

STAND. COM. REP. NO. **2958**

Honolulu, Hawaii

FEB 27 2020

RE: S.B. No. 2793
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 Judiciary, to which was referred S.B. No. 2793 entitled:

"A BILL FOR AN ACT RELATING TO DRUG OFFENSES,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Establish a new misdemeanor offense of promoting a dangerous drug in the fourth degree, to include possession of dangerous drugs in any amount under one-sixteenth of an ounce; and
- (2) Limit the class C felony offense of promoting a dangerous drug in the third degree to include possession of certain dangerous drugs in an amount or weight equal to one-sixteenth of one ounce or more.

Your Committee received testimony in support of this measure from the Office of Hawaiian Affairs, Office of the Prosecuting Attorney of the County of Kaua'i, Hawai'i Justice Coalition, Office of the Public Defender, American Civil Liberties Union of Hawai'i, Community Alliance on Prisons, Hawai'i Friends of Restorative Justice, Libertarian Party of Hawaii, The Drug Policy Forum of Hawai'i, Hawaii Health and Harm Reduction Center, and thirty-two individuals. Your Committee received testimony in opposition to this measure from the Department of the Attorney General, Honolulu



Police Department, Hawai'i Police Department, Maui Police Department, Department of the Prosecuting Attorney of the City and County of Honolulu, and two individuals. Your Committee received comments on this measure from the Judiciary and Department of the Prosecuting Attorney of the County of Maui.

Your Committee finds that criminal justice policies that impose harsh prison sentences increase incarceration rates and costs, but frequently do not result in a commensurate reduction in crime rates. Your Committee further finds that incarceration is a particularly expensive and ineffective response to the public health problem of personal drug use. Despite its substantial expense, incarceration has not adequately deterred substance abuse or otherwise made Hawaii communities safer. Thus, applying the harsh treatment of felony level classification and punishment to all drug possession offenses, especially those at the lowest level, has proven to be excessively costly and woefully ineffective. Your Committee believes that the imposition of incarceration to punish simple, low-level drug possession offenses should be limited in favor of the reduced or alternative sentencing options of misdemeanor classification to help reduce prison overcrowding, save taxpayer dollars, and free up resources to be reinvested into more effective treatment programs.

Your Committee has amended this measure by:

- (1) Defining promoting a dangerous drug in the fourth degree as possession of any dangerous drug in any amount under two grams;
- (2) Defining promotion of a dangerous drug in the third degree as possession of any dangerous drugs in an amount of two grams or more;
- (3) Inserting an effecting date of August 1, 2020, and deleting the retroactivity provision;
- (4) Amending section 1 to reflect its amended purpose; and
- (5) 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. 2793, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2793, S.D. 1, and be placed on the calendar for Third Reading.

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



KARL RHOADS, Chair



The Senate
Thirtieth Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary
JDC

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|--|-----------------------------------|---------------------------|-----|----------|
| Bill / Resolution No.:* SB 2793 | Committee Referral: JDC | Date: 2/14/2020 | | |
| <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 |
| RHOADS, Karl (C) | ✓ | | | |
| KEOHOKALOLE, Jarrett (VC) | ✓ | | | |
| GABBARD, Mike | ✓ | | | |
| KIM, Donna Mercado | ✗ | ✓ | | |
| FEVELLA, Kurt | | | | ✓ |
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| TOTAL | 3 | 1 | | 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**