

STAND. COM. REP. NO. 3199

Honolulu, Hawaii

APR 05 2012

RE: H.B. No. 1772

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred H.B. No. 1772 entitled:

"A BILL FOR AN ACT RELATING TO VIOLATION OF PRIVACY,"

begs leave to report as follows:

The purpose and intent of this measure is to exclude from the offense of violation of privacy in the second degree the commission of certain acts to observe, record, amplify, or broadcast another person in a stage of undress or sexual activity.

Your Committee received testimony in support of this measure from the Honolulu Prosecuting Attorney and County of Maui Department of the Prosecuting Attorney.

Your Committee finds that existing law regarding a violation of privacy in the second degree, a misdemeanor, as it pertains to a person in a stage of undress or sexual activity is also covered by the felony offense of violation of privacy in the first degree. According to testimony submitted on this measure, case law requires that a violator be charged under the lesser charge in order to avoid constitutional due process and equal protection issues (State v. Modica, 58 Haw 249). This measure resolves that conflict by excluding the behavior from the lesser second degree offense, thereby allowing violators to be charged under the felony offense.

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.

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No. 1772, and recommends that it pass Second Reading 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.:* HB 1772	Committee Referral: JDL	Date: 4/2/12		
<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 checked="" type="checkbox"/> Pass, unamended 2312	<input 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			1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution:	Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy

*Only one measure per Record of Votes