

STAND. COM. REP. NO.

2957

Honolulu, Hawaii

FEB 27 2020

RE: S.B. No. 2420
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2020
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 2420 entitled:

"A BILL FOR AN ACT RELATING TO MANSLAUGHTER,"

begs leave to report as follows:

The purpose and intent of this measure is to authorize manslaughter prosecutions for a person who causes the death of another person, having demonstrated wilful and wanton disregard of the need to exercise reasonable care, which was likely to cause foreseeable grave injury or harm to one or more persons, property, or both.

Your Committee received testimony in support of this measure from the Office of the Prosecuting Attorney of the County of Kaua'i; International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers, Local Union Number 625; Hawaii Chapter of Mothers Against Drunk Driving; Operative Plasterers' and Cement Masons' International Association Local #630, AFL-CIO; DK Movement; Hawaii Construction Alliance; and seventeen individuals. Your Committee received testimony in opposition to this measure from the Office of the Public Defender. Your Committee received comments on this measure from the Department of the Attorney General.



Your Committee finds that under existing law the offense of manslaughter, a class A felony, includes a person who recklessly causes the death of another person, and the offense of negligent homicide, a class B felony, includes a person who causes the death of another person by the operation of a vehicle in a negligent manner while under the influence of drugs or alcohol. Therefore, when a drunk driver causes the death of another, the offender may be charged under either offense, depending on the circumstances surrounding the event. Your Committee finds that drunk driving is preventable and wilfully drinking to levels of intoxication above the legal limit and driving may be inherently reckless. Your Committee finds that clarity is needed in the penal code to inform prosecutors, judges, and offenders of what circumstances warrant the more serious charge of manslaughter.

Your Committee also finds that the proposed language of this measure is ambiguous because wilful and wanton are not defined nor are they used in the Hawaii penal code. Your Committee thus believes this measure should explicitly define certain acts of drunk driving as manslaughter to ensure that offenders who cause the death of another person by recklessly driving while above the legal limit of blood alcohol concentration are charged with the more serious offense of manslaughter. Your Committee hopes that this measure will help to deter possible offenders and save innocent lives.

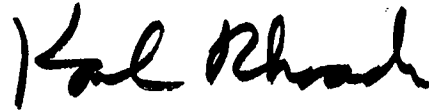
Accordingly, your Committee has amended this measure by:

- (1) Deleting language that would have provided that the offense of manslaughter includes a person who causes the death of another person, having demonstrated wilful and wanton disregard of the need to exercise reasonable care, which was likely to cause foreseeable grave injury or harm to one or more persons, property, or both;
- (2) Inserting language that provides that the offense of manslaughter includes a person who causes the death of another person by recklessly operating a motor vehicle with .08 or more grams of alcohol per two hundred ten liters of breath or .08 or more grams of alcohol per one hundred milliliters or cubic centimeters of blood; and
- (3) Amending section 1 to reflect its amended purpose.



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. 2420, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2420, 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 2420	Committee Referral: JDC	Date: 01/31/2020		
<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)	/			
KEOHOKALOLE, Jarrett (VC)	/			
GABBARD, Mike				/
KIM, Donna Mercado	/			
FEVELLA, Kurt				/
TOTAL	3			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