Honolulu, Hawaii

FEB 0 5 2021

RE: S.B. No. 294

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 S.B. No. 294 entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Restrict civil asset forfeiture to cases involving the commission of a felony offense where the property owner has been convicted of an underlying felony offense; and
- Direct any forfeiture proceeds to the general fund. (2)

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

Your Committee finds that existing civil asset forfeiture procedures in Hawaii allow law enforcement agencies to seize and keep property based on suspicion that the property is connected to criminal activity. Your Committee further finds that this property can be taken without the property owner having been convicted of a crime or even being formally accused of one. Your Committee additionally finds that the State's civil asset forfeiture laws were established over thirty years ago and are in need of updates and refinement.

Your Committee acknowledges the issue raised by a number of testifiers on this measure that the proceeds from civil asset forfeitures supplement the budgets of law enforcement agencies and support important programs relating to public safety. However, your Committee finds that the purpose of civil asset forfeiture should not be addressing budget shortfalls.

Your Committee has amended this measure by:

- (1) Removing language relating to the 2018 Auditor's report from the purpose section;
- (2) Clarifying that the restrictions on civil asset forfeiture shall not prohibit forfeitures authorized under other chapters of the Hawaii Revised Statutes; and
- (3) 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. 294, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 294, S.D. 1, and be placed on the calendar for Third Reading.

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

KARL RHOADS, Chair

The Senate Thirty-First Legislature State of Hawai'i

Record of Votes Committee on Judiciary JDC

Bill / Resolution No.:*	Committee Referral:			Date:	
5B 2 94	JDC			2 2 2021	
The Committee is reconsidering its previous decision on this measure.					
If so, then the previous decision was to:					
The Recommendation is:					
Pass, unamended Pass, with amendments Hold Recommit 2312 2311 2310 2313					
Members		Aye	Aye (WR)	Nay	Excused
RHOADS, Karl (C)		_			
KEOHOKALOLE, Jarrett (VC)		\			
ACASIO, Laura	_	>			
GABBARD, Mike		✓			
KIM, Donna Mercado	· · · · · · · · · · · · · · · · · · ·	/			
LEE, Chris		>			
FEVELLA, Kurt		/			
TOTAL		7	0	0	0
Recommendation:					
Adopted 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