




**The Senate**  
**State of Hawaii**

STATE CAPITOL

HONOLULU, HAWAII 96813

February 23, 2006

TO: Members of the Senate Committee on Judiciary and Hawaiian Affairs

FROM: Sen. Colleen Hanabusa, Chair 

SUBJECT: Chair's inclinations for decision making on Friday, February 24, 9:00 a.m.

**The following measure was previously heard on Friday, February 10 and deferred from Monday, February 13:**

Bill NO.	Description	Referral
SB 2424	RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS. Deletes the requirement for a comprehensive master plan in Chapter 10, HRS, and replaces it with the office of Hawaiian affairs strategic plan. <b>Chair's inclination: Pass As Is.</b>	JHW

**The following measures were previously heard on Monday, February 13 and deferred from Friday, February 17:**

Bill NO.	Description	Referral
SB 2558	RELATING TO THE HAWAII RULES OF EVIDENCE. Makes oral or written apologies inadmissible to prove fault and preserves admissibility of a statement of fault. <b>Chair's inclination: SD1</b> – Incorporate the recommendation of the Hawaii Supreme Court Standing Committee on the Rules of Evidence by providing that evidence of statements or gestures that express sympathy, commiseration, or condolence concerning the consequences of an event in which the declarant was a participant is not admissible to prove liability for any claim growing out of the event. This rule does not require the exclusion of an apology or other statement that acknowledges or implies fault even though contained in, or part of, any statement or gesture excludable under this rule.	JHW

SB 2941	<p><b>RELATING TO BRUSH FIRES.</b></p> <p>Creates a class C felony criminal property damage offense for setting brush fires. Permits court to assess defendant for cost of fighting fire. Makes parent or guardian liable for the cost of damage done by fire set by minor and for cost of fighting it.</p> <p><b>Chair's inclination: SD1</b> – Amend the bill to: 1) Address the concern raised by the Public Defender that some degree of property damage be shown by requiring that the fire result in damage to 10,000 or more square feet of property; 2) Incorporate the amendments proposed by DLNR to include federal fire fighting agencies in the exceptions to this new offense and include the department of health and county fire departments as entities to authorize prescribed or controlled burns; 3) Incorporate the proposal from the Nature Conservancy that a community service component be included in the bill for anyone convicted of this new offense; 4) Ensure that the parents or legal guardians of a minor assume monetary liability for only that portion of damage caused by the minor; 5) Add a section that this new offense does not prohibit a separate criminal or civil action by the State or a third party; and 6) Include a reference to any minor adjudicated for this new offense as recommended by the Office of the Attorney General who reviewed the bill to address any concerns regarding parental liability. The Office of the Attorney General noted that the section is modeled after HRS §577-3 and HRS §577-3.5. The proposed SD1 also adequately considers apportionment of liability.</p>	JHW
---------	---	-----

**The following measures were previously heard on Wednesday, February 15 and deferred from Wednesday, February 22:**

Bill NO.	Description	Referral
SB 623	<p><b>RELATING TO LEGISLATIVE ETHICS.</b></p> <p>Establishes a legislative ethics committee in each legislative house; enacts new conflict of interest provisions subject to enforcement by the respective legislative ethics committee; prohibits fundraising activities by legislators during all legislative sessions; broadens scope of financial disclosure.</p> <p><b>Chair's inclination: Hold.</b></p>	JHW
SB 627	<p><b>RELATING TO ETHICS.</b></p> <p>Prohibits state board or commission members from doing business with their board. Prohibits public employees from taking actions that directly affect their families. Requires disclosure of financial interests for specified state board members, including the board of regents.</p> <p><b>Chair's inclination: SD1</b> – Amend the bill in accordance with testimony from the Executive Director and General Counsel of the Hawaii State Ethics Commission by removing the portion that would require the State Ethics Commission to issue a statewide public notice of the Commission's finding that a charge was unsubstantiated and that probable cause was not found.</p>	JHW



**The following measures were previously heard on Friday, February 17:**

Bill NO.	Description	Referral
SB 2489	<p>RELATING TO FORFEITURE OF PROPERTY.</p> <p>Amends the penal code section on property forfeiture. Adds additional covered offenses that are subject to forfeiture.</p> <p><b>Chair's inclination: Pass As Is.</b> The Committee Report will reflect that this bill will correct the gap in current forfeiture law to include the offenses of unlawful methamphetamine trafficking and manufacturing of a controlled substance with a child present enacted in 2004.</p>	JHW
SB 2529	<p>RELATING TO OPEN CARRY LICENSE OF FIREARMS.</p> <p>Authorizes chiefs of police to issue licenses to openly carry a firearm. Details processes for license applications, renewals, and record keeping. Strictly prohibits openly carrying firearms under certain circumstances.</p> <p><b>Chair's inclination: Hold</b> because of conflicting testimony received from the Department of Health and the Hawaii Rifle Association on the effect these types of laws have on violent crimes. The Chair recommends that the Legislative Reference Bureau review other jurisdictions to determine the effect of these laws on violent crimes, which can be accomplished by resolution.</p>	JHW
SB 2687	<p>RELATING TO CRIMINAL TRESPASS.</p> <p>Repeals petty misdemeanor offense of criminal trespass onto public parks and recreational grounds.</p> <p><b>Chair's inclination: Pass As Is.</b></p>	JHW
SB 2922	<p>RELATING TO CAMPAIGN SPENDING.</p> <p>Clarifies that if a corporation or company uses funds from its own treasury to fund the corporation or company's own noncandidate committee, there is no limit on contributions or expenditures to the corporation or company's noncandidate committee. Establishes an expenditure ceiling for prosecuting attorney candidates who participate in the publicly funded campaign program.</p> <p><b>Chair's inclination: SD1</b> -- Amend the bill in accordance with information received from the Office of the Attorney General to 1) clearly provide that within an election period, persons other than individuals, including a corporation, partnership, association, or organization may make campaign contributions and expenditures from its own funds in unlimited amounts, but only through a noncandidate committee that is subject to the same aggregate limits applicable to individuals and 2) insert retroactive effect language to January 1, 2006 to avoid any confusion Act 203's amendments may have generated.</p>	JHW

SB 2576	<p><b>RELATING TO CRUELTY TO ANIMALS.</b>  Creates a new offense of aggravated cruelty to animals; provides penalties.  <b>Chair's inclination: SD1</b> – Amend to 1) limit the offense of aggravated cruelty to pet animals defined as a dog, cat, rabbit (so long as not bred for consumption), guinea pig, domestic rat or mouse, or caged bird; 2) removed any reference to cockfighting or HRS §711-1109(1)(c); 3) incorporate the amendments recommended by the Prosecutor's office; and 4) make a technical, non-substantive amendment.</p>	JHW
SB 2924	<p><b>RELATING TO CRUELTY TO ANIMALS.</b>  Gives law enforcement officers authority to enter premises and impound an animal when there is probable cause to believe the animal is being subjected to cruel treatment. Allows court to order the forfeiture of impounded animal prior to a criminal action against its owner.  <b>Chair's inclination: SD1</b> – Amend to 1) insert a savings clause and 2) add a provision that allows the defendant to demonstrate to the court that proper alternative care has been arranged in order to avoid forfeiture of the animal to a humane society.</p>	JHW
SB 2930	<p><b>RELATING TO CRUELTY TO ANIMALS.</b>  Clarifies that animal care costs incurred for abused or neglected animals will be the responsibility of the abuser.  <b>Chair's inclination: SD1</b> – Delete the reference to the forfeiture of equipment and only reference the abused animals.</p>	JHW

**The following measures were previously heard on Friday, February 17:**

Bill NO. SB 3262 (SSCR2182)	<p><b>Description</b>  <b>RELATING TO HEALTH.</b>  Establishes a new chapter that protects the public health and welfare by prohibiting smoking in public places and places of employment, ensuring a consistent level of basic protections statewide from exposure to secondhand. Repeals chapter 328K.  <b>Chair's inclination: SD1</b> – Technical, non-substantive amendment.</p>	Referral HTH/LBR, JHW
SB 3279 SD1 (SSCR2140)	<p><b>RELATING TO MEDICAL LIABILITY.</b>  Makes benevolent gestures regarding a medical error inadmissible as evidence of an admission of liability in medical malpractice claims. (SD1)  <b>Chair's inclination: SD2</b> – Technical, non-substantive amendment.</p>	HTH, JHW
SB 2503 SD1 (SSCR2516)	<p><b>RELATING TO FLAVORED TOBACCO PRODUCTS.</b>  Prohibits the sale and distribution of flavored cigarette products. (SD1)  <b>Chair's inclination: Pass As Is.</b></p>	HTH/HMS, JHW
SB 2506 (SSCR2262)	<p><b>RELATING TO THE REPRODUCTIVE RIGHTS PROTECTION COMMITTEE.</b>  Repeals the reproductive rights protection committee for not having served its intended purpose by being inactive for the last 8 years.  <b>Chair's inclination: Pass As Is.</b></p>	HTH/HMS, JHW

<p>SB 2133 SD1 (SSCR2181)</p>	<p><b>RELATING TO HEALTH.</b> Provides that a placenta may be released by a hospital to the woman from which it originated. (SD1) <b>Chair's inclination: SD2</b> – Incorporate the amendments proposed by the Department of Health except for the proposed sunset date.</p>	<p>HTH, JHW</p>
<p>SB 2343 SD1 (SSCR2009)</p>	<p><b>RELATING TO CRIMINAL HISTORY RECORD CHECKS.</b> Requires criminal history record checks on persons providing care or having access to residents of healthcare facilities. (SD1) <b>Chair's inclination: SD2</b> – Amend to: 1) Conform the definition of "relevant crime" to the definition of "conviction for relevant crime"; 2) Remove any requirement that the Federal Bureau of Investigation provide background information to the Department of Human Services and the Department of Health; 3) Insert a requirement that applicants subject to criminal history record checks sign a waiver form stating that the Departments shall not be liable to the applicant in order to protect the State from liability; and 3) Make technical, non-substantive amendments.</p>	<p>HTH/HMS, JHW</p>