

STAND. COM. REP. NO.

1300

Honolulu, Hawaii

APR 15 2011

RE: S.C.R. No. 149  
S.D. 2

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.C.R. No. 149, S.D. 1, entitled:

"SENATE CONCURRENT RESOLUTION ENCOURAGING THE STATE ATTORNEY GENERAL AND STATE AND COUNTY LAW ENFORCEMENT AGENCIES TO ADOPT NEW EYEWITNESS IDENTIFICATION PROCEDURES TO DECREASE THE RATE OF ERRONEOUS EYEWITNESS IDENTIFICATIONS AND TO CONDUCT CRIMINAL INVESTIGATIONS IN ACCORDANCE WITH THE NEWEST AND BEST PRACTICES AVAILABLE FOR EYEWITNESS IDENTIFICATIONS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Encourage the Attorney General and various state and county law enforcement officers to adopt new eyewitness identification procedures recommended by the National Institute of Justice to decrease the rate of erroneous eyewitness identifications; and
- (2) Recommend that criminal investigations conducted by state and county law enforcement agencies be in accordance with the newest and best practices available for eyewitness identification.

Your Committee received testimony in support of this measure from the Hawai'i Innocence Project and the Eyewitness Identification Reform Litigation Network, American Civil Liberties Union of Hawai'i, The Drug Policy Forum of Hawai'i, Community Alliance on Prisons, and three individuals. Your Committee

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received comments on this measure from the Department of the Attorney General.

Your Committee finds that while the goal of police investigation in Hawaii is to apprehend the person or persons responsible for committing crime, traditional eyewitness identification procedures may lead to faulty eyewitness identifications. This is problematic because jurors treat a confident eyewitness identification as compelling evidence in civil and criminal trials, even if the identification is impeached based on other factors such as poor visibility or bias. One of the primary reasons that eyewitnesses to crimes have been shown to make mistakes in their recollection of perpetrator identities is the law enforcement procedures used to collect eyewitness evidence. Your Committee finds that by adopting eyewitness identification procedures that are readily available, are easy to implement, and provide more accurate results, the possibility of convicting an innocent person while allowing the true perpetrator to go free may be reduced.

Your Committee notes that the Department of the Attorney General indicated that the Department's Investigations Division already uses many of these procedures, as does the Honolulu Police Department.

Your Committee has amended this measure by 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 concurs with the intent and purpose of S.C.R. No. 149, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 149, S.D. 2.

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.:*	Committee Referral:	Date:		
SCR 149, SDI	PHM, JDL	4/14/11		
<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	✓			
<b>TOTAL</b>	5			
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> Original                          Yellow                          Pink                          Goldenrod File with Committee Report      Clerk's Office              Drafting Agency              Committee File Copy				

\*Only one measure per Record of Votes