

STAND. COM. REP. NO.

3018

Honolulu, Hawaii

MAR 19 2008

RE: H.B. No. 2346
H.D. 2
S.D. 1

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

Madam:

Your Committee on Human Services and Public Housing, to which was referred H.B. No. 2346, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO ENDANGERING THE WELFARE OF A MINOR,"

begs leave to report as follows:

The purpose of this measure is to amend the penal law concerning the offense of endangering the welfare of a minor.

Specifically, this measure would expand the crime of endangering the welfare of a minor in the first degree, which is a class C felony, to include Schedule I, II, and III controlled substances. The measure would also expand the misdemeanor offense of endangering the welfare of a minor in the second degree to include Schedule I and II controlled substances.

Testimony in support of this measure was submitted by the Department of Public Safety and the Department of the Prosecuting Attorney of the City and County of Honolulu. Testimony in opposition to this measure was submitted by Community Alliance on Prisons and the Drug Policy Forum of Hawai'i. Written comments on the measure were submitted by the Office of the Public Defender.

Your Committee finds that this measure would create greater protection for the health and safety of the children of Hawaii, and is necessary because of the high risk of injury ingestion of Schedule I, II, and III controlled substances can cause. As

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suggested by the Department of Public Safety and the Department of the Prosecuting Attorney, your Committee further finds that Schedule IV drugs should be added to the lists of both offenses because of these substances' commonality and high instance of abuse in the community.

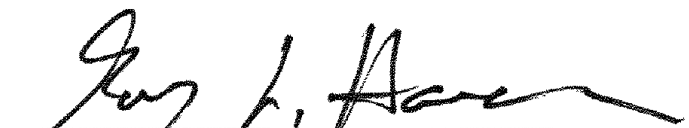
Your Committee notes that, as suggested by the Department of Public Safety, adding Schedule III and IV controlled substances to the offense of endangering the welfare of a minor in the second degree generally should not apply to mothers who breastfeed and unwittingly introduce Schedule I, II, III, or IV controlled substances into their babies' systems because this offense requires a "reckless" state of mind which requires an individual to demonstrate a conscious disregard for substantial and unjustifiable risk in the course of their conduct.

Accordingly, your Committee has amended this measure by:

- (1) Incorporating the comments of the Department of Public Safety by adding Schedule IV controlled substances to the description of endangering the welfare of a minor in the first degree, and by adding Schedule III and IV controlled substances to the description of endangering the welfare of a minor in the second degree; and
- (2) By changing the effective date to "upon approval".

As affirmed by the record of votes of the members of your Committee on Human Services and Public Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2346, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2346, H.D. 2, S.D. 1, and be referred to the Committee on Judiciary and Labor.

Respectfully submitted on
behalf of the members of the
Committee on Human Services and
Public Housing,

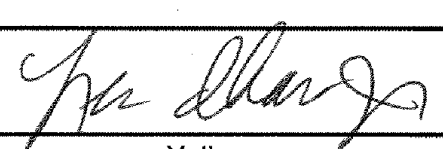


SUZANNE CHUN OAKLAND, Chair



The Senate
Twenty-Fourth Legislature
State of Hawaii

Record of Votes
Committee on Human Services and Public Housing
HSP

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 2346, HD 2	HSP, JDL	3/13/08		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
CHUN OAKLAND, Suzanne (C)	✓			
IHARA, Jr., Les (VC)	✓			
HOOSER, Gary L.				✓
SAKAMOTO, Norman	✓			
HEMMINGS, Fred				✓
TOTAL	3	0	0	2
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original	Yellow	Pink		
File with Committee Report	Clerk's Office	Drafting Agency		

*Only one measure per Record of Votes