

Honolulu, Hawaii

MAR 23 2012

RE: H.B. No. 2295
H.D. 1
S.D. 1

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

Sir:

Your Committee on Economic Development and Technology, to which was referred H.B. No. 2295, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO CYBERBULLYING,"

begs leave to report as follows:

The purpose and intent of this measure is to address the increase in cyberbullying by:

- (1) Establishing the offense of harassment by cyberbullying as a petty misdemeanor;
- (2) Adding a definition for "digital nuisance" to mean electronic communication that causes mental or physical harm and is sufficiently severe, persistent, or pervasive that it creates an intimidating, threatening, or abusive environment; and
- (3) Amending the offense of use of a computer in the commission of a separate crime to include harassment by cyberbullying.

Your Committee received testimony in support of this measure from the Hawaii Youth Services Network and four individuals. Your Committee received comments on this measure from the Department of the Attorney General; Department of the Prosecuting Attorney, City and County of Honolulu; and American Civil Liberties Union of Hawaii.



Your Committee finds that, while well intended, much of the new language in this measure is very similar to that contained in section 711-1106.5, Hawaii Revised Statutes, harassment by stalking, which is a full misdemeanor offense; and section 711-1106, Hawaii Revised Statutes, harassment, which is a petty misdemeanor offense. Your Committee concurs that the conduct intended to be prohibited by this new offense is already covered to a large extent under existing law, and has considered other means to deter cyberbullying.

Your Committee has amended this measure accordingly, by:

- (1) Deleting section 1, which would have established an offense of harassment by cyberbullying, and section 2, which would have added a definition of "digital nuisance" to existing law;
- (2) Clarifying that the offense of use of a computer in the commission of a separate crime also includes knowingly using a computer to harass, annoy, or alarm a victim or intended victim;
- (3) Establishing that knowingly using a computer to perform certain acts against a victim or intended victim of harassment under section 711-1106, Hawaii Revised Statutes, or harassment by stalking under section 711-1106.5, Hawaii Revised Statutes, constitutes the offense of use of a computer in the commission of a separate crime; and
- (4) 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 Economic Development and Technology that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2295, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2295, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary and Labor.



Respectfully submitted on
behalf of the members of the
Committee on Economic
Development and Technology,

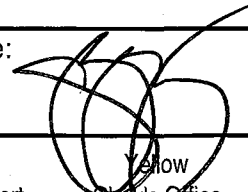


CAROL FUKUNAGA, Chair



The Senate
 Twenty-Sixth Legislature
 State of Hawai'i

Record of Votes
Committee on Economic Development and Technology
EDT

Bill / Resolution No.:* HB2295 HD1	Committee Referral: EDT, JDL	Date: 3/19/12		
<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 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
FUKUNAGA, Carol (C)	✓			
WAKAI, Glenn (VC)	✓			
BAKER, Rosalyn H.	✓			
SOLOMON, Malama	✓			
SLOM, Sam				✓
TOTAL	4	0	0	1
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