

STAND. COM. REP. NO.

583

Honolulu, Hawaii

, 2021

FEB 19

RE: H.B. No. 540

H.D. 2

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committee on Judiciary & Hawaiian Affairs, to which was referred H.B. No. 540, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO LIABILITY,"

begs leave to report as follows:

The purpose of this measure is to make a health care provider who acts in good faith during an emergency immune from civil or criminal liability if they adhere to crisis standards of care.

Your Committee received testimony in support of this measure from the Hawaii Substance Abuse Coalition, Queen's Health Systems, and one individual. Your Committee received testimony in opposition to this measure from the Hawaii Association for Justice. Your Committee received comments on this measure from the Department of the Attorney General and one individual.

Your Committee finds that during a surge response to a catastrophic emergency event, such as what occurred during the COVID-19 pandemic, demand for healthcare services may substantially exceed supply, which forces health care providers to shift from normal standards of care to crisis standards of care. Your Committee further finds that health care providers should not be in a position of liability when they are forced to make patient care decisions under the duress of a global pandemic and surge conditions.

2021-1895 HB540 HD2 HSCR HMSO



Your Committee has amended this measure by:

- (1) Adding exceptions that would subject a health care provider to civil or criminal liability in cases of willful misconduct, gross negligence, or recklessness;
- (2) Including under the circumstances for which a health care provider shall be immune from civil or criminal liability situations where the health care provider is engaged in emergent care functions directly related to the declared state of emergency or local state of emergency; and
- (3) Inserting a definition for "health care provider".

As affirmed by the record of votes of the members of your Committee on Judiciary & Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 540, H.D. 1, as amended herein, and recommends that it be referred to your Committee on Finance in the form attached hereto as H.B. No. 540, H.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary &
Hawaiian Affairs,



MARK M. NAKASHIMA, Chair



