

Honolulu, Hawaii

FEB 08 2024

RE: S.B. No. 3274
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2024
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 3274 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 make the State's civil asset forfeiture process more just by:

- (1) Restricting civil asset forfeiture to cases involving the commission of a felony offense where the property owner has been convicted of an underlying felony offense;
- (2) Directing any forfeiture proceeds to the general fund;
- (3) Amending the allowable expenses for moneys in the criminal forfeiture fund;
- (4) Requiring the Attorney General to adopt rules necessary to carry out the purposes of the Hawai'i Omnibus Criminal Forfeiture Act; and
- (5) Amending the deadline for the Attorney General to report to the Legislature on the use of the Hawai'i Omnibus Criminal Forfeiture Act.



Your Committee received testimony in support of this measure from the Office of the Public Defender, Drug Policy Forum of Hawai'i, ACLU of Hawai'i, Americans for Democratic Action Hawai'i, Community Alliance on Prisons, Grassroot Institute of Hawaii, Hawai'i Association of Criminal Defense Lawyers, and one individual.

Your Committee received testimony in opposition to this measure from the Department of Law Enforcement, Department of the Prosecuting Attorney of the City and County of Honolulu, Office of the Prosecuting Attorney of the County of Hawaii, Department of the Prosecuting Attorney of the County of Maui, Office of the Prosecuting Attorney of the County of Kaua'i, Honolulu Police Department, and Hawai'i County Police Department.

Your Committee received comments on this measure from the Department of the Attorney General and one individual.

Your Committee finds that the State's civil asset forfeiture process allows law enforcement agencies to seize and keep property based on suspicion that the property is connected to criminal activity. Property, such as vehicles, houses, cash, and jewelry, can be taken without the property owner having been convicted of a crime or even being formally accused of one, and the burden of proof to recover the seized property is shifted from the State to the property owner. Additionally, there is a potential incentive to improperly seize property for forfeiture, as state and county law enforcement agencies are permitted to retain all proceeds from the sale of forfeited property. This measure will make the State's civil asset forfeiture process more just.

Your Committee has amended this measure by clarifying that, for property to be subject to forfeiture due to a conviction, the owner has to have been convicted of a covered offense by a verdict or plea, all appeals have been exhausted, and all deadlines to appeal have expired.

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. 3274, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3274, S.D. 1, and be referred to your Committee on Ways and Means.



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



KARL RHOADS, Chair



