

STAND. COM. REP. NO.

2575

Honolulu, Hawaii

MAR 03 2016

RE: S.B. No. 2247
S.D. 1

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
S.B. No. 2247 entitled:

"A BILL FOR AN ACT RELATING TO SENTENCING,"

begs leave to report as follows:

The purpose and intent of this measure is to provide that the commission of certain offenses of assault and sexual assault in the presence of the victim's minor child is an aggravating factor that the court is required to consider in the sentencing of the defendant convicted of the offense along with other factors under section 706-606, Hawaii Revised Statutes.

Your Committee received testimony in support of this measure from the Department of the Prosecuting Attorney, City and County of Honolulu; and Ho'omana Pono, LLC. Your Committee received comments on this measure from the Office of the Public Defender.

Your Committee finds that research has shown that children who witness assault or domestic violence can suffer severe emotional and developmental difficulties that are similar to those of children who are victims of direct physical and mental abuse. By creating an aggravating factor for the court to consider when sentencing a defendant convicted of certain assault and sex assault offenses committed in the presence of a child, this measure recognizes the impact that witnessing an assault has on a child.



Your Committee notes the testimony submitted by the Department of the Prosecuting Attorney that this measure is substantially similar to section 706-606.4, Hawaii Revised Statutes (HRS), relating to the sentencing of offenses involving abuse of family or household member committed in the presence of a minor. The Department raised concerns that duplicative sentencing statutes may cause unnecessary confusion.

Accordingly, your Committee has amended this measure by:

- (1) Replacing the contents of section 1 with the language suggested by the Department of the Prosecuting Attorney of the City and County of Honolulu that amends section 706-606.4, HRS, to:
 - (A) Delete references to an offense involving the abuse of a family or household member;
 - (B) Delete the requirement that a defendant is or has been a family or household member of either the minor or victim of the offense; and
 - (C) Delete the definition of "family or household member";
- (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. 2247, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2247, S.D. 1, and be placed on the calendar for Third Reading.



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



GILBERT S.C. KEITH-AGARAN, Chair



