

STAND. COM. REP. NO.

2331

Honolulu, Hawaii

FEB 04 2020

RE: S.B. No. 2638
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2020
State of Hawaii

Sir:

Your Committee on Public Safety, Intergovernmental, and
Military Affairs, to which was referred S.B. No. 2638 entitled:

"A BILL FOR AN ACT RELATING TO DOMESTIC VIOLENCE,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Amend the offense of abuse of family or household members to provide for misdemeanor and petty misdemeanor penalties;
- (2) Authorize a deferred acceptance of guilty or no contest plea in misdemeanor and petty misdemeanor abuse penalty cases under certain conditions; and
- (3) Require the Judiciary to submit annual reports on the number and outcome of abuse of family or household member cases.

Your Committee received testimony in support of this measure from the Judiciary, Office of the Public Defender, Hawaii State Commission on the Status of Women, Domestic Violence Action Center, Planned Parenthood Votes Northwest and Hawaii, AAUW of Hawaii, and four individuals. Your Committee received testimony in opposition to this measure from the Department of the Prosecuting Attorney of the City and County of Honolulu, Honolulu



Police Department, and two individuals. Your Committee received comments on this measure from the Department of the Attorney General.

Your Committee finds that varied approaches to intervention are needed for domestic violence as instances of domestic violence fall on a broad spectrum of severity. Your Committee further finds that existing domestic violence laws are often not inclusive enough to encompass the entirety of the spectrum. There are occasional instances in which the level of force utilized by the perpetrator is not sufficient to meet the criteria of abuse of family or household member. This measure will create a pilot program to expand the offense of abuse of family or household members to include petty misdemeanor, receive a deferred acceptance of guilty plea under certain circumstances, and require agencies involved to collect and report data relating to domestic violence.

Your Committee has heard concerns in testimony regarding the possibility of this measure setting up barriers for offenders by requiring an offender to complete any available domestic violence intervention program rather than a batterer intervention program. According to testimony, domestic violence intervention programs contracted by the State last roughly six months, giving the offender only four to five months of actual counseling after administrative work is done. This is an insufficient amount of time to fully address the various complex issues of why batterers resort to violence. A batterer intervention program may be more effective for batterers as these programs work with batterers' resistance and accountability to change batterers' violent belief systems and address other complex issues that lead to domestic violence. Your Committee also notes the concern that labeling domestic violence as a petty misdemeanor potentially sends the wrong message to victims in regard to the severity of the crime. It is not your Committee's intent to downplay the severity of domestic violence, and your Committee believes this measure will assist victims by providing various options of holding offenders accountable.

Your Committee has amended this measure by:

- (1) Deleting language that would have authorized the court to amend the defendant's sentence to the maximum term of

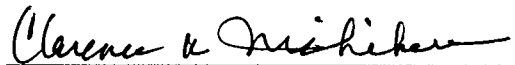


incarceration and set aside a deferred acceptance of guilty plea or no contest plea under certain circumstances and instead requires that the court revoke the defendant's probation, or set aside the defendant's deferred acceptance of guilty plea and enter an adjudication of guilt and resentence the defendant to the maximum term under certain circumstances; and

- (2) Making a technical, nonsubstantive amendment to correctly reflect the language in the Hawaii Revised Statutes.

As affirmed by the record of votes of the members of your Committee on Public Safety, Intergovernmental, and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2638, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2638, S.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Public Safety,
Intergovernmental, and Military
Affairs,

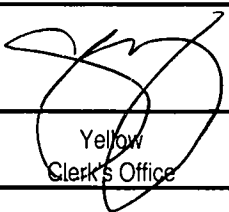


CLARENCE K. NISHIHARA, Chair



The Senate
Thirtieth Legislature
State of Hawai'i

Record of Votes
Committee on Public Safety, Intergovernmental, and Military Affairs
PSM

Bill / Resolution No.:* SB 2638	Committee Referral: PSM, JDC	Date: 1/31/20		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
NISHIHARA, Clarence K. (C)	✓			
WAKAI, Glenn (VC)	✓			
BAKER, Rosalyn H.				✓
HARIMOTO, Breene	✓	✓		
FEVELLA, Kurt	✗	✓		
TOTAL	3	1	0	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> 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