

Honolulu, Hawaii

April 24, 2008

RE: S.B. No. 2363
S.D. 2
H.D. 1
C.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

Madam and Sir:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 2363, S.D. 2, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO SEXUAL ASSAULT,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this bill is to provide additional protection to mentally disabled persons who lack the capacity to consent to sexual acts by establishing strict liability for the offense of sexual assault against persons who are mentally defective.

Upon further consideration, your Committee on Conference has made the following amendments to S.B. No. 2363, S.D. 2, H.D. 1:

- (1) Deleted the explicit mens rea language "knowingly" from the offenses of sexual assault in the first and third degrees as applied to persons who are mentally defective;



- (2) Deleted language that eliminated the requirement that the prosecution prove that the person knew the other person was mentally defective;
- (3) Provided for an affirmative defense, in a prosecution for the offenses of sexual assault in the first and third degrees, that the person did not know that the other person was mentally defective;
- (4) Changed the effective date to "upon approval"; and
- (5) Made technical, nonsubstantive changes for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2363, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2363, S.D. 2, H.D. 1, C.D. 1.

Respectfully submitted on behalf
of the managers:

ON THE PART OF THE HOUSE

ON THE PART OF THE SENATE



BLAKE K. OSHIRO, Co-Chair



DAVID Y. IGE, Chair



JOSHUA B. GREEN, M.D., Co-Chair



BRIAN T. TANIGUCHI, Co-Chair



CCR 43

Hawaii State Legislature
 Record of Votes of a
 Conference Committee

Bill / Concurrent Resolution No.: **SB 2363, SD 2, HD 1** Date/Time: **4/24 / '08 5:25pm**

The recommendation of the House and Senate managers is to pass with amendments (CD).

The Committee is reconsidering its previous decision.

The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure

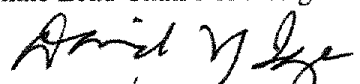
The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.


Senate Managers	A	WR	N	E	House Managers	A	WR	N	E
IGE, David Y., Chr.	✓				OSHIRO, Blake K., Co-Chr.	✓			
TANIGUCHI, Brian T., Co-Chr.	✓				GREEN, Josh, M.D., Co-Chr.	✓			
GABBARD, Mike	✓				LUKE, Sylvia	✓			
WHALEN, Paul				✓	PINE, Kymberly Marcos	✓			
TOTAL	3			1	TOTAL	4			

A = Aye WR = Aye with Reservations N = Nay E = Excused

Senate Recommendation is:
 Adopted Not Adopted

House Recommendation is:
 Adopted Not Adopted

Senate Lead Chair's or Designee's Signature:


House Lead Chair's or Designee's Signature:


Distribution: Original Yellow Pink Goldenrod
 File with Conference Committee Report House Clerk's Office Senate Clerk's Office Drafting Agency