

Honolulu, Hawaii  
APR 28 2011 , 2011

RE: S.B. No. 1025  
S.D. 1  
H.D. 1  
C.D. 1

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

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Sixth State Legislature  
Regular Session of 2011  
State of Hawaii

Sirs:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 1025, S.D. 1, H.D. 1, entitled:

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

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to:

- (1) Add to the offense of assault in the second degree the intentional or knowing causation of bodily injury to a firefighter or water safety officer who is engaged in the performance of duty;
- (2) Add to the offense of unauthorized entry in a dwelling the intentional or knowing entry into a dwelling with reckless disregard of the risk that another person was lawfully in the dwelling who was sixty-two years of age or older, was an incapacitated person, or had a developmental disability



and making the offense committed against those individuals a class B felony; and

- (3) Add a new chapter relating to labor trafficking, which establishes the offenses of labor trafficking in the first degree, labor trafficking in the second degree, nonpayment of wages, and unlawful conduct with respect to documents, and related provisions.

Your Committee on Conference finds that the intent of this measure is to protect firefighters and water safety officers from unnecessary harm from members of the public. Similar to correctional workers, educational workers, and emergency medical services providers, firefighters and water safety officers may find themselves in hostile and volatile situations, stemming from drug use by or domestic violence between members of the public. These volatile situations can erupt and place a firefighter or water safety officer in danger trying to perform public safety functions.

Your Committee on Conference also finds that home invasions are traumatic experiences for the victims and may be especially frightening for vulnerable elderly and disabled individuals present during the intrusion. Accordingly, your Committee on Conference believes that an offense against one of these vulnerable individuals necessitates a stronger punishment in the form of a class B felony and the designation of unauthorized entry in a dwelling in the first degree. Therefore, as described below, your Committee on Conference has established a new offense of unauthorized entry in a dwelling in the first degree for intrusions into dwellings in which vulnerable individuals are present, and has redesignated the existing offense of unauthorized entry in a dwelling as a second degree offense, with one substantive amendment described below.

Your Committee on Conference notes that the element of reckless disregard of the risk that another person was lawfully present in the dwelling is part of the existing offense of unauthorized entry in a dwelling. Your Committee on Conference has repealed this element with the intent that the presence of a person lawfully present in the dwelling shall be a strict liability element, and, for purposes of prosecution of this offense, it shall not be necessary to prove that a defendant knew or had any reason to know that someone else was lawfully in the dwelling. Your Committee on Conference has also omitted this element in the offense of unauthorized entry in a dwelling in the first degree and similarly intends that the presence of a person lawfully in the dwelling shall be a strict liability element. Further, your Committee on



Conference intends that it shall not be necessary to prove that a defendant knew or had any reason to know that the person lawfully in the dwelling was sixty-two years of age or older, incapacitated, or disabled.

Your Committee on Conference also notes that the provisions regarding labor trafficking have been included in a separate measure.

Accordingly, your Committee on Conference has amended this measure by:

- (1) Establishing a new offense of unauthorized entry in a dwelling in the first degree, as a class B felony, for the unauthorized entry in a dwelling if another person was, at the time of entry, lawfully present in the dwelling and who:
  - (A) Was sixty-two years of age or older;
  - (B) Was an incapacitated person; or
  - (C) Had a developmental disability;
- (2) Amending the offense of unauthorized entry in a dwelling by:
  - (A) Designating the offense as unauthorized entry in a dwelling in the second degree; and
  - (B) Repealing the element regarding reckless disregard of the risk that another person was lawfully present in the dwelling;
- (3) Deleting parts III and IV of the measure, relating to labor trafficking;
- (4) Changing the effective date to upon approval; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 1025, S.D. 1, H.D. 1, as amended herein, and recommends



that it pass Final Reading in the form attached hereto as S.B. No. 1025, S.D. 1, H.D. 1, C.D. 1.

Respectfully submitted on behalf of the managers:

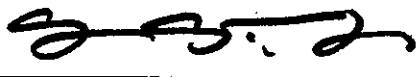

ON THE PART OF THE HOUSE

ON THE PART OF THE SENATE

  
HENRY J. C. AQUINO, Co-Chair

  
CLAYTON HEE, Chair

  
GILBERT KEITH-AGARAN, Co-Chair

  
MAILE SHIMABUKURO, Co-Chair  




Hawaii State Legislature

Record of Votes of a Conference Committee

Bill / Concurrent Resolution No.: **SB 1025, SD 1, HD 1** Date/Time: 4/28/11 5:00 p.m.

- The recommendation of the House and Senate managers is to pass with amendments (CD).
- The Committee is reconsidering its previous decision.
- The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure
- The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.

Senate Managers	A	WR	N	E	House Managers	A	WR	N	E
HEE, Clayton, Chr.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			AQUINO, Henry J.C., Co-Chr.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
SHIMABUKURO, Maile S.L., Co-Chr.	<input checked="" type="checkbox"/>				KEITH-AGARAN, Gilbert S.C., Co-Chr.	<input checked="" type="checkbox"/>			
GABBARD, Mike				<input checked="" type="checkbox"/>	CULLEN, Ty				<input checked="" type="checkbox"/>
					ICHIYAMA, Linda				<input checked="" type="checkbox"/>
					KAWAKAMI, Derek S.K.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
					FONTAINE, George R.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
<b>TOTAL</b>	2	0	0	1	<b>TOTAL</b>	4	0	0	2

A = Aye      WR = Aye with Reservations      N = Nay      E = Excused

Senate Recommendation is:  Adopted     Not Adopted

House Recommendation is:  Adopted     Not Adopted

Senate Lead Chair's or Designee's Signature: *[Signature]*

House Lead Chair's or Designee's Signature: *[Signature]*

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