

Honolulu, Hawaii  
February 19, 2016

RE: H.B. No. 362

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. 362 entitled:

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

begs leave to report as follows:

The purpose of this measure is to:

- (1) Classify as resisting arrest in the first degree the intentional act of removal or attempted removal of the officer's firearm by the person resisting arrest;
- (2) Establish the offense of resisting arrest in the first degree as a class C felony; and
- (3) Reclassify the existing resisting arrest misdemeanor as resisting arrest in the second degree.

The Department of Public Safety, Honolulu Police Department, and Hawaii County Police Department supported this measure. The Office of the Public Defender opposed this measure.

Your Committee recognizes several concerns relating to resisting arrest:

- (1) Persons who resist arrest are often found to be under the influence of drugs or are mentally ill or disturbed, and therefore a felony law may not act as a deterrent for such persons; and



- (2) Persons who resist arrest may inadvertently come in contact with an officer's firearm, and thus sometimes only the officer's allegation about the event exists with no objective evidence to confirm the allegation.

Your Committee notes that a misdemeanor charge for resisting arrest will continue to be available under Section 710-1026, Hawaii Revised Statutes. Accordingly, your Committee trusts that felony charges of resisting arrest under this new provision, if adopted, should be limited to situations where the arrestee's attempt to take the officer's firearm is very clearly intentional.

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. 362 and recommends that it pass Second Reading and be referred to your Committee on Finance.

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



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KARL RHOADS, Chair



