

DEPARTMENT OF THE PROSECUTING ATTORNEY  
**CITY AND COUNTY OF HONOLULU**

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THE HONORABLE GILBERT S.C. KEITH-AGARAN, CHAIR  
HOUSE JUDICIARY COMMITTEE  
Twenty-sixth State Legislature  
Regular Session of 2012  
State of Hawai`i

Tuesday, February 7, 2012

RE: H.B. 1771; 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 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 is basically a housekeeping bill.

Also, please amend this bill to reflect that unauthorized entry into a dwelling in the first degree is numbered in the HRS as section 708-812.55. When we introduced this bill, this new law was not yet numbered.

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. Thank you.



Committee: Committee on Judiciary  
Hearing Date/Time: Tuesday, February 7, 2012, 2:00 p.m.  
Place: Room 325  
Re: Testimony of the ACLU of Hawaii in Opposition to H.B. 1771

Dear Chair Keith-Agaran and Members of the Committee on Judiciary:

The American Civil Liberties Union of Hawaii ("ACLU of Hawaii") writes in opposition to H.B. 1771, which adds to those felonies that may be initiated by information charging.

Information charging authorizes the initiation of felony prosecutions by written information. The ACLU of Hawaii continues to be opposed to information charging generally, as we believe it poses potential constitutional rights' violations. Adding to the list of those felonies that may be initiated by information charging would subject a large and ever growing number of people to a potentially unconstitutional government procedure.

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State 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.

Sincerely,

Laurie A. Temple  
Staff Attorney  
ACLU of Hawai'i

American Civil Liberties Union of Hawai'i  
P.O. Box 3410  
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# COMMUNITY ALLIANCE ON PRISONS

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## COMMITTEE ON JUDICIARY

Rep. Gilbert Keith-Agaran, Chair

Rep. Karl Rhoads, Vice Chair

Tuesday, February 7, 2012

2:00 p.m.

Room 325

## OPPOSITION TO HB 1771 - INFORMATION CHARGING

Aloha Chair Keith-Agaran, Vice Chair Rhoads 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 Amends Section 806-83, HRS, to add felonies for which criminal charges may be instituted by written information.

Community Alliance on Prisons is opposed to this measure remembering the exaggerated claims of the former prosecutor in 2002 when he lobbied hard to diminish due process protections for people accused of certain crimes. At that time he told the legislature that 38 states had adopted written information. This was not true since only 11 states had actually adopted this process at the time. Our most precious document, the Constitution, was amended on the false information provided by that prosecutor.

Our concern at that time with written information/information charging was that this would be a 'Christmas tree' law that would be used as a platform on which to hang more and more violations of law, further diminishing due process protections for those accused. Sadly this has come to pass and our quality of justice has suffered.

This law does not give the accused the right to face his/her accuser, thus it does diminish due process protections. The current system provides safeguards to protect the innocent. The process of adversarial scrutiny adds to the credibility of our criminal justice system and this law changed our system of checks and balances with the judicial process.

Community Alliance on Prisons therefore respectfully asks the committee to HOLD this measure.

Mahalo for this opportunity to testify.

Testimony for HB1771 on 2/7/2012 2:00:00 PM

**Testimony for HB1771 on 2/7/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Saturday, February 04, 2012 6:10 PM

**To:** JUDtestimony

**Cc:** maukalani78@hotmail.com

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Testimony for JUD 2/7/2012 2:00:00 PM HB1771

Conference room: 325

Testifier position: Oppose

Testifier will be present: No

Submitted by: elaine funakoshi

Organization: Individual

E-mail: maukalani78@hotmail.com

Submitted on: 2/4/2012

Comments:

OPPOSITION TO HB 1771 - INFORMATION CHARGING

Dear Chair Keith-Agaran, Vice Chair Rhoads and Members of the Committee!

OPPOSE HB 1771. There is no equal justice when the offender does not have a voice in the decision making of his case. A person's life is in your hands when you write legislation. Please take into consideration that they belong to a ohana who bear the brunt of your decision also.

Thank you for the opportunity to submit my comments for your consideration.

With aloha,  
elaine funakoshi

Testimony for HB1771 on 2/7/2012 2:00:00 PM

**Testimony for HB1771 on 2/7/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Sunday, February 05, 2012 3:20 PM

**To:** JUDtestimony

**Cc:** shaglund@hotmail.com

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Testimony for JUD 2/7/2012 2:00:00 PM HB1771

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Sue Haglund  
Organization: Individual  
E-mail: shaglund@hotmail.com  
Submitted on: 2/5/2012

Comments:

Testimony for HB1771 on 2/7/2012 2:00:00 PM

**Testimony for HB1771 on 2/7/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Monday, February 06, 2012 3:05 PM

**To:** JUDtestimony

**Cc:** MolokaiMAN@basicisp.net

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Testimony for JUD 2/7/2012 2:00:00 PM HB1771

Conference room: 325

Testifier position: Support

Testifier will be present: No

Submitted by: George Peabody

Organization: <http://www.MolokaiAdvertiserNews.com>

E-mail: MolokaiMAN@basicisp.net

Submitted on: 2/6/2012

Comments:

Amend to include obstruction of justice by Prosecutors and Attorney Generals & deputies who refuse to comply with chapter 805 prosecution of crimes reported directly to prosecutor; and, add Assault committed by police officers against photographers taking pictures of police in action.