

STAND. COM. REP. NO. 291

Honolulu, Hawaii

FEB 17 2021

RE: S.B. No. 540  
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. 540 entitled:

"A BILL FOR AN ACT RELATING TO EMERGENCY RULES,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Allow for lesser emergency period penalties to be adopted and promulgated by the Governor or a mayor; and
- (2) Authorize county prosecutors to exercise discretion with the offense charged and penalty sought for certain first-time violations of coronavirus disease 2019 (COVID-19) emergency orders incurred since March 4, 2019.

Prior to the hearing on this measure, your Committee posted and made available for public review a proposed S.D. 1, which removed language authorizing county prosecutors to exercise discretion with the offense charged and penalty sought for certain first-time violations of COVID-19 emergency orders incurred since March 4, 2019, and replaced it with language allowing for the emergency period infractions to be processed under the traffic adjudication process in chapter 291D, Hawaii Revised Statutes.



Your Committee received testimony in support of the proposed S.D.1 from the Department of the Attorney General, Office of the Public Defender, Department of the Prosecuting Attorney for the City and County of Honolulu, and thirty-two individuals. Your Committee received testimony in opposition to the proposed S.D.1 from one individual. Your Committee received comments on the proposed S.D.1 from the Judiciary and one individual.

Your Committee finds that the COVID-19 pandemic has created great challenges in the State relating to public health and the economy. These challenges have necessitated the Governor and county mayors to exercise their emergency powers under chapter 127A, Hawaii Revised Statutes, to impose rules aimed to control the spread of COVID-19. Your Committee further finds that the enforcement of those rules is critical to efforts to protect the health and safety of the community, manage medical resources, and restart the economy. Your Committee additionally finds that allowing violations of emergency orders to be adjudicated similarly to traffic infractions will result in more meaningful and effective enforcement.

Accordingly, your Committee has amended this measure by adopting the proposed S.D.1 and further amending it by:

- (1) Clarifying that an emergency period infraction is in lieu of a violation, petty misdemeanor, or misdemeanor;
- (2) Designating "traffic infraction" and "emergency period infraction" as separate infractions under the infraction adjudication process and amending certain sections of chapter 291D, Hawaii Revised Statutes, accordingly;
- (3) Allowing electronic copies of notices of infractions, notices of infraction adjudication hearings, and notices of infraction judgements to be sent via email;
- (4) Granting the District Court concurrent jurisdiction over emergency period rule infractions committed by minors; and
- (5) 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. 540, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 540, S.D. 1, and be placed on the calendar for Third Reading.

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



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KARL RHOADS, Chair



