

HB2205

Submitted on: 2/11/2014

Testimony for JUD on Feb 13, 2014 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Sal Pagliaro	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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Submitted on: 2/11/2014

Testimony for JUD on Feb 13, 2014 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
vernon t. sato	Individual	Support	No

Comments: Keeping it simple, I support this bill,

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Submitted on: 2/11/2014

Testimony for JUD on Feb 13, 2014 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Sandy Salmers	Individual	Oppose	No

Comments: I do not support HB2205. I oppose increasing mandatory minimum sentences for habitual property crimes. Mandatory minimums are costly, ineffective, and unfair. Thank you.

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Submitted By	Organization	Testifier Position	Present at Hearing
Peter Forman	Individual	Support	No

Comments: I wish to see statutes enacted so that repeat offenders for crimes such as burglary are not continually given "get out of jail free" cards and allowed to resume their crimes. Burglary is a major issue here in Kailua, and the druggies who are behind most of the crimes we see here tend to hit our neighborhoods again and again, even after being caught. The problem (their drug addiction) is not corrected and with little in the way of penalties these people continue to prey upon those of us who work hard for a living. Please, stop the insanity and place these criminals behind bars for adequate periods in order to let the punishment serve as both a deterrent and also a means of keeping them off the streets for at least a couple years. respectfully, Peter Forman
Property Owner

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Submitted By	Organization	Testifier Position	Present at Hearing
James Landers	Individual	Support	No

Comments: I fully support this measure as both punishment for habitual offenders and as a deterrant for other potential offenders of property crimes. As a 13 year Kailua property owner, I also fully support local law enforcement in the execution of their duties, but share their frustration. Even when they are able to identify and arrest these repeat offenders the the judicial system fails citizens and the efforts of law enforcement by releasing these criminals without a proper measure of punishment. These offenders repeatedly invade homes and motor vehicles causing property damage, theft of personal effects and engender fear for personal safety. I respectfully ask that you pass this bill to provide an appropriate measure of punishment and deterrance. Mahalo!

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Submitted By	Organization	Testifier Position	Present at Hearing
Joey Ann Kempson	Individual	Support	No

Comments:

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Submitted By	Organization	Testifier Position	Present at Hearing
Leonard K Yamada	Individual	Support	No

Comments:

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Submitted By	Organization	Testifier Position	Present at Hearing
Lawrence D. Marcum	Individual	Support	No

Comments: We really need this bill to pass

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HB2205

Submitted on: 2/12/2014

Testimony for JUD on Feb 13, 2014 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Philip	Individual	Support	No

Comments: I am in support of prison terms for those who commit property crime. If the system does not provide punishment for repeated crimes then we are telling the criminal it is okay to violate others property and lively hood. These people should be punished for their actions.

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HB2205

Submitted on: 2/12/2014

Testimony for JUD on Feb 13, 2014 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
marty heede	Individual	Support	No

Comments: Each habitual criminal is a is an individual crime wave. By removing one person from the streets we can prevent dozens of criminal events. One conviction for a habitual criminal typically represents many occurrences that go unreported. Pass the law and watch the crime rate go down.

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HB2205

Submitted on: 2/12/2014

Testimony for JUD on Feb 13, 2014 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Dianne Lonokapu	Individual	Support	No

Comments: Although we appreciate the political and budgetary pressure to utilize incarceration facilities more efficiently, we contend that it should not be done at the risk of communities and our property rights. HB2205 is necessary to ensure habitual property crime perpetrators are appropriately sentenced. Mahalo for this opportunity to testify. Dianne Lonokapu

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Aloha Chairs & Committee Members,

Re: HB2205 – In Support
February 12, 2014

I am writing you in strong support of HB2205 as the habitual property crime offender problem has significantly impacted my life at home and at work. Last year, I filed more reports with HPD regarding property theft than I care to remember. This problem persists into the New Year as just yesterday I called 911 to report another incident at my home.

As local business owner, I have hired numerous employees who have spent time in prison. After a work truck was damaged during a theft attempt, I asked an employee who had spent time in Federal Prison for his opinion why there was so much property crime in Hawaii. I was shocked by what I learned.

My employee told me that as long as you don't hurt anybody and stick to Class C felonies such as property crime you won't have to spend much, if any time in prison. He said that this is a widely shared and practiced sustainable lifestyle strategy for those struggling to support daily drug habits. He himself is a recovering addict and ex youth gang member who speaks from experience.

His opinion is that the current "catch & release" system is making things worse as it allows people to fall deeper and deeper into addiction. After each "release" the habitual property crime criminal becomes more brazen and their addiction becomes worse. The cycle typically continues until the habitual offender is convicted of a more severe crime with a longer sentence. Sadly, when that happens most are too far gone and never recover enough to rejoin society.

Habitual property crime has made my neighborhood feel less safe. Other local business owners have told me that they won't work late anymore in fear of interrupting a theft in progress or being victimized themselves. My employee told me that for most habitual offenders, incarceration is required rehabilitation (outpatient treatment does not work very well) – The addiction is that powerful.

Please support HB2205; it makes Hawaii safer and better for all.

Thank you for the opportunity to submit testimony.

William R Hayes, III
Kailua Resident
Local Small Business Owner

Testimony in Support of HB2205 Relating to Crime
Hearing: Thursday 02/13/14, House Conference Room 325 at 2:00PM

A person who has a criminal record of repeat offenses has demonstrated that the existing system of punishment has not altered his or her behavior. Habitual offenders in Hawaii now have probation as an optional sentence. Bill HB2205, by changing this to a mandatory imprisonment of two years, would take the habitual criminal off the street for this period of time and possibly serve as a deterrent to committing future crimes once he or she is released.

Please vote Yes to support HB2205

Mahalo
Pauline Mac Neil
Kailua, HI 96734

Re: Support for HB2205 Relating to Crime

Aloha Honorable Chair Karl Rhoads and members of the House Committee on Judiciary,

Thank you for this opportunity to testify in support of HB2205.

Recently I was the victim of an attempted burglary at my residence while I was at home. I watched in disbelief as a man was trying to break into a window, undeterred by my 80-pound dog barking viscosly at him from inside the house. I was able to chase him off and get a license plate number, and he was picked up an hour later. I learned from HPD that he had over 50 prior arrests.

The Windward District community policing unit informed residents at a community meeting last year that approximately 6-8% of criminals arrested in Kailua are committing 70% of the crimes. Property crime accounts for over 92% of indexed crime in Hawaii, yet property crime is not a priority of our criminal justice system. The continuous release of offenders back into our communities results in a large population of repeat offenders who suffer no real consequences.

Any person with 3 prior convictions of a property crime is a habitual property crime perpetrator, and should be swiftly sentenced to a mandatory incarceration period. Many communities across the State are under siege with criminals that the criminal justice system likely consider low-risk. Not imposing a mandatory minimum sentence upon these types of offenders will be done at the risk and harm of residents and visitors alike. Please pass HB2205.

Mahalo,

Lisa Cates

HB2205

Submitted on: 2/12/2014

Testimony for JUD on Feb 13, 2014 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Vernon Hinsvark	Individual	Support	No

Comments: I support the passage of HB 2205. Property crime is quickly becoming a very serious problem. Police statistics show that many of these crimes are committed by repeat offenders who are arrested and released. Their really is no punishment to deter law breaking behavior. A mandatory sentence for criminals on probation will, at the very least, get them off the streets. A period of hard jail time may even act as a deterrent. There are those that say jail is not the answer. It protects law abiding and voting citizens. There are those that say there is not enough jail space. We have to deal with that problem but there has to be some deterrent to repeat offenders. Being arrested is just a minor inconvenience at this time. How about reserving a number of jail spaces for these types of criminals. Give us a break. Vern Hinsvark

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Office of the Public Defender State of Hawaii

Timothy Ho, Chief Deputy Public Defender



LATE

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

February 13, 2014, 2:00 p.m.

H.B. No. 2205: RELATING TO CRIME

Chair Rhoads and Members of the Committee:

This measure would impose a mandatory term of imprisonment of two years without the possibility of furlough or work release for a defendant who is placed on probation for a habitual property crime under §708-803, Hawaii Revised Statutes (HRS).

The Office of the Public Defender opposes H.B. 2205.

Under this measure, the court would have the option sentencing a defendant convicted of a habitual property crime to an indeterminate five year term of imprisonment, or a five year term of probation, with a mandatory two year prison term. The problem with a two year minimum prison sentence as a condition of probation is that while considered a lesser sentence, it is entirely possible that a defendant sentenced to a five year indeterminate prison term may serve less prison time than the defendant sentenced to probation. With an indeterminate term, the minimum term is set by the paroling authority, and could be less than the two years required of a probationer. We believe that the habitual property crime offense, as it is currently written is sufficient. If the court intends to impose a prison sentence of more than one year, it can and should impose an indeterminate five year sentence.

A two year mandatory minimum term of imprisonment is more appropriately attached to section (4)(a), and could read as follows:

(4)(a) A[n indeterminate] term of imprisonment of five years, with a mandatory minimum term of not less than two years; or

Thank you for the opportunity to be heard on this matter.

Justin F. Kollar
Prosecuting Attorney

Kevin K. Takata
First Deputy



Rebecca A. Vogt
Second Deputy

Diana Gausepohl-White, LCSW
Victim/Witness Program Director

OFFICE OF THE PROSECUTING ATTORNEY

County of Kaua'i, State of Hawai'i

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808-241-1888 ~ FAX 808-241-1758
Victim/Witness Program 808-241-1898 or 800-668-5734

**TESTIMONY IN SUPPORT OF
H.B. NO. 2205 – RELATING TO CRIME**

**Justin F. Kollar, Prosecuting Attorney
County of Kaua'i**

**House Committee on Judiciary
February 13, 2014**

Chair Rhoads, Vice-Chair Har and members of the House Committee on Judiciary,

The Office of the Prosecuting Attorney, County of Kauai, submits the following testimony in support of H.B. 2205.

H.B. 2205 amends section 708-803 of the Hawaii Revised Statutes by raising the mandatory minimum term of imprisonment for Habitual Property Crime to two years if an offender is sentenced to probation. Under this section, a "habitual property crime perpetrator" is a person who within 5 years of the instant offense, has convictions for:

- (a) 3 felonies within this chapter (Chapter 708 of the Hawaii Revised Statutes – Offenses Against Property Rights);
- (b) 3 misdemeanors within this chapter;
- (c) Any combination of 3 felonies and misdemeanors within this chapter.

The offense of Habitual Property Crime remains a class C felony.

As many of you may have experienced with concerns raised by your constituents, property crimes has consistently remained a problem in Hawaii. In 2004, the Hawaii State Legislature made property crimes a priority when it created this Habitual Property Crimes law by passing S.B. 2844 that was signed by Governor Linda Lingle as Act 49. In passing the bill, the Senate Judiciary and Hawaiian Affairs Committee stated in Standing Committee Report No. 2616: "Your Committee finds that in 2002, Hawaii ranked first in

the nation for property crime rates and second in larceny theft rates. A large portion of these crimes are committed by habitual offenders. Your Committee finds that by increasing the sanctions for habitual property offenders, this measure provides a deterrent to recidivism.”

According to the Crime Prevention & Justice Assistance Division that is under the Department of the Attorney General of the State of Hawaii, their Crime in Hawaii 2011 Annual Report mentioned that rates of offenses had decreased for all of the property Index Crimes in the State of Hawaii during 2011. In comparing 2011 to 2002, property crime rate (burglary, larceny-theft, and motor vehicle theft) decreased by 44.8%, burglary rate decreased by 41.9%, larceny-theft rate decreased by 42.7%, and motor vehicle theft decreased by 59.2%.

However, pursuant to the Federal Bureau of Investigation’s (F.B.I.) 2012 uniform crime reports, Hawaii was ranked 31 out of 52 jurisdictions that included the fifty states, Washington D.C., and Puerto Rico when it came to the amount of property crimes at a rate per 100,000 inhabitants. Thus, we still have a lot work to do in order to make Hawaii a top ten jurisdiction in regards to jurisdictions with the lowest property crimes.

In order to decrease our property crimes in our State, we strongly believe that the 2-year mandatory minimum imprisonment in H.B. 2205 will strengthen the Habitual Property Crime law and deter even more people from committing property crimes.

For these reasons, the Office of the Prosecuting Attorney, County of Kauai, supports H.B. 2205.

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

Respectfully,

A handwritten signature in black ink, appearing to read "Justin F. Kollar".

Justin F. Kollar
Prosecuting Attorney

LATE

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

KEITH M. KANESHIRO
PROSECUTING ATTORNEY

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
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ARMINA A. CHING
FIRST DEPUTY PROSECUTING ATTORNEY



**THE HONORABLE KARL RHOADS, CHAIR
HOUSE COMMITTEE ON JUDICIARY
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawai'i**

February 13, 2014

RE: H.B. 2205; RELATING TO CRIME.

Chair Rhoads, Vice-Chair Har and members of the House Committee on Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in support of H.B. 2205.

H.B. 2205 amends section 708-803 of the Hawaii Revised Statutes by raising the mandatory minimum term of imprisonment for Habitual Property Crime to two years if an offender is sentenced to probation. Under this section, a “habitual property crime perpetrator” is a person who within 5 years of the instant offense, has convictions for:

- (a) 3 felonies within this chapter (Chapter 708 of the Hawaii Revised Statutes – Offenses Against Property Rights);
- (b) 3 misdemeanors within this chapter;
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The offense of Habitual Property Crime remains a class C felony.

As many of you may have experienced with concerns raised by your constituents, property crimes has consistently remained a problem in Hawaii. In 2004, the Hawaii State Legislature made property crimes a priority when it created this Habitual Property Crimes law by passing S.B. 2844 that was signed by Governor Linda Lingle as Act 49. In passing the bill, the Senate Judiciary and Hawaiian Affairs Committee stated in Standing Committee Report No. 2616: “Your Committee finds that in 2002, Hawaii ranked first in the nation for property crime rates and second in larceny theft rates. A large portion of these crimes are committed by habitual offenders. Your Committee finds that by increasing the sanctions for habitual property offenders, this measure provides a deterrent to recidivism.”

According to the Crime Prevention & Justice Assistance Division that is under the Department of the Attorney General of the State of Hawaii, their Crime in Hawaii 2011 Annual Report mentioned that rates of offenses had decreased for all of the property Index Crimes in the State of Hawaii during 2011. In comparing 2011 to 2002, property crime rate (burglary, larceny-theft, and motor vehicle theft) decreased by 44.8%, burglary rate decreased by 41.9%, larceny-theft rate decreased by 42.7%, and motor vehicle theft decreased by 59.2%.

However, pursuant to the Federal Bureau of Investigation's (F.B.I.) 2012 uniform crime reports, Hawaii was ranked 31 out of 52 jurisdictions that included the fifty states, Washington D.C., and Puerto Rico when it came to the amount of property crimes at a rate per 100,000 inhabitants. Thus, we still have a lot work to do in order to make Hawaii a top ten jurisdiction in regards to jurisdictions with the lowest property crimes.

In order to decrease our property crimes in our State, we strongly believe that the 2-year mandatory minimum imprisonment in H.B. 2205 will strengthen the Habitual Property Crime law and deter even more people from committing property crimes.

For these reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu supports H.B. 2205. Thank you for the opportunity to testify on this matter.

COMMUNITY ALLIANCE ON PRISONS

LATE

O. Box 37158, Honolulu, HI 96837-0158

Phone/email: (808) 927-1214 / kat.caphi@gmail.com



COMMITTEE ON JUDICIARY

Rep. Karl Rhoads, Chair

Rep. Sharon Har, Vice Chair

Thursday, February 13, 2014

2:00 p.m.

Room 325

OPPOSE - HB 2205 - Increasing Mandatory Minimums for Property Crime

Aloha Chair Rhoads, Vice Chair Har and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies for more than a decade. This testimony is respectfully offered on behalf of the 5,800 Hawai'i individuals living behind bars, always mindful that approximately 1,500 Hawai'i individuals are serving their sentences abroad, thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Native Hawaiians, far from their ancestral lands.

Community Alliance on Prisons opposes SB 2205 that raises the mandatory minimum term of imprisonment for Habitual Property Crime to two years if an offender is sentenced to probation.

The **2012 CRIME IN HAWAII**¹ report from the Attorney General's office reported:

- The burglary and motor vehicle theft rates in 2012 were at record low levels.
- Honolulu's total Index and property crime rates in 2012 were the lowest on record since the start of statewide data collection in 1975.

Record Crime Rates - State of Hawai'i and Counties, 2012 Hawai'i Crime Report²

- **State of Hawaii**
 - Record low total Index Crime rate
 - Record low property crime rate
 - Record low murder rate
 - Record low forcible rape rate
 - Record low burglary rate
 - Record low motor vehicle theft rate
 - Record low arson rate

¹ *CRIME IN HAWAII 2012 (ANNUAL)*, December 20, 2013. http://ag.hawaii.gov/cpja/?page_id=3075&preview=true

² *2012 CRIME IN HAWAII*, Full Report: <http://ag.hawaii.gov/cpja/files/2013/12/Crime-in-Hawaii-2012.pdf>

- **City & County of Honolulu**
 Record low total Index Crime rate
 Record low property crime rate
 Record low murder rate
 Record low forcible rape rate
 Record low burglary rate
 Record low larceny-theft rate
 Record low motor vehicle theft rate
 Record low arson rate
- **Hawaii County**
 Record low arson rate
- **Maui County**
 Record low property crime rate
 Record low burglary rate
- **Kauai County**
 None

Community Alliance on Prisons opposes mandatory minimum sentencing because it removes judicial discretion (which is done in an open courtroom) and instead hands it over to the prosecutors (who operate in the dark and with no accountability). By giving prosecutors unbelievable bargaining power over defendants ("Take this offer of five years or go to trial and risk 25"), mandatory minimums undermine almost completely concept of blind justice.

While many states are reforming sentencing, reducing their prison populations, and decreasing crime, it is curious why a bill like this would be introduced. There is much research about strategies that work such as a diverse array of community-based programs such as mental health, substance abuse treatment, vocational training, etc. to address the issues of those who habitually commit crimes.

If we truly want to discourage property crime, we must look at its motivation which, in most cases, is substance abuse...stealing to get money to feed a habit. It is a cycle that appropriate treatment can address. We know that community-based treatment is effective and less costly than incarceration. However, without community-based programs, and with our commitment to public safety, we end up violating a lot of probationers who might have succeeded. We know that the lack of available community-based treatment programs is a missed opportunity for persons exiting incarceration and for the community.

We believe that everyone should be held accountable for their actions and that we should use our resources to achieve the very best outcomes possible. Data and research show that sending people to prison is NOT the most effective way of dealing with these crimes.

If we increase the penalty to 2 years, that person is going to prison/criminal college where he or she may learn the dark arts that no one wants to see practiced in our communities. Lack of programming in facilities leaves way too much dead time where these bad ideas can take root. This is not the outcome that protects communities.

Community Alliance on Prisons respectfully asks the committee to hold this bill. Mahalo for this opportunity to testify.

LATE

HB2205

Submitted on: 2/13/2014

Testimony for JUD on Feb 13, 2014 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Angie Behnke	Individual	Support	No

Comments: Aloha - I am writing to you as the coordinator for the Country Club Knolls Neighborhood Security Watch and I support this bill. Our neighborhoods have been experiencing crime by repeat offenders who have been arrested dozens of times for the same crimes. Sometimes these criminals have grown bold enough to enter homes when residents have been sleeping. It is time for communities and criminals alike to know that crimes will be taken seriously and laws will be upheld. Push this bill forward and create a mandatory two year sentence for habitual offenders. Mahalo, Angie Behnke

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LATE

HB2205

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Submitted By	Organization	Testifier Position	Present at Hearing
Lori Lee	Individual	Support	No

Comments:

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LATE TESTIMONY

Testimony in support of HB2205

I am a long time Kailua resident that is distraught by the recent crime in our Kailua town. Kailua has become home to predators that are terrorizing our town, breaking into our homes and then being released without further punishment. The offenders know that if they get caught, they will get a simple slap on the wrist – maybe a night in jail with a warm meal – and then released only to do the same thing again.

My home on the 300 block of Kailua Road was burglarized THREE times in September 2013. The thieves stole over \$10K worth of electronics and jewelry. At the time it was just me and my young daughter living in the house and we lived in complete and absolute fear for months before moving to what we hope is a safer area away from the municipal park where I believe the thieves to be living as homeless persons. The police told me that there is not much they can do – or will do – because they do not have enough personnel patrolling the areas. They say they know who the repeat offenders are but there is nothing they can do about them because “property crimes” are not a priority. I am on a neighborhood watch and the same characters are being described repeatedly in the numerous burglaries that happen every single week. And it doesn’t take much to identify the homeless burglars perusing our town, looking for the next house to victimize. They walk around in groups, looking over fences, scouting homes to burglarize. It has got to stop. And the only way to do that is the threat of a jail term.

I support State Representative Chris Lee’s bill HB2205 to charge repeat offenders with a 2-year jail sentence. These thieves are turning our Kailua town into a terror zone. Please bring them to justice.

Thank you,

Stacy Dees

Concerned Kailua Resident, Engineer / Program Manager