

STAND. COM. REP. NO.

248

Honolulu, Hawaii

FEB 18 2015

RE: S.B. No. 1335
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawaii

Madam:

Your Committee on Public Safety, Intergovernmental and
Military Affairs, to which was referred S.B. No. 1335 entitled:

"A BILL FOR AN ACT RELATING TO LAW ENFORCEMENT,"

begs leave to report as follows:

The purpose and intent of this measure is to define
"custody", as used in the offense of sexual assault in the third
degree, to mean a person who is stopped by or under the control of
a law enforcement officer for official purposes, including but not
limited to a law enforcement officer making a traffic stop and
requesting any identification, license, or registration.

Your Committee received testimony in support of this measure
from the Department of Public Safety, IMUAlliance, Remington
College Criminal Justice Student Coalition, and three individuals.
Your Committee received comments on this measure from one
individual.

Your Committee finds that there was a recent incident in
which a Honolulu police officer was indicted on a third-degree
sexual assault charge for knowingly subjecting a teenage girl in
custody, as a result of a traffic stop, to sexual contact.
However, the indictment against the officer was dismissed with
prejudice due to the court's interpretation of "custody" in
section 707-732, Hawaii Revised Statutes. This measure seeks to
provide the courts with clarification on how "custody" is to be
interpreted under section 707-732, Hawaii Revised Statutes.
Implementation of this measure will further public safety by



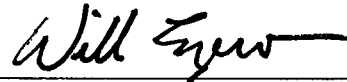
prohibiting law enforcement officers from knowingly subjecting to sexual contact a person in custody, including during traffic stops.

Your Committee has amended this measure by:

- (1) Inserting a purpose section to provide the intent and purpose of the measure;
- (2) Amending the definition of "custody" to "person in custody" and clarifying the definition; and
- (3) 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 Public Safety, Intergovernmental and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1335, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1335, S.D. 1, and be referred to the Committee on Judiciary and Labor.

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

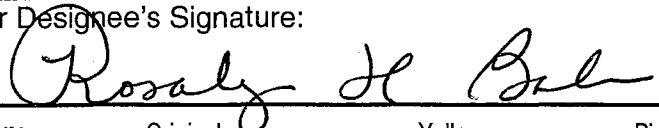


WILL ESPERO, Chair



The Senate
Twenty-Eighth Legislature
State of Hawai'i

Record of Votes
Committee on Public Safety, Intergovernmental and Military Affairs
PSM

Bill / Resolution No.:* SB 1335	Committee Referral: PSM, JDL	Date: 2-10-2015		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
ESPERO, Will (C)	✓			
BAKER, Rosalyn H. (VC)	✓			
GALUTERIA, Brickwood	✓			
KEITH-AGARAN, Gilbert S.C.				✓
SLOM, Sam				✓
TOTAL	3	-	-	2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes