STAND. COM. REP. NO.

Honolulu, Hawaii February 19, 2016

RE: H.B. No. 362

Honorable Joseph M. Souki Speaker, House of Representatives Twenty-Eighth State Legislature Regular Session of 2016 State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 362 entitled:

"A BILL FOR AN ACT RELATING TO RESISTING ARREST,"

begs leave to report as follows:

The purpose of this measure is to:

- Classify as resisting arrest in the first degree the intentional act of removal or attempted removal of the officer's firearm by the person resisting arrest;
- (2) Establish the offense of resisting arrest in the first degree as a class C felony; and
- (3) Reclassify the existing resisting arrest misdemeanor as resisting arrest in the second degree.

The Department of Public Safety, Honolulu Police Department, and Hawaii County Police Department supported this measure. The Office of the Public Defender opposed this measure.

Your Committee recognizes several concerns relating to resisting arrest:

(1) Persons who resist arrest are often found to be under the influence of drugs or are mentally ill or disturbed, and therefore a felony law may not act as a deterrent for such persons; and

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(2) Persons who resist arrest may inadvertently come in contact with an officer's firearm, and thus sometimes only the officer's allegation about the event exists with no objective evidence to confirm the allegation.

Your Committee notes that a misdemeanor charge for resisting arrest will continue to be available under Section 710-1026, Hawaii Revised Statutes. Accordingly, your Committee trusts that felony charges of resisting arrest under this new provision, if adopted, should be limited to situations where the arrestee's attempt to take the officer's firearm is very clearly intentional.

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. 362 and recommends that it pass Second Reading and be referred to your Committee on Finance.

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

KARL RHOADS, Chair



State of Hawaii House of Representatives The Twenty-eighth Legislature

HBLR 604-16

Record of Votes of the Committee on Judiciary

Bill/Resolution No.: HB 362	Committee Referral:			Date: 01/21/16		
The committee is reconsidering its previous decision on the measure.						
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 (W	R)	Nays	Excused
1. RHOADS, Karl (C)		×				
2. SAN BUENAVENTURA, Joy A. (VC)		X				
3. BELATTI, Della Au						\square
4. BROWER, Tom		×				
5. CREAGAN, Richard P.		X				
6. HASHEM, Mark J.		×				
7. KAWAKAMI, Derek S.K.		X			10 000	
8. LEE, Chris		×				
9. MORIKAWA, Dee						×
10. NAKASHIMA, Mark M.		X				
11. TAKAYAMA, Gregg		X				
12. WOODSON, Justin H.		R				
13. McDERMOTT, Bob		/				A
14. THIELEN, Cynthia		Þ				
		,				
	Ì					
TOTAL (14)		11				3
The recommendation is: Adopted INot Adopted						
If joint referral, did not support recommendation.						
Vice Chair's or designee's signature:						
Distribution: Original (White) = Committ	tee Dup	licate (Yellow) -	- Chief Clerk's	Office	Duplicate (I	ink) – HMSO