

Honolulu, Hawaii

MAR 22 2012

RE: H.B. No. 1788
H.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committee on Economic Development and Technology, to which was referred H.B. No. 1788, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO COMPUTER CRIME,"

begs leave to report as follows:

The purpose and intent of this measure is to update Hawaii's computer fraud statutes by adding language mirroring Hawaii's identity theft statutes to better address the realities of modern cybercrime. Specifically, this measure:

- (1) Establishes a new offense of computer fraud in the third degree;
- (2) Adds new definitions related to computer crime to incorporate the element of phishing and spyware into all computer fraud offenses and unauthorized computer access offenses;
- (3) Changes the offenses of computer crime in the first degree and unauthorized computer access in the first degree from class B to class A felonies;
- (4) Changes the offenses of computer crime in the second degree and unauthorized computer access in the second degree from class C to class B felonies; and



- (5) Increases the minimum value of identifying information obtained that constitutes unauthorized computer access in the first degree from \$5,000 to \$20,000.

Your Committee received testimony in support of this measure from the Department of the Prosecuting Attorney of the City and County of Honolulu. Your Committee received testimony in opposition to this measure from the High Technology Development Corporation. Your Committee received comments on this measure from Hawaiian Electric Company.


Your Committee has heard that Hawaii's current computer fraud statutes are too narrow to address most activities that are typically thought of as "computer fraud". For example, first-degree computer fraud requires proof that an offender accessed a computer without authorization to obtain or exert control over the property of another. However, most potential computer fraud offenders use their own computer, which they presumably are authorized to use to carry out offenses such as online auction fraud, advance fee scams, counterfeit check scams, phishing, and e-mail scams.

While your Committee supports more effective prosecution of computer crimes, your Committee has also heard concerns regarding some of the proposed language in this measure. Your Committee notes that this measure already contains an effective date of January 7, 2059, inserted by a previous committee for the purposes of continuing discussion, and urges further work by interested stakeholders to address these concerns and recommendations as this measure progresses through the legislative process.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1788, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Judiciary and Labor.



Respectfully submitted on
behalf of the members of the
Committee on Economic
Development and Technology,


CAROL FUKUNAGA, Chair



The Senate
Twenty-Sixth Legislature
State of Hawai'i

Record of Votes
Committee on Economic Development and Technology
EDT

Bill / Resolution No.:* HB1788 HD1	Committee Referral: EDT, JDL	Date: 3/19/12		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <div style="display: flex; justify-content: space-between;"> <div> <input checked="" type="checkbox"/> Pass, unamended 2312 </div> <div> <input type="checkbox"/> Pass, with amendments 2311 </div> <div> <input type="checkbox"/> Hold 2310 </div> <div> <input type="checkbox"/> Recommit 2313 </div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
FUKUNAGA, Carol (C)	✓			
WAKAI, Glenn (VC)	✓			
BAKER, Rosalyn H.	✓			
SOLOMON, Malama	✓			
SLOM, Sam				✓
TOTAL	4	0	0	1
Recommendation: <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted </div>				
Chair's or Designee's Signature: _____				
Distribution: <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div>Original File with Committee Report</div> <div>Yellow Clerk's Office</div> <div>Pink Drafting Agency</div> <div>Goldenrod Committee File Copy</div> </div>				

*Only one measure per Record of Votes