

Honolulu, Hawaii

April 26 , 2012

RE: H.B. No. 1788  
H.D. 1  
S.D. 1  
C.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Sixth State Legislature  
Regular Session of 2012  
State of Hawaii

Honorable Shan S. Tsutsui  
President of the Senate  
Twenty-Sixth State Legislature  
Regular Session of 2012  
State of Hawaii

Sirs:

Your Committee on Conference on the disagreeing vote of the House of Representatives to the amendments proposed by the Senate in H.B. No. 1788, H.D. 1, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO COMPUTER CRIME,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this bill is to update Hawaii's computer crime statutes by adding language mirroring Hawaii's identity theft statutes to better address the realities of modern cybercrime by, among other things:

- (1) Establishing a new offense of computer fraud in the third degree as a class C felony;
- (2) Adding new definitions related to computer crime, and incorporating the elements of phishing and spyware into all computer fraud offenses and unauthorized computer access offenses;

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- (3) Changing the offenses of computer fraud in the first degree and unauthorized computer access in the first degree from class B to class A felonies;
- (4) Changing the offenses of computer fraud in the second degree and unauthorized computer access in the second degree from class C to class B felonies;
- (5) Changing the offense of unauthorized computer access in the third degree from a misdemeanor to a class C felony; and
- (6) Increasing the minimum value of identifying information obtained that constitutes unauthorized computer access in the first degree from \$5,000 to \$20,000.

Your Committee on Conference, upon further consideration and based upon the recommendations of the Department of the Attorney General, has amended this measure by:

- (1) Removing references to the use of phishing or spyware to obtain identifying information, from all computer fraud offenses;
- (2) Removing references to the use of phishing or spyware, from all unauthorized computer access offenses;
- (3) Removing references to "identifying information", from the offenses of computer fraud in the first, second, and third degree, and unauthorized computer access in the first and second degree;
- (4) Deleting the element of intent to facilitate the commission of a variety of offenses, from the offense of computer fraud in the first degree;
- (5) Deleting the addition of six new definitions related to computer crime;
- (6) Changing the effective date to upon its approval; and
- (7) Making technical, nonsubstantive amendments for style, clarity, and consistency.



As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 1788, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1788, H.D. 1, S.D. 1, C.D. 1.

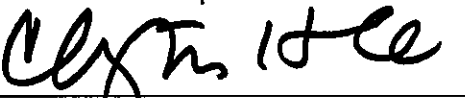
Respectfully submitted on behalf  
of the managers:

ON THE PART OF THE SENATE

ON THE PART OF THE HOUSE

  
\_\_\_\_\_  
CAROL FUKUNAGA, Chair

  
\_\_\_\_\_  
GILBERT KEITH-AGARAN, Chair

  
\_\_\_\_\_  
CLAYTON HEIL, Co-Chair



Record of Votes of a Conference Committee

Bill / Concurrent Resolution No.: <b>HB 1788, HD 1, SD 1</b>	Date/Time: <b>04-19-2012 2:05 pm</b>
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The recommendation of the House and Senate managers is to pass with amendments (CD).



The Committee is reconsidering its previous decision.

<input type="checkbox"/> The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure	<input type="checkbox"/> The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.
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Senate Managers	A	WR	N	E	House Managers	A	WR	N	E
FUKUNAGA, Carol, Chr.	✓				KEITH-AGARAN, Gilbert S.C., Chr.	✓			
HEE, Clayton, Co-Chr.	✓				LUKE, Sylvia	✓			
SLOM, Sam				✓	MCKELVEY, Angus L.K.	✓			
					FONTAINE, George R.	✓			
<b>TOTAL</b>	<b>2</b>			<b>1</b>	<b>TOTAL</b>	<b>4</b>			

A = Aye      WR = Aye with Reservations      N = Nay      E = Excused

Senate Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted	House Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted
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Senate Lead Chair's or Designee's Signature: 	House Lead Chair's or Designee's Signature: 
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Distribution:      Original      Yellow      Pink      Goldenrod  
 File with Conference Committee Report      House Clerk's Office      Senate Clerk's Office      Drafting Agency