

Honolulu, Hawaii

APR 04 2023

RE: H.B. No. 711
H.D. 1
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2023
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 711, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO FRAUD,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Establish the offense of fraud as a class B felony; and
- (2) Disqualify a person charged with fraud from receiving public financing for elections for a period of ten years.

Your Committee received testimony in support of this measure from the Campaign Spending Commission, Department of the Attorney General, Honolulu Police Department, Department of the Prosecuting Attorney of the City and County of Honolulu, Commission to Improve Standards of Conduct, and three individuals.

Your Committee finds that a new criminal statute to prohibit a person from executing, or attempting to execute, a scheme or artifice to defraud another person or to obtain money or property by means of false or fraudulent pretenses, representations, or promises, is necessary. This statute is based on 18 United States Code sections 1341, 1343, 1344, and 1346, regarding mail fraud,



wire fraud, and bank fraud, and is intended to criminalize conduct that is currently punishable at the federal level but not at the state or local level.

Your Committee further finds that existing law grades theft offenses based on specific monetary thresholds. In many situations, however, it is challenging for law enforcement to determine the specific value of property stolen by an offender using a fraudulent scheme. As a result, there are substantial barriers in charging some known offenders with felony offenses. This measure would enable law enforcement to prosecute fraud without requiring the prosecution to prove a specific amount stolen.

Your Committee has amended this measure by:

- (1) Deleting language that would have specified that application of the new section regarding fraud shall be based on title 18 United States Code section 287 and any relevant federal case law and precedent;
- (2) Deleting superfluous language stating that a person charged with the offense of fraud is eligible for a deferred acceptance of guilty plea or nolo contendere plea;
- (3) Changing the penalty for any person convicted under the new section regarding fraud from being disqualified from receiving public financing under part XIII, subpart J of chapter 11, Hawaii Revised Statutes, for a period of ten years from the date of conviction to instead being disqualified from holding elected office for ten years from the date of conviction;
- (4) Amending section 1 to reflect its amended purpose;
- (5) Inserting an effective date of March 22, 2075, to encourage further discussion; and
- (6) 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. 711, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 711, 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,



KARL RHOADS, Chair



The Senate
 Thirty-Second Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary
JDC

Bill / Resolution No.:* HB 711 HDI	Committee Referral: JDC	Date: 3/16/23
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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)	✓			
GABBARD, Mike (VC)	✓			
ELEFANTE, Brandon J.C.	✓			
SAN BUENAVENTURA, Joy A.	✓			
AWA, Brenton	✓			
TOTAL	5	—	—	—

Recommendation: Adopted Not Adopted

Chair's or Designer's Signature:


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*Only one measure per Record of Votes