

STAND. COM. REP. NO.

2193

Honolulu, Hawaii

FEB 12 2018

RE: S.B. No. 2741
S.D. 1

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

Sir:

Your Committees on Commerce, Consumer Protection, and Health and Public Safety, Intergovernmental, and Military Affairs, to which was referred S.B. No. 2741 entitled:

"A BILL FOR AN ACT RELATING TO COVERED OFFENDER REGISTRATION,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Specifically include section 707-733(1)(b), Hawaii Revised Statutes (HRS), as a tier 1 covered sexual offense when the offense is committed toward a minor; and
- (2) Amend the covered offender registration law to require defendants charged with a covered offense to register whether they were subsequently involuntarily committed; found unfit to proceed; had charges dismissed by reason of physical or mental disease, disorder, or defect; or were acquitted by reason of physical or mental disease, disorder, or defect.

Your Committees received testimony in support of this measure from the Department of the Attorney General. Your Committees received testimony in opposition to this measure from Office of the Public Defender.



Your Committees find that a person commits the offense under section 707-733(1)(b), HRS, when the person knowingly exposes the person's genitals to another person under circumstances in which the actor's conduct is likely to alarm the other person or put the person in fear of bodily injury. When this offense is committed against a minor, it is considered a covered offense for purposes of covered offender registration, under the term "sexual conduct toward a minor", which may be subject to interpretation and challenge in court. Explicitly including section 707-733(1)(b), HRS, as a tier 1 covered sexual offense when the offense is committed toward a minor avoids interpretation issues and allows for timelier determinations of mandatory registration.

Your Committees further find that under the existing covered offender registration law, defendants with diminished mental capacities are treated disparately depending on the disposition of their case. This measure promotes the uniform treatment of these offenders by requiring registration for defendants charged with a covered offense whether they are subsequently involuntarily committed; found unfit to proceed; have charges dismissed by reason of physical or mental disease, disorder, or defect; or are acquitted by reason of physical or mental disease, disorder, or defect.

Your Committees have heard the concerns of the Office of the Public Defender with respect to the severity of registration as a punishment with respect to a non-contact offense, especially certain behaviors such as nude sunbathing and streaking. However, your Committees note the serious impact of indecent exposure on the affected minor and find that this measure, as drafted, would not lead to prosecutions for the behaviors that prompted the concerns of the Office of the Public Defender. Your Committees conclude that registration is an appropriate consequence for a convicted offender for indecent exposure.

Your Committees have amended this measure by making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Commerce, Consumer Protection, and Health and Public Safety, Intergovernmental, and Military Affairs that are attached

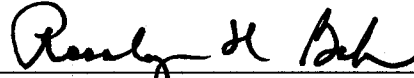


to this report, your Committees are in accord with the intent and purpose of S.B. No. 2741, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2741, S.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committees on Commerce,
Consumer Protection, and Health
and Public Safety,
Intergovernmental, and Military
Affairs,



CLARENCE K. NISHIHARA, Chair



ROSALYN H. BAKER, Chair



