

STAND. COM. REP. NO.

1224

Honolulu, Hawaii

APR 08 2011

RE: H.B. No. 688
H.D. 2
S.D. 2

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. 688, H.D. 2, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO EDUCATION,"

begs leave to report as follows:

The purpose and intent of this measure is to protect students in Hawaii's public schools by:

- (1) Establishing the offense of cyberbullying and specifying that first and second violations shall be misdemeanors and subsequent offenses shall be felonies;
- (2) Codifying definitions of "bullying", "cyberbullying", and "harassment" in chapter 302A, Hawaii Revised Statutes; and
- (3) Directing the Board of Education to monitor the Department of Education's compliance with rules and statutes relating to bullying, cyberbullying, and harassment and to establish requirements for reporting compliance.

Your Committee received testimony in support of this measure from the Board of Education; Department of the Prosecuting Attorney of the City and County of Honolulu; Pride at Work Hawai'i; The Gay, Lesbian, Bisexual and Transgender Caucus of the Democratic Party of Hawai'i; Honolulu Pride; IMUAlliance; Equality



Hawaii; Japanese American Citizens League Honolulu Chapter; and fourteen individuals. Your Committee received comments on this measure from the Department of Education, Department of the Attorney General, and American Civil Liberties Union of Hawai'i.

Your Committee finds that the Hawaii State Constitution prohibits discrimination in education based on race, religion, sex, and ancestry. Your Committee further finds that while the Department of Education has long had administrative rules in place prohibiting bullying, cyberbullying, and harassment, enforcement of the existing rules has been insufficient. Your Committee finds that by codifying definitions of prohibited conduct in the Hawaii Revised Statutes and requiring the Board of Education to monitor the Department of Education's compliance with its rules, this measure will promote consistent and appropriate enforcement of these rules and policies in public schools.

Your Committee also finds that new and emerging communications technologies may provide the means to increase harassment or bullying and to amplify their effects, particularly among young people who may be more adept at using technology than their parents and teachers but have not developed the capacity to fully understand the consequences of their actions. However, your Committee further finds that the offense of harassment by cyberbullying created by this measure merely duplicates the offense of harassment by stalking, which includes the prohibition of nonconsensual electronic contact. Further, your Committee finds that creating a new criminal offense of cyberbullying may actually be counterproductive as it shifts responsibility for enforcement of the policy away from the Department of Education and onto law enforcement agencies. Therefore, your Committee finds that the goal of eliminating bullying and harassment within the public school system is better served by promoting enforcement of anti-bullying, anti-cyberbullying, and anti-harassment policies by principals, teachers, and others within the Department of Education.

Your Committee has amended this measure accordingly by:

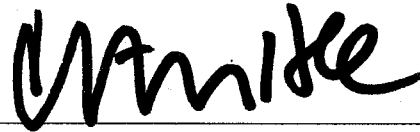
- (1) Deleting provisions creating the offense of harassment by cyberbullying; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.



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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. 688, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 688, H.D. 2, S.D. 2.

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.:* HB 688, ADZ, SDI	Committee Referral: EDU, JDL	Date: 4-7-11		
<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	5	—	—	—
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