

STAND. COM. REP. NO.

596

Honolulu, Hawaii

MAR 02 2017

RE: S.B. No. 859
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 859 entitled:

"A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Allow an employee to have a chaperone present during the medical examination relating to a work injury under workers' compensation;
- (2) Allow an employee to use a recording device during the medical examination;
- (3) Clarify that the employee has a right to have a duly qualified physician or duly qualified surgeon present at the medical examination; and
- (4) Define "duly qualified physician" and "duly qualified surgeon".

Your Committee received testimony in support of this measure from the ILWU Local 142; Hawaii Injured Workers Association; International Brotherhood of Electrical Workers Local Union 1260, AFL-CIO; and nine individuals. Your Committee received testimony in opposition to this measure from the Department of Human



Resources, City and County of Honolulu; Hawaii Insurers Council; National Association of Mutual Insurance Companies; Property Casualty Insurers Association of America; Brewer Consulting Services, Inc.; and seven individuals. Your Committee received comments on this measure from the Department of Human Resources Development and Department of Labor and Industrial Relations.

Your Committee finds that the workers' compensation system is often adversarial in nature as both employee and employer often choose doctors that are highly partisan to each respective side. Efforts to ensure that the independent medical examination physician is truly independent will serve to minimize or even eliminate negative perceptions about the examiner, providing greater assurance that the examination will be conducted fairly.

Your Committee has amended this measure by:

- (1) As recommended by the ILWU Local 142, providing that an employee shall have the right to use a recording device during the examination only when the examining physician or surgeon approves of the recording;
- (2) As recommended by the Department of Labor and Industrial Relations, deleting the definitions of "duly qualified physician" and "duly qualified surgeon";
- (3) Inserting an effective date of January 7, 2059, to encourage further discussion; and
- (4) 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. 859, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 859, 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,


GILBERT S.C. KEITH-AGARAN Chair



The Senate
 Twenty-Ninth Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* SB 859	Committee Referral: JDL	Date: 2/24/17		
<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
KEITH-AGARAN, Gilbert S.C. (C)	✓			
RHOADS, Karl (VC)	✓			
GABBARD, Mike				✓
KIM, Donna Mercado				✓
THIELEN, Laura H.		✓		
TOTAL	2	1	0	2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align:center; font-family: cursive; font-size: 1.2em;">Karl Rhoads</div>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes