Honolulu, Hawaii

MAR - 3 2006

S.B. No. 679 RE: S.D. 1

Honorable Robert Bunda President of the Senate Twenty-Third State Legislature Regular Session of 2006 State of Hawaii

Sir:

Your Committee on Judiciary and Hawaiian Affairs, to which was referred S.B. No. 679 entitled:

"A BILL FOR AN ACT PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE STATE OF HAWAII RELATING TO TESTIMONY OF DEFENDANTS IN CRIMINAL CASES,"

begs leave to report as follows:

The purpose of this measure is to propose an amendment to the state constitution to provide that evidence that a testifying defendant has been convicted of a crime of dishonesty shall be admissible to assist the judge or jury in evaluating the credibility of the defendant to the same extent as any other testifying witness.

Testimony in support of this measure was submitted by the Attorney General, the City and County of Honolulu Prosecuting Attorney, the Honolulu Police Department, the County of Hawaii Police Department, and the State of Hawaii Organization of Police Officers. Testimony in opposition to this measure was submitted by the Judiciary, the Office of the Public Defender, and the Community Alliance on Prisons.

Your Committee finds that in Hawaii, witnesses other than the defendant may be impeached by the use of prior convictions. However, in State v. Santiago, 53 Haw. 254 (1971), the Hawaii Supreme Court ruled that a defendant may not be impeached by the use of prior convictions, even if those prior convictions involve crimes relating to the making of false statements or to

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dishonesty. This is in direct contrast to the federal rules, which permits the use of any conviction of dishonesty or false statement for impeachment of a defendant. This measure will put Hawaii in line with the federal law and will not take away any rights afforded defendants under rules 403 and 609 of the Hawaii Rules of Evidence.

As affirmed by the record of votes of the members of your Committee on Judiciary and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 679, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 679, S.D. 1, and be placed on the calendar for Third Reading.

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

COLLEEN HANABUSA, Chair

The Senate Twenty-Third Legislature State of Hawaii

Record of Votes of the Committee on Judiciary and Hawaiian Affairs (Bills and Resolutions)

Measure:* SB 679	Committee Referral:		Date:	Date:	
The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to:					
The Recommendation is to:					
Pass, unamended Pass, with amendments (2312) (2311)			Hold Recommit (2310) (2313)		
Members		Ayes	Ayes(WR)	Nays	Excused
HANABUSA, Colleen (C)		V			
HEE, Clayton (VC)		<u></u>		. <u>-</u>	V
CHUN OAKLAND, Suzanne ENGLISH, J. Kalani		V /			
IHARA, Jr., Les			Value value		
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TOTAL	to the term	3	antitario 1	D	7
Recommendation: Adopted Not Adopted					
Chair's or Designee's Signature: Thrank Chun Callland					
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy					

^{*}Do not list more than one measure per Record of Votes.