

STAND. COM. REP. NO.

156

Honolulu, Hawaii

FEB 13 2017

RE: S.B. No. 426  
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. 426 entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to clarify that the  
offense of abuse of a family or household member is a class C  
felony if the physical abuse consists of intentionally or  
knowingly impeding the normal breathing or circulation of the  
blood of the family or household member by blocking the family or  
household member's nose or mouth.

Your Committee received testimony in support of this measure  
from the Department of the Prosecuting Attorney, City and County  
of Honolulu; Office of the Prosecuting Attorney, County of Hawaii;  
Office of the Prosecuting Attorney, County of Kaua'i; Department of  
the Prosecuting Attorney, County of Maui; Police Department, City  
and County of Honolulu; Domestic Violence Action Center; and one  
individual. Your Committee received testimony in opposition to  
this measure from the Office of the Public Defender.

Your Committee finds that the offense of abuse of a family or  
household member is a class C felony if the physical abuse  
consists of strangulation by applying pressure to the neck or  
throat to impede the normal breathing or circulation of blood.  
However, there may be cases in which normal breathing is impeded  
through suffocation, via the defendant covering the family or



household member's mouth or nose, rather than by applying pressure on the throat or neck. This measure clarifies that the offense of abuse of a family or household member is a class C felony if the physical abuse consists of suffocation by blocking the family or household member's nose or mouth.

However, your Committee notes that the blocking of either the nose or the mouth may be insufficient to impede normal breathing of the family or household member. Furthermore, the Office of the Public Defender raised concerns in its written testimony that a participant who is trying to calm an argument down by covering the mouth of a family or household member could be charged with a felony offense. Your Committee believes that the specific conduct of applying pressure to the neck or throat and blocking of the nose or mouth merit further discussion.

Accordingly, your Committee has amended this measure by:

- (1) Deleting any reference to the manner in which normal breathing or blood circulation may be impeded, thereby clarifying that intentionally or knowingly impeding the normal breathing or circulation of blood of a family or household member by any means is a class C felony;
- (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. 426, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 426, 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,

~~SSC~~ A.C. Keith-Agaran  
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.:* <b>SB 426</b>	Committee Referral: <b>JDL</b>	Date: <b>1/31/17</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)	✓			
RHOADS, Karl (VC)	✓			
GABBARD, Mike	✓			
KIM, Donna Mercado	✓			
THIELEN, Laura H.	✓			
<b>TOTAL</b>	<b>5</b>	<b>0</b>	<b>0</b>	<b>0</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align:center; font-family: cursive; font-size: 1.2em;">Karl Rhoads</div>				
<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