

Honolulu, Hawaii

MAR 04 2011

RE: S.B. No. 77
S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 77 entitled:

"A BILL FOR AN ACT RELATING TO THE COURTS,"

begs leave to report as follows:

The purpose and intent of this measure is to prohibit use of
courtrooms and rooms within a courthouse by judges and justices to
conduct private ceremonies for which the judge or justice is paid
a fee.

A proposed S.D. 1 version of S.B. No. 77 was circulated prior
to this hearing by your Committee. That proposed measure permits
a court to:

- (1) Allow a petition, complaint, motion, or other document
to be filed by the plaintiff identifying the parties as
"Jane Doe" or "John Doe";
- (2) Use a multi-factor balancing test when determining if an
anonymous filing is appropriate;
- (3) Allow a petitioner to be listed as "Jane Doe" or "John
Doe" within court filings when petitioning for a
temporary restraining order and an injunction from
further harassment; and
- (4) Seal court records associated with a "Jane Doe" or "John
Doe" filing under certain circumstances.



Your Committee received testimony in support of the proposed S.D. 1 from Hawai'i Women's Coalition, Hawaii State Coalition Against Domestic Violence, and three individuals. Your Committee received testimony in opposition to the proposed S.D. 1 from the Office of the Public Defender and American Civil Liberties Union of Hawai'i. Your Committee received comments on the proposed S.D. 1 from The Judiciary.

Your Committee finds that protecting legitimate privacy rights is an appropriate practice in circumstances where a plaintiff would suffer harm or harassment by disclosing his or her name in court documents. Your Committee notes that it is important to balance a plaintiff's interest in anonymity against the public's interest in disclosure and any prejudice to a defendant. Your Committee also finds that this measure protects privacy, transparency, and the rights of a defendant by permitting courts to engage in a balancing of harms.

Your Committee has amended this measure by replacing its contents with the contents of S.B. No. 77, proposed S.D. 1, and further amending the measure by:

- (1) Inserting an effective date of July 1, 2050, to allow for further discussion; and
- (2) 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 and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 77, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 77, S.D. 1, and be placed on the calendar for Third Reading.



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

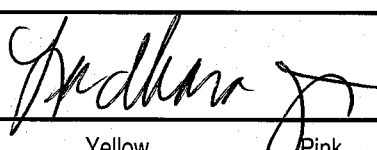


CLAYTON HEE, Chair



The Senate
 Twenty-Sixth Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* SB77	Committee Referral: JDL	Date: 3-1-11		
<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 type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile (VC)				✓
GABBARD, Mike	✓			
IHARA, Jr., Les	✓			
SLOM, Sam				✓
TOTAL	3	0	0	2
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