

Honolulu, Hawaii

APR 03 2008

RE: H.B. No. 3383  
S.D. 1

Honorable Colleen Hanabusa  
President of the Senate  
Twenty-Fourth State Legislature  
Regular Session of 2008  
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred  
H.B. No. 3383 entitled:

"A BILL FOR AN ACT RELATING TO HAWAII PENAL CODE,"

begs leave to report as follows:

The purpose of this measure is to clarify the law on multiple terms of imprisonment to require multiple terms of imprisonment, whether imposed at the same time or at different times, to run concurrently unless the court orders or the statute mandates that the terms run consecutively.

Your Committee received testimony in support of this measure from the State Public Defender and Community Alliance on Prisons. Testimony in opposition was received from the State Attorney General and the Honolulu Prosecuting Attorney. Comments were received from the Department of Public Safety.

Testimony on this measure indicates that there has been some misunderstanding and misinterpretation of the sentencing law involving multiple terms of imprisonment. This measure clarifies the confusion. In this regard, your Committee finds that the harsher sentence of consecutive time should be specifically stated by the court.

Your Committee has concerns regarding the retroactive application of this measure. Testimony indicated that the Department of Public Safety "would be required to review thousands of individual inmate files and amend the sentence computations



immediately. . . . Further, if this measure were to be enacted as currently written, the State would be exposed to extensive liability for overstayed detention on a number of cases."

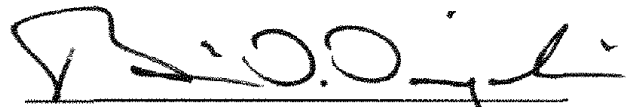
Your Committee urges the Department of Public Safety to work on a plan and procedure to process cases that would be affected by this measure. Accordingly, the Department is requested to report to your Committee before the commencement of conference meetings on this measure.

Your Committee has amended this measure by:

- (1) Applying it prospectively, beginning with terms of imprisonment imposed on or after January 1, 2009; and
- (2) Changing the effective date to July 1, 2050, to continue the discussions on this matter.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3383, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3383, 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  
Labor,



BRIAN T. TANIGUCHI, Chair



The Senate  
 Twenty-Fourth Legislature  
 State of Hawaii

**Record of Votes**  
**Committee on Judiciary and Labor**  
**JDL**

Bill / Resolution No.:* <b>HB 3383</b>	Committee Referral: <b>JDL</b>	Date: <b>3-17-08</b>
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The committee is reconsidering its previous decision on this measure.  
 If so, then the previous decision was to: \_\_\_\_\_

The Recommendation is:

Pass, unamended 2312    
  Pass, with amendments 2311    
 Hold 2310    
 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
TANIGUCHI, BRIAN T. (C)	✓			
HEE, Clayton (VC)				✓
GABBARD, Mike	✓			
KOKUBUN, Russell S.				✓
NISHIHARA, Clarence K.	✓			
SLOM, Sam	✓			
<b>TOTAL</b>	<b>4</b>	<b>—</b>	<b>—</b>	<b>2</b>

Recommendation:  Adopted      Not Adopted

Chair's or Designee's Signature:  


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\*Only one measure per Record of Votes