

STAND. COM. REP. NO.

400

Honolulu, Hawaii

February 13, 2013

RE: H.B. No. 1114
H.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Sir:

Your Committee on Public Safety, to which was referred H.B. No. 1114 entitled:

"A BILL FOR AN ACT RELATING TO ARRESTS,"

begs leave to report as follows:

The purpose of this measure is to allocate public safety resources effectively and reduce the financial burden on taxpayers by authorizing Federal Protective Service (FPS) officers to arrest a person without a warrant and under specified conditions for an offense under the Hawaii Penal Code.

The FPS of the United States Department of Homeland Security supported this measure. The American Civil Liberties Union of Hawaii and a concerned individual opposed this measure.

Your Committee notes the testimony of the Area Commander for FPS, Region 9, Pacific Command, provides further insight as to the purpose of this measure.

The FPS is the uniformed and investigative law enforcement component of the Department of Homeland Security. The mission of FPS is to provide police services to federally owned, leased or occupied properties, and investigate crimes that affect those properties and personnel, pursuant to 40 U.S.C. section 1315 (Law enforcement authority of the Secretary of Homeland Security for protection of public property). There are 55 such properties in the State, 25 of which are on Oahu, with the most notable facility

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being the Prince Jonah Kuhio Kalaniana'ole Federal Building (Federal Building).

Your Committee finds that nearly all of the properties serviced by FPS are proprietary federal jurisdictions, which are excluded from 18 U.S.C. section 13 (Laws of State adopted for areas within Federal jurisdiction), and violations of state statutes at these properties are not enforceable in federal courts.

Your Committee further finds that FPS officers working at these facilities routinely encounter situations which require some police action that may or may not constitute a federal crime. For example, FPS officers currently have no authority to make an arrest for simple battery if two persons engage in a fight at one of these facilities because no such federal statute exists. Also, if a moving van is illegally parked in front of the Federal Building, FPS officers currently have no authority to issue a citation or tow the vehicle.

Your Committee further finds that when a state violation occurs on federal property, FPS is currently required to devote resources to respond and investigate the incident, and then request that the Honolulu Police Department also devote resources to respond, investigate, and assume responsibility for the incident. The Area Commander explained this duplicity is a drain to both resources and taxpayer dollars.

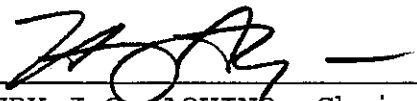
The Committee finds that FPS was originally included in section 803-16, Hawaii Revised Statutes (HRS), which provides certain federal law enforcement officers powers of arrest, but in 2010 FPS transferred to another component of the Department of Homeland Security, which is not specified under section 803-16, HRS, which has, in part, necessitated the statutory change contained in this bill.

Your Committee has amended this measure by changing its effective date to July 1, 2050, to encourage further discussion.

As affirmed by the record of votes of the members of your Committee on Public Safety that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1114, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1114, H.D. 1, and be referred to the Committee on Judiciary.



Respectfully submitted on
behalf of the members of the
Committee on Public Safety,



HENRY J.C. AQUINO, Chair



