

STAND. COM. REP. NO. 1582

Honolulu, Hawaii

March 29, 2007

RE: S.B. No. 228
S.D. 1
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fourth State Legislature
Regular Session of 2007
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 228, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO GRAFFITI,"

begs leave to report as follows:

The purpose of this bill is to strengthen the penalties for committing graffiti by requiring:

- (1) A minor offender or the parents or legal guardians to remove the graffiti from the affected property within 60 days and to pay for the cost of paint and materials; and
- (2) A minor offender to perform a minimum of 80 hours of community service to remove graffiti from other properties.

Currently, the court may order the offender, parents, or legal guardians to pay the actual cost of having the damaged property repaired or replaced.

The Department of Transportation, Honolulu Police Department, Downtown Neighborhood Board No. 13, Hui o Makiki, Waikele Community Association, Waimanalo Hawaiian Homes Association, and several concerned individuals testified in support of this bill. The Office of the Public Defender opposed this measure.

SB228 HD1 HSCR JUD HMS 2007-3187



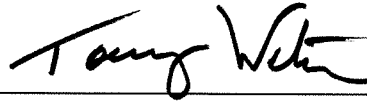
Your Committee finds that there should be more discussion on whether to remove family court sentencing discretion in graffiti cases. Accordingly, your Committee has amended this bill by deleting its contents and replacing it with language that:

- (1) Establishes the Graffiti Eradication Sentencing Program (Program) within the Judiciary that, among other things:
 - (A) Coordinates the implementation, scheduling, and monitoring of graffiti eradication activities for graffiti offenders who have been sentenced to community service; and
 - (B) Prescribes a course of action that a graffiti offender must undertake to discharge a community service sentence;
- (2) Requires persons found in violation of any grade of offense for criminal property damage involving graffiti to perform community service to eradicate or mitigate graffiti;
- (3) Allows the court to determine the hours of community service based on an estimate of the time required to eradicate or mitigate the graffiti inflicted by the offender;
- (4) Allows the court to delegate to the Program the estimate of the hours of community service required to eradicate or mitigate the graffiti inflicted by an offender;
- (5) Requires the performance of community service under this alternative sentencing by the Program to be performed pursuant to the requirements of the Program;
- (6) Eliminates the five-year, look-back period for the crime of aggravated criminal property damage; and
- (7) Sets the effective date to January 1, 2112.

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. 228, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 228, 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,



TOMMY WATERS, Chair



HSCR 1582

State of Hawaii
House of Representatives
The Twenty-fourth Legislature

Record of Votes of the Committee on Judiciary

Bill/Resolution No.: SB 228 SD1 (SSCR 878)		Date: 3/15/2007		
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"/> Pass, with amendments, for recommittal for further consideration				
JUD Members	Ayes	Ayes (WR)	Nays	Excused
1. WATERS, Tommy (C)	/			
2. OSHIRO, Blake K. (VC)	/			
3. CALDWELL, Kirk	/			
4. EVANS, Cindy	/			
5. GREEN, Josh, M.D.	/			
6. ITO, Ken				/
7. LUKE, Sylvia				/
8. McKELVEY, Angus L.K.				/
9. MORITA, Hermina M.	/			
10. SONSON, Alex M.				/
11. SOUKI, Joseph M.				/
12. TSUJI, Clift	/			
13. YAMANE, Ryan I.	/			
14. YAMASHITA, Kyle T.				/
15. MARUMOTO, Barbara C.	/			
16. PINE, Kymerly Marcos	/			
17. THIELEN, Cynthia				/
TOTAL	10			7
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				