

STAND. COM. REP. NO.

2826

Honolulu, Hawaii

MAR 03 2022

RE: S.B. No. 2856
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. 2856 entitled:

"A BILL FOR AN ACT RELATING TO PRETRIAL RELEASE,"

begs leave to report as follows:

The purpose and intent of this measure is to require the court to extend the duration of a restraining order or protective order issued against a pretrial detainee if the detainee is granted a motion for pretrial release.

Your Committee received testimony in support of this measure from one individual. Your Committee received testimony in opposition to this measure from the Judiciary and Office of the Public Defender. Your Committee received comments on this measure from the Department of Public Safety.

Your Committee finds that many inmates are being released or diverted away from Hawai'i prisons and jails to reduce overcrowding and prevent the spread of coronavirus disease 2019. Many of these defendants are being released into the communities where they were arrested and may pose a danger to the complaining witness in the case against the defendant. Prosecutors routinely request "no contact" orders to protect their complainants and witnesses and courts routinely grant these requests for "no contact" orders, as a condition of bail or release, that the defendant have no contact, either verbal or in person, with the complainant or any



other witness in the case. Additionally, the court can also place conditions on where the defendant resides and where a defendant is able to travel. However, these "no contact" orders are not mandatory and are ordered at the discretion of the court pursuant to section 804-7.1, Hawaii Revised Statutes. This measure will protect the safety and well-being of complaining witnesses by requiring the court to issue a "no contact" order against a pretrial detainee if the pretrial detainee is granted a motion for pretrial release for the pendency of the case; provided that the crime the pretrial detainee is charged with pertains to the complaining witness, the complaining witness has a protective order against the pretrial detainee, and the court is aware of the protective order.

Your Committee has amended this measure by:

- (1) Deleting language that would have required the court to extend the duration of a restraining order or protective order issued against a pretrial detainee if the detainee is granted a motion for pretrial release;
- (2) Adding language that requires the court to issue a no contact order against a pretrial detainee if the pretrial detainee is granted a motion for pretrial release; provided that the charged crime pertains to the complaining witness, the complaining witness has a protective order against the pretrial detainee, and the court is aware of the protective order; 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. 2856, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2856, S.D. 1, and be placed on the calendar for Third Reading.



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

Karl Rhoads

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:
SB 2856	JDC	02-18-22

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	✓			
TOTAL	7	-	-	-

Recommendation: Adopted Not Adopted

Chair's or Designee's Signature: *Karl Rhoads*

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*Only one measure per Record of Votes