STAND. COM. REP. NO. 3001

Honolulu, Hawaii

MAR 2 1 2014

RE: H.B. No. 2246 H.D. 1

Honorable Donna Mercado Kim President of the Senate Twenty-Seventh State Legislature Regular Session of 2014 State of Hawaii

#### Madam:

Your Committees on Health and Public Safety, Intergovernmental and Military Affairs, to which was referred H.B. No. 2246, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO MENTAL HEALTH,"

beg leave to report as follows:

The purpose and intent of this measure is to promote state compliance with federal firearm regulations by:

- (1) Providing for a court-based program for persons federally prohibited from owning a firearm based on a finding of mental illness or civil commitment whereby the persons may petition for relief from the federal firearm prohibitor; and
- (2) Requiring courts to provide information relating to involuntary civil commitments to the Hawaii Criminal Justice Data Center for use by law enforcement officials for firearms permitting or registration and for submission to the Federal Bureau of Investigation National Instant Criminal Background Check System (NICS) database for gun control purposes.

Your Committees received testimony in support of this measure from the Department of Health and Department of the Attorney General.

2014-1922 SSCR SMA.doc

Your Committees find that NICS is a federal database that uses information provided by states to identify individuals who are federally prohibited from possessing a firearm. Your Committees further find that Hawaii currently does not provide information on adjudicated civil commitments to NICS because state law prohibits the disclosure of this information. This measure will promote public safety and individual rights by permitting the courts to share information with law enforcement agencies responsible for approving requests for firearm permits and registrations and contribute to the national database in order to promote gun control and public safety throughout the nation.

Your Committees note that the burden of proof to show that an individual no longer suffers from the condition that resulted in civil commitment is unclear. Under section 334-60.5, Hawaii Revised Statutes, an individual can be civilly committed only when it is determined "beyond a reasonable doubt" that the individual is mentally ill or abusing substances, and "by clear and convincing evidence" that the person is imminently dangerous to self and others. Your Committees further note that the Department of the Attorney General supports the "clear and convincing evidence" standard of proof because state law currently requires such a standard of proof when involuntarily hospitalizing a person pursuant to Hawaii's civil commitment statute.

As affirmed by the records of votes of the members of your Committees on Health and Public Safety, Intergovernmental and Military Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2246, H.D. 1, and recommend that it pass Second Reading and be referred to the Committees on Judiciary and Labor and Ways and Means.

Respectfully submitted on behalf of the members of the Committees on Health and Public Safety, Intergovernmental and Military Affairs,

WILL ESPERO, Chair

JOSH GREEN, Chair

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## The Senate Twenty-Seventh Legislature State of Hawai'i

## Record of Votes Committee on Health HTH

Bill / Resolution No.:*	Committee Referral:			Date:				
HB 2246 HDI	HTH/PSM, JDL/WAM 3-19-14							
The committee is reconsidering its previous decision on this measure.								
If so, then the previous decision was to:								
The Recommendation is:								
Pass, unamended Pass, with amendments Hold Recommit 2312 2311 2310 Recommit 2313								
Members		Aye	Aye (WR)	) Nay	Excused			
GREEN, M.D., Josh (C)		~						
BAKER, Rosalyn H. (VC)		/						
CHUN OAKLAND, Suzanne		V						
NISHIHARA, Clarence K.					V			
SLOM, Sam								
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TOTAL		3	_	_	2			
Recommendation:								
Adopted Not Adopted								
Chair's or Designee's Signature:								
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\*Only one measure per Record of Votes

### The Senate Twenty-Seventh Legislature State of Hawai'i

# Record of Votes Committee on Public Safety and Military Affairs PSM

Bill / Resolution No.:* HB 2246 HDI	Committee Referral: Date: HTH/PSM, JOHWAM 3-17-2014							
The committee is reconsidering its previous decision on this measure.								
If so, then the previous decision was to:								
The Recommendation is:								
Pass, unamended Pass, with amendments Hold Recommit 2312 2311 2310 2313								
Members		Aye	Aye (WR)	Nay	Excused			
ESPERO, Will (C)								
BAKER, Rosalyn H. (VC)								
GALUTERIA, Brickwood			W					
GREEN, M.D., Josh		V	VW	2				
SLOM, Sam			ya					
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TOTAL		3	-X		2			
Recommendation:  Adopted  Not Adopted								
Chair's or Designee's Signature:  William C Tyw								
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