

STAND. COM. REP. NO. 2523

Honolulu, Hawaii

FEB 18 2022

RE: S.B. No. 2089  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-First State Legislature  
Regular Session of 2022  
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 2089 entitled:

"A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE I, SECTION 25, OF THE HAWAII CONSTITUTION REGARDING CRIMES AGAINST MINORS,"

begs leave to report as follows:

The purpose and intent of this measure is to propose an amendment to article I, section 25, of the Hawaii State Constitution to provide that the Legislature may define:

- (1) What behavior constitutes a continuing course of conduct in continuous sexual assault crimes against minors younger than sixteen years of age;
- (2) What behavior constitutes a continuing course of conduct in continuous abuse of a minor younger than sixteen years of age; and
- (3) What constitutes the jury unanimity that is required for a conviction under these two charges.

Your Committee received testimony in support of this measure from the Department of the Attorney General, Department of the Prosecuting Attorney of the City and County of Honolulu, Honolulu Police Department, Rainbow Family 808, and one individual.



Your Committee finds that in 1997, to address the difficulty in prosecuting those who repeatedly sexually assault a child, the Legislature passed a law to prohibit continuous sexual assault of a minor under the age of fourteen years. This law was invalidated by the Hawaii Supreme Court, which held that a constitutional amendment was necessary to prohibit continuous sexual assault of children in a manner intended by the Legislature. A constitutional amendment similar to the proposed amendment was proposed to voters in 2004 but was invalidated by the Hawaii Supreme Court. The present version of article I, section 25, of the Hawaii State Constitution was passed by voters in 2006. Your Committee believes that the health, safety, and wellbeing of Hawaii's keiki continue to be a priority for the State. This measure will allow the State to address the difficulty in prosecuting those persons who repeatedly abuse a child, given the difficulty that children have in remembering the individual dates on which they were abused, by allowing the Legislature to expand the offense of continuous sexual assault of a minor from the existing statutory age of fourteen years to sixteen years.

Your Committee has amended this measure by:

- (1) Deleting language that would have allowed the Legislature to define what behavior constitutes a continuing course of conduct in continuous abuse of a minor younger than sixteen years of age;
- (2) Amending section 1 to reflect its amended purpose; and
- (3) 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 S.B. No. 2089, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2089, S.D. 1, and be referred to your Committee on Ways and Means.



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



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KARL RHOADS, Chair



