

Honolulu, Hawaii

FEB 28 2019

RE: S.B. No. 1539  
S.D. 1

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

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 1539 entitled:

"A BILL FOR AN ACT RELATED TO BAIL HEARINGS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Allow defendants the right, upon formal charge and detention, to a prompt bail hearing concerning release or detention and whether any condition will reasonably assure the defendant's appearance;
- (2) Allow defendants to be represented by counsel at the hearing, or have one appointed if they are financially unable to obtain representation; and
- (3) Allow defendants to present evidence and witnesses and to cross-examine witnesses who appear at the hearing.

Your Committee received testimony in support of this measure from the Judiciary, Office of Hawaiian Affairs, Community Alliance on Prisons, and O'ahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i. Your Committee received testimony in opposition to this measure from the Sex Abuse Treatment Center.



Your Committee finds that recent investigations by the Criminal Pretrial Task Force indicated that the current system of criminal pretrial detention is inconsistent as to whether and when a pretrial defendant is accorded a bail hearing. Your Committee further finds that opportunities to hold prompt hearings early on are often missed and result in defendants being unnecessarily detained until a meaningful bail hearing is held days or weeks later. Your Committee additionally finds that many of these individuals are believed to be low-risk defendants who could be safely and appropriately released. This measure will increase consistency in criminal pretrial procedure by entitling defendants to a prompt bail hearing.

Your Committee has amended this measure by:

- (1) Clarifying that the defendant's right to a prompt bail hearing is upon motion by either party;
- (2) Requiring the judge to consider during a bail hearing:
  - (A) Whether the defendant poses a serious flight risk;
  - (B) If there is a risk that the defendant will obstruct or attempt to obstruct justice;
  - (C) If there is a serious risk that the defendant poses a danger to any person or to the community; or
  - (D) If there is a serious risk that the defendant will engage in illegal activity;
- (3) Inserting an effective date of March 15, 2094, to encourage further discussion; and
- (4) 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 that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1539, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1539, S.D. 1.



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

*Karl Rhoads*

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KARL RHOADS, Chair



The Senate  
Thirtieth Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Judiciary**  
**JDC**

Bill / Resolution No.:* <b>S.B. 1539</b>	Committee Referral: <b>PSM, JDC</b>	Date: <b>2-20-2019</b>		
<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	✓			
FEVELLA, Kurt				✓
<b>TOTAL</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>1</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes