

RE: S.B. No. 149

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii
Sir:

Your Committee on Public Safety, Intergovernmental, and Military Affairs, to which was referred S.B. No. 149 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 asset forfeiture to cases involving the commission of a covered criminal misdemeanor or felony offense;
- (2) Require seized property to be forfeited only when the property owner has been convicted of an underlying covered criminal misdemeanor or felony offense;
- (3) Change the standard of proof that the State must meet in order for property to be forfeited from "preponderance of the evidence" to "beyond a reasonable doubt";
- (4) Require the State to prove that owners consented to or possessed knowledge of the crime that led to the seizure of their property;
- (5) Require that the agency seizing the property pay for safe and secure storage of the seized property until the completion of the forfeiture proceeding or final disposition of the property;
- (6) Direct any proceeds from a civil forfeiture to the general revenue fund for public education purposes; and
- (7) Repeal administrative forfeiture proceedings.

Your Committee received testimony in support of this measure from the Office of the Public Defender, American Civil Liberties Union of Hawaii, Community Alliance on Prisons, Drug Policy Forum of Hawaii, Common Cause Hawaii, Young Progressives Demanding Action, and ten individuals. Your Committee received testimony in opposition to this measure from the Honolulu Police Department and one individual. Your Committee received comments on this measure from the Department of Public Safety, Department of Education, and Office of Hawaiian Affairs.

Your Committee finds that civil asset forfeiture laws are controversial and have been evolving throughout the country over the twenty years since Hawaii passed the Omnibus Criminal Forfeiture Act, which provides for civil asset forfeiture. Hawaii's 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, leaving innocent citizens deprived of personal property. This measure will make the civil forfeiture process fairer to Hawaii citizens by eliminating financial incentives for law enforcement to seize and keep forfeited property and imposing stricter restrictions on the civil forfeiture process.

As affirmed by the record of votes of the members of your Committee on Public Safety, Intergovernmental, and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 149 and recommends that it pass Second Reading and be referred to your Committee on Judiciary.

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

CLARENCE K. NISHIHARA, Chair