

STAND. COM. REP. NO. 1217

Honolulu, Hawaii

**MAR 25 2021**

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

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-First State Legislature  
Regular Session of 2021  
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 1326, H.D. 1, 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 allow a narrow hearsay exception for statements made by domestic violence victims during the course of the first interaction with the responding law enforcement officers and before the arrest of the defendant, as long as the statement bears sufficient indicia of reliability.

Your Committee received testimony in support of this measure from one individual. Your Committee received testimony in opposition to this measure from the Office of the Public Defender, Hawai'i Supreme Court Standing Committee on the Hawai'i Rules of Evidence, and one individual.

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 Oregon has adopted a pioneering approach to address certain challenges associated with prosecuting domestic violence cases in which the victims are uncooperative, which provides a limited hearsay exception for a statement made by a victim of domestic violence to a government official within



twenty-four hours of a domestic violence attack, even if the statement is testimonial in nature, as long as the statement bears "sufficient indicia of reliability". Your Committee additionally finds that, although there may be constitutional issues regarding Oregon's hearsay exception, allowing a narrow hearsay exception for statements made by a domestic violence victim during the course of the first interaction with the responding law enforcement officers and before the defendant is arrested, regardless of the availability of the declarant, as long as the statement bears sufficient indicia of reliability strikes 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) Making it effective upon its approval; and
- (2) 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 H.B. No. 1326, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1326, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

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



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KARL RHOADS, Chair



The Senate  
Thirty-First Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Judiciary**  
**JDC**

Bill / Resolution No.:*	Committee Referral:	Date:
HB 1326, HD1	JDC	3/19/2021


The Committee is reconsidering its previous decision on this measure.  
If so, then the previous decision was to: \_\_\_\_\_

The Recommendation is:

Pass, unamended 2312    
 Pass, with amendments 2311    
 Hold 2310    
 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
RHOADS, Karl (C)	✓			
KEOHOKALOLE, Jarrett (VC)				✓
ACASIO, Laura			✓	
GABBARD, Mike				✓
KIM, Donna Mercado		✓		
LEE, Chris	✓			
FEVELLA, Kurt			✓	
<b>TOTAL</b>	<b>2</b>	<b>1</b>	<b>2</b>	<b>2</b>

Recommendation:  Adopted      Not Adopted

Chair's or Designee's Signature: 

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\*Only one measure per Record of Votes