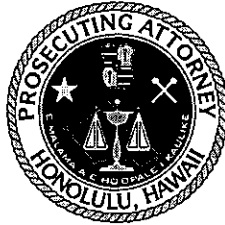


SB 130

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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THE HONORABLE DAVID IGE, CHAIR
SENATE HEALTH COMMITTEE
Twenty-fifth State Legislature
Regular Session of 2009
State of Hawai'i

February 09, 2009

RE: S.B. 130; RELATING TO CONTROLLED SUBSTANCES.

Chair Ige and members of the Senate Committee on Health, the Department of the Prosecuting Attorney submits the following testimony in opposition to S.B. 130.

The purpose of this bill is to provide statutory immunity to asset forfeiture pursuant to chapter 712A, Hawaii Revised Statutes (HRS) and criminal charges pursuant to either chapter 712 part IV or chapter 329 for persons who are experiencing a drug overdose or who summon assistance for another experiencing a drug overdose when evidence of the violation is gained as a result of the seeking of medical assistance. The bill also provides the immunity shall not apply to persons who sold the drugs to the victim.

We object to this bill because we believe that it fails to see the broader picture of drug abuse, that often mandated drug treatment and supervision are often the first and most important step in getting persons addicted to drugs to motivate people to try and change and to get them into treatment. In short, this may be one of the teachable moments. We note that there are multiple avenues of diversions to treatment in the criminal justice system ranging from Drug Court, drug treatment as a condition of probation or parole and mandated probation under HRS 706-622.5 and 706-622.9. Immunity from criminal prosecution will foreclose the access to the treatment and monitoring of these programs. Without this opportunity for treatment and supervision, it will be up to the addicted person to obtain treatment and supervision through another avenue.

For this reason, we oppose the passage of this bill and thank you for this opportunity to testify.



the
**Drug Policy
Forum**
of hawaii

February 9, 2009

To: Senator David Ige, Chair
Senator Josh Green, M.D., Vice Chair
And Members of the Committee on Health

From: Jeanne Ohta, Executive Director

RE: SB 130 RELATING TO CONTROLLED SUBSTANCES
Hearing: February 9, 2009, 2:45 p.m., Room 016

Position: Support

I am Jeanne Ohta, Executive Director of the Drug Policy Forum of Hawai'i. Thank you for this opportunity to testify in support of SB 130 which establishes limited immunity for seeking medical assistance for victims of drug overdoses.

This measure is modeled after New Mexico's 911 Good Samaritan law and recognizes that many drug-related overdoses occur in the presence of close friends, family or acquaintances. Providing legal immunity encourages those present at the time of a suspected overdose to call for help immediately.

People using drugs are afraid to be arrested for possession of illegal substances, even in cases when their friends or family need professional medical assistance. They may try other methods to revive the overdose victim instead of calling 911.

I suggest however, that Section 2 (b) (3)--note that the bill incorrectly denotes that item as (c)--be deleted. The intent of this measure is to encourage anyone who witnesses an overdose to call for emergency help. This provision does not provide that encouragement nor does it support the intent of the rest of the bill.

The U.S. Conference of Mayors (2008) adopted a resolution which supports the establishment of Good Samaritan policies to reduce the number of preventable overdose deaths.

The measure puts the focus on saving lives and preventing deaths from overdose rather than on arresting victims and their friends for possessing small amounts of drugs.

Please pass SB 130; it is sensible policy which can help save lives.

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