

STAND. COM. REP. NO.

758

Honolulu, Hawaii

MAR 04 , 2021

RE: H.B. No. 1326
H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committee on Judiciary & Hawaiian Affairs, to which was referred H.B. No. 1326 entitled:

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

begs leave to report as follows:

The purpose of this measure is to allow a narrow hearsay exception for statements made by a domestic violence victim to a government official within twenty-four hours of a domestic violence incident and before the defendant is arrested regardless of the availability of the declarant, as long as the statement bears sufficient indicia of reliability.

Your Committee received testimony in support of this measure from the Domestic Violence Action Center. Your Committee received testimony in opposition to this measure from the Hawaii Supreme Court's Standing Committee on Rules of Evidence, Office of the Public Defender, Hawaii Association of Criminal Defense Lawyers, and two individuals. Your Committee received comments on this measure from the Department of Public Safety.

Your Committee finds that victims of domestic violence are often reluctant to testify in court against their abusers, making prosecution of domestic violence cases difficult. Your Committee further finds that as a means of addressing this issue, Oregon has adopted a narrow hearsay exemption for statements made by a victim

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of domestic violence to a government official after a domestic violence incident. This measure serves to strike a balance between protecting the constitutional rights of defendants while promoting the safety of domestic violence victims.

Your Committee has amended this measure by:

- (1) Amending when, to whom, and in what form the statement must be made under the hearsay exception by requiring that the statement be made by a victim of domestic violence during the course of the first interaction with the responding law enforcement officers;
- (2) Changing the effective date to July 1, 3021, to encourage further discussion; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary & Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1326, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1326, H.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary &
Hawaiian Affairs,



MARK M. NAKASHIMA, Chair



