

STAND. COM. REP. NO.

1480

Honolulu, Hawaii

, 2021

**MAR 25**

RE: S.B. No. 386  
S.D. 1  
H.D. 2

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. 386, S.D. 1, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO THE DETENTION OF A MINOR IN AN ADULT JAIL OR LOCKUP,"

begs leave to report as follows:

The purpose of this measure is to require a family court to make findings, after a hearing and in writing, before a minor can be transferred to an adult jail or lockup or be permitted sight or sound contact with adult offenders, subject to certain circumstances.

Your Committee received testimony in support of this measure from the Judiciary, Office of Hawaiian Affairs, Office of Youth Services, and two individuals. Your Committee received comments on this measure from the Office of the Public Defender, Department of Public Safety, and Department of Human Services.

Your Committee finds that the lifelong consequences of transferring a minor to the adult criminal justice system have a profoundly negative effect on the minor and the community. Your Committee further finds that the adult criminal justice system is ill-equipped in meeting the needs of minors. Evidence shows that minors are fundamentally different from adults and are more likely

2021-2843 SB386 HD2 HSCR HMSO



to experience abuse, commit suicide, and be exposed to prolonged periods of isolation. Adult facilities do not provide minors with developmentally appropriate rehabilitative services since adult facilities are not designed or staffed for the rehabilitation of youth. This measure will ensure that Hawaii is in compliance with federal law by maintaining sight and sound separation of minors from adults, except under certain circumstances, and eliminating confusion over the nature and scope of the Family Court's ongoing jurisdiction over minors.

Your Committee has amended this measure by:

- (1) Clarifying language regarding the exception for sight and sound contact between minors and adult inmates;
- (2) Requiring the court to hold a hearing no less frequently than once every thirty days, or in the case of a rural jurisdiction, no less frequently than once every forty-five days, to review whether it remains in the interest of justice to permit the minor to be held in a jail or lockup for adults or to have sight or sound contact with adult inmates;
- (3) Requiring, rather than authorizing, the circuit court to commit all offenders under eighteen years of age, duly convicted before the court, to the Hawaii youth correctional facilities in all cases where the court deems the sentence to be more suitable than the punishment otherwise authorized by law; and
- (4) 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. 386, S.D. 1, H.D. 1, as amended herein, and recommends that it be referred to your Committee on Finance in the form attached hereto as S.B. No. 386, S.D. 1, H.D. 2.



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



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MARK M. NAKASHIMA, Chair



