

STAND. COM. REP. NO. 324

Honolulu, Hawaii
FEB 18 2021

RE: S.B. No. 149

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

Sir:

Your Committee on Public Safety, Intergovernmental, and
Military Affairs, to which was referred S.B. No. 149 entitled:

"A BILL FOR AN ACT RELATING TO PROPERTY FORFEITURE,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Restrict asset forfeiture to cases involving the
commission of a covered criminal misdemeanor or felony
offense;
- (2) Require seized property to be forfeited only when the
property owner has been convicted of an underlying
covered criminal misdemeanor or felony offense;
- (3) Change the standard of proof that the State must meet in
order for property to be forfeited from "preponderance
of the evidence" to "beyond a reasonable doubt";
- (4) Require the State to prove that owners consented to or
possessed knowledge of the crime that led to the seizure
of their property;
- (5) Require that the agency seizing the property pay for
safe and secure storage of the seized property until the
completion of the forfeiture proceeding or final
disposition of the property;



- (6) Direct any proceeds from a civil forfeiture to the general revenue fund for public education purposes; and
- (7) Repeal administrative forfeiture proceedings.

Your Committee received testimony in support of this measure from the Office of the Public Defender, American Civil Liberties Union of Hawai'i, Community Alliance on Prisons, Drug Policy Forum of Hawai'i, Common Cause Hawaii, Young Progressives Demanding Action, and ten individuals. Your Committee received testimony in opposition to this measure from the Honolulu Police Department and one individual. Your Committee received comments on this measure from the Department of Public Safety, Department of Education, and Office of Hawaiian Affairs.

Your Committee finds that civil asset forfeiture laws are controversial and have been evolving throughout the country over the twenty years since Hawaii passed the Omnibus Criminal Forfeiture Act, which provides for civil asset forfeiture. Hawaii's process allows law enforcement agencies to seize and keep property based on suspicion that the property is connected to criminal activity. Property, such as vehicles, houses, cash, and jewelry, can be taken without the property owner having been convicted of a crime or even being formally accused of one, leaving innocent citizens deprived of personal property. This measure will make the civil forfeiture process fairer to Hawaii citizens by eliminating financial incentives for law enforcement to seize and keep forfeited property and imposing stricter restrictions on the civil forfeiture process.

As affirmed by the record of votes of the members of your Committee on Public Safety, Intergovernmental, and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 149 and recommends that it pass Second Reading and be referred to your Committee on Judiciary.



Respectfully submitted on
behalf of the members of the
Committee on Public Safety,
Intergovernmental, and Military
Affairs,



CLARENCE K. NISHIHARA, Chair



The Senate
Thirty-First Legislature
State of Hawai'i

Record of Votes
Committee on Public Safety, Intergovernmental, and Military Affairs
PSM

| | | | | |
|--|--|-------------------------------|------------|----------------|
| Bill / Resolution No.:* <i>SB 149</i> | Committee Referral: <i>PSM, JDC</i> | Date: <i>Feb. 16, 2021</i> | | |
| <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 checked="" type="checkbox"/> Pass, unamended 2312 <input type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313 | | | | |
| Members | Aye | Aye (WR) | Nay | Excused |
| NISHIHARA, Clarence K. (C) | / | | | |
| ENGLISH, J. Kalani (VC) | / | | | |
| BAKER, Rosalyn H. | / | | | |
| RIVIERE, Gil | / | | | |
| FEVELLA, Kurt | / | | | |
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| TOTAL | <i>5</i> | | | |
| Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted | | | | |
| Chair's or Designee's Signature: <i>Clarence K. Nishihara</i> | | | | |
| Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy | | | | |

*Only one measure per Record of Votes