

Honolulu, Hawaii  
Feb 4, 2008

RE: H.B. No. 3186

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

Sir:

Your Committee on Public Safety & Military Affairs, to which was referred H.B. No. 3186 entitled:

"A BILL FOR AN ACT RELATING TO PRISON LITIGATION,"

begs leave to report as follows:

The purpose of this measure is to deter frivolous prisoner litigation and to require prisoners, if financially able, to pay the required filing fees for any litigation filed in state courts.

In addition, the measure allows a prisoner to proceed in forma pauperis upon submission of a certified statement of the prisoner's financial assets for the previous six months and an affidavit or declaration of the prisoner's inability to pay. The measure also requires a prisoner who has had four or more in forma pauperis civil actions or appeals dismissed by any state or federal court as frivolous, as malicious, or for failure to state a claim to pay the full filing fee in advance for any further civil actions during the time the prisoner remains incarcerated. The measure provides for an exception if the prisoner is in imminent danger of serious physical, mental, or emotional injury and allows the prepayment requirement to be waived at the discretion of the court in the interest of justice.

Your Committee received testimony in support of this measure from the Department of Public Safety. Testimony in opposition was received from the American Civil liberties Union of Hawaii, the Community Alliance on Prisons, and a concerned individual.



Your Committee finds that requiring prisoners to pay for the civil lawsuits they file in state courts, to the extent they are able, will limit the number of frivolous filings in a manner similar to the way frivolous filings in federal court declined after adoption of the federal Prison Litigation Reform Act. At the same time, these requirements have not prevented the filing in federal courts of legitimate claims.

Your Committee urges the Committee on Judiciary to consider whether there are any legal or state constitutional limitations that would preclude adoption and enforcement of this legislation.

As affirmed by the record of votes of the members of your Committee on Public Safety & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3186 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

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

  
CINDY EVANS, Chair



HSCR 94-08

State of Hawaii  
House of Representatives  
The Twenty-fourth Legislature

Record of Votes of the Committee on Public Safety & Military Affairs

Bill/Resolution No.: HB 3186	Committee Referral: PSM, JUD, FIN	Date: 1/31/08
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The committee is reconsidering its previous decision on the measure.

The recommendation is to:  Pass, unamended (as is)     Pass, with amendments (HD)     Hold  
 Pass short form bill with HD to recommit for future public hearing (recommit)

PSM Members	Ayes	Ayes (WR)	Nays	Excused
1. EVANS, Cindy (C)	✓			
2. HAR, Sharon E. (VC)	✓			
3. LEE, Marilyn B.	✓			
4. LUKE, Sylvia	✓			
5. McKELVEY, Angus L.K.	✓			
6. NAKASONE, Bob	✓			
7. NISHIMOTO, Scott Y.	✓			
8. SONSON, Alex M.		✓		
9. SOUKI, Joseph M.		✓		
10. TAKAMINE, Dwight Y.	✓			
11. TAKUMI, Roy M.	✓			
12. FINNEGAN, Lynn	✓			
13. PINE, Kymerly Marcos				
TOTAL (13)	11	2		

The recommendation is:  Adopted     Not Adopted  
 If joint referral, \_\_\_\_\_ did not support recommendation.  
 committee acronym(s)

Vice Chair's or designee's signature: 

Distribution: Original (White) – Committee    Duplicate (Yellow) – Chief Clerk's Office