

STAND. COM. REP. NO. 2515

Honolulu, Hawaii

FEB 27 2014

RE: S.B. No. 2021
S.D. 1

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

Madam:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 2021 entitled:

"A BILL FOR AN ACT RELATING TO RESISTING ARREST,"

begs leave to report as follows:

The purpose and intent of this measure is to provide a
greater deterrent to committing the offense of resisting arrest
by:

- (1) Establishing the offense of resisting arrest in the
first degree as a class C felony if a person
intentionally prevents a law enforcement officer acting
under the color of the law enforcement officer's
official authority from effecting an arrest by removing
or attempting to remove a firearm from the person of a
law enforcement officer; and
- (2) Amending the existing resisting arrest offense to
resisting arrest in the second degree.

Your Committee received testimony in support of this measure
from the Department of the Prosecuting Attorney of the City and
County of Honolulu, Hawaii Rifle Association, and one individual.
Testimony in opposition to this measure was submitted by the
Office of the Public Defender.

Your Committee finds that law enforcement officers face
inherent dangers during arrest situations. For example, when an

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offender attempts to or succeeds in removing a law enforcement officer's firearm, the public and law enforcement officer are at great risk for serious injury or death. However, existing laws do not adequately address these dangerous situations. This measure addresses law enforcement officer safety and provides a long-term deterrent by establishing the offense of resisting arrest in the first degree and amending the existing resisting arrest misdemeanor offense to resisting arrest in the second degree.

Your Committee notes the concerns raised by the Office of the Public Defender that creating a higher penalty for resisting arrest could be subject to abuse by the arresting law enforcement officer. For example, the proposed offense of resisting arrest in the first degree could be asserted by a police officer to cover up an incidence of police brutality. However, your Committee believes that the court is the appropriate venue and the jury is the appropriate body to determine whether the offense was committed by the defendant, with the prosecuting attorney having the burden of proof.

Your Committee further notes that the Office of the Public Defender asserts that this measure is unnecessary while the Department of the Prosecuting Attorney of the City and County of Honolulu asserts that this measure is necessary to protect law enforcement officers in the line of duty. As a result, your Committee requested both entities to submit compelling data to assist in determining the necessity of this measure.

Accordingly, your Committee has amended this measure by inserting an effective date of July 1, 2050, to encourage 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. 2021, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2021, S.D. 1.



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



CLAYTON HEE, Chair



