal representation for any member who is sued in the member's official capacity unless the member declines such representation.

Your Committees received testimony in support of this measure from one individual.

Your Committees find that the Attorney General is the chief legal officer and chief law enforcement officer of the State of Hawaii. Your Committees further find that the Department of the Attorney General defends and represents state officials and employees when they are sued for actions they have taken in connection with their state positions. This measure is intended to clarify the circumstances in which the Department of the



Attorney General represents the Legislature, a house of the Legislature, or individual legislators, and provides for contingent legal representation if legislators decline representation by the Department of the Attorney General.

Accordingly, your Committees have amended this measure by:

- (1) Requiring the Attorney General to represent the Legislature, a house of the Legislature, or individual legislators unless the Legislature, house of the Legislature, or individual legislators decline representation;
- (2) Clarifying that, if individual legislators subject to a suit arising from acts or omissions made in the course and scope of employment decline representation by the Attorney General, the respective house of the Legislature is required at their own cost to provide legal representation for those members unless the legislators decline representation by the respective house; and
- (3) Requiring each house of the Legislature to establish rules providing for legal representation.

As affirmed by the records of votes of the members of your Committees on Judiciary and Government Operations that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 128, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 128, S.D. 1, and be referred to your Committee on Ways and Means.

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



LAURA H. THIELEN, Chair

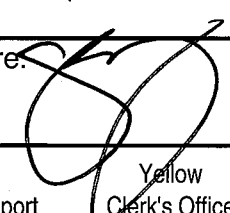


KARL RHOADS, Chair



The Senate
Thirtieth Legislature
State of Hawai'i

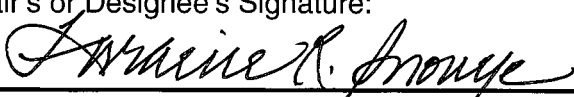
Record of Votes
Committee on Judiciary
JDC

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 128	JDC/GVO, WAM	2/12/19		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310	<input type="checkbox"/> Recommit 2313	
Members	Aye	Aye (WR)	Nay	Excused
RHOADS, Karl (C)	✓			
WAKAI, Glenn (VC)	✓			
GABBARD, Mike	✓			
KIM, Donna Mercado	1	✓		
FEVELLA, Kurt				✓
TOTAL	3	1	0	1
Recommendation:				
<input checked="" type="checkbox"/> Adopted		<input type="checkbox"/> Not Adopted		
Chair's or Designee's Signature: 				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

*Only one measure per Record of Votes

The Senate
Thirtieth Legislature
State of Hawai'i

Record of Votes
Committee on Government Operations
GVO

Bill / Resolution No.:* <i>SB 128</i>	Committee Referral: <i>JDC/GVO, WAM</i>	Date: <i>02/12/19</i>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
THIELEN, Laura H. (C)	✓			
INOUYE, Lorraine R. (VC)		✓		
BAKER, Rosalyn H.				✓
KANUHA, Dru Mamo		✓		
FEVELLA, Kurt				✓
TOTAL	<i>1</i>	<i>2</i>		<i>2</i>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> 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				

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