

Honolulu, Hawaii

MAR 01 2019

RE: S.B. No. 141

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. 141 entitled:

"A BILL FOR AN ACT RELATING TO DISCLOSURE OF ATTORNEY-CLIENT AND ATTORNEY WORK-PRODUCT PRIVILEGED COMMUNICATIONS TO THE OMBUDSMAN, "

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Specify that disclosure of communications by an agency to the Ombudsman does not waive any existing attorney-client or attorney work-product privilege; and
- (2) Prohibit the Ombudsman from disclosing privileged communications to others.

Your Committee did not receive any testimony on this measure.

Your Committee finds that agencies are reluctant to fully disclose information to the Ombudsman during an investigation because agencies are afraid that communicating with the Ombudsman will result in a waiver of their attorney-client and attorney work-product privileges. To alleviate this concern, this measure specifically states that communicating with the Ombudsman does not waive any attorney-client or attorney work-product privilege and that the Ombudsman shall not disclose privileged communication to



any other person, which thereby encourages communication and improves investigative accuracy.

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. 141 and recommends that it pass Third Reading.

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



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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>SB 141</b>	Committee Referral: <b>GVO, JDC</b>	Date: <b>2/26/19</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 checked="" type="checkbox"/> Pass, unamended 2312 <input 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