

STAND. COM. REP. NO.

584

Honolulu, Hawaii

MAR 04 2011

RE: S.B. No. 934
S.D. 2

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. 934, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO BULLYING AND CYBERBULLYING,"

begs leave to report as follows:

The purpose and intent of this measure is to protect students
from bullying and cyberbullying by:

- (1) Establishing a bullying and cyberbullying policy for all public schools;
- (2) Requiring implementation of the policy in all public schools;
- (3) Establishing bullying and cyberbullying reporting requirements for all public and private schools;
- (4) Requiring the Department of Education and the Charter School Review Panel to each submit an annual report to the Legislature on the status of the implementation of the policy established pursuant to this Act, statistics on bullying and cyberbullying, and the impact of the policy on bullying and cyberbullying in the schools; and
- (5) Establishing a misdemeanor offense of bullying or cyberbullying a minor.



Your Committee received testimony in support of this measure from the Department of the Prosecuting Attorney of the City and County of Honolulu; the Democratic Party of Hawai'i; Mental Health America of Hawai'i; Hawaii Safe Schools Coalition; a Board of Education member; and nine individuals. Your Committee received testimony in opposition to this measure from the Department of Education; the American Civil Liberties Union of Hawai'i; and the Board of Education student member.

Your Committee finds that bullying and cyberbullying are serious national and local problems. According to testimony submitted to your Committee, Hawaii has the highest rate in the nation of teenage girls and a higher-than-average rate of boys who missed school because they were afraid. Recently, a girl and her family sued the United States Department of Education because the school she attended on Oahu failed to stop the bullying to which she was subjected.

Your Committee understands that the Board of Education has updated the student discipline code, title 8, chapter 19, Hawaii Administrative Rules, to include cyberbullying and added protected classifications for students. The Board of Education (BOE) has also adopted a policy to affirm its stance against bullying, harassment, and discrimination of students by employees. Additionally, the BOE has proposed amendments to Hawaii Administrative Rules section 8-41 to bring their student civil rights complaint procedures into compliance with the recommendations the BOE received from the Department of Education's Safe Schools Community Advisory Committee.

However, while these developments by the BOE are excellent first steps, codifying regulations and policies into law would allow for better and more consistent enforcement of these provisions and give students greater protection against this devastating conduct. Your Committee believes that it is the State's obligation to assure that our children are provided a safe and positive learning environment, free from harassment.

Your Committee also notes that the measure as received included a reporting requirement for private schools. While your Committee believes that private schools may be instructed to report incidents of cyberbullying and bullying, in an abundance of caution, your Committee believes that this reporting requirement for private schools should be deleted. Your Committee believes that subsequent committees considering this measure or subsequent



legislatures considering the impacts of the amendments proposed in this measure may wish to reinsert this reporting requirement for private schools.

Your Committee has amended this measure by:

- (1) Deleting the reporting requirements for private schools;
- (2) Making amendments recommended by the Department of the Prosecuting Attorney of the City and County of Honolulu, including the:
 - (A) Deletion of the limitation that cyberbullying using computer networks only include computer networks of a public school;
 - (B) Revision of the application of the bullying and cyberbullying policy to an electronic communication that is expected to have the effect of insulting or demeaning any student or groups of students in any way, rather than in such a way as to cause substantial disruption in or substantial interference with the orderly operation of the school;
 - (C) Addition to the definition of bullying or cyberbullying of the intended effect of emotional harm to a student; and
 - (D) Mandate that no student of a charter school shall be subjected to bullying or cyberbullying at any time, rather than within a list of school contexts;
- (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. 934, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 934, S.D. 2.



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.:* SB 934 SD1	Committee Referral: EDU, JDL	Date: 2/24/11		
<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		✓		
TOTAL	3	2	0	0
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes