

Honolulu, Hawaii

FEB 07 2025RE: S.B. No. 871
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Third State Legislature
Regular Session of 2025
State of Hawaii

Sir:

Your Committee on Public Safety and Military Affairs, to which was referred S.B. No. 871 entitled:

"A BILL FOR AN ACT RELATING TO ARSON,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Designate mandatory minimum periods of imprisonment for individuals with previous arson convictions;
- (2) Require additional penalties for arson crimes that endanger vulnerable areas; and
- (3) Require restitution for victims of arson who experienced property damage.

Your Committee received testimony in support of this measure from the Honolulu Police Department.

Your Committee received testimony in opposition to this measure from the Office of the Public Defender.

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



Your Committee finds that existing statutes relating to arson are insufficient to deter individuals from engaging in behavior that endangers public safety. According to the Honolulu Police Department, stricter penalties and longer prison sentences for repeat offenders are essential to tackle the increased danger presented by those with a track record of reckless or harmful behavior. The measure will deter people from committing activities that threaten public safety and essential resources.

However, your Committee also acknowledges concerns raised by other agencies within the criminal justice system regarding the legality of imposing mandatory minimum sentences, additional penalties, and extended term provisions for the type and degree of crimes addressed by this measure. The statutory guidelines for extended terms of imprisonment under state law apply to felony convictions, but this measure imposes extended terms of imprisonment for misdemeanor convictions. The extended term provisions of this measure would violate an individual's right to due process to the extent that it seeks to impose extended terms of imprisonment without the requisite procedural safeguards, including the right to a jury determination.

Accordingly, your Committee has adopted amendments to address the legal issues posed by the penalty scheme.

Your Committee has amended this measure by:

- (1) Clarifying that a person who is convicted of an arson offense that endangers or affects a vulnerable area such as a school, hospital, or living facility may be sentenced to an additional term of imprisonment of five years with the possibility of parole, rather than a mandatory sentence of an additional term of imprisonment of five years;
- (2) Clarifying that a person who is convicted of arson in the first degree and has any prior arson offense may be sentenced to an additional five years of imprisonment with the possibility of parole, rather than a mandatory sentence of an additional mandatory minimum fifteen-year term of imprisonment without possibility for parole;



- (3) Clarifying that a person who is convicted of arson in the second degree and has any prior arson offense may be sentenced to an additional five-year term of imprisonment with the possibility for parole, rather than a mandatory sentence of an additional mandatory minimum five-year term of imprisonment without possibility for parole;
- (4) Amending section 1 to reflect its amended purpose; and
- (5) Inserting an effective date of July 1, 2077, to encourage further discussion.

As affirmed by the record of votes of the members of your Committee on Public Safety and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 871, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 871, S.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Public Safety and
Military Affairs,



BRANDON J.C. ELEFANTE, Chair



