STAND. COM. REP. NO. 3335

Honolulu, Hawaii

## APR 0 3 2008

H.B. No. 2729 RE:

> H.D. 1 S.D. 1

Honorable Colleen Hanabusa President of the Senate Twenty-Fourth State Legislature Regular Session of 2008 State of Hawaii

## Madam:

Your Committee on Judiciary and Labor, to which was referred H.B. No. 2729, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO BURGLARY,"

begs leave to report as follows:

The purpose of this measure is to create a criminal offense of burglary in the first degree, a class A felony.

Your Committee received testimony in support of this measure from the Honolulu Prosecuting Attorney, Honolulu Police Department, and Hawaii Rifle Association. Testimony in opposition was received from the State Public Defender.

Under this measure, burglary in the first degree is committed when a person intentionally enters or remains unlawfully in a dwelling with the intent to commit a crime against a person or property therein, and is armed with a dangerous instrument in the course of committing the offense. This measure makes the existing crime of burglary in the first degree into burglary in the second degree and defines the existing term "in the course of committing the offense". The measure also makes the existing crime of burglary in the second degree into burglary in the third degree.

Your Committee intends this measure to apply particularly to home invasion type burglaries, which are committed by burglars who are armed and dangerous. Your Committee believes the class A felony designation is warranted in view of the premeditated and

vicious nature of home invasions that have been known to result in death of or serious injury to the home's occupants.

Your Committee has amended this measure by:

- (1) Changing the definition of "dangerous instrument" to include firearms, among other things, on the recommendation of the Honolulu Prosecuting Attorney; and
- (2) Changing the effective date to July 1, 2050, to continue the discussions on this matter.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2729, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2729, H.D. 1, 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 Labor,

BRIAN T. TANIGUCHI, Chair

## The Senate Twenty-Fourth Legislature State of Hawaii

## Record of Votes Committee on Judiciary and Labor JDL

Bill / Resolution No.:*	Committee Referral:		Da	Date:	
H8 2729 HD1	JDL			3-25-08	
The committee is reconsidering its previous decision on this measure.  If so, then the previous decision was to:					
The Recommendation is:					
Pass, unamended Pass, with amendments Hold Recommit 2312 2311 2310 2313					
Members		Aye	Aye (WR)	Nay	Excused
TANIGUCHI, BRIAN T. (C)		1			
HEE, Clayton (VC)	MARCONIA ALLANA	/			
GABBARD, Mike	***************************************	1 V			
KOKUBUN, Russell S.		V			
NISHIHARA, Clarence K.					
SLOM, Sam					
TOTAL		5			1
Recommendation:  Adopted  Not Adopted					
Chair's or Designee's signature:					
Distribution:         ✓         Original         Yellow         Pink         Goldenrod           File with Committee Report         Clerk's Office         Drafting Agency         Committee File Copy					

\*Only one measure per Record of Votes