

Honolulu, Hawaii

FEB 11 2013

RE: S.B. No. 1014
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 1014 entitled:

"A BILL FOR AN ACT RELATING TO FORENSIC IDENTIFICATION,"

begs leave to report as follows:

The purpose and intent of this measure is to create a more complete and reliable DNA database by establishing that any person who refuses or fails to provide any required blood specimen, buccal swab sample, or print impression for forensic identification shall be guilty of a class C felony.

Your Committee received testimony in support of this measure from the Department of the Attorney General; Department of the Prosecuting Attorney, County of Maui; Police Department, County of Maui; and Police Department, County of Hawai'i. Testimony in opposition to this measure was submitted by the Office of the Public Defender.

Your Committee finds that all defendants convicted of a felony offense are required to submit a DNA sample for the purpose of establishing a DNA database that can be used to solve crimes, including cold cases, and to exonerate the innocent. Under existing law, a defendant commits the offense of refusal or failure to provide specimen for forensic identification if the defendant intentionally or knowingly refuses or fails to provide any blood specimens, buccal swab samples, or print impressions after receiving written notice of the requirement. However, if a defendant refuses or fails to comply with the law, the only



mechanism to obtain compliance is the threat of a misdemeanor for a negligent or reckless violation. This measure repeals the misdemeanor penalty and establishes a class C felony to align the intentional or knowing action of noncompliance with the appropriate penalty.

However, your Committee questions whether elevating the state of mind element to intentionally or knowingly rather than negligently or recklessly will cause more defendants to submit specimens for forensic identification. Your Committee is concerned that elevating the state of mind element to intentionally or knowingly may instead make it more difficult to prosecute the offense of refusal or failure to provide specimens for forensic identification.

Accordingly, your Committee has amended this measure by:

- (1) Reinstating the language that makes it a misdemeanor for any person who negligently or recklessly fails to comply with submitting a specimen for forensic identification;
- (2) Inserting an effective date of July 1, 2050, to encourage 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. 1014, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1014, S.D. 1, 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-Seventh Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* SB 1014	Committee Referral: JDL	Date: 01-29-2013
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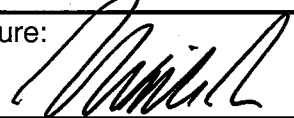
The committee is reconsidering its previous decision on this measure.
 If so, then the previous decision was to: _____

The Recommendation is:

Pass, unamended 2312
 Pass, with amendments 2311
 Hold 2310
 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile S.L. (VC)	✓			
GABBARD, Mike	✓			
IHARA, Jr., Les	✓			
SLOM, Sam	✓			
TOTAL	5			

Recommendation: Adopted Not Adopted

Chair's or Designee's Signature: 

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*Only one measure per Record of Votes