

Honolulu, Hawaii

FEB 12 2019

RE: S.B. No. 1467
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2019
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 1467 entitled:

"A BILL FOR AN ACT RELATING TO PROPERTY FORFEITURE,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Restrict asset forfeiture to cases involving the commission of a covered criminal misdemeanor or felony offense;
- (2) Require seized property to be forfeited only when the property owner has been convicted of an underlying covered criminal misdemeanor or felony offense;
- (3) Change the standard of proof that the State must meet in order for property to be forfeited from "preponderance of the evidence" to "beyond a reasonable doubt";
- (4) Require the State to prove that owners consented to or possessed knowledge of the crime that led to the seizure of their property;
- (5) Require that the agency seizing the property pay for safe and secure storage of the seized property until the



completion of the forfeiture proceeding or final disposition of the property;

- (6) Direct any proceeds from a civil forfeiture to the general revenue fund for public education purposes; and
- (7) Repeal administrative forfeiture proceedings.

Your Committee received testimony in support of this measure from the Libertarian Party of Hawaii, Drug Policy Forum of Hawai'i, O'ahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i, American Civil Liberties Union of Hawai'i, Drug Policy Action Group, and four individuals. Your Committee received testimony in opposition to this measure from the Office of the Prosecuting Attorney of the County of Kaua'i, Office of the Prosecuting Attorney of the County of Hawai'i, Department of the Prosecuting Attorney of the County of Maui, Department of the Prosecuting Attorney of the City and County of Honolulu, and one individual. Your Committee received comments on this measure from the Department of the Attorney General.

Your Committee finds that property forfeiture laws are controversial and have been evolving throughout the country in the twenty years since the Omnibus Criminal Forfeiture Act was passed in Hawaii. Your Committee further finds that a 2018 State Auditor's report found a lack of accountability by the Department of the Attorney General over the storage, preservation, and disposal of forfeited property. Your Committee additionally finds that the Institute for Justice, a nonprofit civil liberties law firm, has recommended numerous reforms that have been adopted by other states. This measure will adopt some of the Institute for Justice's recommended reforms in Hawaii.

Your Committee has amended this measure by:

- (1) Removing language requiring the Department of the Attorney General to allocate monies for the purposes of criminal forfeiture within one year of the effective date of this measure; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.



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 S.B. No. 1467, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1467, S.D. 1, and be referred to your Committee on Ways and Means.

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



KARL RHOADS, Chair



