

Honolulu, Hawaii

APR 08 2011

RE: H.B. No. 1155
H.D. 1
S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred
H.B. No. 1155, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO REPEAT OFFENDERS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Specify Class A felonies that require mandatory minimum prison terms under the repeat offender statute; and
- (2) Reinstate, add, and delete certain Class C felonies that require mandatory minimum prison terms under the repeat offender statute.

Your Committee received testimony in support of this measure from the American Civil Liberties Union of Hawai'i, Community Alliance on Prisons, and The Drug Policy Forum of Hawai'i. Your Committee received testimony in opposition to this measure from the Department of the Attorney General, Department of Commerce and Consumer Affairs, and City and County of Honolulu Police Department. Your Committee received comments on this measure from the City and County of Honolulu Department of the Prosecuting Attorney.

Your Committee finds that requiring mandatory minimum prison terms may result in significant increases in the cost of corrections, due to longer prison terms and an increase in the



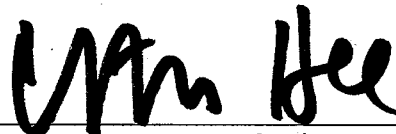
prison population. Your Committee further finds that other unintended consequences of mandatory minimum prison terms may include removing other, less costly or more effective sentencing options limiting the discretion of a sentencing judge.

Your Committee has heard the concerns that this measure eliminates certain categories of offenses from the repeat offender statute. This measure would make the repeat offender law inapplicable to all felony drug offenses, certain firearms offenses, and certain crimes against persons. Your Committee has also heard the concerns that this measure would make the repeat offender law inapplicable to all felony convictions of other jurisdictions. Your Committee understands these concerns. However, your Committee notes that requiring mandatory minimum prison terms often removes judicial discretion. Your Committee believes that judges are in the best position to make decisions about sentencing based on the facts and circumstances of each case and the individual offenders before them. Your Committee finds that allowing judges to exercise flexibility and discretion in sentencing can result in a sentencing system that is fair and effective.

Your Committee has amended this measure by making technical, nonsubstantive amendments for the purposes of clarity and consistency.

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. 1155, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1155, H.D. 1, 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,



CLAYTON HEE, Chair



The Senate
Twenty-Sixth Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* HB1155, HD1	Committee Referral: JDL	Date: 4-7-11
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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
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile (VC)	✓			
GABBARD, Mike	✓			
IHARA, Jr., Les	✓			
SLOM, Sam	✓			
TOTAL	5	1		

Recommendation: Adopted Not Adopted

Chair's or Designee's Signature:
Mike Gabbard

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*Only one measure per Record of Votes