

STAND. COM. REP. NO.

2161

Honolulu, Hawaii

FEB 09 2018

RE: S.B. No. 2180
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 2180 entitled:

"A BILL FOR AN ACT RELATING TO LESSER INCLUDED OFFENSES,"

begs leave to report as follows:

The purpose and intent of this measure is to clarify the definition of an included offense to expressly include offenses charged via felony complaint.

Your Committee received testimony in support of this measure from the Department of the Prosecuting Attorney of the City and County of Honolulu and Department of the Prosecuting Attorney of the County of Maui.

Your Committee finds that as a matter of law, all felony cases can be initiated for prosecution via felony complaint or indictment and, in specific types of felony charges, cases can be initiated via information. The method of initiating a case is frequently chosen based on the specific facts of the individual case. Your Committee further finds that "lesser included offenses" are crimes in which the lesser offense contains all the elements of a greater offense with the caveat that the greater offense contains one or more additional elements to be proven beyond a reasonable doubt. Under existing Hawaii law, a defendant may be convicted of a lesser included offense in felony cases initiated through indictment or information, but not through



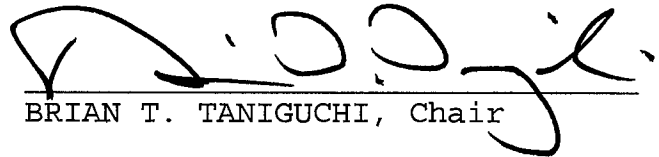
felony complaint. This measure will increase consistency in felony case prosecution by authorizing judges and juries to consider lesser included offenses in cases initiated through felony complaint.

Your Committee has amended this measure by:

- (1) Inserting an effective date of July 1, 2035, to encourage further discussion;
- (2) Inserting a savings clause to clarify that the effect of this measure is for prospective offenses; 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 that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2180, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2180, S.D. 1, and be placed on the calendar for Third Reading.

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


BRIAN T. TANIGUCHI, Chair



The Senate
 Twenty-Ninth Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary
JDC

Bill / Resolution No.:* SB 2180	Committee Referral: JDC	Date: 2/6/18		
<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
TANIGUCHI, Brian T. (C)	✓			
RHOADS, Karl (VC)	✓			
GABBARD, Mike	✓			
KIM, Donna Mercado				✓
THIELEN, Laura H.	✓			
TOTAL	4	0	0	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Karl Rhoads</i>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes