

Honolulu, Hawaii

April 24, 2008

RE: H.B. No. 2557
H.D. 1
S.D. 1
C.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

Sir and Madam:

Your Committee on Conference on the disagreeing vote of the House of Representatives to the amendments proposed by the Senate in H.B. No. 2557, H.D. 1, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO EVIDENCE,"

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The purpose of this bill is to establish a limited privilege against the compelled disclosure of sources and unpublished information to a legislative, executive, or judicial officer or body, or to any other person with the power to compel testimony for persons involved in news gathering and reporting.

Your Committee on Conference has amended this measure by:

- (1) Specifically adding a protection against compelled disclosure for a person who has observed the alleged commission of a crime if the crime itself is the act of communicating or providing the information or



documents at issue, and also if the interest in maintaining the privilege granted by this measure outweighs the public interest in disclosure;

- (2) Clarifying that the exception to the privilege in the case of a source or information related to a felony requires substantial evidence that the source or information sought is material to the investigation, prosecution, or defense thereof;
- (3) Adding that a source or information material to a civil action for defamation may also constitute an exception to the privilege, subject to the same three-part test of necessity regarding disclosure in the case of felonies;
- (4) Adding that the consent of a source to the disclosure of unpublished documents or other tangible materials provided by such person as an exception to the privilege;
- (5) Clarifying that an exception to the privilege applies in the case of information that is critical to prevent serious harm to life or public safety;
- (6) Changing the effective date to upon its approval and including a repeal date of June 30, 2011; and
- (7) Making technical, non-substantive amendments for purposes of clarity and style.

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. 2557, 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. 2557, 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


BRIAN T. TANIGUCHI, Chair


BLAKE K. OSHIRO, Chair



Hawaii State Legislature

CR 74-08

Record of Votes of a
Conference Committee

Bill / Concurrent Resolution No.: HB 2557, HD 1, SD 1	Date/Time: 4/23/08 3:00pm
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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
TANIGUCHI, Brian T., Chr.	✓				OSHIRO, Blake K., Chr.	✓			
GABBARD, Mike	✓				LUKE, Sylvia	✓			
SLOM, Sam	✓				MARUMOTO, Barbara C.	✓			
TOTAL					TOTAL				

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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