

STAND. COM. REP. NO. **1221**-20

Honolulu, Hawaii

, 2020

JUN 25

RE: S.B. No. 2638
S.D. 2
H.D. 2

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirtieth State Legislature
Regular Session of 2020
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 2638, S.D. 2, H.D. 1, entitled:

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

begs leave to report as follows:

The purpose of this measure is to establish a five-year pilot project to strengthen state and county responses to domestic violence and increase offender accountability by:

- (1) Establishing a petty misdemeanor offense of abuse of family or household members;
- (2) Allowing a deferred acceptance of guilty plea or no contest plea in cases involving misdemeanor and petty misdemeanor abuse of family or household members offenses, if certain conditions are met; and
- (3) Requiring the Judiciary to submit annual reports to the Legislature on the number and outcome of abuse of family or household members cases.

Your Committee received testimony in support of this measure from the Judiciary, Hawaii State Commission on the Status of Women, American Association of University Women of Hawaii, Planned

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Parenthood Votes Northwest and Hawaii, Hawaii Women's Coalition, Domestic Violence Action Center, Rainbow Family 808, and seven individuals. Your Committee received testimony in opposition to this measure from the Office of the Public Defender, City and County of Honolulu Department of the Prosecuting Attorney, County of Maui Department of the Prosecuting Attorney, County of Hawaii Office of the Prosecuting Attorney, and Honolulu Police Department. Your Committee received comments on this measure from the Department of the Attorney General.

Your Committee finds that the dynamics of domestic violence are complicated, and a more flexible approach may be necessary in sentencing defendants in cases involving abuse of family or household member. This measure seeks to provide this flexibility while still holding defendants accountable for their actions.

Your Committee also finds that victims of domestic or sexual violence may be discouraged from seeking assistance under Hawaii law due to the varying statutory requirements for documentation of victim status. Your Committee believes that establishing conformity regarding the documents accepted as proof of domestic or sexual violence victim status under Hawaii law will ease the paperwork burden and stress for these victims when seeking essential services and assistance.

Your Committee has amended this measure by:

- (1) Removing language that would have included coercive control under the petty misdemeanor offense of abuse of a family or household member;
- (2) Requiring courts who grant a motion for deferred acceptance of guilty plea to require offenders to complete domestic violence intervention programs or parenting classes, if applicable;
- (3) Removing language that would have enabled a person charged with a misdemeanor or petty misdemeanor offense of abuse of a family or household member to plead no contest;
- (4) Clarifying the courts authorization to accept deferred acceptance of guilty pleas applies only if the defendant has no prior conviction or has not been previously



granted a deferred acceptance of guilty plea for any offense of abuse of family or household member charged in family court, regardless of the final plea;

- (5) Standardizing the types of documents accepted as proof of domestic or sexual violence victim status;
- (6) Specifying that certified or exemplified restraining orders, rather than valid restraining orders and records or files of a court or government agency, are documents that will be accepted as proof of domestic or sexual violence victim status;
- (7) Changing the effective date to January 1, 2021; and
- (8) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

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. 2638, S.D. 2, H.D. 1, as amended herein, and recommends that it be referred to your Committee on Finance in the form attached hereto as S.B. No. 2638, S.D. 2, H.D. 2.

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


CHRIS LEE, Chair



