

STAND. COM. REP. NO. 496

Honolulu, Hawaii

FEB 28 2013

RE: S.B. No. 68  
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. 68 entitled:

"A BILL FOR AN ACT RELATING TO SENTENCING,"

begs leave to report as follows:

The purpose and intent of this measure is to grant a court  
the discretion to sentence a defendant convicted of a class B or  
class C felony drug case to an indeterminate term of imprisonment  
except for certain crime convictions.

Your Committee received testimony in support of this measure  
from the Office of the Public Defender, American Civil Liberties  
Union of Hawaii, and Community Alliance on Prisons. Testimony in  
opposition to this measure was submitted by the Department of the  
Prosecuting Attorney, County of Maui and Police Department, City  
and County of Honolulu.

Your Committee finds that state mandatory minimum sentencing  
laws are being challenged across the nation because these laws  
mandate longer prison sentences regardless of whether the  
sentencing court believes the punishment is appropriate based on  
the circumstances and facts of the case. Studies show that  
mandatory minimum sentencing of drug users causes an increase in  
incarceration costs and have a disproportionate impact on women  
and certain racial and ethnic groups. This measure grants the  
sentencing court the discretion to sentence a defendant convicted  
of a class B or class C felony drug case to a prison sentence of a



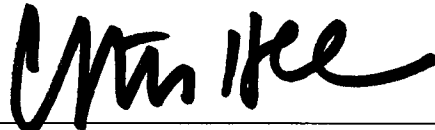
length appropriate to the defendant's particular offense and underlying circumstances.

Your Committee has amended this measure by:

- (1) Adopting the amendments suggested by the Office of the Public Defender to:
  - (A) Exclude promoting a dangerous drug in the second degree, promoting a harmful drug in the second degree, commercial promotion of marijuana in the second degree, and promoting a controlled substance through a minor from the list of drug offenses subject to the sentencing court's discretion; and
  - (B) Make conforming amendments to reflect these excluded specific drug offenses; and
- (2) 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. 68, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 68, 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,



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CLAYTON HEE, Chair



The Senate  
 Twenty-Seventh Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Judiciary and Labor**  
**JDL**

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 68	JDL	2/12/13		
<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 S.L. (VC)	✓			
GABBARD, Mike	✓			
IHARA, Jr., Les	✓			
SLOM, Sam				✓
<b>TOTAL</b>	4			1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
<b>Distribution:</b> Original    Yellow    Pink    Goldenrod File with Committee Report    Clerk's Office    Drafting Agency    Committee File Copy				

\*Only one measure per Record of Votes