

Honolulu, Hawaii

FEB 29 2008

RE: S.B. No. 2363
S.D. 2

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
S.B. No. 2363, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO SEXUAL ASSAULT,"

begs leave to report as follows:

The purpose of this measure is to hold perpetrators strictly
liable for sexual assault against persons who are mentally
defective.

Specifically, this measure provides that:

- (1) Proof that a person knew that another person was mentally defective shall not be required in any class A felony prosecution for knowingly subjecting another person who is mentally defective to sexual penetration, under section 707-730, Hawaii Revised Statutes (sexual assault in the first degree);
- (2) A person commits the offense of sexual assault in the third degree if the person knowingly subjects to sexual contact another person who is mentally defective, or causes a person who is mentally defective to have sexual contact with the actor; and further provides that proof that the person knew that the other person was mentally defective is not required in any prosecution for knowingly subjecting to sexual contact another person who is mentally defective, or causing a person who is



mentally defective to have sexual contact with the actor.

The Honolulu Department of the Prosecuting Attorney and one individual submitted testimony in support of this measure.

Your Committee finds that persons who are mentally defective need additional protection from sexual predators. The term "mentally defective" is defined under section 707-700, Hawaii Revised Statutes, to mean "a person suffering from a disease, disorder, or defect which renders the person incapable of appraising the nature of the person's conduct."

Your Committee further finds that this measure will extend additional protection to a vulnerable segment of the population that has limited, if any, capacity to give knowing and willing consent to sexual acts.

Upon further consideration, your Committee has amended this measure by making technical nonsubstantive amendments for the purposes of clarity, consistency, and style.

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 S.B. No. 2363, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2363, S.D. 2.

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


BRIAN T. TANIGUCHI, Chair



