

STAND. COM. REP. NO. 3563

Honolulu, Hawaii

APR 08 2016

RE: H.B. No. 2391  
H.D. 2  
S.D. 2

Honorable Ronald D. Kouchi  
President of the Senate  
Twenty-Eighth State Legislature  
Regular Session of 2016  
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred  
H.B. No. 2391, H.D. 2, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO THE RELEASE OF CERTAIN  
MISDEMEANANTS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Authorize the Director of Public Safety to order the release of a pretrial or sentenced misdemeanor on recognizance to prevent overcrowding when a community correctional center has reached capacity;
- (2) Specify circumstances in which a pretrial or sentenced misdemeanor is ineligible for release;
- (3) Clarify that the authority to release a pretrial or sentenced misdemeanor is granted solely for the purpose of managing the population of the community correctional centers and does not confer to a pretrial or sentenced misdemeanor the right to be released;
- (4) Require the Director of Public Safety to notify the court and the prosecuting attorney of the release of the misdemeanor no later than twenty-four hours prior to the time of the actual release;



- (5) Clarify that a released pretrial or sentenced misdemeanor is subject to the conditions under section 804-7.4, Hawaii Revised Statutes (HRS); and
- (6) Apply early release to only those persons whose original crime occurred on or after the effective date.

Your Committee received testimony in support of this measure from the Department of the Attorney General, Department of Public Safety, Community Alliance on Prisons, and three individuals. Your Committee received testimony in opposition to this measure from the Department of the Prosecuting Attorney, City and County of Honolulu.

Your Committee finds that correctional facilities in Hawaii suffer from persistent overcrowding. This condition adversely affects the ability of the State to adequately provide for the safe, secure, and humane incarceration of inmates in its care and custody. This measure provides a reasonable alternative to incarceration that will relieve overcrowded jail conditions in Hawaii.

Your Committee has amended this measure by:

- (1) Replacing references to pretrial or sentenced misdemeanants with references to misdemeanants and adding a definition of "misdemeanants" to include a person incarcerated at a community correctional facility who has been charged with a petty misdemeanor or misdemeanor or an incarcerated person who has been sentenced pursuant to section 706-663, HRS;
- (2) Establishing that the State or any of its officers or employees acting in their official capacity shall not be subject to any civil liability or penalty nor to any criminal prosecution for any error in judgment or discretion made in good faith and upon reasonable grounds for release of a misdemeanor;
- (3) Making a conforming amendment to section 706-663, HRS;
- (4) Requiring the Director of Public Safety to report to the Legislature prior to the Regular Sessions of 2018, 2019, and 2020 regarding the release of certain misdemeanants;



- (5) Clarifying that this measure applies only to persons charged with offenses subject to sentencing in section 706-663, Hawaii Revised Statutes, on or after the effective date of this measure;
- (6) Inserting a sunset date of July 1, 2020; and
- (7) 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 H.B. No. 2391, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2391, H.D. 2, S.D. 2.

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

  
GILBERT S.C. KEITH-AGARAN, Chair



