

Honolulu, Hawaii

FEB 28 2008

RE: S.B. No. 2436

S.D. 1

Honorable Colleen Hanabusa  
President of the Senate  
Twenty-Fourth State Legislature  
Regular Session of 2008  
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred  
S.B. No. 2436 entitled:

"A BILL FOR AN ACT RELATING TO CRIME,"

begs leave to report as follows:

The purpose of this measure is to make it an offense to make disruptive threats or to remotely harass another person by posting any type of writing or message with the intent to: harass, intimidate, terrorize, frighten, or cause mental, emotional, or physical distress to another person; or disrupt the orderly conduct of an institution.

The City and County of Honolulu Police Department and the Hawaii State Coalition Against Domestic Violence submitted testimony in support of this measure.

Advances in technology, such as advent of the Internet, have made it possible for individuals to communicate with each other in new and exciting ways. Unfortunately, some individuals use these advances in technology as a new method to harass other individuals.

Currently, a person commits the offense of harassment under section 711-1106, Hawaii Revised Statutes, if, with the intent to harass, annoy, or alarm any other person, that person:



- (a) Strikes, shoves, kicks, or otherwise touches another person in an offensive manner or subjects the other person to offensive physical contact;
- (b) Insults, taunts, or challenges another person in a manner likely to provoke an immediate violent response or that would cause the other person to reasonably believe that the actor intends to cause bodily injury to the recipient or another or damage to the property of the recipient or another;
- (c) Repeatedly makes telephone calls, facsimile, or electronic mail transmissions without purpose of legitimate communication;
- (d) Repeatedly makes a communication anonymously or at an extremely inconvenient hour;
- (e) Repeatedly makes communications, after being advised by the person to whom the communication is directed that further communication is unwelcome; or
- (f) Makes a communication using offensively coarse language that would cause the recipient to reasonably believe that the actor intends to cause bodily injury to the recipient or another or damage to the property of the recipient or another.

Your Committee finds that many of the elements of the two offenses proposed in this measure, namely "harassment by disruptive threats" and "remote harassment", are substantially the same as the elements of harassment under section 711-1106, Hawaii Revised Statutes. In addition, there is redundancy between the elements of the two offenses proposed in this measure.

Upon further consideration, your Committee has amended this measure by:

1. Making technical amendments to eliminate redundancy, namely:



- A. Deleting language that is encompassed within the existing elements of the offense of harassment under section 711-1106, Hawaii Revised Statutes; and
- B. Amending section 711-1106, Hawaii Revised Statutes, to include the elements of "harassment by disruptive threats" and "remote harassment" that are new by:
  - i. Prohibiting a person, with the intent to harass, annoy, or alarm any other person, from making a communication that would cause the other person to reasonably feel emotional or physical distress;
  - ii. Prohibiting a person, with the intent to harass, annoy, or alarm any other person, from making a communication that would disrupt the orderly conduct of any institution, such as a school or business;
  - iii. Defining "communication" to mean conveying signs, signals, writing, images, sounds, data, or other intelligence by telephone call, cellular call, facsimile, electronic mail transmission, computer, pager, or video recorder; and
  - iv. Increasing the penalty for harassment from a petty misdemeanor to a misdemeanor;
2. Making other technical amendments for the purposes of clarity, consistency, and style; and
3. Changing the defective date to January 1, 2050, to facilitate further discussion.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2436, as amended herein, and recommends that it pass Second



Reading in the form attached hereto as S.B. No. 2436, S.D. 1, and  
be placed on the calendar for Third Reading.

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

  
BRIAN T. TANIGUCHI, Chair



The Senate  
 Twenty-Fourth Legislature  
 State of Hawaii

**Record of Votes**  
**Committee on Judiciary and Labor**  
**JDL**

Bill / Resolution No.:* <span style="font-size: 1.2em;">SB 2436</span>	Committee Referral: <span style="font-size: 1.2em;">JDL</span>	Date: <span style="font-size: 1.2em;">2-12-08</span>
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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
TANIGUCHI, BRIAN T. (C)	✓			
HEE, Clayton (VC)				✓
GABBARD, Mike	✓			
KOKUBUN, Russell S.	✓			
NISHIHARA, Clarence K.	✓			
SLOM, Sam	✓			
<b>TOTAL</b>	<span style="font-size: 1.5em;">5</span>	<span style="font-size: 1.5em;">0</span>	<span style="font-size: 1.5em;">0</span>	<span style="font-size: 1.5em;">1</span>

Recommendation:  Adopted      Not Adopted

Chair's or Designee's Signature:

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\*Only one measure per Record of Votes