

STAND. COM. REP. NO.

2749

Honolulu, Hawaii

MAR 02 2018

RE: S.B. No. 2343

S.D. 2

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. 2343, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO DOMESTIC VIOLENCE,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Amend the offense of abuse of family or household members to provide for felony, misdemeanor, and petty misdemeanor penalties;
- (2) Expand the family court's jurisdiction over cases involving harassment of a family or household member;
- (3) Allow the granting of a deferred acceptance of guilty or no contest plea in cases involving misdemeanor abuse of a family or household member in the second degree, subject to certain conditions; and
- (4) Require that no-contact and stay-away orders issued in criminal cases involving abuse of a family or household member or non-physical forms of harassment of a family or household member be converted by the court to a new protective order that shall remain in effect for a fixed reasonable period as the court deems appropriate, unless the victim or witness requests otherwise; provided that



a hearing on the issue is held and certain requirements are met.

Your Committee received testimony in support of this measure from the Office of the Prosecuting Attorney of the County of Kaua'i; Department of the Prosecuting Attorney of the County of Maui; Honolulu Police Department; Parents and Children Together; Domestic Violence Action Center; Hawaii State Coalition Against Domestic Violence; Ho'omana Pono, LLC; Oahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i; and nine individuals. Your Committee received testimony in opposition to this measure from the Office of the Public Defender and four individuals. Your Committee received comments on this measure from the Judiciary, Department of the Attorney General, Mothers of Lost Children, and Battered Mothers Custody Conference.

Your Committee finds that domestic violence is a serious concern that threatens the health and safety of many of the State's citizens. The reforms to domestic violence statutes in this measure are meant to address deficiencies in the system by increasing the penalties for the perpetrators of domestic violence, expanding the role of the family court in adjudicating domestic violence cases, and providing additional safeguards relating to protective orders for domestic violence victims.

Your Committee notes that a recodification of the provisions of section 709-906, Hawaii Revised Statutes, into three distinct degrees of abuse of family or household members, using language and structure that more closely resembles other Hawaii Penal Code offenses, might be considered. Your Committee further notes possible administrative difficulties in converting stay-away orders issued in criminal proceedings into indeterminate post-conviction civil protective orders. Your Committee encourages further discussion on these issues as this measure proceeds.


Your Committee has amended this measure by:

- (1) Inserting an effective date of January 1, 2050, to encourage further discussion; and
- (2) 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. 2343, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2343, S.D. 2.

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 2343, SD1	Committee Referral: PSM, JDC	Date: 2/27/2018		
<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	5	0	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