

STAND. COM. REP. NO. **3258**

Honolulu, Hawaii

APR 03 2014

RE: H.B. No. 2205
H.D. 1
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred
H.B. No. 2205, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO CRIME,"

begs leave to report as follows:

The purpose and intent of this measure is to deter property crimes in the State by removing the option of a sentence of probation of five years for a conviction of habitual property crime.

Your Committee received testimony in support of this measure from the Department of the Prosecuting Attorney, City and County of Honolulu; Kailua Neighborhood Board No. 31; Waimanalo Agricultural Association; and twenty-nine individuals. Your Committee received testimony in opposition to this measure from the Office of the Public Defender, Community Alliance on Prisons, and one individual. Your Committee received comments on this measure from one individual.

Your Committee finds that property crimes have been a continual problem in Hawaii. Although studies have shown that the rates of offenses have decreased in recent years, the Federal Bureau of Investigation reported in 2012 that Hawaii ranked thirty-one out of fifty-two jurisdictions when it came to the amount of property crimes at a rate per one hundred thousand inhabitants. This measure will strengthen the habitual property



crime statute and further deter individuals from repeatedly committing property crimes.

Your Committee notes the concerns raised by the Office of the Public Defender that eliminating the option of probation for a habitual property crime conviction could prevent a defendant from taking advantage of services offered through the Judiciary's Hawaii's Opportunity Probation with Enforcement (HOPE) Probation program, Drug Court, Mental Health Court, and Veterans Treatment Court. Your Committee strongly supports the services offered through these programs. Thus, your Committee believes that the sentencing option of probation should be reinstated so that defendants convicted of habitual property crimes can greatly benefit from participation in these programs. In reinstating the option for probation, your Committee suggests, without the intent of limiting the court's discretion, that when sentencing a defendant for a term of probation for conviction of a habitual property crime, the court consider sentencing the defendant to the HOPE Probation program, Drug Court, Mental Health Court, and Veterans Treatment Court, if appropriate.

While your Committee recognizes that the total number of property crimes may be decreasing, a number of neighborhoods, especially those located on Oahu, still experience a high occurrence of theft. Your Committee notes the volume of written testimony submitted by neighborhood residents regarding their experience with property crimes and requesting stronger sentences for habitual property crime offenders, including mandatory minimum terms of imprisonment.

Accordingly, your Committee has amended this measure by:

- (1) Amending section 708-803, Hawaii Revised Statutes, relating to habitual property crimes, to reinstate the option of probation and establish that the sentence for a conviction of a habitual property crime shall be:
 - (A) A mandatory minimum term of one year; or
 - (B) A term of probation of five years with conditions to include but not be limited to one year of imprisonment;
- (2) Adopting the language suggested by the Department of the Prosecuting Attorney of the City and County of Honolulu

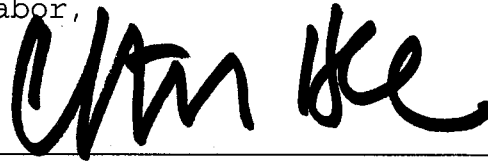


to make conforming amendments to section 706-606.5, Hawaii Revised Statutes, thereby making sentencing of repeat offenders pursuant to that section inapplicable to the offenses of criminal property damage in the third degree, theft in the third degree, and misdemeanor shoplifting; and

- (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 Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2205, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2205, H.D. 1, 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-Seventh Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 2205, HD1	JDL	3/28/14		
<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 S.L. (VC)	✓			
GABBARD, Mike	✓			
GALUTERIA, Brickwood	✓			
IHARA, Jr., Les				✓
SOLOMON, Malama				✓
SLOM, Sam				✓
TOTAL	4			3
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