

STAND. COM. REP. NO. **1272**

Honolulu, Hawaii

APR - 2 2015

RE: S.C.R. No. 98
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred S.C.R. No. 98 entitled:

"SENATE CONCURRENT RESOLUTION REQUESTING THE JUDICIARY TO CONDUCT A STUDY TO IDENTIFY TRAFFIC OFFENSES AND CRIMES, PETTY MISDEMEANOR OFFENSES, AND MISDEMEANOR OFFENSES THAT CAUSE A DISPROPORTIONATE WORKLOAD FOR THE JUDICIARY AND THAT MAY BE APPROPRIATE FOR DECRIMINALIZATION AS INFRACTIONS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Request the Judiciary to conduct a study to identify traffic offenses and crimes, petty misdemeanor offenses, and misdemeanor offenses that cause a disproportionate workload for the Judiciary and may be appropriate for decriminalization as infractions;
- (2) Request the Judiciary to report to the Legislature prior to the Regular Session of 2016 its findings and recommendations, including any proposed legislation; and
- (3) Request the Legislative Reference Bureau to assist the Judiciary in drafting any proposed legislation as a result of the Judiciary's study.

Your Committee received testimony in support of this measure from the Office of the Public Defender and one individual. Your



Committee received comments on this measure from the Judiciary and Legislative Reference Bureau.

Your Committee finds that there are numerous traffic offenses and crimes, petty misdemeanor offenses, and misdemeanor offenses that require a court appearance by a defendant that could be decriminalized to reduce the necessity for arraignments, allow disposition of uncontested violations by mail, and provide informal hearings where the violation or the proposed penalty is questioned. This measure requests the Judiciary to conduct a study to identify these offenses and violations that may be appropriate for decriminalization as infractions to streamline the handling of those cases and achieve a more expeditious system for the judicial processing of these violations.

Your Committee notes the comments submitted by the Judiciary requesting further clarification and specificity regarding the types of offenses that may be appropriate for decriminalization. Furthermore, your Committee notes the concerns raised by the Judiciary that stated the Judiciary is capable of providing the Legislature with data regarding the case types and adjudication of those cases for the last four years, a determination of which offenses are appropriate for decriminalization is a policy decision that falls within the purview of the Legislature. Thus, the Judiciary testified that it did not believe that it would be suitable for the Judiciary to propose any legislation to decriminalize certain offenses.

Accordingly, your Committee has amended this measure by:

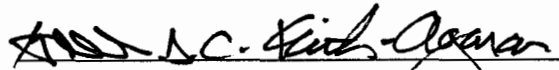
- (1) Inserting language that states that the Judiciary is uniquely suited to provide data, rather than review, its own district court daily dockets and calendars to identify the types of cases that may be better adjudicated without a court appearance;
- (2) Requesting that in conducting its study, the Judiciary collaborate with stakeholders, including the Prosecuting Attorneys of each county and State Public Defender;
- (3) Deleting language that requests the Judiciary to include any proposed legislation with its findings and recommendations;



- (4) Deleting language that requests the Legislative Reference Bureau to assist the Judiciary in drafting any proposed legislation as a result of the Judiciary's study on certain offenses that may be appropriate for decriminalization as infractions; and
- (5) 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 concurs with the intent and purpose of S.C.R. No. 98, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 98, S.D. 1.

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




GILBERT S.C. KEITH-AGARAN, Chair



The Senate
Twenty-Eighth Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:	Committee Referral:	Date:		
SCR 98	JDL	3/30/15		
<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
KEITH-AGARAN, Gilbert S.C. (C)	✓			
SHIMABUKURO, Maile S.L. (VC)	✓			
ESPERO, Will	✓			
GABBARD, Mike				✓
IHARA, Jr., Les	✓			
THIELEN, Laura H.	✓			
SLOM, Sam	✓			
TOTAL	6			1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution:	Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy

*Only one measure per Record of Votes