

Honolulu, Hawaii

FEB 18 2011

RE: S.B. No. 106  
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 Public Safety, Government Operations, and  
Military Affairs, to which was referred S.B. No. 106 entitled:

"A BILL FOR AN ACT RELATING TO THE HAWAII PENAL CODE,"

begs leave to report as follows:

The purpose and intent of this measure is to clarify that Act 193, Session Laws of Hawaii 2008, relating to requiring concurrent sentencing of multiple terms of imprisonment, unless otherwise ordered by the court, applies to all terms of imprisonment imposed on, before, or after the effective date of that Act.

Your Committee received testimony in support of this measure from four entities and fourteen individuals. Your Committee received testimony in opposition to this measure from two State departments, one county department, and one individual.

Your Committee finds that if this measure is not passed, then manifest injustice results for those inmates who were sentenced prior to June 18, 2008, the effective date of Act 193. Your Committee believes that there is no ostensibly valid reason why the sentences of those inmates cannot be recalculated, inasmuch as Act 193 by its own terms applies to all sentences whenever imposed.

Your Committee has amended this measure by:

- (1) Clarifying that any resentencing pursuant to this measure of defendants who were sentenced prior to

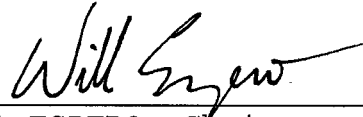


June 18, 2008, shall not be considered as a reopening of a final judgment, or impose any liability upon the State for sentencing errors;

- (2) Changing the effective date of the entire measure to July 1, 2011; 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 Public Safety, Government Operations, and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 106, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 106, S.D. 1, and be referred to the Committee on Judiciary and Labor.

Respectfully submitted on  
behalf of the members of the  
Committee on Public Safety,  
Government Operations, and  
Military Affairs,



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WILL ESPERO, Chair



The Senate  
 Twenty-Sixth Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Public Safety, Government Operations, and**  
**Military Affairs**  
**PGM**

Bill / Resolution No.:* <b>SB 106</b>	Committee Referral: <b>PGM, JDL</b>	Date: <b>2-17-11</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
ESPERO, Will (C)	/			
KIDANI, Michelle N. (VC)		/		
BAKER, Rosalyn H.		/		
RYAN, Pohai		/	/	
SLOM, Sam			/	
<b>TOTAL</b>	<b>1</b>	<b>3</b>	<b>1</b>	<b>0</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align:center; font-family: cursive; font-size: 1.2em;">Michelle N. Kidani</div>				
<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