

Honolulu, Hawaii

MAR 03 2023

RE: S.B. No. 1468
S.D. 2

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2023
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B.
No. 1468, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO RIGHT OF ENTRY FOR
PROFESSIONAL SURVEYORS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Authorize professional land surveyors and any assistant under the direct supervision of the land surveyor, to enter any private property to perform land surveying, subject to certain provisions regarding notice, identification, and liability; and
- (2) Shield land surveyors and their assistants from prosecution under criminal trespass laws when performing their duties.

Your Committee received testimony in support of this measure from the Department of Design and Construction of the City and County of Honolulu and seven individuals. Your Committee received testimony in opposition to this measure from the Department of the Attorney General. Your Committee received comments on this measure from the Board of Professional Engineers, Architects, Surveyors, and Landscape Architects.



Your Committee finds that Hawaii surveyors are in need of access to private property for the purpose of producing a thorough survey. Such surveys protect the public interest, maintain the State's unique land title system, and support governmental land use goals. The current practice is for surveyors to verbally ask for permission to enter a property for the purpose of surveying; however, sometimes obtaining verbal permission is not an option. This measure will protect the surveyor from liability while informing the property owner of the proposed survey.

Your Committee has amended this measure by:

- (1) Adding language specifying that if real property is to be surveyed the surveyor must first provide the landowner with written notice not less than an unspecified number of days before the proposed date of entry;
- (2) Adding language specifying that the written notice shall include:
 - (A) The date and time the entry shall occur;
 - (B) A description of the work to be performed;
 - (C) The approximate duration of the entry;
 - (D) A statement that the landowner may refuse entry by making a timely written objection; and
 - (E) A statement of the date, time, and method by which a landowner may object;
- (3) Adding language specifying that any objection shall be expressly communicated to the land surveyor in writing no later than an unspecified number of days before the date the survey work is to be performed;
- (4) Adding language specifying that if a landowner makes a timely objection, a professional land surveyor shall not be authorized to enter the private property of the objecting landowner;



- (5) Deleting language that would have provided that the land surveyor and the land surveyor's assistants shall not be liable for any incidental minor damage to property as a result of land surveying, except for damages that result from the land surveyor's or the land surveyor's assistants' gross negligence or wanton acts or omissions; and
- (6) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

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. 1468, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1468, S.D. 2.

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



KARL RHOADS, Chair



