

Honolulu, Hawaii

MAR 02 2012

RE: S.B. No. 2222

S.D. 2

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
S.B. No. 2222, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO SEXUAL IMAGES PRODUCED BY
MINORS,"

begs leave to report as follows:

The purpose and intent of this measure is to address the
problem of "sexting", which involves minors taking nude pictures
and videos of themselves or other minors, and transmitting the
nude images to others by use of a cell phone or other form of
electronic communication, by prohibiting:

- (1) Adults from soliciting minors to electronically transmit
nude images of minors;
- (2) Minors from electronically transmitting nude images of
themselves or other minors, or soliciting other minors
to do so; and
- (3) A person from possessing a nude image transmitted by a
minor, but making it an affirmative defense that the
recipient made reasonable efforts to destroy the
transmitted nude image.

Your Committee received testimony in support of this measure
from the Department of the Attorney General and two private
individuals. Testimony in opposition to this measure was



submitted by the Office of the Public Defender and the American Civil Liberties Union of Hawaii.

Your Committee finds that the electronic transmission of youth-produced sexual pictures and videos, frequently referred to as "sexting", is a growing problem, particularly because the images can be shared with many people almost instantaneously. Once transmitted, the original transmitter has very limited ability to control or prevent further dissemination. Your Committee further finds that the images may be used as a commodity for exchange, and the threatened dissemination of these images may be used as leverage against the subject to force the subject to engage in behaviors that may cause embarrassment, at minimum, and possible mental or emotional harm.

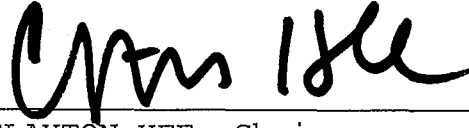
Your Committee notes the concerns raised regarding criminalizing the possession of a nude picture or video of a minor sent by that minor via electronic communication. The Office of the Public Defender indicated its concerns regarding prosecuting or defending cases under certain situations, such as when a nude photo of a minor is sent to another minor, but is inadvertently forwarded to an adult; when a seventeen-year-old male minor and eighteen-year-old female adult exchange nude photos with each other by electronic means; or when minors take nude photos of themselves, but rather than disseminate the photos via electronic means, send these photos through the postal service.

Accordingly, your Committee has amended this measure by inserting an effective date of July 1, 2050, to ensure further discussion.

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. 2222, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2222, S.D. 2.



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

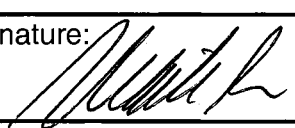


CLAYTON HEE, Chair



The Senate
 Twenty-Sixth Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 2222, SDI	EDT, JDL	2/24/12		
<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
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