

SB2158

**Testimony of the Office of the Public Defender
State of Hawaii
to the Senate Committee on Judiciary and Labor**

February 9, 2012

S.B. No. 2158: RELATING TO BAIL

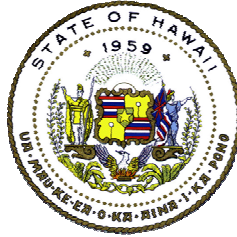
Chair Hee and Members of the Committee:

We support section 2 of S.B. No. 2158. Currently, if a person is taken into custody by the Department of Public Safety during non-regular business hours -- specifically, nights, weekends and holiday -- that person is not able to post bail during those hours. This is the case even if the person is in current possession of the bail amount. The current situation means that, once a person is in the custody of Public Safety, that person can only post bail at the courthouse during normal business hours.

The right to bail is guaranteed by both the United States and Hawaii Constitutions. H.R.S. § 804-3 also statutorily assures the right to bail for persons charged with criminal offenses except in certain, very limited, instances. By not accepting bail, the entity which has custody of a detainee is, effectively, denying that person of his/her constitutional and statutory right to bail. This situation is particularly egregious when a detainee has the required amount of bail in his/her possession but cannot convey that amount to the appropriate authority to gain his/her immediate release. The right to bail should not be dependent upon the day of the week that a person is received into custody.

Thank for the opportunity to comment on this measure.

NEIL ABERCROMBIE
GOVERNOR



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DEPARTMENT OF PUBLIC SAFETY

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No. _____

TESTIMONY ON SENATE BILL 2158
A BILL FOR AN ACT RELATING TO BAIL

By

Jodie F. Maesaka-Hirata, Director
Department of Public Safety

Committee on Judiciary and Labor
Senator Clayton Hee, Chair
Senator Maile S. L. Shimabukuro, Vice Chair

Tuesday, February 9, 2012, 9:30 AM
State Capitol, Room 016

Chair Hee, Vice Chair Shimabukuro and Members of the Committee:

The Department of Public Safety (PSD) supports the intent of Senate Bill 2158 that would require law enforcement agencies to accept cash bail, certified copies of pre-filed bail bonds, and original bail bonds when the court is closed, including nights, weekends, and holidays to facilitate the prompt release after acceptance of bail. The Department presently does not have the staff at this time to accommodate this added service. Senate Bill 2158 would also require that all law enforcement agencies accepting cash bail or an original bail bond submit the cash or bail to the court with jurisdiction no later than 4:00 PM on the first business day following acceptance. This requirement, especially on the neighbor islands and rural areas, could cause difficulties in law enforcement agencies complying with delivering the cash or bond within the specified 4:00 PM time limit to the court with jurisdiction.

Thank you for allowing me to comment on Senate Bill 2158.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: MolokaiMAN@basicisp.net
Subject: Testimony for SB2158 on 2/9/2012 9:30:00 AM
Date: Monday, February 06, 2012 5:46:59 PM

Testimony for JDL 2/9/2012 9:30:00 AM SB2158

Conference room: 016
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:

Yes, emphasis on IMMEDIATE RELEASE because we are innocent until PROVEN GUILTY and have a right to be at LIB ERTY and free.

Just as important, stop arresting people for NON CRIMES such as pakalolo possession.