

STAND. COM. REP. NO.

**559**

Honolulu, Hawaii

**MAR 04 2011**

RE: S.B. No. 1068  
S.D. 1

Honorable Shan S. Tsutsui  
President of the Senate  
Twenty-Sixth State Legislature  
Regular Session of 2011  
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred S.B. No. 1068 entitled:

"A BILL FOR AN ACT RELATING TO ANIMAL CRUELTY,"

begs leave to report as follows:

The purpose and intent of this measure is to strengthen the State's animal cruelty laws by:

- (1) Providing that killing, or attempting to kill, the animal of another person without the owner's consent constitutes cruelty to animals in the first degree; and
- (2) Exempting from the offense of cruelty to animals in the first degree the humane killing of an animal by an animal control officer, a duly incorporated humane society for the prevention of cruelty to animals, or a duly authorized governmental agency.

Your Committee received testimony in support of this measure from the Department of the Prosecuting Attorney of the City and County of Honolulu; the Hawaiian Humane Society; the Maui Humane Society; the Hawaii Veterinary Medical Association; the Hawaii Cattlemen's Council, Inc.; and fourteen individuals. Your Committee received testimony in opposition to this measure from the Office of the Public Defender. Your Committee received comments on this measure from one individual.



Your Committee finds that although the current language of section 711-1108.5, Hawaii Revised Statutes, relating to cruelty to animals in the first degree, clearly prohibits the torture, mutilation, or poisoning of a pet animal, it does not expressly address any other method of killing. For example, according to testimony submitted by the Prosecuting Attorney of the City and County of Honolulu "if a pet animal is shot from close-range, stabbed in the heart, or otherwise killed instantly, it is unclear whether the perpetrator's actions would currently qualify under the definition of animal cruelty."

Your Committee believes that this loophole should be closed for several reasons. Not only is the killing of a pet animal for sport simply abhorrent, but this type of aggressive behavior has wider implications. Animal abuse has connections to the abuse of family members and may create aggressive or violent tendencies in children who witness their pets being abused or killed. Studies have shown that over seventy-one percent of abused women reported that their batterers had harmed, killed, or threatened animals. Usually these incidents occurred in the presence of the women or their children to coerce, control, and humiliate them. The children in turn admitted that they had hurt pets, and some admitted to having hurt or killed animals. Accordingly, there are concerns that animal abuse or killing perpetuates the cycle of violence because people who commit acts of serious animal abuse frequently have previous histories of, or future tendencies toward, violent crimes against humans. By expressly making the killing of a pet animal a criminal offense, your Committee intends to deter this conduct and the grave effects of this conduct.

Your Committee notes that this measure as received does not exempt a person acting to defend or protect another person or animal. While a person could make an argument of self-defense at trial, there remains a risk of conviction for a person who acted in an emergency to protect family members or pets.

Your Committee has amended this measure by:

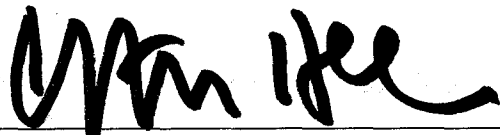
- (1) Creating an exemption to the offense for a landowner who uses reasonable force to defend or protect the landowner, another person, or an animal from death, injury, or imminent harm from an animal that is on the landowner's property, as recommended by the Office of the Public Defender and the Hawaii Cattlemen's Council, Inc.;



- (2) Revising the humane killing exemption by using instead the term "humane euthanasia" and requiring that the euthanasia be performed in accordance with American Veterinary Medical Association accepted standards;
- (3) Inserting an effective date of July 1, 2050, to allow for further discussion; and
- (4) 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 and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1068, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1068, 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,



CLAYTON HEE, Chair



The Senate  
 Twenty-Sixth Legislature  
 State of Hawai'i

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

Bill / Resolution No.:* <b>SB 1068</b>	Committee Referral: <b>JDL</b>	Date: <b>2/25/11</b>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile (VC)	✓			
GABBARD, Mike	✓			
IHARA, Jr., Les	✓			
SLOM, Sam				✓
<b>TOTAL</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>1</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes