

STAND. COM. REP. NO.

1112

Honolulu, Hawaii

APR 08 2011

RE: H.B. No. 555
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. 555, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO GRAFFITI,"

begs leave to report as follows:

The purpose and intent of this measure is to amend the sentencing requirement for defendants convicted of criminal property damage offenses when the property damage is caused by graffiti by:

- (1) Limiting the imposition of the penalty for the removal of graffiti to cases where the removal would not endanger people or inconvenience the public; and
- (2) Increasing the area within which the graffiti removal may take place.

Your Committee received testimony in support of this measure from the Office of the Public Defender. Your Committee received comments on this measure from the Judiciary.

Your Committee believes that section 708-823.6, Hawaii Revised Statutes, constitutes a common-sense approach to confronting property damage by graffiti. By sentencing a defendant who is convicted of property damage by graffiti to removing graffiti within the same area where the defendant defaced the property of others, a defendant performs a valuable community



service while gaining a direct understanding of the time and effort it takes property owners and community members to restore what may take only minutes to vandalize.

Section 708-823.6, Hawaii Revised Statutes, as enacted in 2010 does contain some practical challenges, however, that this measure is intended to resolve, including allowing an exemption of the sentence when the removal of graffiti may place the defendant or others in physical danger or inconvenience the public. Additionally, according to testimony presented to your Committee by the Judiciary and the Office of the Public Defender, there are logistical problems with ensuring that the defendants performing the graffiti removal are properly supervised. The Judiciary agency that administers community service programs does not have the resources, including sufficient personnel or supplies, to oversee the defendants nor is its staff authorized to supervise defendants in cleaning graffiti. The Judiciary reported in its testimony that, as an alternative, it contacted the State Highway Maintenance Base Yard to determine whether it had a graffiti eradication program that could supervise defendants but was informed that no one is available to oversee graffiti cleanup. The Public Defender reiterated that supervision is a problem, potentially resulting in sanctions against a defendant who is willing but unable to perform the terms of his or her sentence.

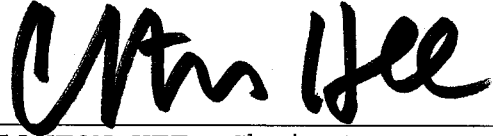
Accordingly, your Committee has amended this measure by:

- (1) Allowing the court to order one hundred hours of community service in lieu of requiring the defendant to remove graffiti, if the government agency responsible for supervising the defendant does not have the resources to supervise the defendant, as recommended by the Judiciary; and
- (2) 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. 555, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 555, 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,

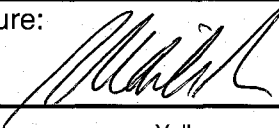


CLAYTON HEE, Chair



The Senate
 Twenty-Sixth Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:*	Committee Referral:	Date:		
HB555 HD1	JDL	3/21/11		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310		
<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile (VC)	✓			
GABBARD, Mike	✓			
IHARA, Jr., Les				✓
SLOM, Sam	✓			
TOTAL	4	0	0	1
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original	Yellow	Pink	Goldenrod	
File with Committee Report	Clerk's Office	Drafting Agency	Committee File Copy	

*Only one measure per Record of Votes