

STAND. COM. REP. NO. **720**

Honolulu, Hawaii

MAR 03 2017

RE: S.B. No. 1282
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 1282 entitled:

"A BILL FOR AN ACT RELATING TO THE OFFENSE OF ABUSE OF FAMILY
OR HOUSEHOLD MEMBERS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Establish that the offense of abuse of a family or household member is a petty misdemeanor with a jail sentence of no less than forty-eight hours and no more than thirty days;
- (2) Establish that a second offense that occurs within five years, rather than one year, of the first conviction of the offense of abuse of a family or household member is a misdemeanor and the person shall be termed a "repeat offender";
- (3) Establish that a third or subsequent offense that occurs within five, rather than two, years of a second or subsequent conviction of the offense of abuse of a family or household member is a class C felony;
- (4) Allow the prosecution to use prior convictions of the offense of abuse of a family or household member as



evidence in the instant offense committed by a repeat offender;

- (5) Require that court ordered domestic violence intervention programs include anger management training;
- (6) Require the Judiciary, in cooperation with the prosecutor of each county and police department of each county, to annually compile and report on statistics regarding arrests, charges, and convictions or other dispositions based on the offense of abuse of a family or household member; and
- (7) Repeal and reenact the offense of abuse of a family or household member on June 30, 2020.

Your Committee received testimony in support of this measure from the Hawaii State Commission on the Status of Women; Office of the Prosecuting Attorney, County of Kaua'i; Police Department, City and County of Honolulu; Domestic Violence Action Center; Hawaii State Coalition Against Domestic Violence; and six individuals. Your Committee received testimony in opposition to this measure from the Office of the Public Defender; Department of the Prosecuting Attorney, County of Hawai'i; and Department of the Prosecuting Attorney, County of Maui. Your Committee received comments on this measure from the Judiciary and Department of the Prosecuting Attorney, City and County of Honolulu.

Your Committee finds that domestic violence is a serious social issue in Hawaii. Despite a number of laws that protect victims of domestic violence, aim to prevent future incidents of domestic violence, and penalize and provide assistance to domestic violence offenders, the rates of domestic violence occurring in Hawaii have not decreased. Of greater concern is the number of domestic violence incidents committed by repeat domestic violence offenders. Advocates for stronger domestic violence laws contend that part of the problem is that the laws do not impose effective consequences on domestic violence offenders that effectively change their behavior. This measure provides more effective laws to ensure that domestic violence offenders receive appropriate consequences and services for offenders to change their behavior and reduce repeat offenses.



Your Committee has amended this measure by:

- (1) Deleting the preamble section;
- (2) Reinstating language that makes the first offense of abuse of a family or household member a misdemeanor, rather than a petty misdemeanor, with a minimum jail sentence of forty-eight hours;
- (3) Clarifying that the prosecution may use prior convictions of the offense of abuse of a family or household member as evidence in the instant offense committed by a repeat offender for a third or any subsequent offense;
- (4) Deleting language that requires court ordered domestic violence intervention programs to include anger management training;
- (5) Requiring the court to immediately order the defendant incarcerated to serve the mandatory sentence imposed for failure to complete the domestic violence intervention program or violation of any other condition of a sentence imposed pursuant to a deferred acceptance of guilty plea or nolo contendere plea;
- (6) Inserting an effective date of January 7, 2059, to encourage further discussion; 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 S.B. No. 1282, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1282, 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



The Senate
 Twenty-Ninth Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* SB 1282	Committee Referral: JDL	Date: 2/28/17		
<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)	✓			
RHOADS, Karl (VC)	✓			
GABBARD, Mike				✓
KIM, Donna Mercado				✓
THIELEN, Laura H.	✓			
TOTAL	3	0	0	2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Karl Rhoads</i>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes