

Honolulu, Hawaii

APR 26 2018

RE: S.B. No. 2180  
S.D. 1  
H.D. 1  
C.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Twenty-Ninth State Legislature  
Regular Session of 2018  
State of Hawaii

Honorable Scott K. Saiki  
Speaker, House of Representatives  
Twenty-Ninth State Legislature  
Regular Session of 2018  
State of Hawaii

Sirs:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 2180, S.D. 1, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO LESSER INCLUDED OFFENSES,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to clarify that defendants may be convicted of lesser included offenses in cases filed via complaint.

Your Committee on Conference finds that as a matter of law, all felony cases can be initiated for prosecution via felony complaint or indictment and, in specific types of felony charges, cases can be initiated via information. The method of initiating a case is frequently chosen based on the specific facts of the individual case. Your Committee on Conference further finds that "lesser included offenses" are crimes in which the lesser offense contains all the elements of a greater offense with the caveat that the



greater offense contains one or more additional elements to be proven beyond a reasonable doubt. Under existing Hawaii law, a defendant may be convicted of a lesser included offense in felony cases initiated through indictment or information, but not through felony complaint. Your Committee on Conference finds that authorizing judges and juries to consider lesser included offenses in cases initiated through felony complaint will increase consistency in felony case prosecution.

As such, your Committee on Conference has amended this measure by:

- (1) Limiting the types of cases filed via complaint in which a defendant may be convicted of lesser included offenses to only felony cases; and
- (2) Changing the effective date to July 1, 2018.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2180, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2180, S.D. 1, H.D. 1, C.D. 1.

Respectfully submitted on behalf  
of the managers:

ON THE PART OF THE HOUSE

ON THE PART OF THE SENATE

  
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SCOTT Y. NISHIMOTO  
Chair

  
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BRIAN T. TANIGUCHI  
Chair



