



January 29, 2013

**TESTIMONY IN SUPPORT OF HOUSE BILL 165
RELATING TO VETERANS RIGHTS AND BENEFITS.**

**HOUSE COMMITTEE ON VETERANS, MILITARY AND INTERNATIONAL
AND CULTURAL AFFAIRS**

**HEARING ON WEDNESDAY, JANUARY 30TH AT 8:30 AM,
IN CONFERENCE ROOM 312**

Aloha Chair Takai: The Oahu Veterans Council is honored to serve at the pleasure of our veterans and their families. On January 26th, our delegates reviewed and voted unanimously to support House Bill 165.

We are extremely grateful for your efforts to prohibit demonstrations within 300 feet of the entrance or within 150 feet from routes of entry or exit of any state or county veterans cemetery from 60 minutes before to 60 minutes after the funeral.

Providing this legislative protection in state law is much appreciated by grieving family members of our deceased Veterans, and military/guard personnel who served so selflessly and ask for no more recognition than we would expect for ourselves.

The Oahu Veterans Council respectfully urges your committee to consider passing House Bill 165 as written. Mahalo, for allowing us to testify, regarding this extremely important issue.

Dennis Egge

Dennis Egge; Chairman, Legislative Committee



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Committee: Committee on Veterans, Military & International Affairs and Culture and the Arts
Hearing Date/Time: Wednesday, January 30, 2013, 8:30 a.m.
Place: Conference Room 312
Re: Testimony of the ACLU of Hawaii in Opposition to H.B. 165, Relating to Veterans' Rights and Benefits

Dear Chair Takai and Members of the Committee:

The American Civil Liberties Union of Hawaii ("ACLU of Hawaii") writes in opposition to H.B. 165, Relating to Veterans' Rights and Benefits, which seeks to prohibit individuals from protesting at or near funerals.

Funeral protest bans are routinely struck down as unconstitutionally vague and overbroad. *See e.g. Lowden v. Clare County*, 2011 WL 3958488 (E.D. Mich. 2011); *Phelps-Roper v. County of St. Charles, Mo.*, 2011 WL 227561 (E.D. Mo. Jan. 24, 2011); *Phelps-Roper v. City of Manchester, Missouri*, 2010 WL 3614182 (E.D. Mo. Sept. 8, 2010) (striking down ban); *cf. Madsen v. Women's Health Ctr., Inc.*, 512 U.S. 753, 775 (1994) (holding that a 300 foot buffer zone around residences was unconstitutionally broad).

Funeral protests by Fred Phelps and members of the Westboro Baptist Church have become notorious for the protests' cruel and distasteful message, and public opinion overwhelmingly rejects this type of conduct. Nevertheless, even uniformly unpopular speech is protected by the First Amendment. H.B. 165 will invite legal challenges; if these legal challenges are successful, the State will be liable for the protesters' attorneys' fees (meaning that the State will be funding the very speech it is trying to suppress).

Furthermore, H.B. 165 is particularly troublesome because it begins by banning *all* protests at cemeteries, followed by vague language about obtaining "approval" from the appropriate County Council. A requirement that protesters obtain advance approval under *all* circumstances – even when no funeral is scheduled – is facially unconstitutional. *See, e.g., Long Beach Area Peace Network v. City of Long Beach*, 574 F.3d 1011, 1038 (9th Cir. 2009) (striking down a 24-hour notice requirement because the ordinance in question was "not narrowly tailored to regulate only events in which there is a substantial governmental interest in requiring such advance notice"), *cert. denied*, 130 S. Ct. 1569 (2010).

In sum, we respectfully request that the Committee defer this measure.

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Chair Takai and VMI Committee Members
January 30, 2013
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Thank you for this opportunity to testify.

Sincerely,
Laurie A. Temple
Staff Attorney and Legislative Program Director
ACLU of Hawaii

About the American Civil Liberties Union of Hawaii

The American Civil Liberties Union of Hawaii (“ACLU”) has been the state’s guardian of liberty for 47 years, working daily in the courts, legislatures and communities to defend and preserve the individual rights and liberties equally guaranteed to all by the Constitutions and laws of the United States and Hawaii.

The ACLU works to ensure that the government does not violate our constitutional rights, including, but not limited to, freedom of speech, association and assembly, freedom of the press, freedom of religion, fair and equal treatment, and privacy.

The ACLU network of volunteers and staff works throughout the islands to defend these rights, often advocating on behalf of minority groups that are the target of government discrimination. If the rights of society’s most vulnerable members are denied, everyone’s rights are imperiled.

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vmitestimony

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, January 27, 2013 12:45 PM
To: vmitestimony
Cc: chinooker@gmail.com
Subject: *Submitted testimony for HB165 on Jan 30, 2013 08:30AM*

HB165

Submitted on: 1/27/2013

Testimony for VMI on Jan 30, 2013 08:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Daniel Alvarez	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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STATE OF HAWAII
DEPARTMENT OF DEFENSE

LATE TESTIMONY

TESTIMONY ON HOUSE BILL 165, RELATING TO VETERANS
RIGHTS AND BENEFITS

COMMITTEE ON VETERANS, MILITARY, & INTERNATIONAL AFFAIRS,
& CULTURE AND THE ARTS

BY

MR. RONALD P. HAN
DIRECTOR OF THE STATE OFFICE OF VETERANS SERVICES

January 30, 2013

Chair Takai, Vice Chair Ito and Committee members:

I'm Ron Han, Director of the State Office of Veterans Services (OVS). I appreciate this opportunity to provide testimony in support of House Bill 165 which prohibits protest within 300 feet of the entrance of any cemetery under control of the Office of Veterans' Services from 60 minutes before and 60 minutes after a funeral

The OVS supports this measure as long as its implementation does not impact or replace the priorities set forth in the Executive Biennium Budget for Fiscal Biennium 2013-2015.

The OVS has direct responsibility for the Hawaii State Veterans Cemetery in Kaneohe; however, there are seven other veterans' cemeteries which are located on the neighbor islands to include Molokai and Lanai; which fall under the Counties. We believe this bill seeks to balance the rights of family members seeking to memorialize the veterans and individual protesters free speech rights.

Thank you for this opportunity to speak on behalf of Hawaii's veteran community.