

Honolulu, Hawaii

APR - 5 2019

RE: H.B. No. 1552
H.D. 2
S.D. 2

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2019
State of Hawaii

Sir:

Your Committee on Ways and Means, to which was referred H.B. No. 1552, H.D. 2, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO PUBLIC SAFETY,"

begs leave to report as follows:

The purpose and intent of this measure is to facilitate the administration of the State's criminal justice system.

Specifically, this measure:

- (1) Establishes the Hawaii Correctional System Oversight Commission within the Office of the Governor;
- (2) Extends the sunset date of the Reentry Commission established pursuant to Act 24, Special Session Laws of Hawaii 2009, as amended, to January 1, 2020;
- (3) Repeals the Corrections Population Management Commission; and
- (4) Appropriates funds for the operations of the Hawaii Correctional System Oversight Commission.



Prior to decision making on this measure, your Committee made available for public review a proposed Senate Draft No. 2 (Proposed Draft) of this measure. The Proposed Draft amends the measure by:

- (1) Designating the existing substantive provisions of the measure as part I;
- (2) Inserting, as parts II to X, the substantive provisions of H.B. 1289, House Draft 2, implementing recommendations made by the Criminal Pretrial Task Force, which:
 - (A) Require intake service centers to fulfill certain requirements relating to assessments, including the completion of pretrial risk assessments and bail reports within two working days of an offender's admission to a community correctional center;
 - (B) Provide law enforcement officers with discretion to issue citations in lieu of making arrests for non-violent class C felonies;
 - (C) Establish that a defendant has a right to a prompt hearing concerning release or detention after an arrest;
 - (D) Establish that defendants arrested for certain non-violent offenses shall be released on their own recognizance, subject to certain conditions;
 - (E) Amend the scope of crimes that may affect a defendant's release before trial by amending the definition of "serious crimes" in chapter 804-3, Hawaii Revised Statutes;
 - (F) Create a rebuttable presumption that certain defendants shall be released or admitted to bail under the least restrictive conditions;
 - (G) Establish that monetary bail shall be payable on a twenty-four hours a day, seven days a week basis;



- (H) Require that bail shall be set at a reasonable amount based upon all available information;
 - (I) Provide that community correctional centers shall conduct periodic reviews of pretrial detainees to assess whether the detainees should remain in custody;
 - (J) Establish and appropriate funds for a Criminal Justice Research Institute;
 - (K) Authorize any court, upon a defendant's pretrial release, to order the defendant to submit to the use of electronic monitoring and surveillance or to require confinement to the defendant's residence;
 - (L) Require the Judiciary, in consultation with the Department of Public Safety, to develop and adopt a policy for determining whether a defendant's risk of non-appearance or recidivism may be mitigated by home detention or electronic monitoring;
 - (M) Appropriate an unspecified sum for intake service centers to provide support services to pretrial defendants;
 - (N) Require intake service centers to consider victims' concerns when making pretrial release recommendations;
 - (O) Require the Department of Public Safety to submit certain reports to the Legislature; and
 - (P) Provide an appropriation for intake service centers in relation to their pretrial duties; and
- (3) Making technical nonsubstantive changes.

Your Committee received written comments in support of H.B. No. 1552, H.D. 2, S.D. 1 from the Hawaii Paroling Authority; Office of the Prosecuting Attorney, County of Hawaii; Oahu County Democrats; Oahu County Democrats Legislative Priorities Committee; and one individual.



Your Committee received written comments in opposition to H.B. No. 1552, H.D. 2, S.D. 1 from three individuals.

Your Committee received testimony in support of the Proposed Draft from the Judiciary, Department of Public Safety, and Office of Hawaiian Affairs.

Your Committee received testimony in opposition to the Proposed Draft from the Department of the Prosecuting Attorney, City and County of Honolulu.

Your Committee received comments on the Proposed Draft from the Department of the Attorney General; Crime Victim Compensation Commission; Community Alliance on Prisons; American Civil Liberties Union of Hawaii; Sex Abuse Treatment Center; and two individuals.

Your Committee finds that it is appropriate to pursue reforms to the State's criminal justice system to ensure both the fair treatment of criminal defendants and the safety of victims and the general public.

Your Committee highlights the specific concerns regarding the Proposed Draft expressed in the written comments submitted by the Department of the Attorney General, Community Alliance on Prisons, American Civil Liberties Union of Hawaii, and James Lindblad, which the public may access through the website of the Hawaii State Legislature (<https://www.capitol.hawaii.gov>).

Your Committee has amended this measure by adopting the Proposed Draft and further amending the Proposed Draft by:

- (1) Extending the time that intake service centers have to conduct risk assessments and pretrial bail reports from two working days to five working days after an offender is admitted to a community correctional center;
- (2) Deleting provisions that authorize law enforcement officers to issue citations in lieu of making arrests for non-violent class C felonies;

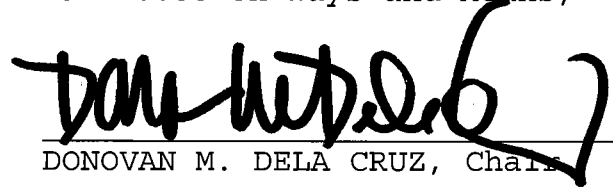


- (3) Requiring a prompt hearing concerning release or detention to occur at the time of a defendant's arraignment, rather than as soon as possible within five days of the defendant's arrest;
- (4) Deleting the requirement that a defendant shall be afforded an opportunity to present witnesses and cross-examine witnesses at the hearing concerning release or detention;
- (5) Providing that the defendant and the prosecution shall be afforded an opportunity to present information by proffer or otherwise at the hearing concerning release or detention;
- (6) Deleting provisions that require defendants arrested for certain non-violent offenses to be released on their own recognizance, subject to certain conditions;
- (7) Deleting the amendment to the definition of "serious crime" in chapter 804, Hawaii Revised Statutes;
- (8) Deleting provisions that create a rebuttable presumption that certain defendants shall be released or admitted to bail under the least restrictive conditions; and
- (9) Making technical nonsubstantive changes for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1552, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1552, H.D. 2, S.D. 2.




Respectfully submitted on
behalf of the members of the
Committee on Ways and Means,


DONOVAN M. DELA CRUZ, Chair



The Senate
Thirtieth Legislature
State of Hawai'i

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 1552, HD2, SD1	PSM/GVO, WAM	4/1/19		
<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
DELA CRUZ, Donovan M. (C)	X			
KEITH-AGARAN, Gilbert S.C. (VC)	X			
ENGLISH, J. Kalani				X
HARIMOTO, Breene				X
INOUYE, Lorraine R.	X			
KAHELE, Kaiali'i				X
KANUHA, Dru Mamo	X			
KIDANI, Michelle N.	X			
MORIWAKI, Sharon Y.	X			
RIVIERE, Gil	X			
SHIMABUKURO, Maile S.L.	X			
TANIGUCHI, Brian T.	X			
FEVELLA, Kurt	X			
TOTAL	10			3
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes