



SB2158
RELATING TO BAIL
House Committee on Judiciary

March 13, 2012

2:00 p.m.

Room 325

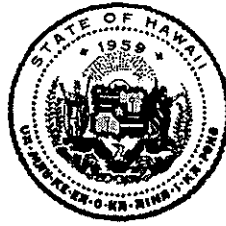
The Office of Hawaiian Affairs (OHA) **SUPPORTS** SB2158, which expands the ability of law enforcement agencies to accept bail.

OHA's 2010 report, "The Disparate Treatment of Native Hawaiians in the Criminal Justice System," and the recently completed study by the Justice Reinvestment Initiative indicate that there is a clear need for smart justice solutions like reducing barriers to posting bail.

Arrest does not prove guilt. Those who cannot post bail due to bureaucratic barriers are kept from jobs, family and the ability to secure a proper legal defense. This can lead to a further involvement with the criminal justice system, which is ultimately a waste of resources. Currently the neighbor islands have models for providing swift access to posting bail. Hopefully this bill will create a baseline for eligible persons to post bail statewide.

Mahalo for the opportunity to testify on this important measure. We urge your committee to PASS SB2158.

NEIL ABERCROMBIE
GOVERNOR



STATE OF HAWAII
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

House Committee on Judiciary
Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair

Tuesday, March 13, 2012, 2:00 PM
State Capitol, Room 325

Chair Keith-Agaran, Vice Chair Rhoads, 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.

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

March 13, 2012

S.B. No. 2158: RELATING TO BAIL

Chair Keith-Agaran and Members of the Committee:

We support passage 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.

EXODUS BAIL BOND
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TESTIMONY TO THE HOUSE COMMITTEE ON JUDICIARY

Chair Gilbert S.C. Keith-Agaran
Vice Chair Karl Rhoads

Tuesday, March 13, 2012, 2:00 p.m.
State Capitol, Conference Room 325

Bill No. and Title: Senate Bill No. 2158, Relating to Bail.

Purpose: The purpose of this bill requires 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. Specifies from whom bail may be accepted. Requires prompt release after acceptance of bail.

Position: Strong Support.

Exodus Bail Bonds is a licensed bail agency that has been in operation within the State of Hawaii since 2003. This bill will have a substantial impact on our conduct and operation of business.

Presently, a defendant must post bail at the respective court house having jurisdiction of the case(s) he or she is in custody for. A defendant may not post bail at a law enforcement agency after normal business hours of the court. This in effect denies an accused individual of his or her right to bail during the duration of the courts closure.

The issue is complicated further by the court system, which requires a third-party surety to post bail at each court the defendant is scheduled to appear in. The courts refuse to take cash bail or file a bail bond for a different courthouse despite being bound by judicial rules regarding ex officio filings and adherence to a strict "no bounce" policy.

We believe that this bill will improve the current situation regarding bail after normal business hours. **We strongly support the passage of SB 2158.**

WIKI WIKI BAIL BONDS, LLC

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HOUSE OF REPRESENTATIVES
THE TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2012

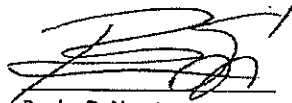
COMMITTEE ON FINANCE
03/13/2012, 2:00 pm, RM 325,
SB 2158, RELATING TO BAIL

Members of the Finance Committee,

My name is Rocky R. Newton, owner of Wiki Wiki Bail Bonds. I am testifying IN FAVOR of amending SECTION 1, Section 804-7, Hawaii Revised Statues.

In its current wording, even a minor traffic offender housed in OCCC is unable to post bail on furlough days, holidays and weekends. It is my opinion that if bail has been set and the defendant has means to post bail, that he or she should be entitled to be released. Currently, if a husband calls about his pregnant wife who is housed in OCCC on a Friday afternoon, I have to explain that she must sit in OCCC until Monday even on a minor traffic violation.

This is unconstitutional in my opinion.



Rocky R. Newton
Owner/Agent- Wiki Wiki Bail Bonds