

**BY FAX 586-9456**

Committee: Committee on Judiciary
 Hearing Date/Time: Thursday, March 20, 2008, 2:25 p.m.
 Place: Room 325
 Re: Testimony of the ACLU of Hawaii in Opposition to S.B. 2784, SD1,
 Relating to the Power of Arrest

Dear Chair Waters and Members of the Committee on Judiciary:

The American Civil Liberties Union of Hawaii ("ACLU of Hawaii") writes in opposition to S.B. 2784, SD1, which seeks to unnecessarily expand police power and the potential for its abuse in Hawaii by giving United States Marshal Service agents the right to arrest individuals under state law without a warrant. The opportunity for abuse of this right is great, given that these federal officers lack the same familiarity, training and oversight as Hawaii state law enforcement officers with regard to the Hawaii Constitution and state law.

S.B. 2784, SD1, muddies the distinction between state and federal law and authorities and subsequently threatens the civil rights of Hawaii citizens. This bill threatens our system of government, which is based on principles of federalism and allocates powers between the states and the federal government. This Committee should be mindful of bills that seek to erode Hawaii's independence by freely giving away powers to the federal government. Federal officers have great powers under federal law and may attempt to use these powers to circumvent privacy rights under the Hawaii Constitution. For instance, under S.B. 2784, federal officers may use Hawaii law as a pretext to search someone without a warrant. The legislature should consider alternative ways of combating crime rather than allowing federal authorities to evade the mandates of the Hawaii Constitution and abuse the rights of Hawaii citizens.

The ACLU of Hawaii's mission is to protect the fundamental freedoms enshrined in the U.S. and Hawaii Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for over 40 years.

Thank you for this opportunity to testify.

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000061

TESTIMONY BEFORE THE HOUSE COMMITTEE
ON JUDICIARY

March 20, 2008

RE: S.B. No. 2784, S.D. 1-RELATING TO THE POWER OF ARREST

Chair Waters and Members of the Judiciary Committee:

My name is Jay Bieber and I am submitting **written testimony in support** of this bill. I am submitting this testimony as a resident of Hawaii and private individual and do not represent the views of any law enforcement agency.

The purpose of this bill is to permit certain federal law enforcement officers to arrest individuals for violations of certain state laws.

The state of Hawaii has an unused available resource in its federal marshals. These individuals work in the neighborhoods in our state everyday investigating criminal cases, seeking out wanted individuals and interacting with members of the community. By granting additional powers to federal marshals you are giving a tool to assist them in conducting their investigations, and you are also making use of the available resource by allowing federal officers to take a more active role when they see criminal acts occurring in their community.

Often federal marshals come into contact with state fugitives or witness criminal behavior during the course of their duties that may be violations of state laws. When these situations occur federal marshals occasionally act, but quite frequently they choose not to involve themselves because they are concerned about whether they have proper authority to arrest, or the potential criminal charges they face if the situation becomes violent and they acted without authority.

Here is an example of how the law may be applied. Deputy Marshals, while searching for a fugitive, travel to a location that the fugitive is known to frequent. While there they come into contact with several of the fugitives associates. After checking the state computer one of these individuals is identified as a having an outstanding warrant for assault. The deputies arrest the individual and transport him to the appropriate facility for state processing.

This statute in no way will diminish the authority or role of the county and state law enforcement organizations, but will increase the law enforcement presence in the neighborhoods and communities of Hawaii.

I ask for your favorable support of this bill. Thank you.

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