

STAND. COM. REP. NO.

1720

Honolulu, Hawaii

APR 08 , 2021

RE: S.B. No. 639
S.D. 1
H.D. 1

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 S.B. No. 639, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO COURTS OF APPEAL,"

begs leave to report as follows:

The purpose of this measure is to prohibit courts of appeal from affirming, modifying, reversing, or vacating a matter on grounds other than those raised by the parties to the proceeding, unless the parties are provided the opportunity to brief the court.

Your Committee received testimony in opposition to this measure from the Judiciary. Your Committee received comments on this measure from the Department of the Attorney General.

Your Committee finds that this measure will ensure due process during the appeals process and permit parties, rather than the appellate court, to litigate their cases.

Your Committee has amended this measure by:

- (1) Amending its purpose section;

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- (2) Requiring a rehearing to be ordered upon timely petition of any party if the court fails to afford the opportunity for the parties to submit supplemental briefing; and
- (3) Changing the effective date to July 1, 3021, to encourage further discussion.

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 S.B. No. 639, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 639, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

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



MARK M. NAKASHIMA, Chair



Record of Votes of the Committee on Judiciary & Hawaiian Affairs

Bill/Resolution No.: <i>SB 639, SD1</i>	Committee Referral: <i>JHA</i>	Date: <i>3-18-21</i>		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
JHA Members	Ayes	Ayes (WR)	Nays	Excused
1. NAKASHIMA, Mark M. (C)	✓			
2. MATAYOSHI, Scot Z. (VC)	✓			
3. ICHIYAMA, Linda	✓			
4. KOBAYASHI, Dale T.	✓			
5. LoPRESTI, Matthew S.	✓			
6. LOWEN, Nicole E.	✓			
7. McKELVEY, Angus L.K.	✓			
8. NAKAMURA, Nadine K.	✓			
9. TAKUMI, Roy M.				✓
10. TODD, Chris	✓			
11. TOKIOKA, James Kunane	✓			
12. WARD, Gene	✓			
TOTAL (12)	<i>11</i>	<i>0</i>	<i>0</i>	<i>1</i>
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. committee acronym(s)				
Vice Chair's or designee's signature:				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				