

STAND. COM. REP. NO.

3232

Honolulu, Hawaii

FEB 28 2020

RE: S.B. No. 2244

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 S.B. No. 2244 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 clarify that the Hawai'i Civil Rights Commission has jurisdiction over disability discrimination claims even when other federal remedies are available and to exclude cases that fall within the scope of the Individuals with Disabilities Education Act.

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

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.

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. 2244 and recommends that it pass Third Reading.

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.:* SB 2244	Committee Referral: CPH, JDC	Date: 2/24/2020		
<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 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)	//			
KEOHOKALOLE, Jarrett (VC)	//			
GABBARD, Mike				/
KIM, Donna Mercado	/			
FEVELLA, Kurt	/			
TOTAL	4)
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