

STAND. COM. REP. NO. 1519-06

Honolulu, Hawaii

April 6, 2006

RE: S.B. No. 2260
S.D. 1
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 S.B. No. 2260, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO SENTENCING,"

begs leave to report as follows:

The purpose of this bill is to provide a mandatory minimum of 30 years to life for habitual violent felons.

The Department of the Attorney General, City and County of Honolulu and Maui County Department of the Prosecuting Attorney, Kuliouou/Kalani Iki Neighborhood Board #2, Ewa Neighborhood Board #23, Sex Abuse Treatment Center, State of Hawaii Organization of Police Officers, and several concerned individuals supported this bill. The Office of the Public Defender, Honolulu Hawaii National Association for the Advancement of Colored People, American Civil Liberties Union of Hawaii, Japanese American Citizens League of Hawaii, Honolulu Chapter, Community Alliance on Prisons, and numerous concerned individuals opposed this measure.

Your Committee has amended this bill by:

- (1) Removing the option allowing an "out-of-state" offense that is also a crime of violence, to qualify as one of the two prior felonies necessary to classify a defendant as a habitual violent felon;

SB2260 HD1 HSCR JUD HMS 2006-3269



- (2) Removing from the list of crimes of violence:
 - (A) Continuous Sexual Assault of a Minor Under the Age of Fourteen Years involving an act of sexual penetration;
 - (B) Promoting Child Abuse in the First Degree;
 - (C) Robbery in the Second Degree;
 - (D) Burglary in the First Degree; and
 - (E) Carrying or Use of a Firearm in the Commission of a Separate Felony;
- (3) Requiring the State to bring a motion to sentence under the habitual felon law that:
 - (A) Sets forth the date of and jurisdiction of occurrence of each prior conviction; and
 - (B) Identifies any other repeat offender sentencing laws to which the defendant is subject;
- (4) Providing that upon motion of the defendant, rather than the State, the court may impose a mitigated sentence departing from the habitual felon law;
- (5) Requiring the Judiciary and the Department of Public Safety to report to the Legislature of the effects of this Act;
- (6) Changing the effective date to July 1, 2006, to encourage further discussion;
- (7) Adding a repeal date of January 1, 2011; and
- (8) Making technical, nonsubstantive amendments for consistency, clarity, 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 S.B. No. 2260, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2260, S.D. 1, 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



Record of Votes of the Committee on Judiciary

Bill/Resolution No.: SB2260 SD1 (SSCR2557)	Date: 3/30/06			
Committee Referral: JUD	<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.			
The recommendation is to: <input type="checkbox"/> Pass, unamended <input checked="" type="checkbox"/> Pass, with amendments <input type="checkbox"/> Hold <input type="checkbox"/> Recommit				
JUD Members	Ayes	Ayes (WR)	Nays	Excused
1. LUKE, Sylvia (C)	✓			
2. OSHIRO, Blake K. (VC)	✓			
3. CALDWELL, Kirk	✓			
4. KANOHO, Ezra R.	✓			
5. KARAMATSU, Jon Riki				✓
6. MORITA, Hermina M.	✓			
7. SONSON, Alex M.	✓			
8. SOUKI, Joseph M.				✓
9. MARUMOTO, Barbara C.	✓			
10. THIELEN, Cynthia	✓			
TOTAL	8	0	0	2
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> 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) – HMSO Duplicate (Pink) – Clerk's Office				