

STAND. COM. REP. NO.

3755

Honolulu, Hawaii

JUL 02 2020

RE: H.B. No. 2420
H.D. 2
S.D. 2

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2020
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 2420, H.D. 2, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO THE HAWAII CIVIL RIGHTS COMMISSION,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Clarify the meaning of "program or activity receiving state financial assistance" in section 368-1.5, Hawaii Revised Statutes; and
- (2) Exclude cases within the scope of the Individuals with Disabilities Education Act from the jurisdiction of the Hawaii Civil Rights Commission.

Your Committee received testimony in support of this measure from the Hawai'i Civil Rights Commission, Disability and Communication Access Board, Hawaii Disability Rights Center, National Federation of the Blind, and two individuals.

Your Committee finds that the Hawaii Supreme Court held in *Hawaii Technology Academy and the Department of Education v. L.E. and Hawaii Civil Rights Commission*, 141 Hawaii 147, 407 P.3d 103 (2017), that the Legislature did not intend the Hawaii Civil



Rights Commission to have jurisdiction over disability discrimination claims under section 368-1.5, Hawaii Revised Statutes, relating to programs and activities receiving state financial assistance, if protections under section 504 of the Rehabilitation Act, as amended, are applicable. This measure clarifies that it was always the Legislature's intent to give the Commission jurisdiction over these claims to provide a state remedy even when federal protections under section 504 of the Rehabilitation Act of 1973, as amended, are also available. This measure also excludes cases within the scope of the Individuals with Disabilities Education Act from the Hawaii Civil Rights Commission's jurisdiction under section 368-1.5, Hawaii Revised Statutes, to address possible concerns regarding potential duplication of services under the Individuals with Disabilities Education Act, P.L. 101-476, as amended, and the Rehabilitation Act, and their respective appeals processes.

Your Committee has amended this measure by making it effective upon its approval.

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. 2420, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2420, H.D. 2, S.D. 2.

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



KARL RHOADS, Chair



The Senate
Thirtieth Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary
JDC

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 2420 + HD2 SD1	CPH, JDC	06/30/2020		
<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)	/			
KEOHOKALOLE, Jarrett (VC)	/			
GABBARD, Mike	/			
KIM, Donna Mercado	/			
FEVELLA, Kurt				/
TOTAL	4			1
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				

*Only one measure per Record of Votes