STAND. COM. REP. NO. -20

Honolulu, Hawaii

, 2020 FEB 27

H.B. No. 1744 RE: H.D. 1

Honorable Scott K. Saiki Speaker, House of Representatives Thirtieth State Legislature Regular Session of 2020 State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 1744 entitled:

"A BILL FOR AN ACT RELATING TO EYEWITNESS IDENTIFICATION,"

begs leave to report as follows:

The purpose of this measure is to amend Act 281, Session Laws of Hawaii 2019 (Act 281), to provide clarification and flexibility in eyewitness identification procedures.

Your Committee received testimony in support of this measure from the Department of the Prosecuting Attorney of the City and County of Honolulu, Office of the Prosecuting Attorney of the County of Kauai, Department of the Prosecuting Attorney of the County of Maui, Honolulu Police Department, and Stolen Stuff Hawaii. Your Committee received testimony in opposition to this measure from the Hawaii Innocence Project and Community Alliance on Prisons. Your Committee received comments on this measure from the Office of the Public Defender.

Your Committee finds that Act 281 codified investigation procedures for law enforcement to conduct eyewitness identifications. Your Committee further finds that Act 281 does not take effect until June 1, 2020. Your Committee believes that further amendments are needed to make Act 281 more practical for real life application.

Your Committee has amended this measure by:

- (1) Reinstating language that requires:
 - (A) Law enforcement to record in writing as complete a description as possible of the possible perpetrator provided by the eyewitness in the eyewitness' own words before conducting a photo lineup or live lineup;
 - (B) An investigator to state in writing the reason why it is impracticable for a blind adminstrator to conduct a showup; and
 - (C) A video record or, if it is impracticable, an audio record of the identification procedure, and documentation of the reason why a video record of the procedure is impracticable;
- (2) Clarifying that if an eyewitness makes an identification, the administrator must seek and document a clear statement from the eyewitness of the eyewitness' confidence in the identification;
- (3) Changing the effective date to July 1, 2050, to encourage further discussion; and
- (4) Making technical, nonsubstantive amendments for the purposes of 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. 1744, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1744, H.D. 1, and be placed on the calendar for Third Reading.

STAND. COM. REP. NO. 791 -20 Page 3

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

CHRIS LEE, Chair

State of Hawaii House of Representatives The THIRTIETH Legislature

HSCR 791-20

Record of Votes of the Committee on Judiciary

Bill/Resolution No.: HB 1744	Committee Referral:	Date:	1/18/20	
☐ 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. LEE, Chris (C)		· · · · · · · · · · · · · · · · · · ·		· · · · · · · · · · · · · · · · · · ·
2. SAN BUENAVENTURA, Joy A	. (VC)			
3. BROWER, Tom				
J. DROWER, 10m				
4. CREAGAN, Richard P.		A STATE OF THE STA	Anna interference Concession and Anna Anna Anna	
5. LOWEN, Nicole E.		Ville voleter exerci		
6. McKELVEY, Angus L.K.				
7. NAKASHIMA, Mark M.				
8. PERRUSO, Amy A.		e <u>di lagran</u> den ilitari il differente il il bezza il distributorio il di con del	ille Call Alaka Call San Language antiquamina and Call Call	
			ANDERSON STATES	
9. SAY, Calvin K.Y.				
10 TAVANA Cross				
10. TAKAYAMA, Gregg				
11. YAMANE, Ryan I.				
12. THIELEN, Cynthia				
TOTAL (12)	2			4
The recommendation is:	opted Not Adopted			/
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				