

STAND. COM. REP. NO.

690

Honolulu, Hawaii

MAR 06 2015

RE: S.B. No. 1335  
S.D. 2

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

Madam:

Your Committee on Judiciary and Labor, to which was referred  
S.B. No. 1335, S.D. 1, 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 "person in 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 person stopped by a law enforcement officer for a traffic stop or providing any identification, license, or registration pursuant to a traffic stop.

Your Committee received testimony in support of this measure from the Department of Public Safety.

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 (HRS). This measure seeks to provide the courts with clarification on how "custody" is to be interpreted under section 707-732, HRS. Implementation of this measure will further public safety by prohibiting law enforcement officers from knowingly subjecting a person in custody to sexual contact, including during traffic stops.

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Your Committee has amended this measure by:

- (1) Amending the offense of sexual assault in the second degree to add a definition of "person in custody" as this offense also uses the term "person in custody";
- (2) Inserting an effective date of January 7, 2059, to encourage further discussion; 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 Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1335, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1335, S.D. 2.

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

  
\_\_\_\_\_  
GILBERT S.C. KEITH-ASARAN, Chair



The Senate  
 Twenty-Eighth Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Judiciary and Labor**  
**JDL**

Bill / Resolution No.:* <b>SB 1335 SDI</b>	Committee Referral: <b>PSM, JDL</b>	Date: <b>2/27/15</b>		
<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
KEITH-AGARAN, Gilbert S.C. (C)	✓			
SHIMABUKURO, Maile S.L. (VC)	✓			
ESPERO, Will	✓			
GABBARD, Mike				✓
IHARA, Jr., Les				✓
THIELEN, Laura H.	✓			
SLOM, Sam				✓
<b>TOTAL</b>	<b>4</b>			<b>3</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
<b>Distribution:</b> Original    Yellow    Pink    Goldenrod File with Committee Report    Clerk's Office    Drafting Agency    Committee File Copy				

\*Only one measure per Record of Votes