

STAND. COM. REP. NO.

2166

Honolulu, Hawaii

FEB 09 2018

RE: S.B. No. 2290  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Twenty-Ninth State Legislature  
Regular Session of 2018  
State of Hawaii

Sir:

Your Committee on Public Safety, Intergovernmental, and  
Military Affairs, to which was referred S.B. No. 2290 entitled:

"A BILL FOR AN ACT RELATING TO LAW ENFORCEMENT,"

begs leave to report as follows:

The purpose and intent of this measure is to prohibit state  
and county law enforcement agencies from complying with federal  
immigration detainers or honoring requests for non-public  
information unless specifically required to do so by a warrant  
signed by a judge or federal, state, or local law.

Your Committee received testimony in support of this measure  
from the Filipina Advocacy Network, Hawaii J-20+, ACLU People  
Power, Planned Parenthood Votes Northwest and Hawaii, Libertarian  
Party of Hawaii, Hawai'i Coalition for Immigration Reform, and  
twelve individuals. Your Committee received testimony in  
opposition to this measure from the Maui Police Department;  
Department of the Prosecuting Attorney, County of Maui; and  
twenty-five individuals. Your Committee received comments on this  
measure from the Department of the Attorney General.

Your Committee finds that Hawaii has a rich heritage of  
diversity that should be celebrated and protected. Recent changes  
in immigration policy at the federal level have created  
uncertainty for many immigrants, particularly undocumented  
immigrants. Your Committee finds the changing policies of the



federal government unfortunate, given that many of the undocumented immigrants who are now targets for penalty or deportation have no history of criminal or disruptive behavior. Indeed, the overwhelming majority of these undocumented immigrants are quality individuals who make great contributions to our rich society. In addition, the recent actions and decisions by the federal government toward immigrants have brought to light the additional time and resources that local law enforcement often devote when complying with federal requests related to immigrant detention. Your Committee finds that local communities would be better served if that additional time and resources were directed at more serious problems affecting our State. Accordingly, this measure prohibits state and local law enforcement agencies from complying with federal immigration detainers or honoring requests for non-public information unless specifically required to do so by law or warrant.

However, your Committee notes the concerns raised by the Department of the Attorney General relating to the lack of exceptions for law enforcement to provide United States Immigrations and Customs Enforcement with access to interview an individual for purposes of enforcement of immigration law and the requirement that law enforcement agencies provide a copy of a United States Immigrations and Customs Enforcement detainer, transfer, notification, interview, or interrogation request to the detained individual named in the request. Your Committee recommends that your Committee on Judiciary investigate this issue further if it decides to hear this measure.

Your Committee also acknowledges the concerns raised in testimony concerning the constitutionality of complying with a detainer request that is not accompanied by a judicial warrant and finds that those provisions that might invite a constitutional challenge should be removed.

Your Committee has amended this measure by:

- (1) Removing the following exceptions to the prohibition against honoring detainer requests:
  - (A) The individual has been convicted of any misdemeanor specified in section 706-606.5(5),



Hawaii Revised Statutes (HRS), within the prior five years;

- (B) The individual has been arrested for a felony and a judge has made a finding of probable cause pursuant to section 805-7, HRS;
  - (C) There is probable cause to believe that the individual has illegally re-entered the United States after a previous removal or return as defined by title 8 United States Code section 1326(b)(2); or
  - (D) The individual is currently registered as a covered offender under chapter 846E, HRS;
- (2) Inserting an effective date of January 1, 2050, to encourage further discussion; and
  - (3) 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 Public Safety, Intergovernmental, and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2290, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2290, S.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on  
behalf of the members of the  
Committee on Public Safety,  
Intergovernmental, and Military  
Affairs,

  
CLARENCE K. NISHIHARA, Chair



