



Committee: Committee on Judiciary and Labor
Hearing Date/Time: Tuesday, January 31, 2012, 9:10 a.m.
Place: Room 016
Re: Testimony of the ACLU of Hawaii in Opposition to S.B. 2058

Dear Chair Hee and Members of the Judiciary and Labor Committee:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in opposition to S.B. 2058, 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

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COMMITTEE ON JUDICIARY AND LABOR

Senator Clayton Hee, Chair

Senator Maile Shimabukuro, Vice Chair

Tuesday, January 31, 2012

9:10 a.m.

Room 016

OPPOSITION TO SB 2058 - 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.

SB 2058 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 concern with written information/information charging was that this would be a 'christmas tree' law that would be used as a platform 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.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
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PETER B. CARLISLE
MAYOR



LOUIS M. KEALOHA
CHIEF

DAVE M. KAJIHIRO
MARIE A. McCAULEY
DEPUTY CHIEFS

OUR REFERENCE RC-NTK

January 31, 2012

The Honorable Clayton Hee, Chair
and Members
Committee on Judiciary and Labor
State Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chair Hee and Members:

Subject: Senate Bill No. 2058, Relating to Felonies for Which Criminal Charges May be Instituted by
Written Information

I am Lester Hite, Captain of the Criminal Investigation Division of the Honolulu Police
Department, City and County of Honolulu.

The Honolulu Police Department supports Senate Bill No. 2058, Relating to Felonies for Which
Criminal Charges May be Instituted by Written Information.

Adding the offenses of Habitual Property Crime, Unauthorized Entry in a Dwelling in the Second
Degree, and Theft of Copper helps to streamline the judicial process by eliminating the need for a
preliminary hearing.

This process means that the victims and witnesses will only be required to appear in court for the
criminal trial of the defendant(s), thereby eliminating the burden of missing work.

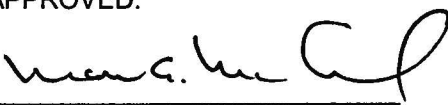
The Honolulu Police Department urges you to support Senate Bill No. 2058.

Thank you for the opportunity to testify.

Sincerely,


LESTER HITE, Captain
Criminal Investigation Division

APPROVED:


LOUIS M. KEALOHA
Chief of Police

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: maukalani78@hotmail.com
Subject: Testimony for SB2058 on 1/31/2012 9:10:00 AM
Date: Monday, January 30, 2012 10:19:00 AM

Testimony for JDL 1/31/2012 9:10:00 AM SB2058

Conference room: 016
Testifier position: Oppose
Testifier will be present: No
Submitted by: elaine funakoshi
Organization: Individual
E-mail: maukalani78@hotmail.com
Submitted on: 1/30/2012

Comments:
Chair Hee and Vice Chair Simabukuro:

OPPOSE because: Our system is based on equality and this bill takes that away from the offender.

Thank you for opportunity to submit my testimony.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: richard.minatoya@mauicounty.gov
Subject: Testimony for SB2058 on 1/31/2012 9:10:00 AM
Date: Monday, January 30, 2012 9:14:53 AM

Testimony for JDL 1/31/2012 9:10:00 AM SB2058

Conference room: 016
Testifier position: Support
Testifier will be present: No
Submitted by: Richard K. Minatoya
Organization: Dept. of the Prosecuting Attorney, County of Maui
E-mail: richard.minatoya@mauicounty.gov
Submitted on: 1/30/2012

Comments:

The Department of the Prosecuting Attorney supports the passage of SB 2058. The bill proposes to add new offenses to the list of offenses subject to information charging, which was probably an oversight when the offenses were enacted. Passage of this bill will help streamline the the information charging process that was approved by Hawaii's voters.

Thank you very much for the opportunity to provide this testimony.