

STAND. COM. REP. NO.

1461

Honolulu, Hawaii

April 8, 2011

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

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

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 1025, S.D. 1, entitled:

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

begs leave to report as follows:

The purpose of this bill, as received by your Committee, is to create new criminal offenses for assaulting a firefighter or water safety officer.

The State Fire Council, City and County of Honolulu Department of the Prosecuting Attorney, Maui Department of Fire and Public Safety, Hawaiian Lifeguard Association, Hawaii Government Employees Association, Hawaii State Association of Counties, City and County of Honolulu Emergency Services Department, and several concerned individuals testified in support of this measure as received by your Committee.

Your Committee circulated a proposed draft prior to the hearing that made the following amendments to the bill as received:

- (1) Establishing a new class B felony offense under section 708-812.6, Hawaii Revised Statutes (HRS), regarding unauthorized entry in a dwelling, for situations involving elderly and disabled individuals;

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- (2) Creating labor trafficking provisions that establish:
- (A) Labor trafficking offenses in the first and second degrees;
  - (B) Additional sentencing considerations by the court for victims held in servitude;
  - (C) Extended terms of imprisonment for labor trafficking offenses;
  - (D) The offense of nonpayment of wages if a person, as an employer of an employee, wilfully or with intent defrauds, fails or refuses to pay wages to the employer; and
  - (E) The offense of unlawful conduct with respect to documents;
- and
- (3) Changing its effective date to January 7, 2059.

The Polaris Project, Pacific Alliance to Stop Slavery, Office of Community Services, and several concerned individuals testified in support of this measure as amended in the proposed draft. The Office of the Public Defender opposed the proposed measure. The Department of the Attorney General, Maui Department of Fire and Public Safety, Kauai Fire Department, Honolulu Fire Department, and several concerned individuals provided comments.

Your Committee finds that firefighters and water safety officers provide a public service and these personnel need special protection. However this can be achieved without creating penalties including mandatory incarceration. Your Committee has determined that punishing the assault of these two groups of public servants under the special protection of assault in the second degree, a class C felony, is sufficient protection.

Your Committee notes there is a need to raise awareness that a home invasion is a particularly traumatic experience for vulnerable elderly and disabled individuals present during the intrusion. The creation of a new class B felony for home invasion would address this problem.



Your Committee acknowledges that there is strong support for implementing labor trafficking laws, as well as considerable concern that separately-defined offenses relating to labor trafficking as currently codified in our statutes are unnecessary and redundant. Your Committee recognizes that Hawaii is one of a handful of states that does not have specific labor trafficking laws. Meanwhile, labor trafficking has and does frequently occur in this State. Your Committee believes that establishing specific offenses for labor trafficking is beneficial and will send an unmistakable warning to individuals and entities engaged in labor trafficking and related offenses. In addition, for victims of these injustices, labor trafficking laws will shine a light on a criminal industry often shrouded in secrecy and provide a clearer and better-defined means for law enforcement agencies to protect and aid victims of trafficking.

Further, your Committee finds that training and education on labor trafficking is needed and believes that the proposed draft will provide the incentive for law enforcement agencies, service providers, and other state agencies and community organizations to address this need. Your Committee notes Part III of this bill addressing labor trafficking has some necessary alterations and drafting corrections that should be considered as this measure advances.

Your Committee has amended this bill by incorporating the provisions of the proposed draft and further amending the proposed draft by:

- (1) Including the provisions relating to the offense of assaulting a firefighter or water safety officer in the first degree to the existing offense of assault in the second degree under section 707-711, HRS;
- (2) Requiring the Attorney General to submit a report to the Legislature on the implementation of the labor trafficking provisions, no later than twenty days prior to the convening of the Regular Session of 2015;
- (3) Repealing Part III of this bill, regarding labor trafficking, on December 31, 2017; and
- (4) Making technical, nonsubstantive amendments for clarity, consistency, and style.



As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1025, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1025, S.D. 1, H.D. 1.

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

  
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GILBERT KEITH-AGARAN, Chair



