



The Judiciary, State of Hawai'i

Testimony to the Thirtieth State Legislature, 2020 Session

Senate Committee on Ways and Means
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

Thursday, February 13, 2020, 11:00 a.m.
Hawaii State Capitol, Conference Room 211

WRITTEN TESTIMONY ONLY

by
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Bill No. and Title: Senate Bill No. 2047, S.D. 1, Relating to the Penal Code.

Purpose: Requires the judicial council to conduct a comprehensive review of the penal code and to recommend proposed changes. Requires judiciary council to appoint an advisory committee to assist in the review, and allows the council to also appoint a reporter and clerical staff as necessary. Requires the advisory committee to report to the legislature. Makes an appropriation.

Judiciary's Position:

The Judiciary takes no position on the merits of Senate Bill No. 2047, S.D. 1 (SB 2047), and respectfully offers the following comments.

Roughly every decade since 1983, the Legislature has convened a committee on penal code review to conduct a comprehensive review of the Hawai'i penal code and recommend revisions to the Legislature. The committees have historically consisted of members from the Judiciary, the department of the attorney general, the department of public safety, the office of the public defender, the county prosecutors' offices and police departments, victim advocacy



Senate Bill No. 2047, S.D. 1, Relating to the Penal Code
Senate Committee on Ways and Means
Thursday, February 13, 2020, 11:00 a.m.
Page 2

groups, interested attorneys and private citizens, and others. The penal code has been reviewed by committees convened in 1983, 1993, 2005, and most recently in 2015. Significant time and attention was dedicated to reviewing the penal code and devising recommended ways to improve it each time committees were convened.

The latest 2015 committee on penal review convened pursuant to House Concurrent Resolution No. 155, S.D. 1. The committee met in plenary session on seven different occasions, and broke into five subcommittees that met separately on a number of occasions to provide in-depth review of subject areas. The result was a total of eighty-four proposals and recommendations submitted to the Legislature in 2016, consisting of amendments to fifty existing statutes, recommendations to adopt four new statutes, and many other suggested revisions to the penal code. We are very appreciative of the twenty-nine members, representing nearly twenty different departments, organizations, and interests, who contributed more than a thousand hours to the 2015 penal code review.

Since then, there have been several fairly comprehensive efforts and statutory revisions, the effects of which have yet to be fully realized. For example, the 2016 Legislature adopted the committee's recommendations in Act 231, including a penal code amendment that sought to "improve property crime enforcement by making more repeat offenders of crimes prohibited by this chapter subject to punishment for a class C felony when they commit another subject offense." In addition, the convening of the Pretrial Reform Task Force, whose recommendations were adopted just last legislative session as Act 179, and initiatives to address the needs of defendants with mental illness, including the efforts that have resulted from the statewide Mental Health Summit held in November 2019. The impacts of these efforts and others have yet to be fully realized.

If there are particular issues of interest to the Legislature that relate to the administration of criminal justice, such as those listed in Section 2(b) of SB2047, S.D. 1, the Judiciary welcomes the opportunity to work together and discuss potential ways to address those areas of concern.

Should the Legislature decide that it is appropriate to convene another committee on penal review, the Judiciary is appreciative of the inclusion of funds to complete this project. Depending on the scope of the work, the composition of the committee (i.e., how many committee members are from the neighbor islands), the number of in-person meetings held, and the cost if any for a reporter and research/clerical staff, the \$25,000 appropriated may be sufficient to cover those committee expenses.

Thank you for the opportunity to testify on this measure.