

STAND. COM. REP. NO.

408

Honolulu, Hawaii

FEB 18 , 2021

RE: H.B. No. 250
H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committee on Labor & Tourism, to which was referred H.B. No. 250 entitled:

"A BILL FOR AN ACT RELATING TO SEXUAL ASSAULT,"

begs leave to report as follows:

The purpose of this measure is to include as offenses of sexual assault in the second and third degrees, offenses against a person who is stopped by a law enforcement officer and a person who is accompanied by a law enforcement officer for official purposes.

Your Committee did not receive testimony on this measure.

Your Committee finds that there was an incident in which a Honolulu police officer was indicted for the offense of sexual assault in the third degree for knowingly subjecting a teenage girl in custody to sexual contact. The indictment was based upon the interpretation that a person being stopped by a police officer for a traffic infraction was in "custody". However, the indictment was dismissed with prejudice because the court determined that the term "custody" did not include a traffic stop, for purposes of the offense.

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Your Committee further finds that this measure is intended to address the ruling by clarifying that the offenses of sexual assault in the second degree and sexual assault in the third degree include, and explicitly prohibit, a law enforcement officer from knowingly subjecting to sexual penetration or sexual contact, a person who is being stopped by the officer or accompanied by the officer for official purposes, including during a traffic stop.

Your Committee has amended this measure by:

- (1) Changing the effective date to December 25, 2040, to encourage further discussion; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Labor & Tourism that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 250, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 250, H.D. 1, and be referred to your Committee on Judiciary & Hawaiian Affairs.

Respectfully submitted on
behalf of the members of the
Committee on Labor & Tourism,


RICHARD H.K. ONISHI, Chair



