

Honolulu, Hawaii

FEB 22

, 2006

RE: S.B. No. 2246
S.D. 1

Honorable Robert Bunda
President of the Senate
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committee on Judiciary and Hawaiian Affairs, to which was referred S.B. No. 2246 entitled:

"A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII RELATING TO SEXUAL ASSAULT,"

begs leave to report as follows:

The purpose of this measure is to propose a constitutional amendment to the Hawaii Constitution to provide that the legislature may define what constitutes a continuing course of conduct in sexual assault crimes and may define what constitutes unanimity required for a conviction in sexual assault crimes.

Testimony in support of this measure was submitted by the Attorney General, the Crime Victim Compensation Commission, the Prosecuting Attorney of the City and County of Honolulu, the Honolulu Police Department, the Hawaii Family Forum, and the Sex Abuse Treatment Center. The Office of the Public Defender submitted testimony in opposition to this measure.

Your Committee finds that under the current law, it is difficult to prosecute those who repeatedly sexually assault young children with whom they live, because of the difficulty young children have in remembering the individual dates on which they were sexually assaulted. This measure would allow the legislature to enact a law that would permit juries to convict a person of the continuous sexual assault of a child, if each member of the jury was convinced beyond a reasonable doubt that the defendant had



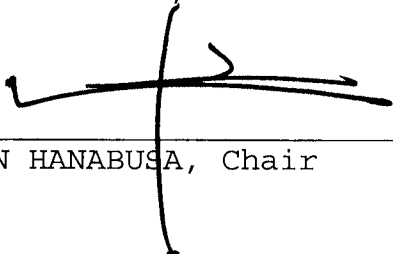
sexually assaulted the child the required minimum number of times, even if there were no unanimity as to the individual assaults, thus making it easier to prosecute those who repeatedly sexually assault children with whom they live.

Your Committee further finds that the legislature passed such a law in 1997, but that law was invalidated by the Hawaii Supreme Court. An amendment similar to this measure was proposed to the voters in 2004 and received "yes" votes that constituted 65.5 per cent of the votes cast, but the amendment was invalidated by the Hawaii Supreme Court on the ground that the legislature had not followed correct procedures in proposing the amendment to the voters. This measure remedies the concern that the Hawaii Supreme Court had with the previous amendment.

Your Committee amended this measure by making nonsubstantive, technical amendments.

As affirmed by the record of votes of the members of your Committee on Judiciary and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2246, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2246, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Hawaiian Affairs,



COLLEEN HANABUSA, Chair



