

STAND. COM. REP. NO.

616

Honolulu, Hawaii

MAR 04 2011

RE: S.B. No. 52
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
S.B. No. 52 entitled:

"A BILL FOR AN ACT RELATING TO REGISTRATION OF SEX
OFFENDERS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require persons convicted of a violation of privacy in the first degree to register as sex offenders; and
- (2) Make the registration requirement retroactive to any person who is or was:
 - (A) Convicted at any time of a violation of privacy in the first degree;
 - (B) Charged at any time with a violation of privacy in the first degree, is currently or previously found unfit to proceed against those charges, and is currently or was previously released into the community; or
 - (C) Charged at any time with a violation of privacy in the first degree, is acquitted due to a physical or mental disease, disorder, or defect pursuant to chapter 704, Hawaii Revised Statutes, and is released into the community.



Your Committee received testimony in support of this measure from the Department of the Attorney General, Department of the Prosecuting Attorney of the City and County of Honolulu, Child and Family Service, and six individuals.

Your Committee finds that the intent of sex offender registration is to require community notification of the release of sex offenders from incarceration who were convicted of a violation of privacy in the first degree. Under section 711-1110.9, Hawaii Revised Statutes, a violation of privacy in the first degree involves the installation or use of "any device for observing, recording, amplifying, or broadcasting another person in a stage of undress or sexual activity in that place." As noted by the Department of the Attorney General in testimony, section 711-1110.9 clearly prohibits sexual misconduct; therefore, the violation falls within a Tier 1 offense under state and federal law. Your Committee believes that it is appropriate to include the crime of violation of privacy in the first degree among those other sexual offenses that require registration.

Your Committee has amended this measure by:

- (1) Clarifying that the retroactivity of the sex offender registration requirement under this measure also applies to a person who is charged at any time with a violation of privacy in the first degree, who has been acquitted due to a physical or mental disease, disorder, or defect, and is currently or was previously released into the community;
- (2) Inserting an effective date of July 1, 2050, to allow for further discussion; and
- (3) 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 S.B. No. 52, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 52, S.D. 1, and be placed on the calendar for Third Reading.



616

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

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|--|-----------------------------------|------------------------|----------|----------|
| Bill / Resolution No.:* SB52 | Committee Referral: JDL | Date: 3/3/11 | | |
| <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 | | | | ✓ |
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| TOTAL | 3 | 0 | 0 | 2 |
| 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