

STAND. COM. REP. NO.

2952

Honolulu, Hawaii

FEB 27 2020

RE: S.B. No. 2185

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2020
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 2185 entitled:

"A BILL FOR AN ACT RELATING TO VIOLATION OF PRIVACY,"

begs leave to report as follows:

The purpose and intent of this measure is to exclude the violation of privacy in the first degree and certain violations of privacy in the second degree from eligibility for pleas of deferred acceptance of guilty or nolo contendere.

Your Committee received testimony in support of this measure from the Department of the Prosecuting Attorney of the City and County of Honolulu, Honolulu Police Department, and IMUAlliance. Your Committee received testimony in opposition to this measure from the Office of the Public Defender.

Your Committee finds that under existing law a defendant may request a deferral of their criminal charges under certain circumstances. The trial court, after considering the merits of the case, and hearing from the prosecutor, may grant a deferral of the proceedings, only if the trial court finds that the defendant is not likely again to engage in a criminal course of conduct and that the ends of justice and welfare of society do not require that the defendant suffer the penalty imposed by law. The court may ultimately discharge the defendant and dismiss the charge if certain conditions are met. Several exclusions apply to this provision, including, among others, when the offense is a class A



felony, the defendant has a prior felony conviction, a firearm was used in the offense, or if the defendant is accused of certain serious offenses.

Your Committee further finds that the unauthorized, surreptitious recording of a person in a state of undress or participating in a private sexual act is a criminal violation of a person's right to privacy. The release of or threat to release such recordings or images, sometimes referred to as revenge porn, can cause irreparable personal, professional, and financial harm. This measure excludes such instances of invasion of privacy offenses from qualifying for deferred acceptance of guilty or nolo contendere pleas in order to hold perpetrators to a higher level of accountability for their actions and provide a deterrent for repeat offenses.

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. 2185 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

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



KARL RHOADS, Chair



The Senate
Thirtieth Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary
JDC

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|---|-----------------------------------|--------------------------|
| Bill / Resolution No.:* SB 2185 | Committee Referral: JDC | Date: 2/6/2020 |
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The Committee is reconsidering its previous decision on this measure.
If so, then the previous decision was to: _____

The Recommendation is:

Pass, unamended 2312 Pass, with amendments 2311 Hold 2310 Recommit 2313

| Members | Aye | Aye (WR) | Nay | Excused |
|---------------------------|----------|----------|-----|----------|
| RHOADS, Karl (C) | / | | | |
| KEOHOKALOPE, Jarrett (VC) | / | | | |
| GABBARD, Mike | / | | | |
| KIM, Donna Mercado | | | | / |
| FEVELLA, Kurt | / | | | |
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| TOTAL | 4 | | | 1 |

Recommendation: Adopted Not Adopted

Chair's or Designee's Signature:

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***Only one measure per Record of Votes**