

Honolulu, Hawaii

March 2, 2006

RE: H.B. No. 2299
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 2299 entitled:

"A BILL FOR AN ACT RELATING TO CHAPTER 803,"

begs leave to report as follows:

The purpose of this bill is to make statutory language more consistent with the United States Constitution by:

- (1) Stipulating that it shall not be unlawful, in any case of arrest for examination, to unreasonably refuse or fail to make a reasonable effort to send through a police officer or person other than the arrested person, a telephone, cable, or wireless message to the attorney of an arrested individual or member of the arrested individual's family; and
- (2) Deleting statutory provisions dictating police behavior when entering a house to arrest an individual suspected of a crime.

The Department of the Attorney General (AG), Department of the Prosecuting Attorney of the City and County of Honolulu (Prosecuting Attorney), and Honolulu Police Department testified in support of this bill. The Office of the Public Defender opposed this measure.



Your Committee understands the concerns raised by the AG and Prosecuting Attorney regarding recent cases decided by the Hawaii Supreme Court involving arrest and search warrants and access of arrested defendants to counsel. However, your Committee believes that police officers should make every reasonable effort to contact an arrested individual's attorney or family member when requested. Your Committee further believes that law enforcement officers should substantially comply with statutory requirements that dictate the means by which law enforcement officers enter a house to make an arrest.


Accordingly, your Committee has amended this bill by:

- (1) Deleting the provision allowing, in any case of arrest for examination, unreasonable refusal or failure to make a reasonable effort to send through a police officer or person other than the arrested person, a telephone, cable, or wireless message to the attorney of an arrested individual or member of the arrested individual's family;
- (2) Reinserting language dictating a law enforcement officer's behavior when entering a house to arrest an individual suspected of a crime;
- (3) Clarifying that the law enforcement officer or person making an arrest shall substantially comply with the requirements dictating their behavior when entering a house to arrest an individual suspected of a crime;
- (4) Inserting a purpose section asserting the reasoning behind the amendments;
- (5) Changing its effective date to July 1, 2069, to encourage further discussion; and
- (6) Making other technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2299, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2299, H.D. 1, and be placed on the calendar for Third Reading.



Respectfully submitted on
behalf of the members of the
Committee on Judiciary,

for 
SYLVIA LUKE, Chair



