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

Sir:

Your Committee on Hawaiian Affairs, to which was referred S.B. No. 1246 entitled:

"A BILL FOR AN ACT RELATING TO THE LAW OF THE SPLINTERED PADDLE,"

begs leave to report as follows:

The purpose and intent of this measure is to prohibit a county from enacting any ordinance that prohibits a person from lying by the roadside in safety in accordance with the Law of the Splintered Paddle.

Your Committee received testimony in support of this measure from the American Civil Liberties Union of Hawaiʻi and four individuals. Your Committee received testimony in opposition to this measure from the Center for Hawaiian Sovereignty Studies and one individual.

Your Committee finds that in Hawaii, equal justice under the law has been a mandate codified in the first law of Ke Kanawai Mamalahoe. In his royal edict, Ke Kanawai Mamalahoe, the first law of the Kingdom of Hawaii, Kamehameha galvanized the supremacy of the law, protecting people from physical harm and enshrining equal rights, and protecting the vulnerable from those in more powerful or advantageous positions Furthermore, article IX, section 10, of the Hawaii State Constitution provides that the

State shall have the power to provide for the safety of the people from crimes against persons and property.

Your Committee further finds that in a modern-day context, the spirit of the Law of the Splintered Paddle requires state government to review the conduct of the counties and act as necessary to protect the vulnerable. Enforcement of criminal laws prohibiting people from camping, sitting, lying, or engaging in similar conduct on public property also violates the prohibition on cruel and unusual punishment under the Eighth Amendment of the United States Constitution and article I, section 12, of the Hawaii State Constitution, as applied to houseless persons who have no option to sleep indoors. Saddling a person experiencing houselessness with fines and a criminal record is counterproductive to the goal of helping lift themselves out of poverty and would create collateral consequences of criminal records on a person's ability to secure employment, housing, and critical social services. Therefore, this measure will guide the counties in developing ordinances and supporting initiatives that meaningfully address the needs of our most vulnerable people in the spirit of the Law of the Splintered Paddle.

Your Committee has amended this measure by 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 Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1246, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1246, S.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on behalf of the members of the Committee on Hawaiian Affairs,

MAILE S.L. SHIMABUKURO, Chair

Record of Votes
Committee on Hawaiian Affairs
HWN

Bill / Resolution No.:*	Committee Referral:	Date:
SB 1246	HWN, JDC	2/16/2021

☐ The Committee is reconsidering its previous decision on this measure.

If so, then the previous decision was to: _____

The Recommendation is:

☐ Pass, unamended 2312　　☒ Pass, with amendments 2311　　☐ Hold 2310　　☐ Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
SHIMABUKURO, Maile S.L. (C)	X			
KEOHOKALOLE, Jarrett (VC)	X			
ACASIO, Laura	X			
IHARA, Jr., Les		X		
FEVELLA, Kurt		X		
TOTAL	3	2		

Recommendation:

☒ Adopted　　　　☐ Not Adopted

Chair's or Designee's Signature:

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*Only <u>one</u> measure per Record of Votes

Revised: 1/19/21