

STAND. COM. REP. NO.

763

Honolulu, Hawaii

MAR 04 , 2021

RE: H.B. No. 170  
H.D. 1

Honorable Scott K. Saiki  
Speaker, House of Representatives  
Thirty-First State Legislature  
Regular Session of 2021  
State of Hawaii

Sir:

Your Committee on Judiciary & Hawaiian Affairs, to which was referred H.B. No. 170 entitled:

"A BILL FOR AN ACT RELATING TO THEFT IN THE SECOND DEGREE,"

begs leave to report as follows:

The purpose of this measure is to include within the offense of theft in the second degree the theft of property commonly used to store items of personal or monetary value, including any purse, handbag, or wallet.

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

Your Committee finds that the Hawaii Penal Code does not adequately cover instances in which a person takes the property of another that is commonly used to store items of personal or monetary value. The Hawaii Supreme Court has held that the prosecution must prove beyond a reasonable doubt that the defendant intended to steal property or services at the value specified in the Hawaii Penal Code. Thus, your Committee further finds that, while persons may be arrested for stealing property in

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excess of the statutory amounts, the burden to prove that the person intended to steal those items discourages these prosecutions. Your Committee further finds, however, that items of personal value may be too vague to be enforceable.

Accordingly, your Committee has amended this measure by:

- (1) Removing items of personal value from the types of items that may be the basis for the offense;
- (2) Clarifying that the examples of property commonly used to store items of monetary value are not exhaustive; and
- (3) 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 & Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 170, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 170, H.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on  
behalf of the members of the  
Committee on Judiciary &  
Hawaiian Affairs,

  
MARK M. NAKASHIMA, Chair



State of Hawaii  
House of Representatives  
The Thirty-first Legislature **HSCR 763**

**Record of Votes of the Committee on Judiciary & Hawaiian Affairs**

<b>Bill/Resolution No.:</b> <b>HB 170</b>	<b>Committee Referral:</b> <b>JHA</b>	<b>Date:</b> <b>2-23-21</b>		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
<b>The recommendation is to:</b> <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
JHA Members	Ayes	Ayes (WR)	Nays	Excused
1. NAKASHIMA, Mark M. (C)	✓			
2. MATAYOSHI, Scot Z. (VC)	✓			
3. ICHIYAMA, Linda	✓			
4. KOBAYASHI, Dale T.	✓			
5. LoPRESTI, Matthew S.	✓			
6. LOWEN, Nicole E.		✓		
7. McKELVEY, Angus L.K.	✓			
8. NAKAMURA, Nadine K.		✓		
9. TAKUMI, Roy M.	✓			
10. TODD, Chris	✓			
11. TOKIOKA, James Kunane	✓			
12. WARD, Gene	✓			
<b>TOTAL (12)</b>	<b>10</b>	<b>2</b>	<b>0</b>	<b>0</b>
<b>The recommendation is:</b> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
If joint referral, _____ did not support recommendation. committee acronym(s)				
<b>Vice Chair's or designee's signature:</b>				
<b>Distribution:</b> Original (White) – Committee    Duplicate (Yellow) – Chief Clerk's Office    Duplicate (Pink) – HMSO				