

**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-SEVENTH LEGISLATURE, 2013**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 69, S.D. 2, RELATING TO FIREARMS.

**BEFORE THE:**

HOUSE COMMITTEE ON PUBLIC SAFETY

**DATE:** Thursday, March 14, 2013 **TIME:** 9:30 a.m.

**LOCATION:** State Capitol, Room 309

**TESTIFIER(S):** David M. Louie, Attorney General, or  
Debbie L. Tanakaya, Deputy Attorney General

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Chair Aquino and Members of the Committee:

The Department of the Attorney General supports this bill.

The purpose of this bill is to close a loophole in our current laws in which a person bringing into Hawaii a firearm purchased outside of this State need not go through the background check process that a person in this State is required to go through prior to purchasing a firearm. Furthermore, this bill allocates funds to the county police departments in order to establish programs for gun safety education and training, extensive background checks for mental health concerns for certain individuals wishing to register a gun, or gun buy-backs.

Before a person can acquire a firearm in this State, one must go through a permit to acquire process, during which an extensive background check is done. The background check is a necessary step to ensure that the individual is not prohibited from possessing a firearm in this State. However, there is a loophole in our current statute that allows an individual to possess a registered firearm in this State, without going through the permit to acquire process, thus avoiding the all important background check. If a person arriving in the State brings or causes to be brought into the State a firearm, the person is required to register the firearm, but, no permit process or background check is required when the person registers the firearm. Therefore, individuals who might have been prohibited from acquiring a firearm in this State, can acquire a firearm outside of this State, where a permit process or extensive background check is not required, and then register the firearm with the State's county police departments without a background check.

This bill will require background checks of persons registering firearms who acquired their firearms without going through the state permit process. This will enable county police departments to determine if the person registering a firearm is prohibited from possessing a firearm in this State. This bill will also allow for the costs of the background check to be passed on to the registrant, similar to the passing on of costs to the individual going through the permit to acquire process.

Accordingly, the Department of the Attorney General respectfully requests the passage of this bill.

POLICE DEPARTMENT  
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813  
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulupd.org

KIRK W. CALDWELL  
MAYOR



LOUIS M. KEALOHA  
CHIEF

DAVE M. KAJIHIRO  
MARIE A. McCAULEY  
DEPUTY CHIEFS

OUR REFERENCE TN-DNK

March 14, 2013

The Honorable Henry J. C. Aquino, Chair  
and Members  
Committee on Public Safety  
State House of Representatives  
Hawaii State Capitol  
415 South King Street  
Honolulu, Hawaii 96813

Dear Chair Aquino and Members:

Subject: Senate Bill No. 69, S.D. 2, Relating to Firearms

I am Thomas Nitta, Major of the Records and Identification Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports the amendments to Senate Bill No. 69, S.D. 2, Relating to Firearms. The amendments to Section 134-3 of the Hawaii Revised Statutes require that every person registering firearms be fingerprinted and photographed. In addition, it also allows for the assessment of a fee, which is charged by the Federal Bureau of Investigation for the registration of a comprehensive background check.

Thank you for the opportunity to testify.

Sincerely,

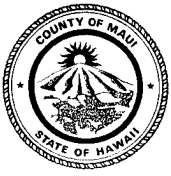
A handwritten signature in black ink, appearing to read "Thomas Nitta", is written over a horizontal line.

THOMAS NITTA, Major  
Records and Identification Division

APPROVED:

A handwritten signature in black ink, appearing to read "Louis M. Kealoa", is written over a horizontal line.

LOUIS M. KEALOHA  
Chief of Police



ALAN M. ARAKAWA  
MAYOR

OUR REFERENCE

YOUR REFERENCE

# POLICE DEPARTMENT

## COUNTY OF MAUI

55 MAHALANI STREET  
WAILUKU, HAWAII 96793  
(808) 244-6400  
FAX (808) 244-6411



GARY A. YABUTA  
CHIEF OF POLICE

CLAYTON N.Y.W. TOM  
DEPUTY CHIEF OF POLICE

March 13, 2013

The Honorable Henry J. C. Aquino, Chair  
And Members of the Committee on Public Safety  
House of Representatives  
Hawaii State Capitol  
Honolulu, HI 96813

RE: Senate Bill No. 69, SD2, RELATING TO FIREARMS

Dear Chair Aquino and Members of the Committee:

The Maui Police Department would like provide comments on Senate Bill No. 69, SD2. This bill requires county police departments to fingerprint, photograph, and perform background checks on individuals who wish to register a firearm that was procured out-of-state; authorizes the police departments to assess a fee for conducting a fingerprint check and specifies the amount of the fee; extends the time period for registering a firearm procured out-of-state, for consistency with the time period for registering firearms obtained in or imported into the State, and appropriates funds for county implementation.

The Maui Police Department supports the intent of the bill to strengthen our state's firearms registration laws and increase the safe guards for citizens to obtain firearms with the additional background checks on individuals who wish to register a firearm that was procured out-of-state. We are satisfied with the current draft of this bill to implement these worthwhile changes in our firearms registration laws.

Thank you for the opportunity to testify.

Sincerely,

  
GARY A. YABUTA  
Chief of Police

ALAN M. ARAKAWA  
Mayor



JOHN D. KIM  
Prosecuting Attorney  
ROBERT D. RIVERA  
First Deputy Prosecuting Attorney

DEPARTMENT OF THE PROSECUTING ATTORNEY  
COUNTY OF MAUI  
150 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
PHONE (808) 270-7777 • FAX (808) 270-7625

CONTACT: RICHARD. K. MINATOYA  
Deputy Prosecuting Attorney  
Supervisor, Appellate, Asset Forfeiture and Administrative Services Division

TESTIMONY

ON

SB 69, SD 2 - RELATING TO FIREARMS

March 14, 2013

The Honorable Henry J. C. Aquino  
Chair  
The Honorable Kaniela Ing  
Vice Chair  
and Members  
House Committee on Public Safety

Chair Aquino, Vice Chair Ing and Members of the Committee:

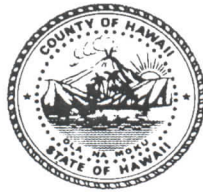
The Department of the Prosecuting Attorney, County of Maui, is in SUPPORT of SB 69, SD 2, Relating to Firearms, WITH AN AMENDMENT.

SB 69, SD 2 proposes to require police to fingerprint, photograph, and perform background checks on people who register firearms brought to Hawaii from out-of-state. It also allows the police to charge a fee to perform the fingerprint check, and extends the time period for registering firearms brought in from out-of-state, and appropriates funds to the counties for implementation of the requirements of this bill. We agree with the intent of this measure to help with efforts to ensure only eligible, law abiding people own firearms. We caution, however, that sufficient funds must be appropriated to fund this program.

We ask that SB 69, SD 2 be PASSED WITH AN AMENDMENT changing the effective date to July 1, 2013.

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

William P. Kenoi  
Mayor



Harry S. Kubojiri  
Police Chief

Paul K. Ferreira  
Deputy Police Chief

## County of Hawai`i

### POLICE DEPARTMENT

349 Kapiolani Street • Hilo, Hawai`i 96720-3998  
(808) 935-3311 • Fax (808) 961-8865

March 13, 2013

Representative Henry J. C. Aquino  
Chairperson and Committee Members  
Committee on Public Safety  
415 South Beretania Street, Room 309  
Honolulu, Hawai`i 96813

#### **RE: SENATE BILL 69, SD2, RELATING TO FIREARMS**

Dear Representative Aquino:

The Hawai`i Police Department supports the intent of Senate Bill No. 69. The intent of this bill is to require county police departments to fingerprint, photograph, and perform background checks on individuals who wish to register a firearm that was procured out of state. It also authorizes the police departments to assess a fee for conducting a fingerprint check and specifies the amount of the fee.

We do agree with the need to fingerprint, photograph, and perform background checks on individuals who have procured firearms out of state in order to ensure they meet our state's Firearms possession requirements so as to require these individuals be held to the same standards as all of our state's citizens.

For these reasons, we urge this committee to support this legislation. Thank you for allowing the Hawai`i Police Department to testify on Senate Bill No. 69.

Sincerely,

HARRY S. KUBOJIRI  
POLICE CHIEF



NATIONAL RIFLE ASSOCIATION OF AMERICA  
INSTITUTE FOR LEGISLATIVE ACTION  
555 CAPITOL MALL, SUITE 625  
SACRAMENTO, CALIFORNIA 95814  
(916) 446-2455 voice ▪ (916) 448-7469 fax  
[www.nraila.org](http://www.nraila.org)

STATE & LOCAL AFFAIRS DIVISION  
DANIEL REID, HAWAII STATE LIAISON

March 13, 2013

The Honorable Henry J.C. Aquino  
Chair, House Committee on Public Safety  
Sent Via Email

Re: Senate Bill 69 – OPPOSE

Dear Representative Aquino:

On behalf of the Hawaii members of the National Rifle Association, I strongly oppose Senate Bill 69.

The NRA supports the use of the National Instant Check System (NICS) to perform background checks; however, it does not support NICS checks on those people who have already legally acquired a firearm.

Current law requires people who bring firearms into Hawaii from another state – even on a temporary basis – to register their firearms within 72 hours. This bill now adds a fingerprinting and a background check (NICS) requirement on the owner, in addition to the registration requirement on such legally possessed firearms. These are not persons who have yet to acquire a firearm and are waiting for background approval; these are persons who already possess a firearm and are attempting to comply with the registration requirement. This will not improve public safety; instead it will create additional hurdles for law-abiding gun owners as well as put increase strain on the already overburdened police registration stations.

This bill presents no viable solutions that would make improvements to Hawaii, but instead attacks law abiding citizens who are choosing to exercise their right to own a firearm. Thank you for your attention and I ask that you oppose this bill.

Cordially,

Daniel S. Reid  
State Liaison

Cc: Members, House Committee on Public Safety



# Hawaii Rifle Association

State Affiliate of the National Rifle Association

Founded in 1857

March 13, 2013

Testimony on SB69 SD-2  
Before House Public Safety, March 14, 2013  
9:30 am Rm 309  
IN SUPPORT

Hon. Chair and Members,

HRA supports NICS checks for out-of-state guns and fingerprinting on registrants (but not those who already have prints on file).

We suggest amending "...this requirement 'may' to 'shall'.... "

Thank you for the opportunity to testify.

Dr. Maxwell Cooper, HRA Legislative Liaison





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Thursday, March 14, 2013

The Honorable Henry J.C. Aquino, Chair  
The Honorable Kaniela Ing, Vice Chair  
Committee on Public Safety

Dear Chairman Aquino and Members of the Committee on Public Safety

Subject: **Support for SB 69, SD2**

The Injury Prevention Advisory Committee supports SB69, SD2 that would require county police departments to perform background checks on individuals wishing to register a firearm that was acquired out-of-state. The bill also appropriates funds to county police departments for gun safety and gun buy-back programs.

Established in 1990, the Injury Prevention Advisory Committee (IPAC) is an advocacy group committed to preventing and reducing injuries in Hawai'i. IPAC members include representatives from public and private agencies, physicians and professionals working together to address the eight leading areas of injury, including violence prevention.

We support this bill because it will help to ensure that individuals who acquire firearms from out-of-state are legally entitled to own them. Hawai'i has clearly defined requirements for registration while other states vary in their requirements for background checks and gun ownership, and may not meet Hawai'i's stricter standards. It is, therefore, important that gun owners who come to Hawaii meet the same safety standards for gun ownership specified in this bill as Hawai'i residents.

While Hawaii has one of the lowest violent crime rates and gun firearm homicide rates in the nation, we still need to address gun deaths in Hawai'i. We urge you to pass SB69, SD2 help to ensure the safety of Hawai'i residents and visitors.

Thank you for the opportunity to testify.

Sincerely,

Bruce McEwan  
Chair  
Injury Prevention Advisory Committee

**ing2-Brandon**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 12, 2013 1:29 AM  
**To:** pbstestimony  
**Cc:** vet3881@hotmail.com  
**Subject:** \*Submitted testimony for SB69 on Mar 14, 2013 09:30AM\*

**SB69**

Submitted on: 3/12/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
B. Willauer	Individual	Oppose	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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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, March 11, 2013 5:42 PM  
**To:** pbstestimony  
**Cc:** bizkellam@gmail.com  
**Subject:** \*Submitted testimony for SB69 on Mar 14, 2013 09:30AM\*

**SB69**

Submitted on: 3/11/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Elizabeth Kellam	Individual	Oppose	No

**Comments:**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, March 11, 2013 9:55 PM  
**To:** pbstestimony  
**Cc:** donnyvstylez@gmail.com  
**Subject:** Submitted testimony for SB69 on Mar 14, 2013 09:30AM

**SB69**

Submitted on: 3/11/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Donald Salvador	Individual	Oppose	No

Comments: Hawaii already has strict firearm laws as it is. When will it be realized that criminals do not obey laws. So how is this going to reduce crime? This just puts a burden on law abiding citizens who choose to exercise a right that was put forth by our American forefathers. Politicians are already chipping away at the Constitution and the Bill of Rights. If this keeps going, America won't be "The Land of the free" anymore. The Constitution was put in place to restrict the powers of the government not limit the rights of the American abiding citizens. Remember, firearms are not the problem. Its the criminal.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, March 11, 2013 10:27 PM  
**To:** pbstestimony  
**Cc:** econnell1@hawaii.rr.com  
**Subject:** Submitted testimony for SB69 on Mar 14, 2013 09:30AM

**SB69**

Submitted on: 3/11/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Emmons Connell	Individual	Oppose	No

Comments: History tells us that the money spent on buy back schemes is always wasted. Money we do not have by the way!!! The crime rate is not reduced and the criminals continue their mischief. Everything else in the bill is an attempt to stamp out the PEOPLE'S 2nd Amendment Rights. Please say NO to SN69. Thank you for the opportunity to testify. Emmons Connell

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**Sent:** Tuesday, March 12, 2013 4:20 AM  
**To:** pbstestimony  
**Cc:** heaviescc@hotmail.com  
**Subject:** Submitted testimony for SB69 on Mar 14, 2013 09:30AM

**SB69**

Submitted on: 3/12/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Brendon Heal	Individual	Oppose	No

Comments: Treating law abiding citizens like criminals is not the answer to gun problems. Finding and prosecuting criminals is one answer. Also, Mental health problems need a bigger look and people with these problems need more help. Instead of trying to blame a DEVICE, lawmakers NEED to look at the REAL CAUSES of the violence. Stop trying to legislate on emotion and use sense and logic. Scrap this bill that has no proven impact, nor will it have any impact on crime or criminals. They WILL NOT ABIDE THE LAW, therefore, only the lawful will be penalized.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, March 11, 2013 5:42 PM  
**To:** pbstestimony  
**Cc:** Adamlipka@hotmail.com  
**Subject:** Submitted testimony for SB69 on Mar 14, 2013 09:30AM

**SB69**

Submitted on: 3/11/2013  
Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Adam Lipka	Individual	Oppose	No

Comments: SB 69 started off as a gun buy back program which would have been a waste of taxpayer money as statistically they mainly buy back broken or non functional guns or guns that would otherwise never have posed a threat from criminals. Now it is instead rewriting registration and using large amounts of limited taxpayer money to pay for the further harassment of law abiding citizens who have done nothing wrong by exercising their second amendment rights. Responsible gun owners should not be harassed and punished due to the acts of criminals or the mentally ill. Should we really be throwing money away at a problem that frankly I don't see we have in this State at a time when finances are stretched thin as it is? Even the Police Captain who was at the last hearing from firearms division stated the money would be better spent elsewhere. I urge you as a voter and a tax paying citizen to vote against this bill and stop the harassment of law abiding responsible firearms owners. By allowing this bill to pass you would only be hurting the people you swore an oath to serve.

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**ing2-Brandon**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, March 11, 2013 7:54 PM  
**To:** pbstestimony  
**Cc:** koryohly@yahoo.com  
**Subject:** Submitted testimony for SB69 on Mar 14, 2013 09:30AM

**SB69**

Submitted on: 3/11/2013  
Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kory Ohly	Individual	Oppose	No

Comments: I am opposed to this bill which increases registration requirements for law-abiding citizens who exercise their constitutionally guaranteed right to bear arms. I say law-abiding because this law will NOT deter criminals. In the bill it suggests that visitors can only bring a firearm to Hawaii if they show documentation that they are planning to hunt, shoot on private property, or go target shooting. The 2nd amendment is not limited to hunting and target shooting. It is about the security of a free state. A free citizen should not be required to say WHY he or she has a firearm. You should ONLY be taking away liberty if a citizen is taking life, liberty, or property from others. Mahalo.

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**Sent:** Monday, March 11, 2013 10:28 PM  
**To:** pbstestimony  
**Cc:** laub008@hawaii.rr.com  
**Subject:** Submitted testimony for SB69 on Mar 14, 2013 09:30AM

**SB69**

Submitted on: 3/11/2013  
Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Brian Lau	Individual	Oppose	No

Comments: This bill will not affect crime in this state and will only further burden law abiding citizens. This state already has some of the strictest firearms laws in the nation. Why don't lawmakers address repeat criminals who are still walking around to do as they please? They are more of a threat than those of us that abide by laws.

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**Sent:** Monday, March 11, 2013 8:13 PM  
**To:** pbstestimony  
**Cc:** kymas23@yahoo.com  
**Subject:** Submitted testimony for SB69 on Mar 14, 2013 09:30AM

**SB69**

Submitted on: 3/11/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mark Masuda	Individual	Oppose	No

Comments: Please reject SB69 which mandates fingerprinting and processing through the National Instant Criminal Background Check System ("NICS") in addition to the already existing registration requirement on ALL firearms brought into the state. HPD is already overwhelmed with lines of law abiding people applying for and registering their firearms. Waits of several hours are the norm and adding to this burdensome requirement with more requirements will cause even more gridlock. Out of state hunters and shooters will have to dedicate 1-2 days of their trip solely to register their guns while on holiday. Since wait times are already prohibitively long, HPD would need to quadruple their manpower to handle this increase and get wait times down to a reasonable level. Hawaii already has some of the most restrictive gun laws in the nation. This bill presents no viable solutions that would make improvements to Hawaii, but instead attacks law-abiding citizens who are choosing to exercise the right to own a firearm.

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**Sent:** Monday, March 11, 2013 10:54 PM  
**To:** pbstestimony  
**Cc:** williamrandysmith@gmail.com  
**Subject:** Submitted testimony for SB69 on Mar 14, 2013 09:30AM

**SB69**

Submitted on: 3/11/2013  
Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
William Smith	Individual	Oppose	Yes

Comments: Please note I am strongly opposed to SB69SD2. This bill will do nothing to reduce violence, but will serve to impede law abiding citizens from being able to come to Hawaii for hunting, shooting and exercising their second amendment rights within existing Hawaii laws and statutes. It will negatively impact our economy. These visitors bring money to the state on their trips, so we should not dissuade them from coming, or hinder their ability to do so. It is not necessary that these requirements be applied to "a firearm of any description, whether usable or unusable, serviceable or unserviceable, modern or antique (Page2 lines 7,8,9). This is too broad a scope, as unusable unserviceable firearms pose no immediate threat to anyone, nor will they be brought in by hunters or shooters for most trips to the islands. Requiring all those who bring in guns to be fingerprinted if their prints are not already on record w/ police in the respective counties is completely unnecessary, and will provide for delays in visitors schedules. To do this in addition to running an inquiry through the N.I.C.B.C. is redundant. I do not think the fees for the fingerprinting should be passed on to the visitor, and this process will unnecessarily increase the workload of our already overburdened police registration departments. If they are only allowed to have the guns in state for ninety days and have passed an N.I.C.B.C inquiry, they don't need to have fingerprints on file with respective counties. The appropriation of funds to implement these requirements will be a waste of taxpayers dollars. We cannot afford to do this in Hawaii, and the funds would be better used to repair existing shooting ranges, hire more police officers, or keep the police registration offices open longer hours or on Saturdays. Thank you for your time. William Smith

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**Sent:** Tuesday, March 12, 2013 10:49 AM  
**To:** pbstestimony  
**Cc:** jmita@hawaii.edu  
**Subject:** \*Submitted testimony for SB69 on Mar 14, 2013 09:30AM\*

**SB69**

Submitted on: 3/12/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jonathan Mita	Individual	Oppose	No

**Comments:**

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**ing2-Brandon**

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**Sent:** Tuesday, March 12, 2013 11:05 AM  
**To:** pbstestimony  
**Cc:** dcerny8310@aol.com  
**Subject:** Submitted testimony for SB69 on Mar 14, 2013 09:30AM

**SB69**

Submitted on: 3/12/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
David Cerny	Individual	Oppose	No

Comments: I am opposed to this Bill because all it does is make it harder for people who bring in firearms from out of state to register them. The law is already clear that all firearms brought into the State need to be registered. To make fingerprinting and charge for it will now likely discourage people from doing so. As we all know, criminals will not abide by this anyway much less do so by adding background checks and fingerprinting. I believe it is just overcomplicating the situation. This Bill seeks to extend and expand the requirements for out of state importation. This creates cost not only for the person registering the firearm but also an additional cost for the county entity that needs to do the additional work now. By enacting this Bill I don't see any advantages other than to create more work for law abiding firearms owners and county employees and less appealing for anyone who might want to think about skipping registration altogether. It seems to me that the current laws regarding this are adequate. to pass this Bill we run the risk of having people skip registration because it is costly and time consuming. The current process is more enticing for people to abide by due to low cost and time investment. In my opinion, the resources that would be appropriated by this bill(both county time and money) are better sent focusing on providing a better education for our children in Hawaii. I feel, as many other people do, that one of the keys to reducing gun violence in America is providing a better education for our children. I think Hawaii falls very short in this area and monies and resources being allocated to Bills like this are better spent on education.

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**ing2-Brandon**

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**To:** pbstestimony  
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**Subject:** \*Submitted testimony for SB69 on Mar 14, 2013 09:30AM\*

**SB69**

Submitted on: 3/12/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Ryan Maeda	Individual	Oppose	No

**Comments:**

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SB69

Aloha

I do not in support of this bill.

This bill is nothing more than plain harassment and infringement on our Second Amendment. If you really wanted change with gun violence then you would address the people who illegally possess and use firearms in crimes not law abiding citizens who already comply with the law.

This bill presents no viable solutions that would make improvements to Hawaii, but instead attacks law-abiding citizens who are choosing to exercise the right to own a firearm.

Mahalo

Paul Bueltmann



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**Cc:** dcmoose@hawaii.rr.com  
**Subject:** Submitted testimony for SB69 on Mar 14, 2013 09:30AM

**SB69**

Submitted on: 3/12/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Douglas Moose	Individual	Oppose	No

Comments: Individuals, who bring firearms into Hawaii from another state, even on a temporary basis, are already required to register their firearms within 72 hours. This bill now adds a fingerprinting, photographing, AND a background check requirement on the owner in addition to the already burdensome registration requirement on such legally possessed firearms. Hunters and sport shooters who travel to Hawaii will be required to waste at least one or two days to stand in line and register their firearms. Paying for a rental car, parking, and hotel accommodations in order to undergo fingerprinting and a NICS check is unreasonable and would become prohibitive to many. What happens when a legally purchased and registered firearm from another state is inappropriately confiscated due to outdated or inaccurate NICS data? Even when the situation is cleared up, the individual's vacation will have been ruined, and the cost of shipping the firearm to the individual's home, or local FFL, will be just another waste of tax payer revenue by the state. Ultimately, visitors will choose to vacation in places other than Hawaii, and they will warn their family and friends to stay away from this anti-second-amendment state! This bill represents no viable or reasonable solutions that would improve the violence rate of Hawaii. It would instead place an unnecessary, costly, and ineffective burden on law-abiding American citizens who merely wish to exercise their individual right to own and use their legally obtained firearm.

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**From:** Troy Abraham [tabraham08@gmail.com]  
**Sent:** Tuesday, March 12, 2013 2:37 PM  
**To:** pbstestimony  
**Subject:** SB69 SD2

I support

**passage of the bill SB69 SD2 because all guns needs to get registered and background checks but by 2nd amendment everybody has right to bear arms just need to ensure it won't end up within the wrong hands. It good to keep guns in hands of local island hunters that need it and help protect people from criminals so enforce laws to background checks and keep guns in hands of people per 2nd amendment much love and aloha**

**ing2-Brandon**

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**To:** pbstestimony  
**Cc:** renny.chee@us.army.mil  
**Subject:** Submitted testimony for SB69 on Mar 14, 2013 09:30AM

**SB69**

Submitted on: 3/12/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Renny Chee	Individual	Oppose	No

Comments: This bill adds a redundant layer of background checks to an already existing policy of gun registration. What was originally a gun back bill has morphed into a cumbersome, meaningless administrative process that attempts to further restrict the rights of lawful citizens.

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**To:** pbstestimony  
**Cc:** Leealdrige@msn.com  
**Subject:** Submitted testimony for SB69 on Mar 14, 2013 09:30AM

**SB69**

Submitted on: 3/13/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Rosemary Aldridge	Individual	Oppose	No

Comments: Oppose on grounds of excessive restrictions against gun owners. Secondly, more money will be needed to run this program, money we don't have.

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**SB69**

Submitted on: 3/12/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Randy Lynn Thomas	Individual	Oppose	No

Comments: You Swore and Oath to Uphold and Defend The Constitution of the United States! What are your intentions? Did you miss The Big Picture? God Gave Us These Rights and you think we are too stupid to have them? Is this True? Perjury? Was your Oath just a Lie? Did you read any of the Founding Fathers Letters? Did you Read THE BILL OF RIGHTS? Are you supporting a Tyranny against the People? Are you ABOVE THE LAW? See What I See... Hear What I hear! Are you not ashamed? I see you have gone to Far. Tax Money to buy Votes! Destruction of Peoples Rights! Destruction of THE CONSTITUTION! Just How Far will YOU go? You are not above the Destruction you Bring upon US!!! Remember this! It will come down on your heads too. I put my name to this. Randy Thomas Waipahu, HI. "Those who sacrifice Freedom for Security... will have neither!" Thomas Jefferson.

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**To:** pbstestimony  
**Cc:** david@kingdonconsulting.com  
**Subject:** Submitted testimony for SB69 on Mar 14, 2013 09:30AM

**SB69**

Submitted on: 3/13/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
David Kingdon, MPH, Paramedic	Individual	Support	No

Comments: As a paramedic in Hawaii, I strongly support SB69. When firearm injuries occur, they are often fatal even with the best EMS treatment available. Prevention is the only reliable way to avoid firearm fatalities. Many EMS providers are also gun owners and hunters. SB69 does not present a threat to these pursuits, rather the bill offers a reasonable method of injury control. Thank you.

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**SB69**

Submitted on: 3/12/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kimberly Treloar	Individual	Oppose	No

**Comments:**

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**SB69**

Submitted on: 3/13/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lee Aldridge	Individual	Oppose	No

Comments: I wish to thank the PBS Committee for this opportunity to submit testimony on Senate Bill 69. I emphatically OPPOSE SB69. Senate Bill 69 started off as a Gun "Buyback" bill, but has evolved into a "Gun Safety and Education" bill, and by further amendments has morphed into a gun owner harassment/mental interrogation bill. This bill, in its current state, will require fingerprinting and NICS checks in addition to the already existing registration requirement on ALL firearms brought into the state, and will allocate \$200,000 to police departments to be used at their discretion for safety and training, gun "buybacks" or extensive background checks for mental health. Firstly, gun buyback programs have proven ineffective in locations throughout the Country. Many cities have undertaken similar programs without any evidence of a decrease in gun-related crimes. People turn in guns that are inoperable or otherwise unwanted. There is no reason for a criminal who has an unregistered firearm to turn in their weapon unless it is useless to begin with. And law-abiding citizens with registered firearms who turn in a firearm would most likely never have committed a violent act with their firearm in any event. This is an absolute waste of taxpayer's money when there is so many better ways that the state can utilize taxes from an already financially overburdened citizenry. Secondly, people, who bring firearms into Hawaii from another state, even on a temporary basis, are already required to register their firearms within 72 hours. This bill now adds a fingerprinting AND a background check requirement on the owner in addition to the already burdensome registration requirement on such legally possessed firearms. These requirements are so onerous that if one acquired an antique firearm or an unusable or unserviceable firearm they would still have to undergo the entire background check, registration and fingerprinting process. Hunters and shooters, when traveling to Hawaii under this law would have to make sure to allocate at least one or two days to stand in line to register their firearms and undergo fingerprinting and a NICS check in addition to potential "extensive background checks for mental health concerns for certain individuals wishing to register guns," whatever that means, for a firearm you already legally possess. SB 69 leaves several things open to question or interpretation. For instance, it fails to define what constitutes an "extensive background check" or what constitutes a "mental health concern." Without proper definitions, these requirements remain open for interpretation by the local authorities. Further, could these "extensive background checks" turn a five-day hunting or shooting trip to the islands into ten days of psychoanalysis by the local police sergeant? In summary, what can be known for sure is that this bill presents no viable solutions that would make improvements to Hawaii, but instead attacks law-abiding citizens who are choosing to exercise the right to own a firearm. Finally, I reiterate my opposition to SB69.

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**SB69**

Submitted on: 3/13/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
david krumwiede	Individual	Support	No

Comments: please do not support...no on SB69

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**SB69**

Submitted on: 3/12/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Charles moss	Individual	Oppose	No

Comments: I am a third generation Hawaii resident and am opposed to SB 69 because its provisions are impractical and are attempting to solve a non existent problem in Hawaii. In other words, it will not work, and more paperwork will not do anything of value. Mahalo, Charles Moss

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**SB69**

Submitted on: 3/12/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Victor Ferrer	Individual	Oppose	No

Comments: Dear Representative: Henry J.C. Aquino, Kaniela Ing, Mark J. Hashem, Ryan I. Yamane, Linda Ichiyama, Kyle T. Yamashita, Mark M. Nakashima, Bob McDermott, Roy M. Takumi I oppose SB 69, SD1 (SSCR334). Individuals being charged a floating fingerprint fee for registrants with fingerprinting and photograph prints on file. As a law-abiding citizen and a responsible gun owner, I support efforts to curb violence in all forms. However, I do not support the efforts of any lawmaker who seeks to restrict my rights under the Second Amendment, or to impose new fees and/or restrictions on me and other law-abiding firearm owners. Rather, I support a comprehensive approach to preventing violence in our communities through a thorough evaluation of the challenges we face. That review must include the enforcement of existing laws, the need for heightened security approaches, and greater consideration on how to better manage the acutely mentally ill. As a law-abiding citizen and a constituent, I ask that you represent me in these matters. Sincerely, Victor Ferrer

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**To:** pbstestimony  
**Cc:** gerald.matsu@hawaiiantel.net  
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**SB69**

Submitted on: 3/12/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Gerald Matsunaga	Individual	Oppose	No

Comments: I oppose this bill, as it will only be partially effective. No consideration has been given for out of state hunters, competition shooters, and eradication shooters. Needs to be re-worked to take these categories of shooters into consideration. Mahalo

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**SB69**

Submitted on: 3/12/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Randall Mita	Individual	Oppose	No

**Comments:**

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**Cc:** susan.mulkern@gmail.com  
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**SB69**

Submitted on: 3/13/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
susan Shaheen Mulkern	Individual	Oppose	No

**Comments:**

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**Cc:** sikryd@gmail.com  
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**SB69**

Submitted on: 3/13/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifler Position</b>	<b>Present at Hearing</b>
Jared Abdul	Individual	Oppose	No

Comments: My voting and law abiding family, friends and I all oppose this bill. Hawaii already has some of the most restrictive gun laws in the country, and it is already a burden on the law abiding public to purchase and register a firearm. Adding further restrictions will do nothing to curb the already low firearm related crimes in Hawaii. What you all seem to forget, is that criminals do not care about the laws, hence the fact that they are criminals. Keep your oath of office and stand up for the constitution. My family, friends and I will watch your votes carefully, and remember them on the next election.

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**SB69**

Submitted on: 3/13/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Christopher K Koike	Individual	Oppose	No

Comments: I am a small Business owner and a voter. Although perhaps guided by good intentions, this Bill is useless. Please stop punishing and inconveniencing the law abiding citizens. I will not support or vote for anyone who supports this bill in any form.

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**SB69**

Submitted on: 3/12/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Eric Ako DVM	Individual	Oppose	No

Comments: Dear Honorable Chair and committee members, I am opposed to SB 69. SB69 will not make Hawaii safer from gun crimes and criminals. It will adversely affect the conscientious gun owners who would be the only ones to comply. It will adversely affect our hunting industry, for example consider the Island of Lanai. This action would discourage travelers from coming and spending money here. Conscientious professionals like myself make SAFETY a No.1 priority. This bill will not contribute to that effort. Thank you, Eric Ako DVM

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**To:** pbstestimony  
**Cc:** tom@twilight.com  
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**SB69**

Submitted on: 3/12/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Tom Markson	Individual	Oppose	No

Comments: I oppose this bill primarily because it is pointless and will not reduce violence or increase public safety. It will only inconvenience law abiding citizens and reduce tourism. But that being said, there are also specific problems with the bill: 1. I believe it is unnecessary and economically stupid to require visitors to go through a background check on a firearm they have already legally acquired. This will reduce tourism for hunters who visit the Islands. 2. It is silly to apply these requirements to antique and unserviceable firearms which pose no threat whatsoever to anyone. 3. It will only increase the lines at the county police stations which will effect both residents and visitors. 4. Fingerprinting and photographing visitors is completely pointless. 5. The police chief should not have the discretion to fingerprint if the fingerprints are already on file 6. The money being appropriated could be much better spent on better things in this state.

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**To:** pbstestimony  
**Cc:** rglivinghi@aol.com  
**Subject:** Submitted testimony for SB69 on Mar 14, 2013 09:30AM

**SB69**

Submitted on: 3/13/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Ronald Livingston	Individual	Support	Yes

Comments: Amend that finger prints do not need to be taken if a set is already on file.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 12, 2013 9:01 PM  
**To:** pbstestimony  
**Cc:** Kckono@hawaii.rr.com  
**Subject:** Submitted testimony for SB69 on Mar 14, 2013 09:30AM

**Follow Up Flag:** Follow up  
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**SB69**

Submitted on: 3/12/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kristopher Kono	Individual	Oppose	No

Comments: Enough with the gun laws. You just don't get it. Gun sales are up because politicians keep threatening citizens with new laws that restrict our rights. These laws don't keep us safe from people who don't abide them. Suggest punishing the guilty and leave the regular citizen alone. Stop passing programs that justify taking more of our money. New gun laws only sow the seeds of discontent. Thank you.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 13, 2013 8:27 AM  
**To:** pbstestimony  
**Cc:** kevinjmulkern@gmail.com  
**Subject:** \*Submitted testimony for SB69 on Mar 14, 2013 09:30AM\*

**SB69**

Submitted on: 3/13/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kevin J. Mulkern	Individual	Oppose	No

**Comments:**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 13, 2013 10:14 AM  
**To:** pbstestimony  
**Cc:** mleineweber@m5architecture.com  
**Subject:** Submitted testimony for SB69 on Mar 14, 2013 09:30AM

**SB69**

Submitted on: 3/13/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Michael Leineweber	Individual	Oppose	No

Comments: I strongly oppose this proposed legislation, which is an irresponsible waste of visitor and tax-payer time and money. The requirement to register any firearm brought into the state already exists. Police departments already fingerprint and photograph every gun owner, plus charge a fee for processing those fingerprints through national data bases. To add fingerprinting and photographing to the registration requirement for visitors, adding huge time, hassle, and costs to any trip to comply with this onerous new legislation, flies in the face of Hawaii's number one industry, tourism with aloha! This proposal tells a significant number of big spenders to keep out, they're not welcome! And to what effect? Any visitor willing to register a firearm is not a vacationing criminal bent on doing harm in our state. How does this proposed legislation diminish crime in our state? This proposed legislation would drive tourists away, meaning lower hotel occupancy, fewer paid hunts, fewer competition purses, and lower employment for Hawaiians. Is that what our legislators want to be remembered for? Hurting our visitor industry while doing nothing to promote crime prevention? Please do not pass this bill.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 12, 2013 11:53 PM  
**To:** pbstestimony  
**Cc:** jan.schwarzenberg01@gmail.com  
**Subject:** Submitted testimony for SB69 on Mar 14, 2013 09:30AM

**SB69**

Submitted on: 3/12/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifler Position</b>	<b>Present at Hearing</b>
Jan Schwarzenberg	Individual	Oppose	No

Comments: This proposal is an irresponsible waste of unspecified tax-payer funds. Any representative's vote in favor of it is prima facie grounds to not be re-elected. The requirement to register any firearm brought into the state ALREADY exists. Police depts ALREADY fingerprint and photograph every gun owner, plus charge a fee for processing those fingerprints through national data bases. To add fingerprinting and photographing to the registration requirement for visiting hunters/competitors, thereby adding huge costs to any trip for the required additional time needed to comply, contradicts Hawaii's number one industry - tourism with aloha! This proposal tells a significant number of big spenders to keep out, they're not welcome! And to what end effect? Anyone already willing to register a firearm is not a vacationing criminal bent on doing harm in our state. So how does this proposal diminish crime in our state? All it does is drive tourists away, which means lower hotel occupancy, fewer paid hunts, fewer competition purses, lower employment for Hawaiians. Is that what the legislators want to be remembered for? Killing industry while doing nothing to promote crime prevention?

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 13, 2013 9:55 AM  
**To:** pbstestimony  
**Cc:** MarkEastridge@msn.com  
**Subject:** \*Submitted testimony for SB69 on Mar 14, 2013 09:30AM\*

**SB69**

Submitted on: 3/13/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mark Eastridge	Individual	Oppose	No

**Comments:**

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## ing2-Brandon

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**From:** Robin Hall [robin.hall@yahoo.com]  
**Sent:** Wednesday, March 13, 2013 8:29 AM  
**To:** pbstestimony  
**Subject:** SB 69

I have been a gun owner for over 20 years. When I registered my first firearm I was active duty military, trained in the use of firearms. At the time of my first firearm registration I was appalled by the invasion of my privacy so that I might exercise my Second Amendment Right to "to keep and bear arms". Perhaps you are unaware of the component of the Second Amendment which states "SHALL NOT BE INFRINGED". The invasion of my privacy by the State and County government is, understanding what the Second Amendment actually says and not your perverse interpretation of same, a violation of my Forth Amendment Rights.

I was made through subtleties in demeanor and courtesy of the Police Department, the registering authority, that I was in some way, offensive or, at a minimum, displeasing to the personnel registering my gun. Ultimately, I was unwarrantably made to feel as if I was a criminal or pursuing a criminal act by simply wanting to exercise my Second Amendment Right.

The State of Hawaii has already gone far beyond that which is plainly identified in the Bill of Rights. I strongly urge you to defeat SB 69.

Thank you for your kind consideration in this matter.

Robin Hall  
Kamuela, Hawaii



## ing2-Brandon

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 13, 2013 4:15 AM  
**To:** pbstestimony  
**Cc:** poiboi001@gmail.com  
**Subject:** Submitted testimony for SB69 on Mar 14, 2013 09:30AM

### **SB69**

Submitted on: 3/13/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Patrick Baltazar	Individual	Oppose	No

Comments: I am writing you to voice my strong opposition to SB69 introduced by Senators Espero, Baker, Galuteria, and Green. While this bill appears to have good intentions, I question the reasoning behind these added restrictions on our 2nd amendment rights and whether the expenditure of our tax money to support these restrictions is justified. Fingerprinting and picture taking of individuals arriving in Hawaii to register their firearms is akin to treating them as if they were criminals for simply exercising their 2nd amendment rights. What is the purpose of the picture taking? At what cost? Do our elected officials believe that individuals with a criminal background that enter Hawaii will abide by our gun laws? Section 3 appropriates our tax dollars for a gun buy-back program. I strongly oppose this as an unnecessary waste of our tax dollars as there is no evidence supporting the efficacy of this type of program. Do our elected officials actually believe that criminals will sell their illegally obtained firearms in a buy-back program? While these types of bills appear to have good intentions, they are a violation of the U.S. Constitution as well as the Hawaii State Constitution Article 1 Section 17 which states, "A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed." These bills are an infringement of this right.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 13, 2013 12:24 AM  
**To:** pbstestimony  
**Cc:** bfdhack@yahoo.com  
**Subject:** Submitted testimony for SB69 on Mar 14, 2013 09:30AM

**SB69**

Submitted on: 3/13/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
MICHAEL G HACK	Individual	Comments Only	No

Comments: THIS IS A RIDICULOUS IDEA...WE ALREADY HAVE LAWS, RULES, AND REGULATIONS FOR DEALING WITH THIS...ARE WE SETTING UP A DATA BASE FOR GUN REGISTRATION??? THIS ALSO IS BURDENSOME ON THE ALREADY OVERWORKED STATE WORKERS, POLICE, AND CREATES YET ANOTHER BUROCRACY THAT WE CANNOT AFFORD...

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**Sent:** Tuesday, March 12, 2013 7:15 PM  
**To:** pbstestimony  
**Cc:** hgpsurf@hawaii.rr.com  
**Subject:** \*Submitted testimony for SB69 on Mar 14, 2013 09:30AM\*

**Follow Up Flag:** Follow up  
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**SB69**

Submitted on: 3/12/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Hugh Petersen	Individual	Oppose	No

**Comments:**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 12, 2013 9:16 PM  
**To:** pbstestimony  
**Cc:** Mack127osu@yahoo.com  
**Subject:** \*Submitted testimony for SB69 on Mar 14, 2013 09:30AM\*

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**SB69**

Submitted on: 3/12/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kristin Mack	Individual	Oppose	No

**Comments:**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 13, 2013 11:28 AM  
**To:** pbstestimony  
**Cc:** gkondo808@yahoo.com  
**Subject:** Submitted testimony for SB69 on Mar 14, 2013 09:30AM

**SB69**

Submitted on: 3/13/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Glenn Kondo	Individual	Oppose	No

Comments: Dear Sirs and Mesdames: I oppose this bill as it is being revised as it simply adds yet another layer of beuracracy to an already over-burdened system. The idea that the one person "office" on the Big Island will now have to do additional work without I assume the additional funding (as the government is needing to cut back on services) for at least a part-time staff person to manage the monitoring, review and registration of not only the residents of this island but also any vacationing hunters is simply not possible.

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**ATTN: of the House Chairman COMMITTEE ON PUBLIC SAFETY  
Chair, Rep. Henry Aquino**

From:

Robert F. Kay  
3663 Lilinoe Place  
Honolulu, HI 96816

RE: SB 69, SD2

March 13, 2013

My name is Robert F. Kay and I am a member of the Hawaii Rifle Association. I am submitting this testimony in opposition to SB 69, SD2.

While I support background checks, this bill is redundant. Existing law has done the job of protecting Hawaii residents from illegal, out of state guns.

Those who bring firearms into Hawaii from another state, even on a temporary basis, are *already* required to register their firearms within 72 hours. The fingerprinting, photographing, and background check requirements that SB 69 adds do not make sense.

There are a number of tourist/hunters who hunt on private land and spend a good deal of money in Hawaii who will be impacted negatively by this. SB 69 will discourage them from ever wanting to repeat this kind of onerous process when they are *already* required to register their firearms.

The upshot is that Hawaii people are protected right now from people bringing guns into our state. The county Police Departments are

already doing NICS checks on bring-in firearms, and universal registration is already existing state law.

SB 69 needs to be terminated.

Thank you for the opportunity to comment on this bill.

Respectfully yours,

Robert F. Kay

Kyle Sleppy

PBS/Committee On Public Safety

March 14, 2013 @ 0930 hours

SB69 SD.2

In SB69, SD. 2, it is stated that a person or firearm, whichever arrives to Honolulu last, then has five days to register the firearm to the Chief of Police of the county of the person's place of business, if nonexistent their place of residence and if neither exist their place of sojourn, meaning the person's place of temporary stay. Though, this extension in time by two days for the registry of such firearm is a generous offer, the registry of firearms is wrong in itself. Forcing an individual to register their firearm to have one in the State of Hawaii is a display of control & conscription, meaning the state tells the individual they have to register their firearm, and they are expected to do so without questioning because it is the law whether it is right or wrong. The problem with registration is it is a breach of privacy, and is Hawaii's way of controlling and suppressing the People, because they have a full list of every firearm owner in the state, with addresses, names and phone numbers, etc. This list could then come to great use in the case of firearm confiscation in Hawaii.

Accompanied by Hawaii's current firearm laws, SB69 now mandates every person, out of state or in-state who purchases or brings a firearm or in any way has a firearm brought into the state of Hawaii, having been forced into registering such firearms, the fingerprinting and photographing of the individual as well as a background check as part of the registration process. Not only these preposterous things, but the individual registering would have to pay the state money to conduct the fingerprinting they did not want to do in the first place but were forced to under the states from of firearm conscription.

I disagree with the current laws in place, and disagree with the amendments made to them in SB69 SD. 2 as it is punishing legal firearm owners and making the process more difficult than it is already to purchase, own and register a firearm in the state, furthermore charging money to m punish them. These amendments of the Hawaii Revised Statutes within SB69 are unacceptable. This bill is obviously a matter of gun control, put in place for supposed safety reasons, but the main focus should be on illegal gun purchasing and ownership of firearms, not making it easier for an individual to obtain and possess a firearm illegally compared to the legal process of doing so.

I propose the bill be voted against and turned down by the Senate, House of Representatives and at last resort, the Governor of the State of Hawaii.

Sincerely,

Kyle Sleppy

James Bedient  
1464 Molehu Dr.  
Honolulu, HI 96818

March 12, 2013

To: Hawaii State House Committee on Public Safety

Re: Testimony opposing SB 69

Aloha! SB 69 proposes to increase the requirements on an individual transporting a firearm into the state. The law already requires registration, this law provides no benefit either to the state or to those law abiding citizens that comply with the law. It only adds a layer of bureaucracy in a fiscal environment in which we cannot afford more bureaucracy. It will also act as a disincentive to comply with the existing registration law – and thus have a net negative effect.

Individuals coming into the state and registering firearms are already law-abiding firearm owners. There is no need to make them jump through further hoops. In addition, this bill will unfairly impact military personnel that are transferred into the state. Why make them go through a hassle that doesn't help anything?

This bill is a solution looking for a problem, and I oppose it in its entirety.

Very respectfully,

James Bedient

I oppose SB69 for several reasons as articulated below.

1. This bill is a waste of taxpayer money. How many violent crimes in the state involve firearms, and more importantly, how many of these do you suppose this bill will prevent?
2. By your own estimation, there are roughly one million firearms estimated to be in Hawaii (legally). How many of legally owned firearms are used to commit violent crimes each year? How many illegally possessed firearms are used likewise, and will this bill either increase the first category or decrease the second? I do not believe so.
3. This bill is also a burden on visitors to this state, as the average wait time to register a firearm (at least on Oahu) ranges from 2-4 hours currently. This means a law abiding visitor to our state for the purpose of a five-day hunting trip would have to plan an extra day to comply with this legislation.
4. It is of at least equal, if not even greater importance, that passage of this bill is sure to call Hawaii's current firearms registration/permit to purchase law into a legal challenge. How can the police department comply with the requirements of this bill and issue registrations to visitors, while requiring residents to wait 14 days from the date of application to issue permits to purchase (since the justification for that wait time is the background check)?

Please do not waste my taxes with this proposed bill or infringe on the rights of residents and visitors of our great state.

Very Respectfully,

Joseph Marcotte

201 N. Circle Mauka St

Wahiawa, HI 96786

To the legislature:

SB69 spends money the state doesn't have, to do things the residents of Hawaii do not want. Specifically will fund the police departments to provide gun safety education that is already provided by private citizens. In effect this bill would be an attack on those citizens' incomes and livelihoods. I have taken such a course taught by an NRA certified instructor and the government has no business spending such money to put people out of work when they have such huge unfunded liabilities.

Registration of guns from out of state is already required in Hawaii. More evidence this bill is a farce. If one commits a criminal act with a gun, then that person should be punished - for the criminal act. Law-abiding people who use guns for hunting, sport and self defense cannot have their rights infringed when they have committed no crime.

The gun buyback program is even more ridiculous. Again, this state is broke and has no business allocating money to purchase guns. By way of comparison, drunk driving fatalities in this state are approximately 40 times that of gun-related fatalities. Moreover, cancer fatalities related to alcohol (liver, breast) are well over 100 times that of gun-related fatalities in the state! These facts cannot be disputed. If the legislature wants to reduce the number of deaths I insist they instead allocate money for an alcohol buyback program, a far more injurious to the state of Hawaii than guns. To not do so would be blatant hypocrisy.

Sincerely,  
A. Bradley

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**ing2-Brandon**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 13, 2013 1:28 PM  
**To:** pbstestimony  
**Cc:** Bunker9939@gmail.com  
**Subject:** \*Submitted testimony for SB69 on Mar 14, 2013 09:30AM\*

**SB69**

Submitted on: 3/13/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Nick Zimecki	Individual	Oppose	No

**Comments:**

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**Sent:** Wednesday, March 13, 2013 1:37 PM  
**To:** pbstestimony  
**Cc:** pastordennisjr@gmail.com  
**Subject:** Submitted testimony for SB69 on Mar 14, 2013 09:30AM

**SB69**

Submitted on: 3/13/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifler Position</b>	<b>Present at Hearing</b>
Pastor Dennis Martin	Individual	Oppose	No

Comments: Please DO NOT pass this bill. It would only serve to encumber legal gun owners. STOP the attack on law abiding citizens. Enforce the law that already exists.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 13, 2013 12:44 PM  
**To:** pbstestimony  
**Cc:** kelly.wakayama@gmail.com  
**Subject:** Submitted testimony for SB69 on Mar 14, 2013 09:30AM

**SB69**

Submitted on: 3/13/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kelly Wakayama	Individual	Oppose	No

Comments: I am opposed to this - there are already measures in place for people legally acquiring guns to register them. People doing so legally are not the problem - it is those who have no regard for the law that are the problem and this will not stop them.

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**Ing2-Brandon**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 13, 2013 1:41 PM  
**To:** pbstestimony  
**Cc:** kapuaponi@gmail.com  
**Subject:** Submitted testimony for SB69 on Mar 14, 2013 09:30AM

**SB69**

Submitted on: 3/13/2013  
Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
leona martin	Individual	Oppose	No

Comments: Do Not pass this bill. Individuals who bring firearms into Hawaii from another state, even on a temporary basis, are already required to register their firearms within 72 hours. SB 69 now adds a fingerprinting, photographing, AND a background check requirement on the gun owner in addition to the already burdensome registration requirement on such legally possessed firearms. These requirements are so onerous that if one acquired an antique firearm or an unusable or unserviceable firearm, they would still have to undergo the entire background check, registration and fingerprinting process. It will not solve crimes. Stop the attack on legal gun owners.

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I oppose S.B. 69, S.D. 1. This proposed legislation places additional regulatory burdens on honest, law-abiding citizens and will not reduce gun violence by criminals and mentally disturbed individuals. Such programs in other jurisdictions have never been proven to prevent violent crime. The proposed fingerprinting and photographing of individuals wishing to register firearms is not only a burden but an absolute insult to law-abiding citizens. I expect the tourists I've seen arriving on Lanai with their shotguns for skeet shooting will abandon Hawaii in favor of other locales with more Aloha. I respectfully request that you not approve this bill.

-Dr. J. W. Morrow

**ing2-Brandon**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 13, 2013 2:25 PM  
**To:** pbstestimony  
**Cc:** ehkaneshiro@gmail.com  
**Subject:** \*Submitted testimony for SB69 on Mar 14, 2013 09:30AM\*

**SB69**

Submitted on: 3/13/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Eric Kaneshiro	Individual	Oppose	No

**Comments:**

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Additional Gun Laws won't change the criminal behavior in people. Criminals will remain criminal and will access guns as they always have and commit crimes, while law-abiding people will follow the rule of the law(s) and find themselves unable to protect themselves. If the true objective is public safety, we should reach logical conclusions after careful consideration of facts and data. A position, nowhere rooted in fact, and based only upon emotions and personal bias, is an irrational response.

This irrational response, is to try to take away the bad guns, as if a villain couldn't fix a couple of nails to a bat and go to town. Because of personal fears, some people can't distinguish between law-abiding and criminal, and they can't see the sense in accepting that criminals don't follow laws, therefore gun laws only affect the law-abiding.

We must all be looking for ways to prevent senseless acts of violence and the taking of innocent life but the best place to start would be enforcing the laws that have already been enacted.

The recognition that we all really have shared goals: we want our communities to be safer, and we will do anything to protect our Keiki.

Start focusing on that and stop trying to convince people that all law-abiding gun owners are criminals in waiting.

Self-defense is a God given right, protected by our Constitution, those that limit our right to self defense, do so with nothing more than their own personal bias as justification.

At a time when crime is rampant and people are becoming more and more desperate due to the struggling economy, it is imperative that state and local governments support the people's right to defend themselves from would-be attackers. The police have nothing to fear from law-abiding citizens with guns.

Mahalo for your consideration,  
Michael Riley



# COMMUNITY ALLIANCE ON PRISONS

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## COMMITTEE ON PUBLIC SAFETY

Rep. Henry Aquino, Chair

Rep. Kaniela Ing, Vice Chair

Thursday, March 14, 2013

8:30 a.m.

Room 309

## STRONG SUPPORT FOR SB 74 SD1 - SALE OF CRAFTS

Aloha Chair Aquino, Vice Chair Ing 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.

SB 74 SD1 allows committed persons to create and place for sale approved products and crafts. Allocates proceeds to rehabilitation programs, the crime victim compensation special fund, and the committed person's account. Requires department of public safety to study other states' practices on the making and sale of arts and crafts by inmates. Requires a report to the 2014 legislature.

Community Alliance on Prisons is in strong support of this measure, which allows 25% of sales to go toward victim restitution; 25% of sales to go toward incarcerated person's reentry/reintegration; and 50% of sales go to incarcerated person's facility account.

Selling crafts would allow the individual to generate some funds to purchase needed items from the commissary without burdening their families for necessary items like clothing, toiletries and other needed hygiene products.

It is obvious that a busy incarcerated person is easier to manage. The sale of their handicrafts increases the self-esteem of the incarcerated and can enable transition back to the community with a marketable skill. Many prisons around the continent have craft programs that allow the incarcerated artist to earn some money and pay restitution to their victims.

A small sampling of programs around the continent include programs in Arizona, Washington state and New Hampshire.



## ARIZONA

### **Prison Outlet Store Sells Crafts Made by Inmates<sup>1</sup>**

The finished products are put up for sale in the Outlet Store in Florence, Ariz. -- sorry, no out-of-state sales -- and proceeds are divided between the inmate and a victims' rights group. **The program also helps save the state millions of dollars because the rate in which participating felons return to prison drops 30 percent.**

**"Those inmates gain marketable job skills they can use in the real world,"** Rick Kahn, vice president and sales manager of Arizona Correctional Industries. "And they leave here with an understanding of the workforce because we treat them like co-workers."

## WASHINGTON STATE

### **Prison Inmates Free Their Minds With Arts And Crafts<sup>2</sup>**

WALLA WALLA - As Washington State Penitentiary inmates, they have plenty of time on their hands, and some choose to use their hands as they serve their time.

They are the jewelers, the leather craftsmen, the sketch artists who advanced from doodling in their cells to producing professional-looking works of art that are sold to staff members and the public.

**"Instead of turning into a video idiot (in my cell), I braid these for a couple of hours,"** said John Breen, 34, displaying his leather-braid belts and other handiwork.

## NEW HAMPSHIRE

### **"Correction Creations" Offers NH-Made Crafts and Furniture<sup>3</sup>**

John Limoge, who has been the prison shop manager for about 13 years, said about 10% of the men incarcerated at the prison are enrolled in the program, and more have been put onto a waiting list.

"The inmates have their own artistic abilities and interests," John says. **"They decide what they want to make, and then they price it before it is sent to Grevior Furniture."** The prison shop also accepts custom orders, which can be placed through Grevior. John notes that the inmates pay for their own craft materials, and any proceeds from sales are shared between the inmates, the prison, and Grevior.

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<sup>1</sup> Nov 30th 2010 By Laura Leu

<http://www.asylum.com/2010/11/30/prison-outlet-store-arizona-correctional-industries/>

<sup>2</sup> By Terry Mcconn, Walla Walla Union-Bulletin. The Seattle Times, Sunday, January 27, 2013.

<http://community.seattletimes.nwsourc.com/archive/?date=19950305&slug=2108400>

<sup>3</sup> Christine Randall - September 18, 2012.

<http://thelaker.com/correction-creations-offers-nh-made-crafts-and-furniture>

John explains how this unique “Corrections Creations” shop came about. “This is our first venture like this,” he says. “We’ve had a state-of-the-art woodworking and craft shop at the state prison for over 25 years, but after the recent statewide budget cuts and staff reductions at the NHDOC, our store was reduced to the point that we weren’t able to open. So we came up with the idea to find a local business interested in providing space and selling our crafts on consignment.”

The NHDOC sent out a Request for Proposals to businesses throughout the state, with a positive response. “We had a lot of interest among smaller “Mom and Pop” stores and consignment stores,” John says. “The interested businesses had to fill out applications and submit their proposals to the State, and then a selection committee reviewed these. The committee selected Grevior Furniture.”

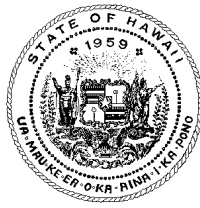
Community Alliance on Prisons encourages the Department of Public Safety to establish programs like this to develop marketable skills to prepare incarcerated persons for successful reentry into the community as well as to enhance prison management. The incarcerated persons at Kulani were making incredible wood products. I have a beautiful poi pounder that our men artfully crafted while incarcerated there.

And I have also received beautiful art work from our men in Arizona, although I don’t believe that their work is offered for sale.

Mahalo for hearing this bill and for thinking about ways to enhance public safety, increase the safety of prison managers, and develop programs to assist reentry for those exiting incarceration.

Mahalo for this opportunity to testify.

NEIL ABERCROMBIE  
GOVERNOR



STATE OF HAWAII  
**CRIME VICTIM COMPENSATION  
COMMISSION**

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Honolulu, Hawaii 96813  
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MARI MCCAIG  
Chair

THOMAS T. WATTS  
Commissioner

L. DEW KANESHIRO  
Commissioner

PAMELA FERGUSON-BREY  
Executive Director

TESTIMONY IN SUPPORT OF SENATE BILL 74  
A BILL FOR AN ACT RELATING TO  
COLLECTION OF RESTITUTION FOR CRIME VICTIMS

Pamela Ferguson-Brey, Executive Director  
Crime Victim Compensation Commission

House Committee on Public Safety  
Representative Henry Aquino, Chair  
Representative Kaniela Ing, Vice Chair

Thursday, March 14, 2013; 9:30am  
State Capitol, Conference Room 309

Chair Aquino, Vice Chair Ing, and Members,

Thank you for providing the Crime Victim Compensation Commission (“Commission”) with the opportunity to testify in support of Senate Bill 74 relating to allowing inmates to produce and sell products and crafts with proceeds allocated to the reentry programs, the Commission’s special fund, and the inmate’s account.

The Commission was established in 1967 to mitigate the suffering and financial impact experienced by victims of violent crime by providing compensation to pay un-reimbursed crime-related expenses. Many victims of violent crime could not afford to pay their medical bills, receive needed mental health or rehabilitative services, or bury a loved one, if compensation were not available. Since 2003, the Commission has operated without general funds. The Commission’s special fund is funded in part by the collection of the compensation fee, inmates’ wages and restitution.

Senate Bill 74 provides for another source of revenue from which the Commission can provide compensation to the victims of violent crimes. Moreover, Senate Bill 74 allows inmates to learn entrepreneur skills.

The Commission urges you to pass SB 74. Thank you for providing the Commission with an opportunity to testify in favor of this important measure.



Committee: Committee on Public Safety  
Hearing Date/Time: Thursday, March 14, 2013, 9:30 am  
Place: Conference Room 309  
Re: Testimony of the ACLU of Hawaii in strong support of S.B. 74, S.D.1, Relating to Corrections

Dear Chair Aquino and Members of the Committee on Public Safety:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in support to S.B. 74, S.D.1, which seeks to allow committed persons to create and place for sale approved products and crafts, allocates proceeds to rehabilitation programs, the crime victim compensation special fund, and the commitment person’s account, and requires the public safety to study other states’ practices on the making and sale of arts and crafts by inmates.

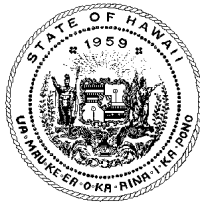
The ACLU of Hawaii supports every effort aimed at rehabilitating prisoners, reducing recidivism and alleviating overincarceration. Every effort should be made to provide Hawaii’s inmates with the support and services they need in which to become productive and responsible community members. Thank you for this opportunity to testify.

Sincerely,

Laurie A. Temple  
Staff Attorney and Legislative Program Director

*The American Civil Liberties Union (“ACLU”) is our nation’s guardian of liberty – working daily in courts, legislatures and communities to defend and preserve the individual rights and liberties that the Constitution and laws of the United States guarantee everyone in this country.*

American Civil Liberties Union of Hawaii  
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STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**

919 Ala Moana Boulevard, 4th Floor  
Honolulu, Hawaii 96814

**TED SAKAI**  
DIRECTOR

**Martha Torney**  
Deputy Director  
Administration

**Max Otani**  
Deputy Director  
Corrections

**Keith Kamita**  
Deputy Director  
Law Enforcement

No. \_\_\_\_\_

TESTIMONY ON SENATE BILL (SB) 74, SENATE DRAFT (SD) 1  
RELATING TO  
CORRECTIONS

by  
Ted Sakai, Director  
Department of Public Safety

House Committee on Public Safety  
Representative Henry J.C. Aquino, Chair  
Representative Kaniela Ing, Vice Chair

Thursday, March 14, 2013; 9:30 a.m.  
State Capitol, Room 309

Chair Aquino, Vice Chair Ing, and Members of the Committee:

The Department of Public Safety (PSD) **supports** SB 74, SD1 and the recommendation that PSD conduct a study to ascertain the practices of correctional facilities in other States with regard to the making and sale of arts and crafts by inmates.

The measure provides committed persons an opportunity to create and place for sale approved products and crafts with a mandate that a percentage of the proceeds fund rehabilitation programs and be deposited into the crime victim compensation special fund established by section 351-62.5. We respectfully request that the bill be amended to allow for funds to go into the inmates restricted account for his use after release from incarceration, instead of the facility fund for rehabilitative programs. Further, we request that the bill be clarified to reflect that all deposits made from the sale of approved products and crafts are subject to 353-22.6 Victim Restitution.

PSD is requesting to amend page 1, line 5 by replacing "shall" with "may."

Thank you for the opportunity to present this testimony.

**ing2-Brandon**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 13, 2013 2:44 PM  
**To:** pbstestimony  
**Cc:** palmtree7@earthlink.net  
**Subject:** \*Submitted testimony for SB74 on Mar 14, 2013 09:30AM\*

**SB74**

Submitted on: 3/13/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

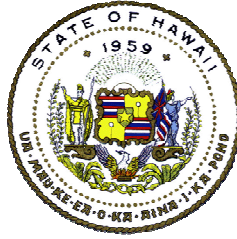
<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
janice palma-glenie	Individual	Support	No

**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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NEIL ABERCROMBIE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**

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TED SAKAI  
DIRECTOR

Martha Torney  
Deputy Director  
Administration

Max Otani  
Deputy Director  
Corrections

Keith Kamita  
Deputy Director  
Law Enforcement

No. \_\_\_\_\_

TESTIMONY ON SENATE BILL (SB) 509  
A BILL FOR AN ACT RELATING TO  
PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF  
THE STATE OF HAWAII RELATING TO RIGHTS OF CRIME VICTIMS

By  
Ted Sakai, Director  
Department of Public Safety

House Committee on Public Safety  
Representative Henry J.C. Aquino, Chair  
Representative Kaniela Ing, Vice Chair

Thursday, March 14, 2013, 9:30 a.m.  
State Capitol, Room 309

Chair Aquino, Vice Chair Ing, and Members of the Committee:

The Department of Public Safety (PSD) **opposes** SB 509 which proposes an amendment to the Constitution of the State of Hawaii guaranteeing that crime victims and their immediate surviving family members have specific rights. Some of the proposed provisions would seriously hamper our ability to process inmates through our system based on their level of dangerousness and their readiness to re-assume a place in our community as law-abiding citizens. As such, our ability to fulfill the promise of the Justice Reinvestment Initiative, enacted just last year, would be greatly compromised. Our overcrowding problem would only get worse if we are unable to release inmates, or even transfer them to lesser security facilities.

Moreover, three of the provisions which would directly impact us are very ambiguous. We fear that such provisions would entangle us in litigation that would distract us from carrying out our operations in an orderly manner.

We are particularly concerned with three provisions of Section Two of this bill, which specifies the rights crime victims would have under this proposed constitutional amendment. These are: Number 8 would give victims the right “to be notified in a timely manner, be heard and participate in any process or deliberation that may result in a post arrest release decision, a negotiated plea or sentencing of the offender.” This provision would have a profound impact on our ability to process recommendations to the courts for the release of pre-trial detainees. The Council on State Governments found in 2011 that Hawaii takes an inordinate length of time to release those detainees who are considered to be low-risk. This contributes to the chronic overcrowding in our Community Correctional Centers. As a result, Act 139 SLH 2012 requires that we conduct an objective assessment “within the first three working days of a person’s commitment to a community correctional center to allow the courts to more quickly exercise discretion in determining whether to release a pre-trial defendant.” If we have to gather input from victims and allow them to be heard and participate in the process, it would be very difficult to provide the courts with the required risk assessments within three days, and one of the primary components of JRI would be undermined. We don't know how we would be able to identify the victims and allow for them to be heard and participate within three days.

Moreover, for decades, we have conducted other reviews and assessments at police cellblocks in Hilo and Honolulu which lead to post-arrest release at the defendants’ first court appearance. This process allows the courts to grant release to low-risk offenders, who are presumed innocent under our system of justice, at the earliest possible time – even before commitment to a correctional facility. At this point in the process, it would be impossible for our Intake Service Center workers to identify the alleged victims, and to allow them to be heard and participate in the process. Under this provision, we may have to terminate this program, as we would not be able to identify victims, contact them and arrange for their input and participation prior to the first court appearance.



As a result, we would see more defendants admitted to OCCC, further exacerbating an already severe overcrowding problem.

We are also concerned because we are not sure what kinds of input we would be required to get from victims. We also do not know what the "process" entails or what "deliberations" mean. For example, if a worker conducts an assessment and confers with a supervisor as to the recommendation prior to submitting the assessment to the court, is he or she "deliberating"?

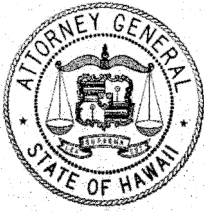
Number 9 would give victims the right "to be notified in a timely manner, provide input, be heard and participate in any process or deliberation that may result in the offender's post-conviction release from confinement, including any kind of release by the department of public safety." This provision likewise would create a myriad of problems for us. Under JRI, we are required to provide evidence-based risk assessments for consideration by the Hawaii Paroling Authority. The process of conducting risk and needs assessments identifying suitable programs, and monitoring successful participation eventually leads to a decision to release of offenders on work furlough or parole. Under JRI, this is a decision made by professionals, guided by evidence-based risk assessments, who monitor participation in evidence-based programs. Based on these observations and deliberations inmates who are considered low-risk, and who have completed their recommended programs are gradually reintegrated into their communities. This process is designed to protect the safety of the community while providing offenders the opportunity to become productive, law-abiding citizens. If victims have a constitutional right to participate in these processes and deliberations, the rate of release will decline, as more likely than not victims would oppose release on furlough or parole. Our facilities would become even more overcrowded than they are today.

Number 13 would give victims the right "to receive prompt restitution from the person or persons convicted." The JRI Act requires us to deduct 25% of an inmate's deposits for restitution payments. The HRS allows courts to set restitution payment schedules. We wonder if this proposed provision could be

SB 509  
March 14, 2013  
Page 4

interpreted to require that offenders fulfill the entire restitution promptly. This needs to be clarified.

Thank you for the opportunity to testify on this matter.



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-SEVENTH LEGISLATURE, 2013**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 509, PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII RELATING TO RIGHTS OF CRIME VICTIMS.

**BEFORE THE:**

HOUSE COMMITTEE ON PUBLIC SAFETY

**DATE:** Thursday, March 14, 2013

**TIME:** 9:30 a.m.

**LOCATION:** State Capitol, Room 309

**TESTIFIER(S):** David M. Louie, Attorney General, or  
Lance M. Goto, Deputy Attorney General.

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Chair Aquino and Members of the Committee:

The Department of the Attorney General submits testimony in opposition to this bill.

While the Department is sympathetic to crime victims and supportive of them, it is very concerned about this proposed constitutional amendment to establish constitutional rights for crime victims. Unlike the constitutional amendments adopted by other states, this amendment confers very broad rights upon crime victims that may adversely impact the criminal justice process.

The Department's three main concerns are that the rights conferred in this bill: (1) will likely conflict with the constitutional rights of defendants potentially creating issues that may (and in our judgment are likely to) result in making it more difficult to obtain convictions, because the criminal justice process will become more complicated and defendants will have more opportunities to create error in the process; (2) will likely create new liabilities for the State; and (3) may allow victims to participate in a criminal case at inappropriate times.

Conflicting Constitutional Rights

Some of the constitutional rights conferred on victims may conflict with a defendant's state and federal constitutional rights. Right (1) at page 2, lines 16-18, which requires a victim to be treated with "courtesy, fairness, and respect for their dignity and privacy throughout the criminal justice process," could, if applied **while the victim is on the witness stand**, easily interfere with a criminal defendant's right to cross-examine, and otherwise vigorously defend him or her self. Right (4) at page 3, line 1, the **victim's** right to "speedy trial or disposition of

their case," could conflict with a defendant's right to prepare his or her own defense. It could also interfere with the prosecutor's need to prepare its case as well.

Some states have included a limitation that the rights of victims not interfere with the constitutional rights of the accused.

#### New State Liabilities

These constitutional rights may create new liabilities for the State. They appear to create causes of action for victims for injunctive relief and possibly damages against government authorities involved in the criminal justice process. These new liability issues could adversely impact prosecutions. If a victim perceives that the prosecutor is not treating the victim "with courtesy . . . and respect," the victim may sue the prosecutor. This could occur, even though the prosecutor was acting appropriately. The prosecutor, already fully engaged with the criminal prosecution of the case, would also have to also deal with the victim's civil actions.

Some states have addressed this concern by including a provision that nothing in the constitutional amendment or any enabling statute adopted pursuant to the amendment shall be construed to create a cause of action against the state or any of its agencies, officials, employees, or political subdivisions. The present proposal does not do that.

It is important to note that some victims are adverse to the criminal justice process and law enforcement, or are uncooperative for other reasons. Some victims are supportive of the defendant, or continue to have a relationship with a defendant, and as result may take advantage of these broad victim rights to help the defendant in the criminal justice process. Other victims may be manipulated by defendants who want to take advantage of these broad rights to interfere with the criminal justice process. This could be a problem in many different types of cases, but especially in household abuse cases and intrafamily sex assault cases.

#### Inappropriate Participation

It should also be noted that some of the rights conferred in this bill may allow victims to interfere with the criminal justice process. A victim is not a third party to a criminal case. Right (6) at page 3, lines 5-7, the right to be present "at all public court proceedings related to the offense unless the court determines that the victim's presence would materially affect the victim's testimony," could conflict with the witness exclusion rule, pursuant to chapter 626, Hawaii

Revised Statutes (HRS). Although it purports to make an exception for that, the exception may not be broad enough.

Rights (8) and (9) at page 3, lines 10-18, conferring on victims the rights to be notified, heard, and **participate in any process or deliberation that may result** in a post-arrest release decision, a negotiated plea, sentencing, or post-conviction release, could adversely impact the criminal justice process. These rights seem to suggest that a victim is entitled to participate in any process or deliberation, including internal deliberations of the prosecutor's office or the Department of Public Safety, as well as discussions between those offices and the defendant's attorney, and conferences with the court. Victim participation at these points in the process may not be appropriate.

Right (10) at page 4, lines 19-21, and page 5, lines 1-2, requiring a victim to be notified and heard regarding "**any developments relating** to the release, discharge, commitment, or unauthorized absence of the offender who was committed or involuntarily hospitalized," is extremely broad. The administration at the State Hospital may engage in regular reviews and assessments of a defendant's medical condition, and work on developing or revising treatment plans. It may not be appropriate for a victim to participate in these processes.

We believe that these proposed constitutional rights are **not** simply aspirational (conferring no enforceable rights until actually legislated into law). As currently drafted, the amendment granting these rights appears self-executing. The provision saying, "The legislature shall have the power to enact laws to define, implement, and preserve the rights guaranteed by this section," does not appear to change the self-executing nature of the amendment. The amendment is intended to create strong, enforceable rights for victims.

Furthermore, government authorities, including the police, prosecutors, prisons, parole, the Department of Health, and the courts, may need additional resources to fully comply with the broad rights for crime victims and to respond to any court actions filed by victims who are not satisfied with the efforts of government authorities. For example, right (2) broadly requires that a victim "receive protection from threats of harm." It does not specify a time period for this right, nor limit it to threats by the defendant or agents acting on behalf of the defendant. And it does not specify the type of protection. A victim could expect very broad protections and file actions to enforce this right. Other states have adopted more specific and clear rights of

protection. For example, one state established a right to be reasonably protected from the accused through the imposition of appropriate bail or conditions of release by the court. Another state established a right to be reasonably protected from the accused throughout the criminal justice process. The present proposal is vague.

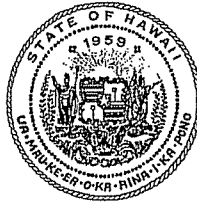
The Victims' Bill of Rights, in chapter 801D, HRS, should be adequate to properly address victims' rights. Chapter 801D provides for enforcement of its provisions. Section 801D-5(a) provides:

Each county is responsible for the enforcement of rights under section 801D-4. The courts shall fashion all decisions and orders to enhance the recognition of these rights and the provision of these services, to the extent that they will not conflict with the constitutional rights of the defendant.

The entities that participate in the criminal justice process, including law enforcement, prosecutors, the courts, and corrections, are supportive of victims and very cognizant of their rights under chapter 801D.

For the foregoing reasons, the Department opposes this bill and respectfully asks that it be held.

NEIL ABERCROMBIE  
GOVERNOR



STATE OF HAWAII  
**HAWAII PAROLING AUTHORITY**  
1177 Alakea Street, First Floor  
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BERT Y. MATSUOKA  
CHAIR

JOYCE K. MATSUMORI-HOSHIJO  
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ANNELLE C. AMARAL  
FITUINA F. TUA  
MEMBERS

TOMMY JOHNSON  
ADMINISTRATOR

No. \_\_\_\_\_

TESTIMONY ON SENATE BILL 509, HD1  
PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE  
STATE OF HAWAII RELATING TO RIGHTS OF CRIME VICTIMS

BY

Bert Y. Matsuoka, Chairman  
Hawaii Paroling Authority

House Committee on Public Safety

Representative Henry J.D. Aquino, Chair  
Representative Kaniela Ing, Vice Chair

Thursday, March 14, 2013; 9:30 a.m.  
State Capitol, Conference Room 309

Chair Aquino, Vice Chair Ing, and Members of the Committee:

With respect to Senate Bill 509 HD1, the Hawaii Paroling Authority's (HPA) comments will only address the section(s) that relate to the HPA.

With respect to Section 2 (item #6), HPA's Administrative Rules (23-700-22J) already provides for the notification and voluntary presence of victims or their designees or surviving family members at minimum sentencing hearings. The category of persons currently allowed to attend minimum sentencing hearings is greater than proposed in SB 509, HD1.

In addition, at present, victims or their designees or surviving family members are allowed to submit written comments to the parole board for consideration during parole hearings. They also have the option of working with the Victim/Witness staff within the County Prosecutor Offices to submit their comments to the parole board. This is in addition to their ability to register free of charge with the State of Hawaii's Automated

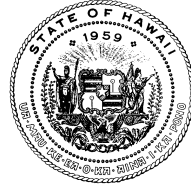
Victim Information Notification (SAVIN) system to receive notification on twenty-one (21) separate “trigger events,” which includes minimum sentencing and parole hearings, requests for reduction of minimum term(s) of imprisonment, release on parole, active warrant notification and return to custody notifications, transfers, etc.

In summary, HPA feels it is not necessary to codify the provisions of item #6 and #10 of this measure as they relate to the HPA into statute. The current provisions of HPA's Administrative Rules, standard operating practices, and the Hawaii's SAVIN system addresses the proposed statutory changes.

We are not in position to comment on sections that do not involve the HPA. For the remaining sections, we defer to the Departments and Agencies that are affected by the proposal.

Thank you for the opportunity to provide testimony on this measure.





STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P.O. Box 3378  
HONOLULU, HAWAII 96801-3378

In reply, please refer to:  
File:

### House Committee on Public Safety

## S.B. 509, Proposing An Amendment to Article I of the Constitution of the State of Hawaii Relating to Rights of Crime Victims Testimony of Loretta J. Fuddy, A.C.S.W., M.P.H. Director of Health

March 14, 2013, 9:30 a.m.

1 **Department's Position:** The Department of Health (DOH) appreciates the intent of this measure.

2 **Purpose and Justification:** The bill proposes to amend the Constitution of the State of Hawaii to  
3 ensure that crime victims and their immediate surviving family members are guaranteed fair treatment,  
4 the right to be informed of the major developments of their case, to have input into plea negotiations and  
5 sentencing, and the right to restitution. We understand and agree with efforts to explicitly acknowledge  
6 the rights of victims.

7 We have a number of questions as to how this proposed constitutional amendment would affect  
8 legal proceedings. We are concerned that the draft constitutional amendment treats the victims where  
9 there is not a finding of guilt the same as the victims where there is an individual found guilty. We  
10 understand the need to give victims a voice, but, how exactly, will this be accomplished in the instance  
11 of hearings for individuals never adjudicated guilty of an offense? We are also concerned how victims  
12 rights would affect proceedings if there are issues of fitness to stand trial.

13 Once a finding of unfitness or an acquittal due to lack of penal responsibility is made, there are a  
14 number of professional opinions proffered regarding readiness for placement, suitability for discharge,

1 and suitability of an appropriate placement. The victims' role on these issues is not clear. Further, if a  
2 defendant demands a speedy trial, but is not given one, the remedy is to dismiss the case. If a victim  
3 demands a speedy trial and one does not occur, what is the remedy?

4 The department requests that this measure be considered in light of the substantial rights already  
5 granted victims and witnesses in the HRS §801D.

6 The Department of the Attorney General (AG) has expressed concerns about various sections of  
7 the proposed bill, and the DOH defers on these concerns to the AGs.

8 Thank you for the opportunity to testify on this measure.

DEPARTMENT OF THE PROSECUTING ATTORNEY  
**CITY AND COUNTY OF HONOLULU**

ALII PLACE  
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PHONE: (808) 547-7400 • FAX: (808) 547-7515

KEITH M. KANESHIRO  
PROSECUTING ATTORNEY



ARMINA A. CHING  
FIRST DEPUTY PROSECUTING ATTORNEY

**THE HONORABLE HENRY J.C. AQUINO, CHAIR**  
**HOUSE COMMITTEE ON PUBLIC SAFETY**  
**Twenty-Seventh State Legislature**  
**Regular Session of 2013**  
**State of Hawai`i**

March 14, 2013

**RE: S.B. 509; PROPOSING AN AMENDMENT TO ARTICLE I OF THE  
CONSTITUTION OF THE STATE OF HAWAII RELATING TO RIGHTS OF CRIME  
VICTIMS**

Good morning, Chair Aquino, Vice Chair Ing and members of the House Committee on Public Safety, thank you for the opportunity to testify before you today. The Department of Prosecuting Attorney provides the following testimony **in strong support of S.B. 509**, which proposes an amendment to Article I of the Constitution of the State of Hawaii to establish a section on crime victims' rights.

We are strongly supportive of the concept of an amendment to Hawaii's Constitution clearly establishing the rights of crime victims, as it will help to effectuate the type of legal protections currently available to criminal defendants. As we once again approach this critical issue for victims, we find ourselves at the same crossroads we have visited before. Deciding how to effectively assure crime victims' rights in a justice system designed for the needs and rights of the accused is no easy task. It took nearly seven years to establish Hawaii's current victims' rights statute, *H.R.S. Chapter 801D*. Its passage was due in large part to the efforts of this Committee, which was at that time also headed by its current chair, Senator Hee. Although previous attempts have been made to enact constitutional rights for crime victims (most notably by this Committee in 1997), it was a road far less traveled in the past. According to the National Center for victims of Crime, thirty-two (32) states now have some type of constitutional protection for victims' rights. In states that have successfully passed such amendments (none has ever failed a public vote) an average of more than seventy percent (70%) of voters has favored the passage of these measures.

However, we do not suggest that Hawaii's constitution should be amended to protect victims simply because it is a popular idea. We are here in strong support of this measure because **it is the right thing to do**. Similar to the rights of the accused, it is justice and fairness that demand that victims be given meaningful and enforceable rights within Hawaii's criminal justice process. The rule of law that protects the rights of the accused, regardless of how

unpopular, and victims have the right to expect no less. As stated in the bill's purpose clause, the rights of victims "should be protected in a manner no less vigorous than those of the accused." It is a constitutional amendment that can provide the legal backbone to assure that this slogan can become a reality.

As to the specifics of the proposed language in the constitutional amendment, we reiterate our belief that the enumerations of each specific right to be granted to victims be included in the amendment. Among those that we view as critical are: the right to restitution, the right to be notified of "major developments" in a case, the right to be present at all public court proceeding on their case (except where a court determines that the victim's testimony will be materially affected), the right to be consulted by the prosecution regarding proposed plea agreements, the right to be heard at all criminal justice proceedings that involve the sentencing, incarceration or release of an offender, and finally, the right to be treated with courtesy, fairness and respect for their dignity and privacy throughout the criminal justice process. Just as importantly, an effective constitutional amendment should empower the Legislature to enact some type of meaningful enforcement measure. We agree with the bill's provisions for enforcement as the lack of legislative enforcement power could ultimately render any implementation ineffective and futile.

A constitutional amendment would not take away any of the precious rights of the accused that we all cherish. It would only give victims the essential rights of participation that the constitution currently provides to defendants. Nor would it curtail the discretion our system provides for such decision makers as prosecutors and judges. However, it would guarantee that victims would be able to see and hear the way that their cases are being handled, and to have their concerns heard by the decision makers.

There will be no fair and equal treatment of victims until their rights are guaranteed by our state and federal constitutions. Our constitution is our most powerful legal document. It is the final authority assuring the rights of the accused. The victims deserve no less. The constitution is the measure of what we believe basic justice should be. It reflects what we are as a people, and should assure the fundamental fairness that we expect from our government.

In conclusion, we urge your strong support for S.B. 509. Thank you for your time and consideration.



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CONTACT: RICHARD. K. MINATOYA  
Deputy Prosecuting Attorney  
Supervisor, Appellate, Asset Forfeiture and Administrative Services Division

TESTIMONY  
ON  
SB 509 - PROPOSING AN AMENDMENT TO ARTICLE I OF  
THE CONSTITUTION OF THE STATE OF HAWAII RELATING TO  
RIGHTS OF CRIME VICTIMS

March 14, 2013

The Honorable Henry J. C. Aquino  
Chair  
The Honorable Kaniela Ing  
Vice Chair  
and Members  
House Committee on Public Safety

Chair Aquino, Vice Chair Ing and Members of the Committee:

The Department of the Prosecuting Attorney, County of Maui, OPPOSES SB 509, Proposing an Amendment to Article I of the Constitution of the State of Hawaii Relating to Rights of Crime Victims.

While we fully support the rights of crime victims, we are concerned that SB 509 will create potential liability against the State and counties, and also against employees of the State and counties. The proposal would place a "victims' bill of rights" in the State Constitution that echos HRS Chapter 801D. However, HRS § 801D-5(b) provides:

(b) Neither the failure of the State or county officer or employee to carry out the requirements of this section nor compliance with it shall subject the State or county officer or employee to liability in any civil action. However, such failure may provide a basis for such disciplinary action as may be deemed appropriate by competent authority.

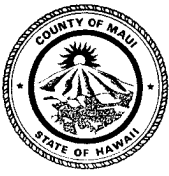
SB 509 does not include such language in the proposed constitutional amendment. By example, the Constitution of the State of California provides:

This section does not create any cause of action for compensation or damages against the State, any political subdivision of the State, any officer, employee, or agent of the State or any of its political subdivisions, or any officer or employee of the court.

We suggest that if this bill is passed, that similar language be included in the bill.

We ask that the committee HOLD SB 509.

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



ALAN M. ARAKAWA  
MAYOR

OUR REFERENCE  
YOUR REFERENCE

# POLICE DEPARTMENT

## COUNTY OF MAUI

55 MAHALANI STREET  
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GARY A. YABUTA  
CHIEF OF POLICE

CLAYTON N.Y.W. TOM  
DEPUTY CHIEF OF POLICE

March 13, 2013

The Honorable Henry J. C. Aquino, Chair  
and Members of the Committee on Public Safety  
House of Representatives  
Hawaii State Capitol  
Honolulu, HI 96813

RE: Senate Bill No. 509, PROPOSING AN AMENDMENT TO ARTICLE I  
OF THE CONSTITUTION OF THE STATE OF HAWAII RELATING TO  
RIGHTS OF CRIME VICTIMS

Dear Chair Aquino and Members of the Committee:

The Maui Police Department OPPOSES Senate Bill No. 509 in its current form. This bill proposes an amendment to the Constitution of the State of Hawaii guaranteeing that crime victims and their immediate surviving family members have specific rights related to information pertaining to and participation in the criminal justice process.

Although the Maui Police Department supports the rights of crime victims, it has been brought to our attention that this bill does not effectively guard against potential liability against the State and counties, and also against the employees of the State and counties. Currently, under HRS Chapter 801D-(b), it provides for this protection against this liability brought on by passing this bill and amending the Constitution.

Again, the Maui Police Department OPPOSES this bill and we thank your committee for your opposition in this matter.

Thank you for the opportunity to testify.

Sincerely,

  
GARY A. YABUTA  
Chief of Police

**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

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**TESTIMONY IN SUPPORT OF  
SENATE BILL NO. 509  
A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE I OF THE  
HAWAII CONSTITUTION TO ESTABLISH CRIME VICTIM RIGHTS**

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

House Committee on Public Safety

Thursday, March 14, 2013  
9:30 a.m., Room 309

Honorable Chair Aquino, Vice-Chair Ing, and Members of the House Committee on Public Safety, the Office of the Prosecuting Attorney, County of Kaua'i submits the following testimony in support of Senate Bill No. 509.

The purpose of Senate Bill No. 509 is to amend Article I of the Constitution of the State of Hawai'i to ensure that crime victims are guaranteed fair treatment, the right to be informed of the major developments of their case, to have input into plea negotiations and sentencing, and the right to restitution.

By creating a constitutional amendment establishing a crime victim's bill of rights, the weight of it will ensure that the rights of victims and witnesses are globally addressed appropriately by law enforcement agencies, prosecutors, judges, etc. Nonetheless, it would create a permanent balance in the rights for defendants and victims.

Currently, House Bill No. 236 proposes the right for a victim to be notified on the status of the defendant's whereabouts, fitness to stand trial, discharge etc. It is clear that measures within the legislature are still being proposed in order to clearly define the rights to victims to afford them the same protection and participation in their cases as defendants are given.

We need to always keep in mind that a crime victim never had a choice in the defendant's act against them, and because of that, the victim is forced into the criminal justice system. Unfortunately the system today does not guarantee any type of



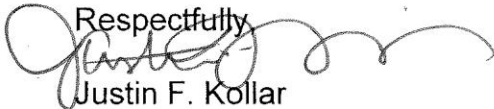
permanent rights or protection for the victim. While the defendant made the choice to commit a crime, he/she is guaranteed enforceable rights as to a speedy trial and is able to participate in the case; the victim on the other hand is not guaranteed these rights and does not have the ability to participate in the case.

It is important that the Constitution of the State of Hawai'i is amended as such considering it is *the* fundamental basis of principles regarding authority and governance within our State.

Currently, Hawai'i is one of seventeen states that does not have rights of crime victims. In today's society, we believe it would be an appropriate time to adopt such rights for victims.

For these reasons, we are in strong support of Senate Bill No. 509. Thank you for the opportunity to testify on this matter.

Respectfully,

A handwritten signature in black ink, appearing to read "Justin F. Kollar", with a large, decorative flourish extending to the right.

Justin F. Kollar  
Prosecuting Attorney  
County of Kaua'i

MITCHELL D. ROTH  
PROSECUTING ATTORNEY

DALE A. ROSS  
FIRST DEPUTY  
PROSECUTING ATTORNEY



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## OFFICE OF THE PROSECUTING ATTORNEY

### TESTIMONY IN SUPPORT OF SENATE BILL 509 A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE I OF THE HAWAII CONSTITUTION TO ESTABLISH CRIME VICTIM RIGHTS

Committee on Public Safety – Hearing March 14, 2013, 9:30 a.m.  
Henry J.C. Aquino, Chair, Kaniela Ing, Vice Chair, and Members

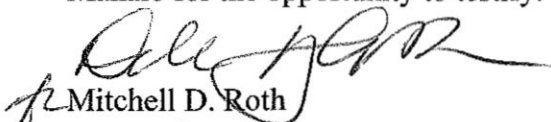
Thank you for the opportunity to provide testimony in support of Senate Bill 509, proposing an amendment to Article I of the State of Hawaii Constitution to establish crime victim rights. Over the years, the Hawaii State legislature has created various statutes to address victim rights. While this office is committed to enforcing these statutes, many in the community perceive that these rights are not upheld unless there is a state constitutional amendment. This debate has been ongoing for many years, and we believe the time is ripe for a constitutional amendment which provides victims certain basic rights. We support this Legislature's efforts to draft such a constitutional amendment.

The criminal justice system functions effectively because of the cooperation of victims and witnesses, yet these same individuals are afforded no constitutional rights in the process. Currently the Hawaii constitution provides rights to the defendant, the public, and even the media. There are no provisions for crime victims. Concerns and opposition were submitted in prior testimony by the Department of the Attorney General of the State of Hawaii. These concerns have resulted in proposed amendments to the Bill.

We support the intent behind the bill to give victims the right to be treated with courtesy, fairness, and respect for their dignity. Historically, some concerns stemmed from proposed language that could be interpreted to allow victims to interfere with plea negotiations or place an inordinate burden the prosecutor. The bill, as amended should clearly convey that the prosecutor retains control and ultimate responsibility for plea negotiations and agreements. While the state and victim may not agree on a plea or the direction the state takes in prosecuting or not prosecuting a case, the victim still has the right to know and hear about it in a timely way, and in turn it is important for the state to hear from the victim.

The Hawaii County Office of the Prosecuting Attorney supports the passage of Senate Bill 509 with amendments.

Mahalo for the opportunity to testify.

  
Mitchell D. Roth  
Prosecuting Attorney

NEIL ABERCROMBIE  
GOVERNOR



STATE OF HAWAII  
**CRIME VICTIM COMPENSATION  
COMMISSION**

1136 Union Mall, Suite 600  
Honolulu, Hawai'i 96813  
Telephone: 808 587-1143  
FAX 808 587-1146

**MARI MCCAIG**  
Chair

**THOMAS T. WATTS**  
Commissioner

**L. DEW KANESHIRO**  
Commissioner

**PAMELA FERGUSON-BREY**  
Executive Director

TESTIMONY IN SUPPORT OF  
SENATE BILL 509  
A BILL PROPOSING AN AMENDMENT TO  
ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII  
RELATING TO RIGHTS OF CRIME VICTIMS

Mari McCaig, Chair  
Crime Victim Compensation Commission

House Committee on Public Safety  
Representative Henry Aquino, Chair  
Representative Kaniela Ing, Vice Chair

Thursday, March 14, 2013, 9:30am  
State Capitol, Conference Room 309

Chair Aquino, Vice Chair Ing, and Members of the House Committee on Public Safety:

Thank you for providing the Crime Victim Compensation Commission ("Commission") with the opportunity to testify in support of Senate Bill 509, proposing an amendment to Article I of the Constitution of the State of Hawai'i relating to Rights of Crime Victims. The Commission is dedicated to helping provide compensation to crime victims and promoting the rights of crime victims in general.

Over the years, the legislature has shown commitment to improving the status of crime victims by creating statutes that enable crime victims to receive restitution (HRS § 706-646), requiring that crime victim statements be included in the Presentence Report (HRS § 706-602), allowing crime victims to speak prior to sentencing (HRS§ 706-604), and setting forth basic crime victim rights (HRS ch. 801D). The intent has always been "that all victims and witnesses of crimes are treated with dignity, respect, courtesy, and sensitivity and that the rights extended in this chapter to victims and witnesses of crime are honored and protected by law enforcement agencies, prosecutors, and judges in a manner no less vigorous than the protections afforded criminal defendants." HRS § 801-D-1. That intent cannot be truly realized until crime victims have their own constitutional bill of rights.

A constitutional amendment is necessary because “[r]ules to assist victims frequently fail to provide meaningful protection whenever they come into conflict with bureaucratic habit, traditional indifference, sheer inertia or the mere mention of an accused’s right – even when those rights are not genuinely threatened.” Lawrence H. Tribe and Paul G. Cassell, Let’s Protect Victims’ Rights, [www.nvcap.org/docs/cassell/9807\\_cassell\\_tribe.html](http://www.nvcap.org/docs/cassell/9807_cassell_tribe.html).

In criminal cases, the Hawai`i constitution provides rights to everyone involved (defendant, media and the public) EXCEPT the crime victim. Yet, the crime victim has more at stake than the media and the public and just as much interest in the outcome of the case as the defendant. While HRS § 801D-4 was intended to provide a basic bill of rights for victims and witnesses, it does not establish permanent, enforceable rights for crime victims guaranteed by the constitution. As a result, HRS § 801D-4 can and has been ignored.

HRS § 801D-4 requires the crime victim to make a written request to be informed of the disposition of the case and to be consulted about any plea bargain without requiring anyone to inform the victim that he or she has the right to make the request. Even if a crime victim makes a request, the rights set forth in HRS § 801D-4 are not enforceable by the victim. Without standing, enforceability, and the force of the constitution, the rights enumerated in HRS § 801D-4 have little meaning. Courts, prosecutors, and defense attorneys have continually disregarded the rights of crime victims.

The crime victim’s bill of rights seeks to create a balance in which the rights of a defendant are protected while at the same time allowing the crime victim meaningful participation in the criminal system. A crime victim’s bill of rights in no way diminishes a criminal defendant’s constitutional rights. Requiring a crime victim to be advised of proceedings, to be consulted on plea agreements, and to be heard at proceedings does not infringe on a defendant’s constitutional rights. Nor does requiring a defendant to pay restitution infringe on a defendant’s constitution rights. To the contrary, being ordered to pay restitution can have a positive effect on a defendant’s rehabilitation as the defendant is making a positive contribution to his or her victim’s recovery. The crime victim’s bill of rights seeks to ensure speedy trial just as the constitution guarantees a speedy trial to the defendant. In instances where a defendant seeks a long delay of trial, the court can and should balance the defendant’s need for the continuance against the desire of a crime victim for a speedy trial. A crime victim’s right to a speedy trial would not trump a defendant’s right to develop his or her case, but rather it allows the courts to consider the competing needs of the defendant and the victim.

The bill would not create a danger of a victim interfering in the prosecution of the case. The proposed bill provides victims with the opportunity to be heard, kept informed, to receive restitution, and the return of their property. Consulting victims before making plea agreements does not provide victims with the right to refuse the plea agreement. It does, however, provide an opportunity for the prosecutor to learn information that may be pertinent to the plea negotiations. The bill does not require the prosecutor to consult with victims regarding the technical or tactical aspects of prosecuting the case.

Thirty two states have constitutional amendments. While some states have clauses limiting civil liability, others do not. According to the national proponents of victim's rights, the states that do not limit civil liability have very few suits filed. The Commission is unaware of any suit that resulted in substantial liability to the State.

The crime victims' right to restitution has not been adequately protected by HRS § 801D-4 or by the 2006 amendment to HRS § 706-646 which made restitution mandatory. In 2003, the Commission began a pilot project to distribute restitution payments collected from inmates and parolee to their crime victims. Since the inception of the project, the Commission has opened over 4,000 restitution files and collected over 1.8 million dollars in restitution. Through this project, the Commission has become familiar with the institutional barriers to the ordering and collection of restitution. Some of these barriers were brought to the public's attention in a series of articles in the Honolulu Star Advertiser which ran on June 2011.

In 2012, the legislature and the governor made restitution a key component of the Justice Reinvestment Initiative. As a result, HRS § 353-22.6 was amended to require the collection of 25% of all inmate earnings, deposits, and credits. The amendment became effective July 1, 2012. The Commission continues to receive judgments that fail to reflect the amendment to HRS § 353-22.6.

Another example of the failure of HRS § 801D-4 to protect victims' rights made the news on December 28, 2008. Rita Makekau was accused of assaulting her five nieces and nephews by, among other things, breaking their teeth with a hammer, forcing them to eat dog food, pushing them down stairs, and holding them underwater. Ms. Makekau made a conditional plea in which she pled no contest to the charges but was allowed to appeal whether a Hawai'i court had jurisdiction over a self-proclaimed member of the Hawaiian sovereignty. At her sentencing, her nieces and nephew were present and so was their court-appointed Guardian ad litem and social worker. At the sentencing, Ms. Makekau requested being allowed to remain on bail pending her appeal. The court set a hearing on the issue. The children's Guardian ad litem and social worker intended to be present at the hearing to represent the children's interest. When they arrived at court at the scheduled time, they found out that the attorneys and court held a status conference in chambers at least fifteen minutes prior to the scheduled hearing time. The parties then held and concluded the hearing prior to the Guardian ad litem's arrival. The Guardian ad litem had not been informed of the advanced hearing time. The court granted Ms. Makekau's request to remain free. When told, the Guardian ad litem said that the children "yelled. They were angry and disappointed." Without standing, the Guardian ad litem and the children could not protest being excluded from the hearing. It was fortunate for the children that the case was high profile and the prosecutor's office sought reconsideration of the court's ruling.

Testimony of Mari McCaig  
SB 509  
March 14, 2013  
Page 4

Making victims' rights enforceable will not result in an avalanche of lawsuits by victims. In 1982, California became the first state to have a victims' rights constitutional amendment. There are currently thirty two states that have ratified a victims' rights constitution amendment. The Commission is unaware of any state with a constitutional amendment that has had an onslaught of lawsuits filed as a result of the constitutional amendment.

Every day, victims are thrust into the criminal justice system and asked to navigate its complexities in the midst of their trauma. Sadly, this means that victims' rights are often forgotten or ignored. Crime victims deserve to have permanent, constitutional, and enforceable rights.

Thank you for allowing the Commission the opportunity to testify in support of Senate Bill 509.



# THE SEX ABUSE TREATMENT CENTER

*A Program of Kapi'olani Medical Center for Women & Children*

*Executive Director*  
Adriana Ramelli

*Advisory Board*

*President*  
Mimi Beams

*Vice President*  
Peter Van Zile

Joanne H. Arizumi

Mark J. Bennett

Andre Bisquera

Marilyn Carlsmith

*Senator*  
Suzanne Chun Oakland

Monica Cobb-Adams

Donne Dawson

Dennis Dunn

*Councilmember*  
Carol Fukunaga

David I. Haverly

Linda Jameson

Michael P. Matsumoto

Phyllis Muraoka

Gidget Ruscetta

**DATE:** March 14, 2013

**TO:** The Honorable Henry J.C. Aquino, Chair  
The Honorable Kaniela Ing, Vice Chair  
House Committee on Public Safety

**FROM:** Alana Peacott-Ricardos, Policy Research Associate  
The Sex Abuse Treatment Center

**RE:** S.B. 509  
Proposing an Amendment to Article I of the Constitution of the State of Hawai'i Relating to Rights of Crime Victims

Good morning Chair Aquino, Vice Chair Ing, and members of the House Committee on Public Safety. My name is Alana Peacott-Ricardos and I am the Policy Research Associate for the Sex Abuse Treatment Center (SATC), a program of the Kapi'olani Medical Center for Women & Children (KMCWC), an affiliate of Hawai'i Pacific Health.

SATC strongly supports S.B. 509 to propose an amendment to the Constitution of the State of Hawai'i to provide recognized and protected constitutional rights for crime victims and their survivors.

SATC serves hundreds of victims of sexual violence each year. As our services include legal systems advocacy to support victims through judicial proceedings, we are well-aware of the challenges victims can encounter in the criminal justice system. We firmly believe that victims must be afforded certain basic rights throughout the process. In particular, victims should have the right to a speedy trial; to be notified of major developments in the case; to be present a public court hearings (unless it would affect the victim's testimony); to be consulted and advised of plea agreements; to be notified and able to participate in processes relating to sentencing, release, or other dispositions of the offender; and to receive restitution. We further believe that these rights should be guaranteed by our state constitution.

Although Hawai'i has a basic bill of rights for crime victims and witnesses, victims still do not have the type of legal protections currently available to criminal defendants. In enacting Chapter 801D of the Hawai'i Revised Statutes, the Legislature expressly stated that its intent was "to ensure that all victims and witnesses of crimes are treated with dignity, respect, courtesy, and sensitivity and that the rights extended in this chapter to victims and witnesses of crime are honored and protected by law enforcement agencies, prosecutors, and judges in a manner no less vigorous than the protections afforded criminal defendants." Despite this, the Constitution of the State of Hawai'i affords criminal defendants a number of protections, yet is silent with respect to the rights of victims.

The proposed amendment would not take away any of the rights currently afforded to the accused or curtail the discretion our system provides for prosecutors and judges. Instead, it would give victims the essential rights of participation that are now provided to defendants and guarantee that victims would be aware of how their cases are being handled and have their voices heard.

We urge you to pass S.B. 509. Our constitution is our most powerful legal document. It is the authority that assures that the rights of the accused are protected and victims deserve no less.

Thank you for the opportunity to testify.





Committee: Committee on Public Safety  
Hearing Date/Time: Thursday, March 14, 2013, 9:30 a.m.  
Place: Conference Room 309  
Re: Testimony of the ACLU of Hawaii in Opposition to S.B. 509, Proposing an Amendment to Article I of the Constitution of the State of Hawaii Relating to Rights of Crime Victims

Dear Chair Aquino and the Committee on Public Safety:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in opposition to S.B. 509, which would fundamentally alter Hawaii’s Constitution.

S.B. 509 proposes to give victims of violent crimes in state court the right to participate throughout the criminal case. Although this seems to be a laudable goal, S.B. 509 is unnecessary and threatens to jeopardize the right to a fair trial and the presumption of innocence.

**The Constitution should only be amended when there are no other alternatives available.**

Amending the Hawaii Constitution is a serious matter and should be reserved for those issues where there are no other alternatives available. S.B. 509 does not meet this standard because there are other alternatives available to protect these rights. Greater effort should be made to enforce already existing laws instead of amending the federal constitution.

**S.B. 509 erodes the presumption of innocence.**

The framers of Hawaii’s Constitution were aware of the enormous power of the government to deprive a person of life, liberty and property. The constitutional protections afforded the accused in criminal proceedings are among the most precious and essential liberties provided in the Constitution. S.B. 509 will undermine these basic safeguards. For example, the proposed Amendment gives rights to the accuser at the time a criminal case is filed when the accused is still presumed to be innocent. In some cases, the accuser is not the victim, such as in cases of domestic violence. Battered women are often charged with crimes when they use force to defend themselves against their batterer. Under S.B. 509, the battering spouse is considered the “victim” and will have the constitutional right to have input into each stage of the proceeding from bail through parole. Why should a man who has spent years abusing his partner be given special constitutional rights? Many victims groups that assist battered women oppose these provisions for this very reason.

**S.B. 509 erodes the right to a fair trial.**

American Civil Liberties Union of Hawaii  
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[www.acluhawaii.org](http://www.acluhawaii.org)

S.B. 509 would give crime victims a constitutional right to attend the entire criminal trial even if that person is going to be a witness in the case. In many instances, the testimony of a prosecutorial witness will be compromised if the person has heard the testimony of other witnesses. Yet, S.B. 509 gives the victim a constitutional right to be present even over defense or prosecution objections.

S.B. 509 would also give the right “to a speedy trial or disposition of their case.” Any victim or victim representative of a violent crime has standing under the S.B. 509 to intervene and assert a constitutional right for a faster disposition of the matter. This could be used to deny defendants needed time to gather and present evidence essential to prepare their defense, resulting in innocent people being convicted. It could also be used to force prosecutors to trial before they are ready, leading to guilty people going free. Most importantly, protecting the rights of a person accused of a crime would no longer be a preeminent focus of a criminal trial.

S.B. 509 is likely to be counter-productive because it could hamper effective prosecutions and cripple law enforcement by placing enormous new burdens on state and federal law enforcement agencies.

Prosecutorial efforts could be hampered by the right of crime victims to “be heard and participate in any process or deliberation that may result in a post-arrest release decision, a negotiated plea or sentencing of the offender.” It is unclear how much weight judges will be required to give to a crime victim’s objection to a plea bargain. Over 90 percent of all criminal cases do not go to trial but are resolved through negotiation. Even a small increase in the number of cases going to trial would burden prosecutors’ offices. There are many reasons why prosecutors enter into plea agreements such as allocating scarce prosecutorial resources, concerns about weaknesses in the evidence, or strategic choices to gain the cooperation of one defendant to enhance the likelihood of convicting others. Prosecutorial discretion would be seriously compromised if crime victims could effectively obstruct plea agreements or require prosecutors to disclose weaknesses in their case in order to persuade a court to accept a plea. Ironically, this could backfire and result in the prosecution being unable to get a conviction against a guilty person - this would not serve society, or victims’, interests.

**S.B. 509 would impose inflexible mandates that will be difficult to meet.**

Under S.B. 509, the State would be constitutionally required to make reasonable efforts to find and notify crime victims or their representatives every time a case went to trial, every time a criminal case was resolved, and every time a prisoner was released from custody. To comply with S.B. 509, thousands of notification forms would need to be sent out.

Chair Aquino and Members of the Committee on  
Public Safety  
March 14, 2013  
Page 3 of 3

S.B. 509 may also authorize appointment of counsel for victims. The term “crime victim’s lawful representative” could be interpreted as providing a constitutional right to counsel for victims in order to adequately protect their newly created rights. The cost of providing counsel to victims as well as defendants in criminal cases might be prohibitively expensive. In many states, criminal defendants do not receive adequate counsel. Adding the financial burden of providing counsel to victims will likely further limit defendants’ access to counsel.

Crime victims deserve protection, but a victims’ rights constitutional amendment is not the way to do it. S.B. 509 unnecessarily amends the federal constitution, includes inflexible mandates, may hinder prosecution of criminal cases and threatens the rights of the accused. We urge you to vote against this amendment.

Thank you for this opportunity to testify.

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

*The American Civil Liberties Union (“ACLU”) is our nation’s guardian of liberty working daily in courts, legislatures and communities to defend and preserve the individual rights and liberties that the Constitution and laws of the United States guarantee everyone in this country.*

American Civil Liberties Union of Hawaii  
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Mothers Against Drunk Driving  
National Office  
madd.org

511 E. John Carpenter Freeway  
Suite 700  
Irving, TX 75062

214.744.6233 direct  
877.MADD.HELP victim support  
877.ASK.MADD

March 13, 2013

RE: SB 509

Dear Hawaii Lawmakers:

I address you today, personally, representing thousands of parents each year who are forced to unexpectedly bury our children due to a criminal action taken upon them. My request is simple: I impress upon you the urgent need for Hawaii's lawmakers to pass a long-overdue proposal for a State Constitutional Amendment for Crime Victim Rights.

For the past twenty years, I have wished the death of Alisa Joy, my precious daughter, to be a horrible dream that I could awaken from. Sadly, the reality is she is dead, and I like so many others now bear the label, "crime victim." One saving grace for me is that I have the honor to represent a nation of vehicular crime victims and survivors currently serving as National President for Mothers Against Drunk Driving (MADD).

Again, I felt honored when I heard that Hawaii's legislators are presenting a bill that would secure essential rights for victims of crime and was asked to submit a letter of support for this historic endeavor. If my figures are correct, passing this legislation would make Hawaii the 34<sup>th</sup> state in the nation to enact such rights for both residents and visitors that become victims of crimes.

Since 1980, MADD has fought tirelessly to ensure that crime victims are afforded fundamental rights through the justice process. Together with a coalition of crime victims' rights partners, we have made remarkable progress for crime victims, despite many challenges. Only 30 years ago, crime victims had no rights, no access to crime victim compensation, and limited basic services to help rebuild their lives. They were often excluded from courtrooms, treated as an afterthought by the criminal justice system, and denied an opportunity to speak at the sentencing of their offenders.

The power of partnerships launched the crime victims' rights movement and the achievements we celebrate every year. Families of murdered children and victims of sexual assault, drunk driving, domestic violence, and other crimes mobilized at the grassroots level and joined forces to demand justice for victims of crime. The National Campaign for Victims' Rights founded by these partners led to President Ronald Reagan's reforms on behalf of crime victims, his declaration of the first National Crime Victims' Rights Week, and victims' rights legislation and victim services. Moving forward on this momentum, by December 1996, 29 states had enacted state constitutional amendments for victims' rights. Through decades of advocacy and hard work, we have come a long way. Today, all states have established crime victim compensation funds. More than 10,000 victim service agencies help victims throughout the nation.

But all too often, we hear from a disparaged family of individual unique victims which remind us that many challenges remain. Crime victims' rights are not universal and are often not enforced. Only a small percentage of victims receive crime victim compensation, which is usually limited to victims of violent crime. According to last year's National Crime Victimization Survey, more than 50 percent of violent crimes were not reported to police between 2006 and 2010. In addition, a 2011 report called the *Use of Victim Services Agencies by Victims of Serious Violent Crime* showed that only 9 percent of violent crime victims received needed services in the 1993-2009 timeframe.

Today, you personally have the ability to make remarkable, historical progress for all crime victims in Hawaii. By enacting this vital legislation, you will move one step closer to balancing the scales of justice for defendants and those victimized by their crimes.

As we gather across the nation, April 21–27, to acknowledge all victims and survivors of crime through National Crime Victims' Rights Week ceremonies and events, I hope to feel honored, once again, to celebrate the passage of the Hawaii Crime Victims' Rights Constitutional Amendment. What a proud moment it will be when Hawaii's crime victims are guaranteed:

- The right to be reasonably protected from the accused;
- The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or any release or escape of the accused;
- The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at the proceeding;
- The right to be reasonably heard at any public proceeding in the district court involving release, plea, [or] sentencing, or any parole proceeding;
- The reasonable right to confer with the attorney for the government in the case;
- The right to full and timely restitution as provided in law;
- The right to proceedings free from unreasonable delay, and
- The right to be treated with fairness and with respect for the victim's dignity and privacy.

Most Sincerely,

A handwritten signature in cursive script that reads "Jan Withers".

Jan Withers  
President, Mothers Against Drunk Driving

Memories of our lives, of our works and our deeds will continue in others. — Rosa Parks (1913-2005)



Mothers Against Drunk Driving HAWAII  
745 Fort Street, Suite 303  
Honolulu, HI 96813  
Phone (808) 532-6232  
Fax (808) 532-6004

March 14, 2013

To: Representative Henry J.C. Aquino, Chair –House Committee on Public Safety;  
Representative Kaniela Ing, Vice Chair; and members of the committee

From: Carol McNamee/Arkie Koehl — Co-chairmen, Public Policy Committee - MADD Hawaii

Re: Senate Bill 509 – Proposing an Amendment to Article I of the Constitution of the State of Hawaii Relating to Rights of Crime Victims

---

I am Carol McNamee, representing MADD Hawaii and speaking in support of SB 509 which calls for a Constitutional Amendment for Victims Rights. MADD is one of the largest victim service organizations in the Country. In Hawaii, MADD provides services for victims of homicide as well as for negligent homicide, negligent injury, manslaughter, failure to render aid and for any victim of an impaired driving crash, whether or not the offender is charged or convicted. A MADD memorial in Kaka'ako Waterfront Park stands as testimony to the indescribable pain resulting from the losses that hundreds and hundreds of victims of violent crime experienced after the tragedy which either killed or injured their loved one – or loved ones.

Too often, these victims are destined to suffer more pain when they are revictimized by the criminal justice system which is supposedly designed to support victims through the court process and deliver justice in the end. There is no doubt that gains have been made over the 29 years that MADD has been serving victims in Hawaii. The Victim Bill of Rights in Hawaii Revised Statutes was enacted in 1987 and certainly provides the basis for more rights than were even articulated before the 1980's. However, in Hawaii and in other states across the country, victims have found that there are times when statutory rights are not enough. There is no guarantee the justice described on paper will actually be delivered. "Victims still do not receive justice that affords rights of access and participation that are equal to those of accused." (*National Association of Attorneys General – 2000*). For this reason, 33 states have now given victims the gift of a state constitutional amendment for Victims Rights. In most states a high percentage of the electorate voted to adopt the constitutional amendment. MADD is hopeful that there will also eventually be a U. S. Constitutional amendment.

Senate Bill 509 will offer Hawaii victims important protections including the right :

- To be treated with courtesy, fairness and dignity
- To be informed of their constitutional rights and available programs of assistance (financial and other)

- To be notified, in a timely manner, of various proceedings and developments in their case
- To be notified of all public court proceedings To be advised of plea agreements
- To be notified in a timely manner, to be heard in, and participate in any process or deliberation that could result in an offender's release, negotiated plea, or sentencing – or in a change in the offender's status
- To have property expeditiously returned, and
- To receive prompt restitution from the convicted offender

It is important to stress that the request to strengthen victims' rights through a state constitutional amendment is not intended to diminish any rights of the offender. It is important that victims gain more equality with offenders in how they are treated by the criminal justice system. This feeling of equality can help the victim regain a feeling of control and contribute to their eventual healing. As our statue in Kaka,ako Park portrays, the families of victims will always have a hole in their hearts but the knowledge that they have constitutionally protected rights will help them through the difficult criminal justice process and beyond. As a MADD past president who attended the dedication of our Victim Memorial said, "Criminal defendants have the *right* to remain silent; crime victims all too often are *required* to remain silent. Where is the justice in that?"

MADD encourages this committee to pass SB 509. Thank you for the opportunity to testify in support of this important measure.

**ing2-Brandon**

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 13, 2013 10:57 AM  
**To:** pbstestimony  
**Cc:** leealdrige@msn.com  
**Subject:** Submitted testimony for SB509 on Mar 14, 2013 09:30AM

**SB509**

Submitted on: 3/13/2013

Testimony for PBS on Mar 14, 2013 09:30AM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lee Aldridge	Individual	Support	No

Comments: I wish to thank the PBS Committee for this opportunity to submit testimony on Senate Bill 509. I support any legislation that proposes a constitutional amendment to strengthen and reinforce the rights of the victims of crimes.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)





Doug Chin  
2423 Lana'i St  
Honolulu, HI 96817  
[dougchin@stanfordalumni.org](mailto:dougchin@stanfordalumni.org)

March 13, 2013

Aloha, Chair Aquino, Vice Chair Ing and Public Safety Committee Members:

My name is Doug Chin and I am submitting testimony in support of SB509 in advance of the House Committee on Public Safety on Thursday, March 14, 2013 at 9:30 am.

As a prosecutor for over 10 years and the City & County of Honolulu's First Deputy Prosecutor from 2006 through 2010, I had the honor of prosecuting several murder and sex assault cases and brought over 40 cases to a jury trial. A significant portion of these cases included victims, often a child or someone with very challenging circumstances happening in their life. Being the victim or family member of a victim to an incident involving assault, robbery, rape or murder is only one part of the process. Sadly, to victims, the criminal justice system is a lengthy, complicated journey that can be exceptionally traumatic on its own, with no protections apparent except for the perpetrator.

As a lawyer educating victims about the process, I often found myself telling victims and their families about a defendant's various constitutional rights – the right to privacy, the right to remain silent, the right to a jury trial, the right to confront witnesses face to face, etc. Few objected to a criminal defendant having those rights, but they would all ask, "What are my rights? Does the constitution protect victims?"

The current answer is "No". Placing this measure before voters offers an opportunity to correct this injustice.

Mahalo for the opportunity to testify.

Sincerely,

Doug Chin

DEPARTMENT OF THE PROSECUTING ATTORNEY  
**CITY AND COUNTY OF HONOLULU**

ALII PLACE  
1060 RICHARDS STREET • HONOLULU, HAWAII 96813  
PHONE: (808) 547-7400 • FAX: (808) 547-7515

KEITH M. KANESHIRO  
PROSECUTING ATTORNEY



ARMINA A. CHING  
FIRST DEPUTY PROSECUTING ATTORNEY

**THE HONORABLE HENRY J.C. AQUINO, CHAIR**  
**HOUSE COMMITTEE ON PUBLIC SAFETY**  
**Twenty-Seventh State Legislature**  
**Regular Session of 2013**  
**State of Hawai`i**

March 14, 2013

**RE: S.B. 635, S.D. 1; RELATING TO ANIMAL CRUELTY.**

Chair Aquino, Vice-Chair Ing and members of the House Committee on Public Safety, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in support of S.B. 635, S.D. 1, and submits a proposed H.D. 1 for your consideration.

The purpose of S.B. 635, S.D. 1, is to add "law enforcement animals" to the existing offenses of "Causing injury or death or a service dog," and "Intentional interference with the use of a service dog." The Department strongly agrees that law enforcement animals are an integral part of Hawaii's law enforcement and corrections agencies, hand-selected and highly trained for their jobs. These animals diligently work side-by-side with law enforcement officers, deputies and other personnel, and should be afforded special protections.

Regarding the specific language of S.B. 635, S.D. 1, we note the terms "injury" on page 3, and "harm" on page 6, could become an issue upon application, as there are no express definitions for these terms. Also, within each statute, we believe the subsections pertaining to service dogs and subsections pertaining to law enforcement animals, could be combined to create more streamlined language. Finally, we do not believe it necessary to include the affirmative defense noted on pages 5 and 7, as law enforcement animals acting outside of their lawful "duties," whether due to improper handling or other reasons, could be validly raised and argued by defense, without having to go through the entire process of reviewing all of the national animal handling procedures and all of the particular agency's handling policies and procedures. To address these, and a few lesser matters, we have prepared and attached (below) a Proposed H.D. 1, for your consideration.

For the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu supports S.B. 635, S.D. 1, with the proposed H.D. 1. Thank you for the opportunity to testify on this matter.

**Report Title:**

Animal Cruelty; Law Enforcement Animal

**Description:**

Includes law enforcement animals under the offenses of causing injury or death to a service dog and intentional interference with the use of a service dog. Adds a definition for "law enforcement animal". (Proposed H.D. 1)

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# A BILL FOR AN ACT

RELATING TO ANIMAL CRUELTY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that Hawaii's existing  
2 penal code does not adequately address situations when an  
3 offender injures or kills an animal used by a law enforcement  
4 agency or corrections facility. Dogs, horses, or other animals  
5 are specifically trained to assist law enforcement in detecting  
6 criminal activity, enforcing laws, or apprehending criminal  
7 offenders. On the national level, law enforcement trained  
8 animals are being used more frequently on a daily basis to  
9 assist law enforcement officers in the field to safely complete  
10 their daily activities, search for narcotics and explosives, and  
11 assist in search and rescue missions. Within the last twenty  
12 years, law enforcement agencies have relied on trained animals  
13 to address some of the departments' most dangerous assignments.

14           Although the death or injury of a law enforcement animal is  
15 not a serious problem in Hawaii yet, it has become a problem  
16 across the country. During the last forty years, one hundred  
17 thirty-nine police dogs were killed in the line of duty by

1 firearms. In 2000, the federal government enacted the Federal  
2 Law Enforcement Animal Protection Act of 2000. This federal law  
3 recognized the need to provide legal protection to animals who  
4 work with sworn law enforcement personnel on a daily basis to  
5 keep communities safe by imposing penalties on any person who  
6 wilfully and maliciously harms any police animal or attempts or  
7 conspires to do so, permanently disables or disfigures the  
8 animal, or causes serious bodily injury to or the death of the  
9 animal. Forty-four states and one territory have laws that  
10 protect law enforcement animals that include police dogs, police  
11 horses, and fire dogs. The legislature finds that it is now  
12 time for Hawaii to join this group to protect the animals that  
13 work hard every day to keep our community safe.

14 The purpose of this Act is to protect law enforcement  
15 animals in the line of duty by including law enforcement animals  
16 under the offenses of causing injury or death to a service dog  
17 and intentional interference with the use of a service dog.

18 SECTION 2. Section 711-1109.4, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "**§711-1109.4 Causing injury or death to a service**  
21 **dog[+] or law enforcement animal.** (1) A person commits the

1 offense of causing injury or death to a service dog or law  
2 enforcement animal if:

3 (a) The person recklessly causes substantial bodily injury  
4 to or the death of any service dog or law enforcement  
5 animal while the service dog or law enforcement animal  
6 is in the discharge of its duties; or

7 (b) The person is the owner of a dog and recklessly  
8 permits that dog to attack a service dog or law  
9 enforcement animal while the service dog or law  
10 enforcement animal is in the discharge of its duties,  
11 resulting in the substantial bodily injury or death of  
12 the service dog or law enforcement animal.

13 (2) Subsection (1) shall not apply to:

14 (a) Accepted veterinary practices;

15 (b) Activities carried on for scientific research governed  
16 by standards of accepted educational or medicinal  
17 practices; or

18 (c) Cropping or docking as customarily practiced and  
19 permitted by law.

20 [~~2~~] (3) Any person who commits the offense of causing  
21 injury or death to a service dog or law enforcement animal shall  
22 be [~~punished as follows:~~

1 ~~(a) For a first offense by a fine of not more than \$2,000,~~  
2 ~~imprisonment of not more than thirty days, or both;~~  
3 ~~and~~

4 ~~(b) For a second or subsequent offense by a fine of not~~  
5 ~~more than \$5,000, imprisonment of not more than thirty~~  
6 ~~days, or both.] guilty of a class C felony.~~

7 ~~[(3)]~~ (4) ~~[Any]~~ In addition to any other penalties, any  
8 person who is convicted of a violation of this section shall be  
9 ordered to make restitution to:

10 (a) The ~~[person with a disability who has custody or~~  
11 ~~ownership]~~ owner of the service dog or law enforcement  
12 animal, for any veterinary bills and out-of-pocket  
13 costs incurred as a result of the injury to the  
14 service dog or law enforcement animal; and

15 (b) The person, entity or organization that incurs the  
16 cost of retraining or replacing the service dog or law  
17 enforcement animal ,for the cost of retraining or  
18 replacing the service dog or law enforcement animal,  
19 if it is disabled or killed.

20 ~~[(4)]~~ (5) As used in this section, "service dog" shall  
21 have the same meaning as in section 347-2.5."



1 SECTION 3. Section 711-1109.5, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§711-1109.5 Intentional interference with the use of a**  
4 **service dog[-] or law enforcement animal.** (1) A person commits  
5 the offense of intentional interference with the use of a  
6 service dog or law enforcement animal if the person, with no  
7 legal justification, intentionally or knowingly[-  
8 ~~—(a) Harms]~~ strikes, beats, kicks, cuts, stabs, shoots, or  
9 administers any type of harmful substance or poison to a service  
10 dog or law enforcement animal[-  
11 ~~—(b) Strikes or kicks a service dog;]~~  
12 while the service dog or law enforcement animal is in the  
13 discharge of its duties.

14 (2) Subsection (1) shall not apply to:

15 (a) Accepted veterinary practices;

16 (b) Activities carried on for scientific research governed  
17 by standards or accepted educational or medicinal  
18 practices; or

19 (c) Cropping or docking as customarily practiced and  
20 permitted by law.

21 ~~[-(2)]~~ (3) Intentional interference with the use of a  
22 service dog or law enforcement animal is a misdemeanor.

1       (4) In addition to any other penalties, any person who is  
2 convicted of a violation of this section shall be ordered to  
3 make restitution to:

4       (a) The owner of the service dog or law enforcement  
5 animal, for any veterinary bills and out-of-pocket  
6 costs incurred as a result of the injury to the  
7 service dog or law enforcement animal; and

8       (b) The person, entity or organization that incurs the cost of  
9 retraining or replacing the service dog or law enforcement  
10 animal ,for the cost of retraining or replacing the service dog  
11 or law enforcement animal, if it is disabled or killed

12       ~~[(3)]~~ (5) Nothing in this section is intended to affect  
13 any civil remedies available for a violation of this section.

14       ~~[(4)]~~ (6) As used in this section, "service dog" shall  
15 have the same meaning as in section 347-2.5."

16       SECTION 4. This Act does not affect rights and duties that  
17 matured, penalties that were incurred, and proceedings that were  
18 begun before its effective date.

19       SECTION 5. Section 711-1100, Hawaii Revised Statutes, is  
20 amended by adding a new definition to be appropriately inserted  
21 and to read as follows:

1        "Law enforcement animal" means any dog, horse, or other  
2 animal used by law enforcement or corrections agencies and  
3 trained to work in areas of tracking, suspect apprehension,  
4 victim assistance, crowd control, or drug or explosive detection  
5 for law enforcement purposes."

6        SECTION 6. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8        SECTION 7. This Act shall take effect upon its approval.

INTRODUCED BY: \_\_\_\_\_

**Report Title:**

Animal Cruelty; Law Enforcement Animal

**Description:**

Includes law enforcement animals under the offenses of causing injury or death to a service dog and intentional interference with the use of a service dog. Adds a definition for "law enforcement animal". (Proposed H.D. 1)

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## A BILL FOR AN ACT

RELATING TO ANIMAL CRUELTY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that Hawaii's existing  
2 penal code does not adequately address situations when an  
3 offender injures or kills an animal used by a law enforcement  
4 agency or corrections facility. Dogs, horses, or other animals  
5 are specifically trained to assist law enforcement in detecting  
6 criminal activity, enforcing laws, or apprehending criminal  
7 offenders. On the national level, law enforcement trained  
8 animals are being used more frequently on a daily basis to  
9 assist law enforcement officers in the field to safely complete  
10 their daily activities, search for narcotics and explosives, and  
11 assist in search and rescue missions. Within the last twenty  
12 years, law enforcement agencies have relied on trained animals  
13 to address some of the departments' most dangerous assignments.

14           Although the death or injury of a law enforcement animal is  
15 not a serious problem in Hawaii yet, it has become a problem  
16 across the country. During the last forty years, one hundred  
17 thirty-nine police dogs were killed in the line of duty by

1 firearms. In 2000, the federal government enacted the Federal  
2 Law Enforcement Animal Protection Act of 2000. This federal law  
3 recognized the need to provide legal protection to animals who  
4 work with sworn law enforcement personnel on a daily basis to  
5 keep communities safe by imposing penalties on any person who  
6 wilfully and maliciously harms any police animal or attempts or  
7 conspires to do so, permanently disables or disfigures the  
8 animal, or causes serious bodily injury to or the death of the  
9 animal. Forty-four states and one territory have laws that  
10 protect law enforcement animals that include police dogs, police  
11 horses, and fire dogs. The legislature finds that it is now  
12 time for Hawaii to join this group to protect the animals that  
13 work hard every day to keep our community safe.

14 The purpose of this Act is to protect law enforcement  
15 animals in the line of duty by including law enforcement animals  
16 under the offenses of causing injury or death to a service dog  
17 and intentional interference with the use of a service dog.

18 SECTION 2. Section 711-1109.4, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "**§711-1109.4 Causing injury or death to a service**  
21 **dog[-] or law enforcement animal.** (1) A person commits the

1 offense of causing injury or death to a service dog or law  
2 enforcement animal if:

3 (a) The person recklessly causes substantial bodily injury  
4 to or the death of any service dog or law enforcement  
5 animal while the service dog or law enforcement animal  
6 is in the discharge of its duties; ~~for~~

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7 (b) The person is the owner of a dog and recklessly  
8 permits that dog to attack a service dog or law  
9 enforcement animal while the service dog or law  
10 enforcement animal is in the discharge of its duties,  
11 resulting in the substantial bodily injury or death of  
12 the service dog or law enforcement animal. ~~;~~ ~~or~~

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13 ~~(c) The person recklessly causes injury to or death of any~~  
14 ~~law enforcement dog; provided that the law enforcement~~  
15 ~~animal shall be performing its duties as a law~~  
16 ~~enforcement animal while under the control of a sworn~~  
17 ~~law enforcement officer.~~

18 (2) Subsection (1) shall not apply to:  
19 (a) Accepted veterinary practices;  
20 (b) Activities carried on for scientific research governed  
21 by standards of accepted educational or medicinal  
22 practices; or

1 | (c) Cropping or docking as customarily practiced and  
2 | permitted by law.

3 | [~~2~~] (3) Any person who commits the offense of causing  
4 | injury or death to a service dog or law enforcement animal shall  
5 | be ~~punished as follows:~~

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6 | ~~(a) For a first offense by a fine of not more than \$2,000,~~  
7 | ~~imprisonment of not more than thirty days, or both,~~  
8 | ~~and~~

9 | ~~(b) For a second or subsequent offense by a fine of not~~  
10 | ~~more than \$5,000, imprisonment of not more than thirty~~  
11 | ~~days, or both.] guilty of a class C felony.~~

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12 | [~~3~~] (4) ~~[Any]~~ In addition to any other penalties, any  
13 | person who is convicted of a violation of this section shall be  
14 | ordered to make restitution to:

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15 | (a) The ~~[person with a disability who has custody or~~  
16 | ~~ownership]~~ owner of the service dog or law enforcement  
17 | animal, for any veterinary bills and out-of-pocket  
18 | costs incurred as a result of the injury to the  
19 | service dog or law enforcement animal; ~~and~~

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20 | (b) The person, entity or organization that incurs the  
21 | cost of retraining or replacing the service dog or law  
22 | enforcement animal, for the cost of retraining or



1 replacing the service dog or law enforcement animal,  
2 if it is disabled or killed~~;~~ ~~or~~

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- 3 ~~(c) The law enforcement agency or whoever owns the law~~
- 4 ~~enforcement animal for the following costs:~~
- 5 ~~(i) Veterinary bills and other medical costs;~~
- 6 ~~(ii) Costs to replace the law enforcement animal if the~~
- 7 ~~animal is killed, disabled, or destroyed;~~
- 8 ~~(iii) Lost wages for the law enforcement animal's handler;~~
- 9 ~~and~~
- 10 ~~(iv) Any other costs related to the violation of this~~
- 11 ~~section.~~

12 ~~(5) For a law enforcement animal, it shall be an~~  
13 ~~affirmative defense that the law enforcement animal was not~~  
14 ~~handled in accordance with recognized national animal handling~~  
15 ~~procedures or was handled in a manner contrary to the law~~  
16 ~~enforcement or correction agency's handling policies and~~  
17 ~~procedures.~~

18 ~~— [(4)] (65) As used in this section,~~ "service"~~;~~  
19 ~~— "Law enforcement animal" means any dog, horse, or other~~  
20 ~~animal used by law enforcement, corrections agencies, or courts~~  
21 ~~and trained to work in areas of tracking, suspect apprehension,~~

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1 ~~crowd control, or drug or explosive detection for law~~  
2 ~~enforcement purposes.~~

3 ~~"Service~~ dog" shall have the same meaning as in section  
4 347-2.5."

5 SECTION 3. Section 711-1109.5, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "§711-1109.5 **Intentional interference with the use of a**  
8 **service dog[-] or law enforcement animal.** (1) A person commits

9 the offense of intentional interference with the use of a  
10 service dog or law enforcement animal if the person, with no

11 legal justification, intentionally or knowingly ~~+~~

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12 ~~(a) Harms] strikes, beats, kicks, cuts, stabs, shoots, or~~  
13 ~~administers any type of harmful substance or poison to~~ a service

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14 dog ~~+~~ or law enforcement animal ~~+~~

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15 ~~(b) Strikes or kicks a service dog ~~+~~ or law enforcement~~  
16 ~~animal;~~

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17 while the service dog or law enforcement animal is in the

18 discharge of its duties ~~+~~ ~~or the law enforcement animal is~~  
19 ~~performing its duties as a law enforcement animal while under~~  
20 ~~the control of a sworn law enforcement officer.~~

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21 (2) Subsection (1) shall not apply to:

22 (a) Accepted veterinary practices;

1        (b) Activities carried on for scientific research governed  
2                    by standards or accepted educational or medicinal  
3                    practices; or

4        (c) Cropping or docking as customarily practiced and  
5                    permitted by law.

6        [~~2~~] (3) Intentional interference with the use of a  
7 service dog or law enforcement animal is a misdemeanor.

8        (4) In addition to any other penalties, any person who is  
9 convicted of a violation of this section shall be ordered to  
10 make restitution to:

11        (a) The owner of the service dog or law enforcement  
12                    animal, for any veterinary bills and out-of-pocket  
13                    costs incurred as a result of the injury to the  
14                    service dog or law enforcement animal; and

15 (b) The person, entity or organization that incurs the cost of  
16 retraining or replacing the service dog or law enforcement  
17 animal ,for the cost of retraining or replacing the service dog  
18 or law enforcement animal, if it is disabled or killed

19        [~~3~~] (45) Nothing in this section is intended to affect  
20 any civil remedies available for a violation of this

21 section. ~~In addition to any other penalty, any person who is~~  
22 ~~convicted of a violation of this section shall be ordered to~~

1 ~~make restitution to be paid to the law enforcement agency or~~  
2 ~~whoever owns the law enforcement animal for the following costs:~~

- 3 ~~(a) Veterinary bills and other medical costs;~~
- 4 ~~(b) Costs to replace the law enforcement animal if the~~  
5 ~~animal is killed, disabled, or destroyed;~~
- 6 ~~(c) Lost wages for the law enforcement animal's handler;~~  
7 ~~and~~
- 8 ~~(d) Any other costs related to the violation of this~~  
9 ~~section.~~

10 ~~(5) For a law enforcement animal, it shall be an~~  
11 ~~affirmative defense that the law enforcement animal was not~~  
12 ~~handled in accordance with recognized national animal handling~~  
13 ~~procedures or was handled in a manner contrary to the law~~  
14 ~~enforcement or correction agency's handling policies and~~  
15 ~~procedures.~~

16 ~~[(4)] (6) As used in this section, "service":~~

17 ~~"Law enforcement animal" means any dog, horse, or other~~  
18 ~~animal used by law enforcement, corrections agencies, or courts~~  
19 ~~and trained to work in areas of tracking, suspect apprehension,~~  
20 ~~crowd control, or drug or explosive detection for law~~  
21 ~~enforcement purposes.~~

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1 | ~~"Service~~ dog" shall have the same meaning as in section  
2 | 347-2.5."

3 | SECTION 4. This Act does not affect rights and duties that  
4 | matured, penalties that were incurred, and proceedings that were  
5 | begun before its effective date.

6 | SECTION 5. Section 711-1100, Hawaii Revised Statutes, is  
7 | amended by adding a new definition to be appropriately inserted  
8 | and to read as follows:

9 | "Law enforcement animal" means any dog, horse, or other  
10 | animal used by law enforcement or corrections agencies and  
11 | trained to work in areas of tracking, suspect apprehension,  
12 | victim assistance, crowd control, or drug or explosive detection  
13 | for law enforcement purposes."

14 | ~~SECTION 56.~~ Statutory material to be repealed is  
15 | bracketed and stricken. New statutory material is underscored.

16 | SECTION ~~67.~~ This Act shall take effect upon its approval.

INTRODUCED BY: \_\_\_\_\_

POLICE DEPARTMENT  
**CITY AND COUNTY OF HONOLULU**

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813  
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulu.org



KIRK W. CALDWELL  
MAYOR

LOUIS M. KEALOHA  
CHIEF

DAVE M. KAJIHIRO  
MARIE A. McCAULEY  
DEPUTY CHIEFS

OUR REFERENCE DC-MM

March 14, 2013

The Honorable Henry J.C. Aquino, Chair  
and Members  
Committee on Public Safety  
State House of Representatives  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Aquino and Members:

Subject: Senate Bill No. 635, S.D 1, Relating to Animal Cruelty

I am Darren Chun, Captain of the Specialized Services Division, Honolulu Police Department, City and County of Honolulu.

The Honolulu Police Department supports Senate Bill No. 635, S.D. 1, Relating to Animal Cruelty, but prefers the terminology in proposed H.D. 1 written by the Department of the Prosecuting Attorney, City and County of Honolulu.

The proposed H.D. 1 is similar to S.D. 1 in that it is no longer a stand-alone bill. It also expands the offense of causing injury or death to a service dog to include content from the initial animal cruelty bill under Senate Bill No. 635, which strengthens and clarifies the offense for both service and law enforcement animals.

Canines of the Specialized Services Division accompany our officers during high-risk, critical incidents. These canines face the same, if not a higher, degree of risk when assisting our officers in the apprehension of dangerous criminal offenders. We agree that the protections provided by Senate Bill No. 635, S.D. 1, proposed H.D. 1, are needed to shield our law enforcement animals from harm while they work hard to keep Hawaii's communities safe.

Thank you for the opportunity to testify. I urge your committee to support and pass Senate Bill No. 635, S.D. 1, proposed H.D. 1.

Sincerely,

A handwritten signature in black ink, appearing to read "Darren Chun", written over a horizontal line.

DARREN CHUN, Captain  
Specialized Services Division

APPROVED:

A handwritten signature in black ink, appearing to read "Louis M. Kealoa", written over a horizontal line.

LOUIS M. KEALOHA  
Chief of Police

*Serving and Protecting With Aloha*



**ALAN M. ARAKAWA**  
MAYOR

OUR REFERENCE  
YOUR REFERENCE

# **POLICE DEPARTMENT**

## **COUNTY OF MAUI**

**55 MAHALANI STREET**  
**WAILUKU, HAWAII 96793**  
**(808) 244-6400**  
**FAX (808) 244-6411**



**GARY A. YABUTA**  
CHIEF OF POLICE

**CLAYTON N.Y.W. TOM**  
DEPUTY CHIEF OF POLICE

March 13, 2013

The Honorable Henry J.C. Aquino, Chair  
And Members of the Committee on Public Safety  
House of Representatives  
Hawaii State Capitol  
Honolulu, HI 96813

**RE: Senate Bill No. 635, SD1 - RELATING TO ANIMAL CRUELTY**

Dear Chair Aquino and Members of the Committee:

The Maui Police Department **SUPPORTS** the passing of Senate Bill No. 635, SD-1, with amendments. This bill establishes the offenses of cruelty to a law enforcement animal in the first and second degrees and adds a definition for "law enforcement animal."

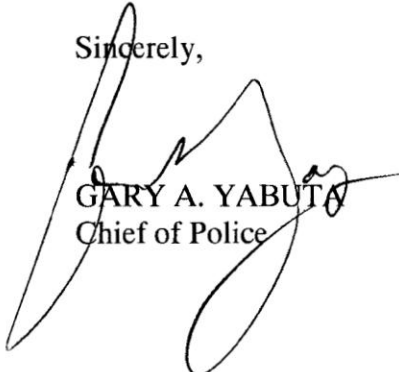
The Maui Police Department supports this measure as it will help to protect law enforcement service animals that work hard to prevent drugs from entering our community. We would also like to show our support for these courageous and hard working members of police department that tirelessly work to support our goals to protect and serve our community.

We also ask that you consider amending this bill to reflect requested language changes to be proposed by the Honolulu Prosecuting Attorney's Office.

The Maui Police Department again asks for your **SUPPORT** to S.B. No. 635, SD1.

Thank you for the opportunity to testify.

Sincerely,

  
**GARY A. YABUTA**  
Chief of Police

**TESTIMONY OF THE HAWAII POLICE DEPARTMENT**

**SENATE BILL 635, D1**

**RELATING TO ANIMAL CRUELTY**

BEFORE THE COMMITTEE ON PUBLIC SAFETY

DATE : Thursday, March 14, 2013

TIME : 9:30 A.M.

PLACE : Conference Room 309  
State Capitol  
415 South Beretania Street

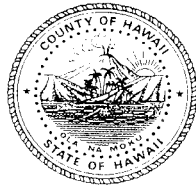
PERSON TESTIFYING:

Police Chief Harry S. Kubojiri  
Hawaii Police Department  
County of Hawaii

(Written Testimony Only)



**William P. Kenoi**  
*Mayor*



**Harry S. Kubojiri**  
*Police Chief*

**Paul K. Ferreira**  
*Deputy Police Chief*

## **County of Hawai'i**

**POLICE DEPARTMENT**  
349 Kapiolani Street • Hilo, Hawai'i 96720-3998  
(808) 935-3311 • Fax (808) 961-8865

March 13, 2013

Representative Henry J. C. Aquino  
Chairperson and Committee Members  
Committee on Public Safety  
415 South Beretania Street, Room 309  
Honolulu, Hawai'i 96813

**RE: SENATE BILL 635, D1, RELATING TO ANIMAL CRUELTY**

Dear Representative Aquino:

The Hawai'i Police Department supports the intent of Senate Bill No. 635, which includes law enforcement animals under the offenses of causing injury or death to a service dog and intentional interference with the use of a service dog.

We would, however, prefer the terminology in proposed House Draft 1 as proposed by the Department of the Prosecuting Attorney of the City and County of Honolulu.

We believe canines, whether in service to individuals with disabilities or law enforcement, are worthy of the additional protection that will be afforded by HD 1 as proposed.

For these reasons, we urge this committee to support Senate Bill 635, SD1, proposed HD1 legislation. Thank you for allowing the Hawai'i Police Department to testify on Senate Bill No. 635.

Sincerely,

HARRY S. KUBOJIRI  
POLICE CHIEF



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-SEVENTH LEGISLATURE, 2013**

---

**ON THE FOLLOWING MEASURE:**

S.B. NO. 1179, S.D. 1, RELATING TO COURT ORDERS TO PROVIDE MEDICAL TREATMENT FOR INMATES AND DETAINEES IN CORRECTIONAL FACILITIES..

**BEFORE THE:**

HOUSE COMMITTEE ON PUBLIC SAFETY

**DATE:** Thursday, March 14, 2013 **TIME:** 9:30 a.m.

**LOCATION:** State Capitol, Room 309

**TESTIFIER(S):** David M. Louie, Attorney General, or  
Richard W. Stacey, Deputy Attorney General

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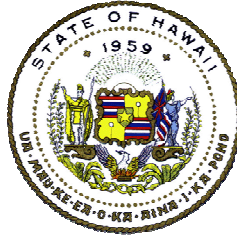
Chair Aquino and Members of the Committee:

The Department of the Attorney General strongly supports this bill.

This bill clarifies that petitions for involuntary medication of inmates may be filed in district court, in addition to circuit court; expands the time period for petitions to be filed from two days to five days; adds definitions of danger of harm to self and danger of harm to others; modifies the required notification process where the subject of the petition is already in custody; and allows the petitioners to file either declarations or affidavits, a process that follows modern court rules. These amendments are proposed to allow for a more efficient and responsive court process, enabling medical staff in various correctional facilities to provide critical and necessary medical treatment in a more timely fashion, resulting in the improved mental and physical status of inmates.

We respectfully request that this bill be passed.

NEIL ABERCROMBIE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**

919 Ala Moana Blvd. 4<sup>th</sup> Floor  
Honolulu, Hawaii 96813

**TED SAKAI**  
DIRECTOR

**Martha Torney**  
Deputy Director of  
Administration

**Max Otani**  
Deputy Director  
Corrections

**Keith Kamita**  
Deputy Director  
Law Enforcement

No. \_\_\_\_\_

TESTIMONY ON SENATE BILL (SB) 1179, SENATE DRAFT (SD) 1  
A BILL FOR AN ACT RELATING TO  
COURT ORDERS TO PROVIDE MEDICAL TREATMENT FOR INMATES  
AND DETAINEES IN CORRECTIONAL FACILITIES

by  
Ted Sakai, Director  
Department of Public Safety

House Committee on Public Safety  
Representative Henry J.C. Aquino, Chair  
Representative Kaniela Ing, Vice Chair

Thursday, March 14, 2013, 9:30 a.m.  
State Capitol, Conference Room 309

Chair Aquino, Vice Chair Ing, and Members of the Committee:

The Department of Public Safety (PSD) **strongly supports** SB 1179, SD 1 to modify an existing statute which was enacted in 2011, relating to court orders to provide medical treatment for inmates and detainees in correctional facilities. As can be surmised with many newly created statutes, implementing the specific language of the statute often encounters operational considerations previously not envisioned in the original design. There are two (2) specific operational deficiencies in the original statute that restrict the Department's ability to fully implement the original intent of the statute, and that require modification, as well as six "housekeeping items" contained in this bill.

The two most significant specific areas that require modification are: (1) the definitions of danger of harm to self or others, and (2) the hearing notification process.

We are proposing that the definitions for harm to self or others be expanded to include individuals who, although they do not pose an immediate

danger due to present physical constraints, do represent an imminent danger if these physical constraints are not present. We are seeking this expanded definition since we have encountered inmates with mental health disorders who have been relegated to long periods of isolation in segregated settings who may not present the immediate behaviors of danger to self or others. However, if released from segregated settings, it is reasonably predictable based on past behaviors that they would pose a serious danger to self or others. Presently, these individuals are relegated to indefinite seclusion, depriving them of opportunity and rights of other prisoners or detainees. The Department considers it to be inhumane to retain these inmates in such settings without attempting interventions that could conceivably permit them the rights and privileges of other prisoners.

The second significant area of change is the hearing notification process. The Department has found it unnecessarily cumbersome to attempt to contact the litany of individuals outlined in the present statute, and is seeking to expedite the notification process by restricting notification to those parties whom the inmate has designated as their emergency contact or their legal guardian while in the custody of the department, while still permitting the court to decide if other significant parties are relevant to the hearing.

There are additional minor proposed changes in the statute, that are reflected as follows: (1) permitting filings for orders in district court as well as circuit court; (2) permitting a declaration in addition to an affidavit from licensed physicians or psychologists who have personally examined the inmate; (3) deleting the erroneous reference to "commitment" and replacing it with a reference to "treatment"; (4) substituting the references to "judge" with references to "court" throughout the bill; (5) removing the inmates' inability to participate in the hearing as a condition for the court considering appointing guardianships; and (6) permitting the court order to continue to the maximum period of the order should an individual be released and returned to custody, unless it has been determined the person is no longer in need of treatment.

Thank you for the opportunity to testify on this bill.

# **BIA-HAWAII**

## **BUILDING INDUSTRY ASSOCIATION**

*"Building Better Communities"*

### **2013 Officers**

---

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**Greg Thielen**  
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**Immediate Past President**

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Universal Construction, Inc.

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**Karen T. Nakamura**  
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Pacific Rim Partners

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Castle & Cooke Homes Hawaii, Inc.

## **Testimony to the House Committee on Public Safety**

**Wednesday, March 13, 2013**

**9:30 a.m.**

**State Capitol - Conference Room 309**

**RE: S.B. 212, S.D. 1, RELATING TO THE STATE BUILDING CODE**

Chair Aquino, Vice-Chair Ing, and members of the committee:

My name is Gladys Marrone, Government Relations Director for the Building Industry Association of Hawaii (BIA-Hawaii), the voice of the construction industry. We promote our members through advocacy and education, and provide community outreach programs to enhance the quality of life for the people of Hawaii. BIA-Hawaii is a not-for-profit professional trade organization chartered in 1955, affiliated with the National Association of Home Builders.

BIA-Hawaii **supports** S.B. 212, S.D. 1, which allows the counties three years to adopt their amendments to the state building code and permits the counties to apply their most recently adopted building code until the new amendments are adopted; the state building code may be used as a reference during this time frame.

Currently, under Chapter 107-28, counties are required to adopt their amendments to the model code two years after the State Building Code Council adopts the State Building Code. With new code books coming out every three years, the counties are continually making amendments to keep up with the current codes.

As an example, the State adopted the 2006 State Building Code, on April 16, 2010. According to the law, the City and County of Honolulu should have adopted their amendments to the International Building and Residential Codes by April 16, 2012. However, these amendments were not adopted until October 2012.

The next code in the cycle is the 2009 IRC/IBC. However, the Department of Permitting and Planning has announced it will skip the 2009 codes and go directly to reviewing the 2012 codes. National codes are still updated every three years, which allows the industry to continue to monitor and prepare for changes at the local level well in advance.

In January of 2012, Michigan passed a law to move to a 6-year cycle, as the original version of S.B. 212 proposed. Two states skipped a code cycle, and five other states are engaged in discussions to move to a 6-year cycle. One state passing a law does not constitute a trend. However, five states following suit in their discussions is the start of a trend.

Thank you for the opportunity to express to you our views.

**William P. Kenoi**  
Mayor



**Darren J. Rosario**  
Fire Chief

**Renwick J. Victorino**  
Deputy Fire Chief

**County of Hawai'i**  
**HAWAII FIRE DEPARTMENT**  
25 Aupuni Street • Suite 2501 • Hilo, Hawai'i 96720  
(808) 932-2900 • Fax (808) 932-2928

March 13, 2013

The Honorable Henry Aquino, Chair  
Committee on Public Safety  
House of Representatives  
State Capitol, Room 419  
Honolulu, Hawai'i 96813

Dear Chair Aquino:

Subject: S.B. 212, S.D. 1 Relating to the State Building Code

I am Darren J. Rosario, member of the State Fire Council (SFC) and Fire Chief of the Hawai'i Fire Department (HFD). The SFC and the HFD opposes S.B. 212, S.D. 1, which seeks to allow the counties three years to adopt their amendments to the state building code and permit the counties to apply their previously adopted building code until the new amendments are adopted.

The SFC believes this bill does not assist the State Building Code Council (SBCC) in meeting its mandated responsibility, as delineated in Hawai'i Revised Statutes (HRS) Section 107-24, which is to adopt the latest editions of nationally recognized building codes and standards for the state and the counties. By proposing to extend the deadline to adopt county building code ordinances from two to three years after the adoption of the state building code, essentially prolongs the adoption process. In addition, the proposal to allow the counties to continue to use the existing county building code when the deadline is not adhered to is contrary to the intent and purposes of the SBCC. Previous to its creation, each county adopted ordinances that comprised of building codes and standards for its jurisdiction. Consequently, each county had different editions of the building codes that created challenges for designers and builders. This bill would propose to revert back to the difficulties encountered by designers and builders having to apply different editions of codes and standards for each county.



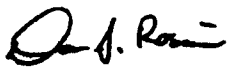
The Honorable Henry Aquino, Chair  
March 13, 2013  
Page 2

The SFC has been a voting member of the SBCC since its inception in 2007. The SBCC is administratively attached to the State Department of Accounting and General Services. The SFC supports the concept authorizing the SBCC to recommend any necessary or desirable state amendments to the model codes defined in Section 107-25, and assign the staggering of adoption of the codes that shall be adopted, amended, and updated at a frequency of not later than every six years in accordance with Section 107-28. This would streamline the state approval process by eliminating the need for administrative rules, but allowing more time for review at the state level. The SFC also supports the concept authorizing the SBCC to review and bi-annually disseminate an itemized report of the substantially uniform code amendments utilized by all four counties. By allowing the SBCC to disseminate substantially uniform codes amendments by all four counties, would also expedite the county building code approval process, thereby creating a uniform set of building codes for each county. Since national codes and standards are revised and updated every three years, giving more time to the counties would only increase the likelihood that each county would be on different editions of the national codes and standards. These concepts are currently proposed in House Bill 763 and were unanimously approved by the SBCC membership.

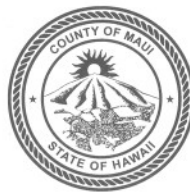
The SFC and the HFD urge your committee's deferral of S.B. 212, S.D. 1, as this measure would not meet the intent and purpose of why the SBCC was created.

Should you have any questions, please contact SFC Administrator Socrates Bratakos at 723-7151 or [sbratakos@honolulu.gov](mailto:sbratakos@honolulu.gov).

Sincerely,



DARREN J. ROSARIO  
Fire Chief  
SFC Member



**COUNTY OF MAUI**  
DEPARTMENT OF FIRE AND PUBLIC SAFETY

200 DAIRY ROAD  
KAHULUI, MAUI, HAWAII 96732  
(808) 270-7561  
FAX (808) 270-7919  
EMAIL: [fire.dept@mauicounty.gov](mailto:fire.dept@mauicounty.gov)  
March 13, 2013

The Honorable Henry Aquino, Chair  
Committee on Public Safety  
House of Representatives  
State Capitol, Room 419  
Honolulu, Hawaii 96813

Dear Chair Aquino:

Subject: S.B. 212, S.D. 1 Relating to the State Building Code

I am Jeffrey A. Murray, Fire Chief of the County of Maui, Department of Fire & Public Safety (MFD) and a member of the State Fire Council (SFC). The MFD and the SFC opposes S.B. 212, S.D. 1, which seeks to allow the counties three years to adopt their amendments to the state building code and permit the counties to apply their previously adopted building code until the new amendments are adopted.

The SFC believes this bill does not assist the State Building Code Council (SBCC) in meeting its mandated responsibility, as delineated in Hawaii Revised Statutes (HRS) Section 107-24, which is to adopt the latest editions of nationally recognized building codes and standards for the state and the counties. By proposing to extend the deadline to adopt county building code ordinances from two to three years after the adoption of the state building code, essentially prolongs the adoption process. In addition, the proposal to allow the counties to continue to use the existing county building code when the deadline is not adhered to is contrary to the intent and purposes of the SBCC. Previous to its creation, each county adopted ordinances that comprised of building codes and standards for its jurisdiction. Consequently, each county had different editions of the building codes that created challenges for designers and builders. This bill would propose to revert back to the difficulties encountered by designers and builders having to apply different editions of codes and standards for each county.

The SFC has been a voting member of the SBCC since its inception in 2007. The SBCC is administratively attached to the State Department of Accounting and General Services. The SFC supports the concept authorizing the SBCC to recommend any



The Honorable Henry Aquino, Chair  
Page 2  
March 13, 2013

necessary or desirable state amendments to the model codes defined in Section 107-25, and assign the staggering of adoption of the codes that shall be adopted, amended, and updated at a frequency of not later than every six years in accordance with Section 107-28. This would streamline the state approval process by eliminating the need for administrative rules, but allowing more time for review at the state level. The SFC also supports the concept authorizing the SBCC to review and bi-annually disseminate an itemized report of the substantially uniform code amendments utilized by all four counties. By allowing the SBCC to disseminate substantially uniform codes amendments by all four counties, would also expedite the county building code approval process, thereby creating a uniform set of building codes for each county. Since national codes and standards are revised and updated every three years, giving more time to the counties would only increase the likelihood that each county would be on different editions of the national codes and standards. These concepts are currently proposed in House Bill 763 and were unanimously approved by the SBCC membership.

The MFD and the SFC urge your committee's deferral of S.B. 212, S.D. 1, as this measure would not meet the intent and purpose of why the SBCC was created.

Should you have any questions, please contact SFC Administrator Socrates Bratakos at 723-7151 or [sbratakos@honolulu.gov](mailto:sbratakos@honolulu.gov).

Sincerely,



JEFFREY A. MURRAY  
Fire Chief



**STRUCTURAL ENGINEERS ASSOCIATION OF HAWAII**  
P.O. Box 3348, Honolulu, Hawaii 96801

March 13, 2013

TO: The House  
Committee on Public Safety FAX 586-8529  
Rep. Henry J.C. Aquino, Chair; Rep. Kaniela Ing, Vice Chair

SUBJECT: **Senate Bill 212\_SD1 Relating to the State Building Code**  
Hearing March 14, 2013 9:30 am Conference Room 309

Honorable Members of the Committee:

The Structural Engineers Association of Hawaii (SEAOH) is the local chapter of the National Council of Structural Engineering Associations (NCSEA), and we have over 200 active members in Hawaii. SEAOH has a historic role spanning several decades in assisting Hawaii with the development of the technical portions of the building codes. Per Act 82, the intent of HRS 107 Part II to establish an "uniform set of statewide building codes applicable to one and two family dwellings, all other residential uses, and commercial and industrial buildings, and state buildings would make it possible for building owners, designers, contractors, and code enforcers within the State to apply consistent standards".

In 2007, HRS 107 Part II, State Building Code and Design Standards, established a process in which the State Building Code Council's primary duty is to develop the codes for state government projects. The local county codes applicable to private and county construction are adopted separately. In Hawaii, we allow the counties to amend the State Building Code when it is adopted within a two-year period without needing approval of the State Building Code Council. However, given that all four county building officials must unanimously agree to any provisions in the Hawaii State Building Code, the county building officials already have at least three years of notification of the approval the State Code Council has given to any new code provision.

**We oppose Senate Bill 212 SD1 and recommend that it be held in committee:**

1. SB212 SD1 would make the adoption of an updated code optional in Section 2107-28 (b) since it allows the counties to defer adoption indefinitely past the deadline, in which case the state code only becomes an advisory reference. Advisory references are not enforceable by building officials. Then there is no longer a building code that has any requirements and we no longer have consistent standards. So this bill is a measure that is totally contrary to Act 82 of the 2007 Legislature and constitutes making an exemption loophole.
2. We support modernizing HRS 107 part II, State Building Code and Design Standards as proposed in HB763, which was unanimously authored and approved by the Council, the Department of Accounting and General Services, and submitted by the Governor. In this bill, we provide the lengthening of the adoption cycle directly within the State Building Code Council process itself, so that the synchronization of codes can still be accomplished while reducing the frequency of new code provisions to those deemed significant to Hawaii, but updated not later than every 6 years by the Council. This is the most and consistent means to lessen the frequency of changes without introducing diversion from a common state standard.

Gary Chock, S.E.  
Ian Robertson, Ph.D., S.E.

SEAOH Legislative Committee



**STATE OF HAWAII**  
**DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

830 PUNCHBOWL STREET, ROOM 321  
HONOLULU, HAWAII 96813  
[www.hawaii.gov/labor](http://www.hawaii.gov/labor)  
Phone: (808) 586-8842 / Fax: (808) 586-9099  
Email: [dlir.director@hawaii.gov](mailto:dlir.director@hawaii.gov)

March 13, 2013

The Honorable Henry Aquino, Chair  
Committee on Public Safety  
House of Representatives  
State Capitol, Room 419  
Honolulu, Hawaii 96813

Dear Chair Aquino:

Subject: S.B. 212, S.D. 1 Relating to the State Building Code

I am Robert Westerman, Vice Chair of the State Fire Council (SFC) and Fire Chief of the Kauai Fire Department (KFD). The SFC and the KFD opposes S.B. 212, S.D. 1, which seeks to allow the counties three years to adopt their amendments to the state building code and permit the counties to apply their previously adopted building code until the new amendments are adopted.

The SFC believes this bill does not assist the State Building Code Council (SBCC) in meeting its mandated responsibility, as delineated in Hawaii Revised Statutes (HRS) Section 107-24, which is to adopt the latest editions of nationally recognized building codes and standards for the state and the counties. By proposing to extend the deadline to adopt county building code ordinances from two to three years after the adoption of the state building code, essentially prolongs the adoption process. In addition, the proposal to allow the counties to continue to use the existing county building code when the deadline is not adhered to is contrary to the intent and purposes of the SBCC. Previous to its creation, each county adopted ordinances that comprised of building codes and standards for its jurisdiction. Consequently, each county had different editions of the building codes that created challenges for designers and builders. This bill would propose to revert back to the difficulties encountered by designers and builders having to apply different editions of codes and standards for each county.

The SFC has been a voting member of the SBCC since its inception in 2007. The SBCC is administratively attached to the State Department of Accounting and General Services. The SFC supports the concept authorizing the SBCC to recommend any necessary or desirable state amendments to the model codes defined in Section 107-25, and assign the staggering of adoption of the codes that shall be adopted, amended,

The Honorable Henry Aquino, Chair  
Page 2  
March 13, 2013

and updated at a frequency of not later than every six years in accordance with Section 107-28. This would streamline the state approval process by eliminating the need for administrative rules, but allowing more time for review at the state level. The SFC also supports the concept authorizing the SBCC to review and bi-annually disseminate an itemized report of the substantially uniform code amendments utilized by all four counties. By allowing the SBCC to disseminate substantially uniform codes amendments by all four counties, would also expedite the county building code approval process, thereby creating a uniform set of building codes for each county. Since national codes and standards are revised and updated every three years, giving more time to the counties would only increase the likelihood that each county would be on different editions of the national codes and standards. These concepts are currently proposed in House Bill 763 and were unanimously approved by the SBCC membership.

The SFC and the KFD urge your committee's deferral of S.B. 212, S.D. 1, as this measure would not meet the intent and purpose of why the SBCC was created.

Should you have any questions, please contact SFC Administrator Socrates Bratakos at 723-7151 or [sbratakos@honolulu.gov](mailto:sbratakos@honolulu.gov).

Sincerely,


ROBERT WESTERMAN  
Vice Chair

RW/LR

# AMERICAN INSTITUTE OF ARCHITECTS

Public Safety  
9:30am

March 14, 2013

Honorable Henry J.C. Aquino, Chair  
House Committee on Public Safety

Re: **Senate Bill 212 SD1**  
**Relating to the State Building Code**

Dear Chair Aquino and Members of the Committee,

My name is Daniel Chun, President of the American Institute of Architects (AIA) Hawaii State Council. AIA sends **COMMENTS** on SB 212 SD1 that allows more time for counties to amend the state building code.

## **More time is needed ... but at the state level of code adoptions**

AIA has been a faithful voting member of the State Building Code Council SBCC since its inception. Even though this legislature so directed in passage of the original statute, the SBCC has **failed to be funded** by both the past and current state administrations. Instead the SBCC has operated on the cooperation of the DAGS and the good will of the four counties and private industry. This has adversely affected the intent of the original legislation.

In response to this very unacceptable neglect by state administrations, the SBCC put forth SB 999 that revises the code adoption process and has some housekeeping language. SB 999 allows the SBCC more time "up front" and allows the council to stagger adoptions of newly published codes if the council finds it prudent.

## **AIA proposes revised language for SB 212 [attachment]**

AIA reviewed the administration bill SB 999 and finds some merit in revising the periodicity of code updates at the state level. However, AIA still supports a unified state building code "up front" instead of the "after the fact" concept presented in SB 999. AIA still supports the "super subcommittee" of the four county building officials (HRS 107-24(b) having a strong influence in the amendment of codes. The "super subcommittee" will be even more important should this legislature pass bills like SB 213 SD2 that adds so many construction organizations that may lack technical knowledge on code issues. Thank you for this opportunity to present **COMMENTS**.

**SB 212 SD1 Relating to the state building code (proposed HD1)  
Incorporates some amendments proposed in HB 763 / SB 999.**

Sections 107-24, 107-25, 107-26, 107-27 and 107-28 Hawaii Revised Statutes, are amended to read as follows:

[§107-24] Authority and duties of the council. (a) Any law to the contrary notwithstanding, the council shall establish a comprehensive state building code.

(b) The council shall appoint a subcommittee comprised of the four council members representing county building officials, whose duty shall be to recommend any necessary or desirable state amendments to the model codes. Any recommended state amendments shall require the unanimous agreement of the subcommittee. **The subcommittee shall recommend any staggering of the adoption of codes identified in section 107-25 to be adopted, amended, and updated. Any recommended staggering of adoptions shall require the unanimous consent of the subcommittee.**

(c) The council may appoint other investigative, technical expertise committees, which may include council members.

(d) The council shall consult with general building contractor associations and building trade associations to gather information and recommendations on construction practices and training relevant to building codes and standards.

(e) The council shall review, **amend**, and adopt, as appropriate, new model building codes **pursuant to section 107-24(b)** ~~within eighteen months of the official publication date.~~ **at a frequency of no later than every six years in accordance with section 107-29.**

(f) The council may make expenditures for technical references, equipment and supplies, and other operating expenses, and may contract for the conduct of research studies and other technical services.

(g) The council shall provide education and technical training and administrative assistance in the form of services or grants at the state and county levels relating to the implementation and enforcement of the state building code adopted pursuant to this part. [L 2007, c 82, pt of §2]

[§107-25] State building code; requirements. There is established a **Hawaii** state building code applicable to all construction in the State of Hawaii. The **Hawaii** state building code shall include:

(1) ~~The latest edition of the state fire code as adopted by the state fire council;~~

(2) ~~The latest edition of the Uniform Plumbing Code, as copyrighted and published by the International Association of Plumbing and Mechanical Officials, including its appendices;~~

(3) The latest edition of the International Building Code, the International Residential Code, and the International Energy Conservation Code, as published by the International Code Council;

(4) The National Electrical Code, as published by the National Fire Protection Association.

~~[(4)]~~ (5) Hawaii design standards implementing the criteria pursuant to Act 5, Special Session Laws of Hawaii, 2005, as applicable to:

(A) Emergency shelters built to comply with hurricane resistant criteria, including enhanced hurricane protection areas capable of withstanding a five hundred-year hurricane event as well as other storms and natural hazards; and

(B) Essential government facilities requiring continuity of operations; and

~~[(5)]~~ (6) Code provisions based on nationally published codes or standards that include, but are not limited to, residential and hurricane resistive standards for residential construction, [fire], elevator, [electrical, plumbing,] mechanical, flood and tsunami, **and** existing buildings, [and energy conservation standards for building design and construction, and onsite sewage disposal.] [L 2007, c 82, pt of §2]

[§107-26] State building code; prohibitions. In adopting a **Hawaii** state building code, the council shall not adopt provisions that:

(1) Relate to administrative, permitting, or enforcement and inspection procedures of each county; or

(2) Conflict with chapters **444, 448E, and 464**.

[§107-27] Exemptions. (a) Upon adoption of rules under this chapter, the design of all state building construction shall be in compliance with the state building code within one year of its effective date, and state building construction shall be allowed to be exempted from:

(1) County **building** codes [that have not adopted the state building code];

(2) Any county code amendments that are inconsistent with the minimum performance objectives of the state building code or the objectives enumerated in this part; or

(3) Any county code amendments that are contrary to code amendments adopted by another county.

(b) Exemptions shall include county ordinances allowing the exercise of indigenous Hawaiian architecture adopted in accordance with section 46-1.55

[§107-28] County building code authority to amend **and adopt** the state model building code without state approval. (a) The governing body of each county shall amend, **adopt and update** the state building code as it applies within its respective jurisdiction, in accordance with section 46-1.5(13), without approval of the council. Each county shall [use] **amend and adopt** the model **state** codes and standards listed in section 107-25, as the referenced model building codes and standards for its respective county building code ordinance, no later than two years after the adoption of [~~the state building code~~] **each of the amended codes by the council pursuant to section 107-24.**

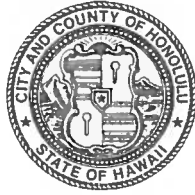
(b) If a county does not amend the statewide model code within the two-year time frame, the **Hawaii** state building code shall become applicable as an interim county building code until the county adopts [the] **its** amendments.

[§107-29] Rules. The department shall adopt rules pursuant to chapter 91 necessary for the purposes of this part



POLICE DEPARTMENT  
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813  
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulu.org



KIRK W. CALDWELL  
MAYOR

LOUIS M. KEALOHA  
CHIEF

DAVE M. KAJIHIRO  
MARIE A. McCAULEY  
DEPUTY CHIEFS

OUR REFERENCE TN-DNK

March 14, 2013

The Honorable Henry J. C. Aquino, Chair  
and Members  
Committee on Public Safety  
State House of Representatives  
Hawaii State Capitol  
415 South King Street  
Honolulu, Hawaii 96813

Dear Chair Aquino and Members:


Subject: Senate Bill No. 1015, S.D. 1, Relating to Production of Records

I am Thomas Nitta, Major of the Records and Identification Division of the Honolulu Police Department (HPD), City and County of Honolulu.

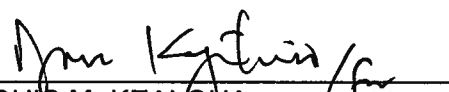
The HPD supports Senate Bill No. 1015, S.D. 1, Relating to Production of Records. This bill clarifies and expounds on the provisions of Act 325, Session Laws of Hawaii 2012, which allow for the service of process issued by another state upon a Hawaii recipient.

Thank you for the opportunity to testify.

Sincerely,

  
for THOMAS NITTA, Major  
Records and Identification Division

APPROVED:

  
LOUIS M. KEALOHA  
Chief of Police



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-SEVENTH LEGISLATURE, 2013**

---

**ON THE FOLLOWING MEASURE:**

S.B. NO. 1015, S.D. 1, RELATING TO PRODUCTION OF RECORDS.

**BEFORE THE:**

HOUSE COMMITTEE ON PUBLIC SAFETY

**DATE:** Thursday, March 14, 2013 **TIME:** 9:30 a.m.

**LOCATION:** State Capitol, Room 309

**TESTIFIER(S):** David M. Louie, Attorney General, or  
Lance M. Goto, Deputy Attorney General.

---

Chair Aquino and Members of the Committee:

The Department of the Attorney General strongly supports this bill.

The purpose of this bill is to clarify provisions of Act 325, Session Laws of Hawaii 2012, which allows for the service of process issued by another state upon a Hawaii recipient. This bill clarifies the following: (1) that the service of process may be upon a person or business, but not a government agency; (2) that the process is for the production of records; (3) that the process must be based upon a pending criminal investigation or prosecution; and (4) that the person or business being served must have conducted business or engaged in transactions occurring at least in part in the issuing state.

Act 325, Session Laws of Hawaii 2012, entitled, "Relating to the Production of Records," created a "criminal long arm statute" that authorizes Hawaii courts to order the production of records, including electronic records, held by entities located outside the State of Hawaii, for purposes of a criminal matter. Prior to Act 325, Hawaii law did not expressly authorize state courts to issue legal process for records held by out-of-state entities, such as financial institutions and internet service providers, web-based e-mail providers, website hosting companies, social networking providers, cellular telephone providers, and other entities. There was nothing to compel an out-of-state entity to comply with legal process issued by a Hawaii court, and it was not uncommon for out-of-state entities to refuse to honor legal process issued by Hawaii courts.

Act 325 also included a reciprocity provision, which requires an entity located in Hawaii to comply with the criminal process issued by another state. The idea behind the reciprocity provision was to make access to records a two-way street.

This bill is intended to address several concerns about the reciprocity provision, enacted in section 806D-4, Hawaii Revised Statutes (HRS), as follows:

When a Hawaii recipient is served with process issued by or in another state, and such process on its face purports to be a valid criminal process, the Hawaii recipient shall comply with that process as if that process had been issued by a Hawaii court.

The first concern is that this reciprocity provision does not appear to require the Hawaii recipient to have a connection or nexus to the issuing state that is requesting the recipient's records. This is troubling because under Act 325, when a Hawaii applicant requests records from an out-of-state recipient, the out-of-state recipient must have a nexus to Hawaii. The recipient of that request must have conducted business, or engaged in transactions, that occurred at least in part in Hawaii. This nexus requirement supports and justifies the authority of Hawaii courts to reach out into the other jurisdiction. The reciprocity provision, however, does not have this nexus requirement. In other words, under the present wording of section 806D-4, it appears other states may request records from Hawaii recipients even though the recipients are not engaged in business or transactions in that state.

A second concern is the use of the term, "criminal process," in the reciprocity provision of section 806D-4. The use of this term in the reciprocity provision appears to be misplaced and confusing because the term is defined in section 806D-1, HRS, as process issued pursuant to Hawaii law or penal rules, or signed by a district or circuit court judge. The process issued in the other state could not have been issued pursuant to Hawaii law or rules, or signed by a Hawaii judge.

A third concern, raised by a state agency, is that the reciprocity provision may be interpreted as allowing someone from another state to issue process to try to compel a state agency in Hawaii to disclose protected government records. This problem is compounded because section 806D-4 does not specify whether a recipient challenge to the out-of-state request should take place in a Hawaii court, or a court of the issuing state.

This bill will resolve these concerns with the reciprocity provision.

The Department respectfully requests the passage of this bill.

DEPARTMENT OF THE PROSECUTING ATTORNEY  
**CITY AND COUNTY OF HONOLULU**

ALII PLACE  
1060 RICHARDS STREET • HONOLULU, HAWAII 96813  
PHONE: (808) 547-7400 • FAX: (808) 547-7515

KEITH M. KANESHIRO  
PROSECUTING ATTORNEY

ARMINA A. CHING  
FIRST DEPUTY PROSECUTING ATTORNEY



**THE HONORABLE HENRY J.C. AQUINO, CHAIR**  
**HOUSE COMMITTEE ON PUBLIC SAFETY**  
**Twenty-Seventh State Legislature**  
**Regular Session of 2013**  
**State of Hawai'i**

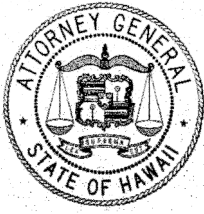
March 14, 2013

**RE: S.B. 1015, S.D. 1; RELATING TO PRODUCTION OF RECORDS.**

Chair Aquino, Vice-Chair Ing and members of the Senate Committee on Public Safety, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in support of Senate Bill 1015, Senate Draft 1.

The purpose of S.B. 1015, S.D. 1, is to amend Act 325, Session Laws of Hawai'i (2012), to make sure that the requirements imposed upon persons or businesses located in Hawai'i—who receive criminal process from courts in other states—are consistent with the requirements imposed on persons or businesses in other states, who receive criminal process from Hawai'i courts. The proposed language would improve the reciprocity provision of Act 325 by making these requirements a "two-way street."

For the reasons stated above, the Department of the Prosecuting Attorney of the City and County of Honolulu supports S.B. 1015, S.D. 1. Thank you for the opportunity to testify on this matter.



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-SEVENTH LEGISLATURE, 2013**

---

**ON THE FOLLOWING MEASURE:**

S.B. NO. 1176, S.D. 1, RELATING TO THE HAWAII PAROLING AUTHORITY.

**BEFORE THE:**

HOUSE COMMITTEE ON PUBLIC SAFETY

**DATE:** Thursday, March 14, 2013

**TIME:** 9:30 a.m.

**LOCATION:** State Capitol, Room 309

**TESTIFIER(S):** David M. Louie, Attorney General, or  
Lisa M. Itomura, Deputy Attorney General

---

Chair Aquino and Members of the Committee:

The Department of the Attorney General has one comment concerning this bill.

This bill in part amends section 353-62(b), Hawaii Revised Statutes (HRS), to require the Hawaii Paroling Authority (HPA) to make public thirty days after a hearing on parole the names of the inmates, whether the parole was granted or not, and the reasons if parole was denied.

While the names of the inmates and the parole decision are not confidential, the reasons for denying parole may be confidential. For example, federal law in general prohibits the disclosure of information concerning medical conditions, mental illness and substance abuse treatment without the consent of the patient. 42 U.S.C. § 201 et seq.; 45 C.F.R., Parts 160 and 164. Therefore, if an inmate's request for parole is denied because he or she refuses to comply with the doctor's recommendations for treatment, or was terminated from substance abuse treatment, disclosing such information without the inmate's consent arguably violates federal law and exposes the HPA and the State to liability.

Redaction of confidential information is not a recommended solution to the confidentiality concern, because the absence of such information for certain inmates while others have reasons published easily leads to speculation that the underlying reason for a denial is for one of a few confidential reasons.

It should be noted that while the public may not be aware of the reasons for a denial of parole, inmates are fully apprised of the reasons and have the opportunity to contest HPA's decision.

Based on the confidentiality issues, we respectfully ask the Committee to delete the requirement that HPA publish the reasons for parole denial from this bill.

NEIL ABERCROMBIE  
GOVERNOR



STATE OF HAWAII  
**HAWAII PAROLING AUTHORITY**  
1177 Alakea Street, First Floor  
Honolulu, Hawaii 96813

BERT Y. MATSUOKA  
CHAIR

JOYCE K. MATSUMORI-HOSHIJO  
MICHAEL A. TOWN  
ANNELLE C. AMARAL  
FITUINA F. TUA  
MEMBERS

TOMMY JOHNSON  
ADMINISTRATOR

No. \_\_\_\_\_

TESTIMONY ON SENATE BILL 1176, SD1  
RELATING TO THE HAWAII PAROLING AUTHORITY

BY

Bert Y. Matsuoka, Chairman  
Hawaii Paroling Authority

House Committee on Public Safety

Representative Henry J.D. Aquino, Chair  
Representative Kaniela Ing, Vice Chair

Thursday, March 14, 2013; 9:30 a.m.  
State Capitol, Conference Room 309

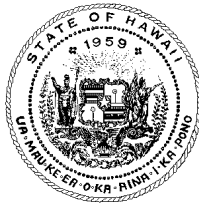
Chair Aquino, Vice Chair Ing, and Members of the Committee:

The Hawaii Paroling Authority (HPA) supports Senate Bill 1176, SD1, relating to the HPA, which allows designees to be appointed to the panel that reviews applications for the paroling authority and nominates members for the Governor's consideration. The primary purpose of this measure is to ensure the timely nomination of new members when vacancies occur. This measure also provides for the release of parole hearing decisions no more than thirty days following hearings.

The HPA appreciates the legislature's interest in the release of parole hearing decisions, but the release of such information can be accomplished monthly on a voluntary basis without the need to enact Section 2(b)(2) of this measure.

In addition, the HPA respectfully requests the following amendments to Section 2(b)(6) [~~If it is determined immediately preceding or during the course of a hearing that a sitting panel member must be recused due to a conflict of interest~~] Upon approval by the Chair, for good cause, including recusal and/or unanticipated absence, the panel may proceed with two members; and.....

Thank you for the opportunity to provide testimony on this measure.



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**

919 Ala Moana Boulevard, 4th Floor  
Honolulu, Hawaii 96814

**TED SAKAI**  
DIRECTOR

**Martha Torney**  
Deputy Director  
Administration

**Max Otani**  
Deputy Director  
Corrections

**Keith Kamita**  
Deputy Director  
Law Enforcement

No. \_\_\_\_\_

TESTIMONY ON SENATE BILL 1176, SENATE DRAFT 1  
RELATING TO  
THE HAWAII PAROLING AUTHORITY  
by  
Ted Sakai, Director  
Department of Public Safety

House Committee on Public Safety  
Representative Henry J.C. Aquino, Chair  
Representative Kaniela Ing, Vice Chair

Thursday, March 14, 2013; 9:30 a.m.  
State Capitol, Room 309

Chair Aquino, Vice Chair Ing and Members of the Committee:

The Department of Public Safety **strongly supports** Senate Bill 1176, Senate Draft 1, which 1) promotes the timely review of candidates for the Hawaii Paroling Authority (HPA), and 2) establishes the quorum required to take action on matters before the Authority.

This measure allows designees be appointed to the panel that reviews applicants for the paroling authority and nominates members for the Governor's consideration. The purpose of this measure is to ensure the timely nomination of new members.

The paroling authority nomination panel includes the Chief Justice of the Hawaii Supreme Court, the Director of Public Safety, the President of the Bar Association of Hawaii, and the President of the Hawaii Chapter of the National Social Workers Association. The panel is responsible for vetting the list of applicants, conducting interviews, and submitting not less than three names per vacancy for the Governor's consideration. This work averages three to five full days of meetings, a schedule that is



often impractical for persons in high level positions. The proposed amendments would allow the Chief Justice, Director, and President to appoint designees to represent them.

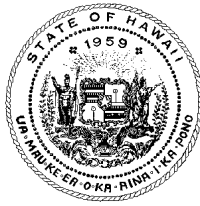
We are also requesting a most important amendment related to the Justice Reinvestment Initiative bill that was passed last session. Section 6 of Act 139, Session Laws of Hawaii 2012, increases the members of the Hawaii Paroling Authority (HPA) from a chairperson and two part-time members to a chairperson and four part-time members. This section, as introduced by the Administration, was intended to allow part-time members to rotate duties, requiring three members be present to act on matters before the parole board. The purpose of this section was to ensure a panel of three members was always available while other members were ill, on vacation, family leave, etc. It also allows for some members to be reviewing cases while others are hearing other cases.

Section 92-12, HRS, defines a quorum as "all the members to which the board or commission is entitled" unless it is otherwise specified in law. The proposed amendment allows for a panel of three members to convene a hearing, with all matters acted upon by the majority of those present. As some HPA members have previously been employed in the criminal justice system, it is not unusual for conflicts of interest in a given case to arise. Convening panels of three allows HPA to avoid conflicts requiring recusal of a member by not scheduling a member having a conflict when such a situation is identified beforehand.

On rare occasions, a member will not be aware prior to the hearing of a potential conflict of interest. This measure also allows for two members to continue to proceed with a hearing should a third member of the panel determine immediately preceding or during the course of a hearing that there is a conflict of interest that requires recusal.

Thank you for the opportunity to testify.

NEIL ABERCROMBIE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
919 Ala Moana Boulevard, 4th Floor  
Honolulu, Hawaii 96814

**TED SAKAI**  
DIRECTOR

**Martha Torney**  
Deputy Director  
Administration

**Max Otani**  
Deputy Director  
Corrections

**Keith Kamita**  
Deputy Director  
Law Enforcement

No. \_\_\_\_\_

TESTIMONY ON SENATE BILL 1177  
RELATING TO  
THE REENTRY COMMISSION  
by  
Ted Sakai, Director  
Department of Public Safety

House Committee on Public Safety  
Representative Henry J.C. Aquino, Chair  
Representative Kaniela Ing, Vice Chair

Thursday, March 14, 2013; 9:30 a.m.  
State Capitol, Room 309

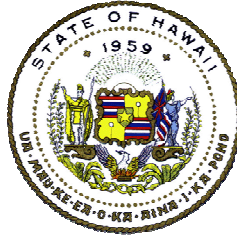
Chair Aquino, Vice Chair Ing, and Members of the Committee:

The Department of Public Safety (PSD) **supports** Senate Bill 1177, relating to the Reentry Commission, which replaces the Reentry Coordinator with the Director of Public Safety as an ex officio member of the Reentry Commission.

The 2012 amendments to Act 24, Special Session Laws of Hawaii 2009, revised the membership of the Reentry Commission and included as an ex officio nonvoting member the "Reentry Coordinator." Not only is the identified position temporary, it is not endowed with the authority to make commitments for the Department. The Director of Public Safety is the ultimate authority for the Department, and is in the best position to represent it and to make commitments more efficiently moving the work of the Reentry Commission forward.

Thank you for the opportunity to present this testimony.

NEIL ABERCROMBIE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**

919 Ala Moana Blvd. 4<sup>th</sup> Floor  
Honolulu, Hawaii 96813

**TED SAKAI**  
DIRECTOR

**Martha Torney**  
Deputy Director  
Administration

**Max Otani**  
Deputy Director  
Corrections

**Keith Kamita**  
Deputy Director  
Law Enforcement

No. \_\_\_\_\_

TESTIMONY ON SENATE BILL 1180  
A BILL FOR AN ACT RELATING TO  
EMERGENCY SCHEDULING OF CONTROLLED SUBSTANCES

by  
Ted Sakai, Director  
Department of Public Safety

House Committee on Public Safety  
Representative Henry J.C. Aquino, Chair  
Representative Kaniela Ing, Vice Chair

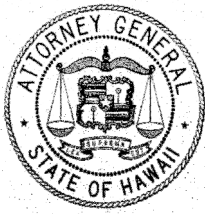
Thursday, March 14, 2013, 09:30 am  
State Capitol, Room 309

Chair Aquino, Vice Chair Ing, and Members of the Committee:

The Department of Public Safety (PSD) **supports** Senate Bill 1180 which proposes amendments to Section 329-11(e), HRS, Authority to schedule controlled substances to require that the Department add into statute language giving a period of public notice before the emergency scheduling of a controlled substances goes into effect, and to clarify what notice is required, and where the notice would be posted.

In the past, when the Department has emergency scheduled a substance, it has given notice by posting public notice at the State Capitol and in the Office of the Lieutenant Governor for public inspection. The Department also posted public notice on its website for public inspection. Senate Bill 1180 amends Section 329-11(e), HRS, to describe what the Department's current practice is relating to posting public notice as well as require that the notice be posted 30 days prior to the effective date of the emergency scheduling to give retailers and distributors ample notice.

Thank you for the opportunity to testify on this matter.



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-SEVENTH LEGISLATURE, 2013**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 1180, RELATING TO EMERGENCY SCHEDULING OF CONTROLLED SUBSTANCES.

**BEFORE THE:**

HOUSE COMMITTEE ON PUBLIC SAFETY

**DATE:** Thursday, March 14, 2013

**TIME:** 9:30 a.m.

**LOCATION:** State Capitol, Room 309

**TESTIFIER(S):** David M. Louie, Attorney General, or  
Richard W. Stacey, Deputy Attorney General

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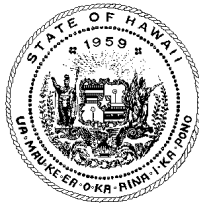
Chair Aquino and Members of the Committee:

The Department of the Attorney General strongly supports this bill.

This bill addresses notice requirements for provisions set forth in section 329-11, Hawaii Revised Statutes, (HRS). Section 329-11(a), HRS, clearly indicates what notice is required for regular annual changes to the controlled substance schedules in chapter 329, HRS. Section 329-11(e), HRS, which allows the administrator of the Narcotics Enforcement Division (NED) to place new drugs into the controlled substances schedules on an emergency basis, does not presently contain clear notice provisions. The emergency scheduling provision is important because it allows law enforcement to combat new “designer” drugs that are constantly being created in order to skirt the current controlled substance laws.

These amendments will require the NED administrator to provide thirty (30) days notice to the public before emergency scheduling goes into effect, and clarify where notice is to be posted. Further, this bill clarifies what factors the administrator must consider in adding certain drugs to the controlled substance schedules via the emergency scheduling process. These amendments are necessary to address legal requirements of notice, due process, and delegation of powers.

We respectfully request that this bill be passed.



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**

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No. \_\_\_\_\_

TESTIMONY ON SENATE BILL 1181, SENATE DRAFT 1  
RELATING TO  
COMMITTED PERSONS ON FURLOUGH  
by  
Ted Sakai, Director  
Department of Public Safety

House Committee on Public Safety  
Representative Henry J.C. Aquino, Chair  
Representative Kaniela Ing, Vice Chair

Thursday, March 14, 2013; 9:30 a.m.  
State Capitol, Room 309

Chair Aquino, Vice Chair Ing, and Members of the Committee:

The Department of Public Safety (PSD) **supports** Senate Bill 1181, Senate Draft 1, relating to Committed Persons on Furlough, which adds child support as a financial obligation for employed inmates on furlough and delineates percentages to be deducted from earnings for certain financial obligations identified by statute.

Child support orders are not included in statute as financial obligations for committed persons on furlough who are employed outside of the correctional facility, yet it is one of the most important responsibilities of being a parent. Senate Draft 1 includes amendments to the original proposal that were recommended by the Child Support Enforcement Agency and the Department to ensure this measure comports with federal law governing child support obligations.

This proposal also specifies twenty-five percent of earnings be deducted to satisfy outstanding restitution orders, which is in alignment with Act 139, Session Laws of Hawaii 2012. Current law is silent on what percent shall be deducted. In addition, it adds other court ordered fees and fines as obligations.

Upon further review of the part of this measure relating to restitution, we realized the language does not clearly provide direction as to how to deduct the multiple items included in subsection (a)(2). After consulting with the Department of the Attorney General, we are recommending an amendment to resolve this potential conflict and ask that lines 2 through 5 on page 2 be deleted and replaced with the following:

- (2) From twenty-five per cent of the committed person's net earnings:
  - (i) Restitution,
  - (ii) Crime victim compensation fee, and
  - (iii) Other fees and fines ordered.

For the purpose of this subparagraph (a)(2), the obligation first in priority is to be paid in full before payment of the obligation next in order. Net earnings are the balance of monthly earnings after payment of taxes; and

Thank you for the opportunity to present this testimony.