

STAND. COM. REP. NO. 350-08

Honolulu, Hawaii

Feb 12, 2008

RE: H.B. No. 3044
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 3044 entitled:

"A BILL FOR AN ACT PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE STATE OF HAWAII RELATING TO TESTIMONY OF DEFENDANTS IN CRIMINAL CASES,"

begs leave to report as follows:

The purpose of this bill is to amend the State Constitution to allow testifying defendants in criminal cases to be impeached with evidence of their prior convictions for crimes involving dishonesty.

The Attorney General, City and County of Honolulu Department of the Prosecuting Attorney, County of Maui Department of the Prosecuting Attorney, County of Maui Police Department, Honolulu Police Department, and County of Hawaii Police Department testified in support of this bill. The Judiciary, State Office of the Public Defender, and American Civil Liberties Union of Hawaii opposed this measure.

This bill proposes to overrule the 1971 Hawaii Supreme Court decision in the case of State v. Santiago, 53 Haw. 254 (1971), which held that the due process clause of the Hawaii Constitution barred the introduction of a defendant's prior convictions to assist the trier of fact in evaluating that defendant's credibility in a criminal case.

HB3044 HD1 HSCR JUD HMS 2008-1862



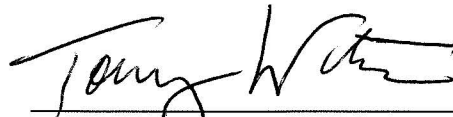
Because evidence of prior convictions can be used to impeach victims and other witnesses, your Committee finds that impeachment of defendants with evidence of prior convictions of crimes involving dishonesty should also be allowed when those defendants choose to testify at their own trial.

Your Committee has amended this bill by:

- (1) Deleting the effective date provision to encourage continued discussion; and
- (2) Making 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. 3044, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3044, H.D. 1, and be referred to the Committee on Finance.

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



TOMMY WATERS, Chair



