

STAND. COM. REP. NO. 633

Honolulu, Hawaii

MAR 04 2021

RE: S.B. No. 538

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B.
No. 538 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"; 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 Department of Education, Hawai'i Civil Rights Commission,
Disability and Communication Access Board, Hawaii Disability
Rights Center, National Federation of the Blind of Hawaii, and two
individuals.

Your Committee finds that when Act 387, Session Laws of
Hawaii 1989, was enacted and codified as section 368-1.5, Hawaii
Revised Statutes, it was meant to be the state counterpart to
section 504 of the federal Rehabilitation Act of 1973, as amended,
to provide a state remedy for disability discrimination and an
alternative in situations in which federal remedies are also



available. Your Committee further finds that the intent of section 368-1.5, Hawaii Revised Statutes, was originally, and is now, to give the Hawaii Civil Rights Commission jurisdiction over disability discrimination claims, even if protections under section 504 of the Rehabilitation Act, as amended, are available.

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. 538 and recommends that it pass Third Reading.

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



KARL RHOADS, Chair



The Senate
Thirty-First Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary
JDC

Bill / Resolution No.:*	Committee Referral:	Date:	
SB 538	HMS, JDC	02 / 24 / 2021	
<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
RHOADS, Karl (C)	✓		
KEOHOKALOLE, Jarrett (VC)	✓		
ACASIO, Laura	✓		
GABBARD, Mike	✓		
KIM, Donna Mercado	✓		
LEE, Chris	✓		
FEVELLA, Kurt	✓		
TOTAL	7	0	0
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted			
Chair's or Designee's Signature: <i>Karl Rhoads</i>			
Distribution: <div style="display: flex; justify-content: space-between; font-size: small;"> Original File with Committee Report Yellow Clerk's Office Pink Drafting Agency Goldenrod Committee File Copy </div>			

*Only one measure per Record of Votes