

**Testimony of the Office of the Public Defender
State of Hawaii
to the House Committee on Judiciary**

February 9, 2012

H.B. No. 2771: RELATING TO CONTROLLED SUBSTANCES

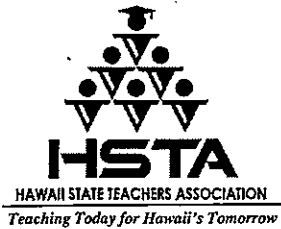
Chair Keith-Agaran and Members of the Committee:

We oppose passage of H.B. No. 2771. This bill would increase the offense zone for the distribution or possession with intent to distribute a controlled substance or the manufacture of methamphetamine from 750 to 1500 feet from a school or public park. Offenses committed within this zone would be classified as a Class "A" felony.

We seriously question the need for this measure. Presumably, the bill is designed to protect children from these controlled substance offenses. There has been no demonstrated need for this legislation. There does not appear to be a prevailing problem involving dealers and manufacturers doing business just outside of the 750 foot radius around schools or public parks. Increasing the zone to 1500 feet appears to be arbitrary or perhaps, aimed at a certain situation which is rarely a sufficient basis for changing the law

The 1500 feet zone established by this offense is also problematic. This is a large area. In certain densely populated areas of town, it is difficult to be more than 1500 feet from any school or park, wherever a person is. Thus, even if a person has no intent to commit these offenses anywhere near a school or park, he/she could fall within the purview of this measure simply by being in an urban, densely populated area of the city.

Thank for the opportunity to comment on this measure.



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**TESTIMONY BEFORE THE HOUSE COMMITTEE ON
JUDICIARY**

RE: HB 2771: RELATING TO CONTROLLED SUBSTANCES.

THURSDAY, FEBRUARY 9, 2012

**WIL OKABE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION**

Chair Keith-Agaran and Members of the Committee:

The Hawaii State Teachers Association strongly supports HB 2771 relating to controlled substances that increases the protected areas around schools and public parks to 1,500 feet for our students, teachers and other members of the community.

We are all aware of the dangers and risks posed by the distribution and use of drugs near our schools and public parks. Protected zones around schools and public parks offer communities one way to give our students a place where they can play and talk without being threatened by persons who violate the law. Passing the amendment to raise the protected zone to 1,500 feet provides us with the means to make a real difference in protecting our children in an aggressive, fair and equal manner.

Thank you for the opportunity to testify.



the
**Drug Policy
Forum**
of hawai'i

February 9, 2012

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To: Representative Gilbert Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair and
Members of the Committee on Judiciary

From: Jeanne Y. Ohta, Executive Director

Re: HB 2771 Relating to Controlled Substances
Hearing: February 9, 2012, 2:00 p.m., Room 325

Position: STRONG OPPOSITION

The Drug Policy Forum of Hawai'i writes in strong opposition to HB 2771 Relating to Controlled Substances, which would increase the areas that provide for enhanced penalties to a 1,500 foot perimeter and increase the charges for all acts of promoting a controlled substance to Class A felonies.

In 2006, the Justice Policy Institute ("Disparity by Design") found that policies such as these which heighten penalties for drug activity near schools, playgrounds, and other designated locations fail to protect youth from drug sales and worsen racial disparity in prisons. While not achieving the intended goals, these laws contribute to unacceptably high levels of racial disparity in the use of incarceration and subject people of color to stiffer punishment.

The laws blanket densely-populated areas with overlapping zones and are frequently applied to transactions that take place in private residences, far from schools, and with no children present. The reason these laws create disparities is that urban areas have denser populations. The net that is cast by the 1,500 foot perimeter includes more people in Kalihi than in Kahala. This measure in particular targets poor people by increasing the perimeter to 1,500 feet which would include many residences in apartment buildings.

A task force is currently working on recommendations as a result of another Justice Policy Institute report: "The Disparate Treatment of Native Hawaiians in the Criminal Justice System;" and another set of recommendations have been made by the Justice Reinvestment Initiative. The proposals in this measure go against some of these recommendations, in essence they are the sort of policies that add to the problems that those two initiatives are now attempting to correct.

This measure is especially draconian. It will add tremendously to prison sentences and increase our prison costs; and as research has shown, will not increase public safety. Thank you for this opportunity to provide testimony on this important matter.