



The Judiciary, State of Hawai'i

Testimony to the House Committee on Judiciary

Representative Chris Lee, Chair

Representative Joy A. San Buenaventura, Vice Chair

Wednesday, March 27, 2019, 2:05 PM
State Capitol, Conference Room 325

by

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WRITTEN TESTIMONY ONLY

Bill No. and Title: Senate Bill No. 2, Proposed H.D. 1, Relating to Criminal Defense.

Purpose: Establishes a time limitation for filing habeas corpus complaints and petitions for post-conviction judicial proceedings. Limits successive post-conviction complaints.

Judiciary's Position:

The Judiciary respectfully submits the following comments:

Pursuant to Article VI, section 7 of the Hawai'i Constitution, the supreme court "shall have power to promulgate rules and regulations in all civil and criminal cases for all courts relating to process, practice, procedures, and appeals, which shall have the force and effect of law." In accordance with the power granted by Article VI, section 7 of the Hawai'i Constitution, the Supreme Court promulgated the Hawai'i Rules of Penal Procedure (HRPP), to establish the procedures and practices for the handling criminal cases in all state courts. HRPP Rule 40 sets forth court procedures to govern the court processes for post-conviction proceedings.

HRPP Rule 40, which has been in effect for more than forty years, encompasses all common law and other procedures for post-conviction proceedings, including habeas corpus and coram nobis. The rule establishes when such proceedings may be filed and when a Rule 40



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petition is unavailable because an issue has been previously ruled upon or waived because the issue could have been previously raised. These limitations and other provisions in the rule have achieved the rule's objective of providing a balanced approach to post-convictions proceedings that maintain the integrity of criminal convictions while also comports with constitutional due process requirements.

Thank you for providing the Judiciary with the opportunity to comment on Senate Bill No. 2, Proposed H.D. 1.