Honolulu, Hawaii

Fe 412, 2008

RE: H.B. No. 3044 H.D. 1

Honorable Calvin K.Y. Say Speaker, House of Representatives Twenty-Fourth State Legislature Regular Session of 2008 State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 3044 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 bill is to amend the State Constitution to allow testifying defendants in criminal cases to be impeached with evidence of their prior convictions for crimes involving dishonesty.

The Attorney General, City and County of Honolulu Department of the Prosecuting Attorney, County of Maui Department of the Prosecuting Attorney, County of Maui Police Department, Honolulu Police Department, and County of Hawaii Police Department testified in support of this bill. The Judiciary, State Office of the Public Defender, and American Civil Liberties Union of Hawaii opposed this measure.

This bill proposes to overrule the 1971 Hawaii Supreme Court decision in the case of <u>State v. Santiago</u>, 53 Haw. 254 (1971), which held that the due process clause of the Hawaii Constitution barred the introduction of a defendant's prior convictions to assist the trier of fact in evaluating that defendant's credibility in a criminal case.

HB3044 HD1 HSCR JUD HMS 2008-1862

Because evidence of prior convictions can be used to impeach victims and other witnesses, your Committee finds that impeachment of defendants with evidence of prior convictions of crimes involving dishonesty should also be allowed when those defendants choose to testify at their own trial.

Your Committee has amended this bill by:

- (1) Deleting the effective date provision to encourage continued discussion; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, 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. 3044, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3044, H.D. 1, and be referred to the Committee on Finance.

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

TOMMY WATERS, Chair

## State of Hawaii House of Representatives The Twenty-fourth Legislature

HSCR 350.08

## Record of Votes of the Committee on Judiciary

Bill/Resolution No.: HB 3044	Committee Referral: JUD, FIN	Date	: :85,200°	ව
☐ The committee is reconsidering its previous	ous decision on the measure.		1:	
The recommendation is to:  □ Pass, unamended (as is) □ Pass, with amendments (HD) □ Hold □ Pass short form bill with HD to recommit for future public hearing (recommit)				
JUD Members	Ayes	Ayes (WR)	Nays	Excused
1. WATERS, Tommy (C)		ing produced the second		
2. OSHIRO, Blake K. (VC)	1			
3. EVANS, Cindy				
4. GREEN, Josh, M.D.				
5. ITO, Ken				
6. LUKE, Sylvia			weeks of the second	
7. McKELVEY, Angus L.K.				
8. MORITA, Hermina M.				/
9. SONSON, Alex M.			Winds 1	
10. SOUKI, Joseph M.				
11. TSUJI, Clift				
12. YAMANE, Ryan I.				
13. YAMASHITA, Kyle T.				
14. MARUMOTO, Barbara C.				
15. PINE, Kymberly Marcos				
16. THIELEN, Cynthia				
	2			2
TOTAL (16)	13			3
The recommendation is:  Adopted  If joint referral, did not support recommendation.  committee acronym(s)				
Vice Chair's or designee's signature:	My Chann	·		<u></u>
Distribution: Original (White) – Comr	nittee Duplicate (Yell	ow) Chief Clerk's C	Office	