

Honolulu, Hawaii
March 3, 2016

RE: H.B. No. 1517
H.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 1517 entitled:

"A BILL FOR AN ACT RELATING TO SENTENCING,"

begs leave to report as follows:

The purpose of this measure is to address the situation in which certain offenses of assault are committed in the presence of the victim's minor child by requiring the situation to be considered as an aggravating factor in the sentencing of the person convicted of the offense.

The County of Hawaii Office of the Prosecuting Attorney, The League of Women Voters of Hawaii, and one concerned individual testified in support of this measure. The Judiciary and Honolulu's Department of the Prosecuting Attorney provided comments.

Your Committee finds that several states, including Arkansas, Idaho, Minnesota, Montana, New Jersey, Oregon, and Utah, elevate the offense or sentencing for various crimes that are committed in the presence of minors.

In Hawaii, courts are required to consider certain factors, such as the "nature and circumstances of the offense," for all defendants and, in particular by a specific statute, for the offenses involving the abuse of a family or household member in the presence of a minor. This measure is modeled after the sentencing statute for offenses that involve abuse of a family or



household member in the presence of a minor, section 706-606.4, Hawaii Revised Statutes. Since 1999, courts have been required to apply an identical factor in the family abuse context. The presence of a minor is considered only for the determination of sentencing; the factor does not elevate the seriousness of the offense charged.

Your Committee has amended this measure to focus on assault crimes by deleting the offense of sexual assault in the first degree as an offense for which the commission in the presence of the victim's minor child is an aggravating factor in the sentencing of the person convicted of the offense.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1517, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1517, H.D. 1, and be placed on the calendar for Third Reading.

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



KARL RHOADS, Chair



