

HB 1771, HD1

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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THE HONORABLE CLAYTON HEE, CHAIR
SENATE JUDICIARY AND LABOR COMMITTEE
Twenty-sixth State Legislature
Regular Session of 2012
State of Hawai'i

Wednesday, March 14, 2012

RE: H.B. 1771, H.D. 1; RELATING TO FELONIES FOR WHICH CRIMINAL CHARGES
MAY BE INSTITUTED BY WRITTEN INFORMATION.

Chair Keith-Agaran, Vice Chair Rhoads, and members of the House Committee on
Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu
submits the following testimony in support of H.B. 1771, H.D. 1 that adds felonies for which
criminal charges may be instituted by written information.

The purpose of this bill is to amend section 806-83, Hawaii Revised Statutes (HRS) to
include the following felonies for which criminal charges may be instituted by written
information: section 708-803 habitual property crime, 708-812.55 unauthorized entry into a
dwelling in the first degree, section 708-812.6 unauthorized entry into a dwelling in the second
degree, and section 708-835.7 theft of copper. The felonies being added for which criminal
charges may be instituted by written information is comparable to the other felonies currently
listed in the statute.

When new criminal laws were passed or amended, unfortunately, the written information
law was not updated. This bill makes the written information law current. Therefore, H.B. 1771,
H.D. 1 is basically a housekeeping bill.

With this bill, the Department of the Prosecuting Attorney of the City and County of
Honolulu will be able to proceed with charges in a more efficient manner. For these reasons, we
strongly support the passage of H.B. 1771, H.D. 1. Thank you.

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CITY AND COUNTY OF HONOLULU

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RE: H.B. 1771, H.D. 1; RELATING TO FELONIES FOR WHICH CRIMINAL CHARGES MAY BE INSTITUTED BY WRITTEN INFORMATION.

Chair Hee, Vice Chair Shimabukuro, and members of the Senate Committee on Judiciary and Labor, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in support of H.B. 1771, H.D. 1.

The purpose of H.B. 1771, H.D. 1, is to amend Section 806-83, Hawaii Revised Statutes ("HRS") to include the following sections to those felonies for which criminal charges may be instituted by written information: HRS §708-803 habitual property crime, HRS §708-812.55 unauthorized entry into a dwelling in the first degree, HRS §708-812.6 unauthorized entry into a dwelling in the second degree, and HRS §708-835.7 theft of copper.

Because the written information law was not previously updated when new criminal laws were passed or amended, this bill would help to update the written information law. It would also allow the Department to proceed with charges in a more efficient manner. The felonies to be added under this bill are comparable to other felonies already listed in the statute.

For all of the reasons noted above, the Department of the Prosecuting Attorney of the City and County of Honolulu strongly supports H.B. 1771, H.D. 1. Thank for you the opportunity to testify on this matter.

COMMUNITY ALLIANCE ON PRISONS

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COMMITTEE ON JUDICIARY AND LABOR

Senator Clayton Hee, Chair

Senator Maile Shimabukuro, Vice Chair

Wednesday, March 14, 2012

10:00 a.m.

Room 016

STRONG OPPOSITION TO HB 1771 HD1 - INFORMATION CHARGING

Aloha Chair Hee, Vice Chair Shimabukuro and Members of the Committee!

My name is Kat Brady and I am the Coordinator Community Alliance on Prisons, a community initiative promoting smart justice policies for more than a decade. This testimony is respectfully offered always mindful that 6,000 Hawai'i individuals are living behind bars, including 1,800 men who are serving their sentences abroad, thousands of miles from their loved ones, their homes and, for the disproportionate number of incarcerated Native Hawaiians, far from their ancestral lands.

HB 1771 HD1 amends section 806-83, HRS, to add felonies for which criminal charges may be instituted by written information (section 708-803 (habitual property crime), section 708- (unauthorized entry in a dwelling in the first degree), section 708-812.6 (unauthorized entry in a dwelling in the second degree), and section 708-835.7 (theft of copper).

Community Alliance on Prisons is in strong opposition to this measure. In our humble opinion, this bill is an example of Lazy Justice that was brought to us by former Honolulu Prosecutor Peter Carlisle.

It denies the defendant the right to face his/her accuser because the prosecutor is allowed to file written charges with the court. Information charging denies due process rights, a basic tenet of our judicial system. When this law was passed then-prosecutor Carlisle told the legislature that 38 states had this law - this was NOT TRUE since only 11 states had any law like this at the time AND we've been advised that Hawai'i's law is different than all the other jurisdictions.

Sadly, Hawai'i's Constitution was amended on the mis-information that was presented to the legislature and the public at the time.

We objected at the time because we were concerned that this law would serve as a platform on which to hang other charges....sadly, this bill illustrates that our concerns are valid.

The process of adversarial scrutiny adds to the credibility of our criminal justice system. This law changed our system of checks and balances in the judicial process and eliminated the safeguards to protect the innocent.

Please HOLD this measure. Mahalo for the opportunity to testify.

From: [Catherine Lampton](#)
To: [JDLTestimony](#)
Subject: HB 1771 HD 1
Date: Monday, March 12, 2012 9:14:11 AM

Aloha Sirs:

I am writing in strong opposition to HB 1771 HD 1 because:

- This BAD BILL is an example of Lazy Justice that was brought to us by former Honolulu Prosecutor Peter Carlisle
- It denies the defendant the right to face his/her accuser because the prosecutor is allowed to file written charges with the court
- Information charging denies due process rights, a basic tenet of our judicial system
- Information charging
- When this law was passed Carlisle told the legislature that 38 states had this law – this NOT TRUE since only 11 states had any law like this at the time AND Hawai`i's law is different than all the other jurisdictions
- The Hawai`i Constitution was amended on the false information that Carlisle presented to the legislature
- Kat Brady at CAP objected at the time because of the concern that this law would serve as a platform on which to hang other charges....sadly, this bill illustrates that the concern is valid
- The process of adversarial scrutiny adds to the credibility of our criminal justice system
- This law changed our system of checks and balances in the judicial process
- This bill eliminates safeguards to protect the innocent

Mahalo for your time and energy to support justice for all citizens!

Catherine Lampton
Keaau 96749

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: maukalani78@hotmail.com
Subject: Testimony for HB1771 on 3/14/2012 10:00:00 AM
Date: Monday, March 12, 2012 7:36:25 AM

Testimony for JDL 3/14/2012 10:00:00 AM HB1771

Conference room: 016
Testifier position: Oppose
Testifier will be present: No
Submitted by: Elaine Funakoshi
Organization: Individual
E-mail: maukalani78@hotmail.com
Submitted on: 3/12/2012

Comments:

Dear Chair Hee, Vice Chair Shimabukuro, and Committee Members:

I oppose HB 1771 HD1. I've submitted testimony previously on this bill so may it suffice to say that this bill does not give equal justice to the offender who should have a voice in the decision upon his life. Documents can be misinterpreted.

Thank you or your consideration of my humble testimony.

Mahalo and Aloha,
Elaine Funakoshi

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: evernw@aol.com
Subject: Testimony for HB1771 on 3/14/2012 10:00:00 AM
Date: Sunday, March 11, 2012 10:31:59 PM

Testimony for JDL 3/14/2012 10:00:00 AM HB1771

Conference room: 016
Testifier position: Oppose
Testifier will be present: No
Submitted by: Evern E Williams
Organization: Individual
E-mail: evernw@aol.com
Submitted on: 3/11/2012

Comments:
I strongly oppose HB 1771 HD 1.

We must protect, and not destroy, safeguards to protect the innocent!

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: mattrifkin28@gmail.com
Subject: Testimony for HB1771 on 3/14/2012 10:00:00 AM
Date: Sunday, March 11, 2012 11:47:35 AM

Testimony for JDL 3/14/2012 10:00:00 AM HB1771

Conference room: 016
Testifier position: Oppose
Testifier will be present: No
Submitted by: Matthew Rifkin
Organization: Individual
E-mail: mattrifkin28@gmail.com
Submitted on: 3/11/2012

Comments:

Aloha. I am a Big Island resident, and I strongly oppose this bill.

Our constitution protects the individual by requiring a person to face their accuser in court. By allowing the prosecutor to file only written charges goes against this very basic principal. What is to stop the state from filing many extra, frivolous charges so as to extract a plea to something less?

How does this protect the innocent? Who will monitor it?

Please hold this bill.

From: [Robert Petricci](#)
To: [JDLTestimony](#)
Subject: HB 1771 HD1
Date: Sunday, March 11, 2012 6:37:35 PM

I stand in strong opposition to HB 1771 HD1 is an example of Lazy Justice that was brought to us by former Honolulu Prosecutor Peter Carlisle. the field has been tilted to far in favor of the state already we need to protect those rights given us as we have lost far to many already.

- It denies the defendant the right to face his/her accuser because the prosecutor is allowed to file written charges with the court
- Information charging denies due process rights, a basic tenet of our judicial system
- Information charging
- When this law was passed Carlisle told the legislature that 38 states had this law – this NOT TRUE since only 11 states had any law like this at the time AND Hawai`i's law is different than all the other jurisdictions
- The Hawai`i Constitution was amended on the false information that Carlisle presented to the legislature
- We objected at the time because we were concerned that this law would serve as a platform on which to hang other charges....sadly, this bill illustrates that our concerns are valid
- The process of adversarial scrutiny adds to the credibility of our criminal justice system
- This law changed our system of checks and balances in the judicial process
- This bill eliminates safeguards to protect the innocent