

Honolulu, Hawaii

MAR 02 2023

RE: S.B. No. 228
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2023
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B.
No. 228 entitled:

"A BILL FOR AN ACT RELATING TO FRAUD,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Establish the offense of fraud as a class B felony;
- (2) Establish the offense of making a false, fictitious, or fraudulent claim against the State or a county as a class C felony; and
- (3) Establish the offense of the use of false statements or entries in matters within the jurisdiction of the executive, legislative, or judicial branches of the State.

Your Committee received testimony in support of this measure from the Department of the Attorney General, Campaign Spending Commission, Department of the Prosecuting Attorney of the City and County of Honolulu, Commission to Improve Standards of Conduct, and two individuals. 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 League of Women Voters of Hawaii.



Your Committee finds that the state laws should be amended to reflect the egregious nature of certain offenses, such as bribery, that involve a serious abuse of authority, or the betrayal of the public's trust to a heightened degree. Every day, thousands of dedicated government workers serve the public diligently and honorably, and their hard work and good reputation should not be marred by those who would selfishly seek their own profits. Therefore, criminal penalties should be enhanced for offenses involving public corruption. This measure will provide a mechanism to increase the public's trust and confidence in state and local government while providing law enforcement with a tool to adequately deter and commensurately punish acts of public corruption.

Your Committee has amended this measure by:

- (1) Incorporating changes proposed by the Department of the Attorney General by:
 - (A) Deleting language that would have required that a person convicted for fraud be sentenced to a mandatory minimum term of imprisonment of one year, without the possibility of probation;
 - (B) Deleting language that would have prohibited any person charged with the offense of making a false, fictitious, or fraudulent claim from being eligible for a deferred acceptance of guilty plea or nolo contendere plea;
 - (C) Changing the requisite mindset for the offense of use of false statements or entries from "knowingly and willfully" to "intentionally or knowingly";
 - (D) Clarifying that the offense of use of false statements or entries, includes the use of a false document if that document is being used in a way that the false information is being presented as true, or the false information is being used to substantiate a conclusion; and



- (E) Making the use of false statements or entries a class C felony; 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. 228, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 228, S.D. 1, 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
 Thirty-Second Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary
JDC

Bill / Resolution No.:* SB 228	Committee Referral: JDC	Date: 2/16/23
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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)	✓			
GABBARD, Mike (VC)	✓			
ELEFANTE, Brandon J.C.	✓			
SAN BUENAVENTURA, Joy A.	✓			
AWA, Brenton	✓			
TOTAL	5	—	—	—

Recommendation:
 Adopted
 Not Adopted

Chair's or Designee's Signature:


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*Only one measure per Record of Votes