

STAND. COM. REP. NO.

766

Honolulu, Hawaii

, 2021

MAR 04

RE: H.B. No. 177

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. 177 entitled:

"A BILL FOR AN ACT RELATING TO SEXUAL ASSAULT,"

begs leave to report as follows:

The purpose of this measure is to hold offenders strictly liable for sexual assaults committed against persons who are mentally defective.

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

Your Committee finds that persons who are mentally defective are vulnerable to sexual predators. These individuals have limited, if any, capacity to knowingly and willingly consent to sexual acts. Your Committee further finds that this measure will strengthen the protections provided for persons who are mentally defective in the Hawaii Penal Code.



Your Committee has amended this measure by:

- (1) Providing that there is a rebuttable presumption that the person assaulted was mentally defective instead of holding offenders strictly liable;
- (2) Changing the effective date to July 1, 3021, to encourage further discussion; 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. 177, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 177, 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 **HSCR 766**
The Thirty-first Legislature

Record of Votes of the Committee on Judiciary & Hawaiian Affairs

Bill/Resolution No.: HB 177	Committee Referral: JHA	Date: 2-23-21		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <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	✓			
TOTAL (12)	12	0	0	0
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
If joint referral, _____ did not support recommendation. <small>committee acronym(s)</small>				
Vice Chair's or designee's signature:				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				