

STAND. COM. REP. NO.

1377

Honolulu, Hawaii

MAR 24 , 2021

RE: S.B. No. 294  
S.D. 1  
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 Judiciary & Hawaiian Affairs, to which was referred S.B. No. 294, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO PROPERTY FORFEITURE,"

begs leave to report as follows:

The purpose of this measure is to make the State's civil asset forfeiture process more just by amending the Hawaii Omnibus Criminal Forfeiture Act to:

- (1) Restrict civil asset forfeiture to cases involving the commission of a felony offense where the property owner has been convicted of the underlying felony offense, subject to certain circumstances;
- (2) Direct any forfeiture proceeds to the general fund;
- (3) Amend the allowable expenses for monies in the Criminal Forfeiture Fund;
- (4) Require the Attorney General to adopt rules necessary to carry out the purpose of the Hawaii Omnibus Criminal Forfeiture Act; and



- (5) Amend the deadline for the Attorney General to report to the Legislature on the use of the Hawaii Omnibus Criminal Forfeiture Act.

Your Committee received testimony in support of this measure from the Office of the Public Defender, Young Progressives Demanding Action, Hawai'i Association of Criminal Defense Lawyers, Americans for Democratic Action Hawai'i, Community Alliance on Prisons, Common Cause Hawaii, LGBT Caucus of the Democratic Party of Hawai'i, Drug Policy Forum of Hawai'i, American Civil Liberties Union of Hawai'i, and ten individuals. Your Committee received testimony in opposition to this measure from the Department of Land and Natural Resources, Hawai'i Police Department, Department of the Prosecuting Attorney of the City and County of Honolulu, Department of the Prosecuting Attorney of the County of Maui, Maui Police Department, Honolulu Police Department, and Office of the Prosecuting Attorney of the County of Hawai'i. Your Committee received comments on this measure from the Office of Hawaiian Affairs, Department of Public Safety, Department of the Attorney General, and Grassroot Institute of Hawaii.

Your Committee finds that requiring a criminal conviction before permanently confiscating an offender's property will help to establish an important protection for property owners and ensure fairness in the asset forfeiture process. Your Committee also finds that directing the proceeds from the sale of property forfeited to the general fund will eliminate the financial incentive for law enforcement agencies to seize and keep forfeited property.

Your Committee has amended this measure by:

- (1) Changing the effective date to July 1, 3021, 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 Judiciary & Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 294, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 294, S.D. 1, H.D. 1, and be referred to your Committee on Finance.



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

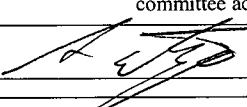


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MARK M. NAKASHIMA, Chair



Record of Votes of the Committee on Judiciary & Hawaiian Affairs

Bill/Resolution No.: SB 294, SDI	Committee Referral: JHA, FIN	Date: 3-16-21		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
JHA Members	Ayes	Ayes (WR)	Nays	Excused
1. NAKASHIMA, Mark M. (C)	✓			
2. MATAYOSHI, Scot Z. (VC)	✓			
3. ICHIYAMA, Linda	✓			
4. KOBAYASHI, Dale T.				✓
5. LoPRESTI, Matthew S.	✓			
6. LOWEN, Nicole E.	✓			
7. McKELVEY, Angus L.K.	✓			
8. NAKAMURA, Nadine K.	✓			
9. TAKUMI, Roy M.	✓			
10. TODD, Chris	✓			
11. TOKIOKA, James Kunane	✓			
12. WARD, Gene	✓			
TOTAL (12)	11	0	0	1
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. _____ committee acronym(s)				
Vice Chair's or designee's signature: 				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				