

Honolulu, Hawaii

FEB 28 2019

RE: S.B. No. 1047

S.D. 1

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

Sir:

Your Committee on Judiciary, to which was referred S.B.
No. 1047 entitled:

"A BILL FOR AN ACT RELATING TO DOMESTIC VIOLENCE,"

begs leave to report as follows:

The purpose and intent of this measure is to establish a five-year pilot project to strengthen state and county responses to domestic violence and increase offender accountability by:

- (1) Amending the offense of abuse of family or household members to provide for a lesser included petty misdemeanor offense and penalties;
- (2) Reducing congestion in the court system caused by a backlog of jury trial cases by repealing a provision that would otherwise disqualify persons charged with the misdemeanor offense of abuse of a family or household member in the second degree from receiving a deferred acceptance of guilty plea under certain conditions, and specifying that the deferred acceptance shall be set aside if the defendant fails to complete a court-ordered domestic violence intervention program or parenting classes within the time frame specified by the court; and



- (3) Requiring data collection and reporting to determine the effectiveness of the pilot project by county police departments, prosecutors, and the judiciary on the number of arrests, charges, and convictions relating to domestic violence.

Your Committee received testimony in support of this measure from the Judiciary, Office of the Public Defender, Hawai'i State Commission on the Status of Women, Department of the Prosecuting Attorney of the City and County of Honolulu, Office of the Prosecuting Attorney of the County of Kaua'i, Honolulu Police Department, LGBT Caucus of the Democratic Party of Hawaii, AAUW of Hawaii, Domestic Violence Action Center, Parents and Children Together, Hawaii State Coalition Against Domestic Violence, and three individuals. Your Committee received testimony in opposition to this measure from one individual. Your Committee received comments on this measure from the Department of the Attorney General.

Your Committee finds that instances of domestic violence fall on a broad spectrum of severity. Your Committee further finds that existing domestic violence laws are often not inclusive enough to encompass the entirety of the spectrum. Your Committee additionally finds that there are occasionally instances in which the level of force utilized by the perpetrator is not sufficient to meet the criteria of abuse of family or household member. Your Committee also finds that some first offenders are willing and able to participate in domestic violence education classes; learn how to better manage stress, anger, and other negative emotions that may result in violence; and do not subsequently re-offend. This measure will create a pilot program to expand the offense of abuse of family or household member to include petty misdemeanor offenses, allow some misdemeanor domestic violence offenders to receive a deferred acceptance of guilty plea under certain circumstances, and require agencies involved in law enforcement to collect and report data relating to domestic violence.

Your Committee has amended this measure by:

- (1) Restructuring the abuse of family or household member statute to clearly differentiate between petty misdemeanor offenses and misdemeanor offenses;



- (2) Deleting language requiring the court to set aside a deferred acceptance of guilty plea or nolo contendere plea if a defendant fails to complete a domestic violence intervention program or parenting class, or otherwise violates the conditions of their plea; 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 that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1047, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1047, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary,



KARL RHOADS, Chair



The Senate
Thirtieth Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary
JDC

Bill / Resolution No.:* SB 1047	Committee Referral: JDC	Date: 2/26/19		
<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
RHOADS, Karl (C)	✓			
WAKAI, Glenn (VC)	✓			
GABBARD, Mike				✓
KIM, Donna Mercado	✓			
FEVELLA, Kurt				✓
TOTAL	3	0	0	2
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