

STAND. COM. REP. NO. 1210

Honolulu, Hawaii

MAR 25 2021

RE: H.B. No. 250
H.D. 2
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 250, H.D. 2, entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to include as offenses of sexual assault in the second degree and sexual assault in the third degree, 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 received testimony in support of this measure from two individuals.

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.



Your Committee further finds that during a traffic stop, the person stopped by the officer is not free to go without permission of the officer, and that their actions during the traffic stop are constrained by legal requirements that, if violated, can subject the person to legal penalties, including possible criminal prosecution. Your Committee additionally finds that it is appropriate and in the public interest to clarify 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 making it effective upon its approval.

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. 250, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 250, H.D. 2, 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



