

Honolulu, Hawaii

MAR 21 2025

RE: H.B. No. 126
H.D. 1
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Third State Legislature
Regular Session of 2025
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B.
No. 126, H.D. 1, 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) Increase transparency and accountability surrounding property forfeiture;
- (2) Clarify which property is subject to forfeiture;
- (3) Amend the authorized disposition of forfeited property and the proceeds thereof; and
- (4) Repeal language that requires the Hawaii Omnibus Criminal Forfeiture Act to be construed liberally.

Your Committee received testimony in support of this measure from the Office of the Public Defender and three individuals.

Your Committee received testimony in opposition to this measure from the Honolulu Police Department.



Prior to the hearing on this measure, your Committee posted and made available for public review a proposed S.D. 1, which amends this measure by:

- (1) Inserting language limiting the transfer of certain forfeiture property to federal agencies;
- (2) Restricting civil asset forfeiture to cases involving the commission of a felony offense where the property owner has been convicted of an underlying felony offense;
- (3) Directing forfeiture proceeds to the state general fund;
- (4) Limiting the allowable expenses for moneys in the Criminal Forfeiture Fund to include a portion of the proceeds of each sale made pursuant to section 712A-16, Hawaii Revised Statutes, that is sufficient to cover expenses of administration and sale;
- (5) Requiring the Attorney General to adopt rules necessary to carry out the purpose of the Hawaii Omnibus Criminal Forfeiture Act;
- (6) Requiring the Attorney General to provide to the Legislature the report on the use of the Hawaii Omnibus Criminal Forfeiture Act during the fiscal year preceding the legislative session within forty days, rather than twenty days, before the convening of each regular session;
- (7) Repealing statutory language establishing the intent of the Legislature that the Hawaii Omnibus Criminal Forfeiture Act be liberally construed;
- (8) Amending section 1 to reflect its amended purpose;
- (9) Inserting an effective date of July 1, 2025; and
- (10) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.



Your Committee received testimony in support of the proposed S.D. 1 from the Drug Policy Forum of Hawai'i, Grassroot Institute of Hawaii, Community Alliance on Prisons, and one individual.

Your Committee received testimony in opposition to the proposed S.D. 1 from the Department of the Attorney General, Office of the Prosecuting Attorney of the County of Kaua'i, Department of the Prosecuting Attorney of the County of Maui, Department of the Prosecuting Attorney of the City and County of Honolulu, and Hawai'i County Police Department.

Your Committee finds that the State's civil asset forfeiture 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, and the burden of proof to recover the seized property is shifted from the State to the property owner. Additionally, there is a potential incentive to improperly seize property for forfeiture, as state and county law enforcement agencies are permitted to retain all proceeds from the sale of forfeited property. This measure will make the State's civil asset forfeiture process more fair and just.

Your Committee has amended this measure by adopting the proposed S.D. 1 and further amending the measure by clarifying that the recordkeeping requirements established by this measure apply to both seized and forfeited property.

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. 126, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 126, H.D. 1, 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,

A handwritten signature in black ink, appearing to read "Karl Rhoads". The signature is written in a cursive, slightly slanted style.

KARL RHOADS, Chair



The Senate
Thirty-Third Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary
JDC

Bill / Resolution No.:* <div style="font-size: 1.2em; font-family: cursive;">HB 126, HD1</div>	Committee Referral: <div style="font-size: 1.2em; font-family: cursive;">JDC, WAM</div>	Date: <div style="font-size: 1.2em; font-family: cursive;">3/18/25</div>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <div style="display: flex; justify-content: space-around; align-items: flex-start;"> <div style="text-align: center;"> <input type="checkbox"/> Pass, unamended 2312 </div> <div style="text-align: center;"> <input checked="" type="checkbox"/> Pass, with amendments 2311 </div> <div style="text-align: center;"> <input type="checkbox"/> Hold 2310 </div> <div style="text-align: center;"> <input type="checkbox"/> Recommit 2313 </div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
RHOADS, Karl (C)	✓			
GABBARD, Mike (VC)				✓
CHANG, Stanley	✓			
SAN BUENAVENTURA, Joy A.	✓			
AWA, Brenton				✓
TOTAL	3			2
Recommendation: <div style="display: flex; justify-content: space-around; margin-top: 10px;"> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted </div>				
Chair's or Designee's Signature: <div style="text-align: center; margin-top: 10px;"> </div>				
<div style="display: flex; justify-content: space-between; font-size: 0.8em;"> <div>Distribution:</div> <div>Original</div> <div>Yellow</div> <div>Pink</div> <div>Goldenrod</div> </div> <div style="display: flex; justify-content: space-between; font-size: 0.8em; margin-top: 5px;"> <div>File with Committee Report</div> <div>Clerk's Office</div> <div>Drafting Agency</div> <div>Committee File Copy</div> </div>				

*Only one measure per Record of Votes