STAND. COM. REP. NO. 647 -06

Honolulu, Hawaii

Morel 2, 2006

RE: H.B. No. 2780 H.D. 1

Honorable Calvin K.Y. Say Speaker, House of Representatives Twenty-Third State Legislature Regular Session of 2006 State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 2780 entitled:

"A BILL FOR AN ACT RELATING TO THE DISPOSITION OF CONVICTED DEFENDANTS,"

begs leave to report as follows:

The purpose of this bill is to give a first-time drug offender who was sentenced before July 1, 2002, another chance by adding a new section to Act 161, Session Laws of Hawaii 2002 (SLH), that allows the offender to:

- (1) Apply for resentencing, if the offender has a satisfactory record of drug treatment and drug abstinence and no other criminal record; and
- (2) Upon re-sentencing, apply for expungement of the criminal record; provided that the court has not granted the offender a prior expungement.

The Office of the Public Defender and Community Alliance on Prisons testified in support of this measure. The Department of the Attorney General, Department of the Prosecuting Attorney, and Honolulu Police Department opposed this bill.

Your Committee has amended this measure by:

- (1) Adding a new section to Chapter 706, Hawaii Revised Statutes, rather than SLH;
- (2) Changing the sentencing cut-off date to July 1, 2004;
- (3) Allowing a first-time drug offender, involving possession and use, but not manufacturing or distributing, who is sentenced to probation to apply for expungement;
- (4) Requiring the court to expunge the criminal record, if the offender has successfully completed a substance abuse treatment program and has complied with other conditions of the court; and
- (5) Making technical, nonsubstantive amendments, for consistency, clarity, 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 H.B. No. 2780, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2780, H.D. 1, and be placed on the calendar for Third Reading.

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

SYLVIA LUKE, Chair

State of Hawaii House of Representatives The Twenty-third Legislature

Record of Votes of the Committee on Judiciary

Bill/Resolution No.:	Date:	_ /	,		
НВ 2780		2/9/	06		
Committee Referral:	☐ The committee is reconsidering its				
JUD	previous decision on the measure.				
The recommendation is to: Pass, unamended	commendation is to: Pass, unamended Pass, with amendments				
☐ Hold	□ R	ecommit			
JUD Members	Ayes	Ayes (WR)	Nays	Excused	
1. LUKE, Sylvia (C)					
2. OSHIRO, Blake K. (VC)	1				
3. CALDWELL, Kirk					
4. KANOHO, Ezra R.					
5. KARAMATSU, Jon Riki					
6. MORITA, Hermina M.	<u> </u>				
7. SONSON, Alex M.					
8. SOUKI, Joseph M.					
9. MARUMOTO, Barbara C.					
10. THIELEN, Cynthia					
TOTAL	9	0	0		
The recommendation is: Adopted Not Adopted If joint referral,	mittee acronym	did not suppo	rt recommendation.		
Vice Chair's or designee's signature:	8	36			
Distribution: Original (White) – Committee Du	plicate (Yellow	v) – HMSO D	uplicate (Pink) – Clo	erk's Office	