

# HB 1889

## HD1

**Measure Title:** RELATING TO A HOMELESS PERSON'S BILL OF RIGHTS.

**Report Title:** Homeless Persons; Bill of Rights

**Description:** Establishes a homeless person's bill of rights. Effective July 1, 2050.  
(HB1889 HD1)

**Companion:**

**Package:** None

**Current Referral:** HMS, JDL

**Introducer(s):** MIZUNO (Introduced by request of another party)



# HAWAI‘I CIVIL RIGHTS COMMISSION

830 PUNCHBOWL STREET, ROOM 411 HONOLULU, HI 96813 · PHONE: 586-8636 FAX: 586-8655 TDD: 568-8692

March 11, 2014  
Rm. 016, 1:30 p.m.

To: The Honorable Suzanne Chun Oakland, Chair  
Members of the Senate Committee on Human Services

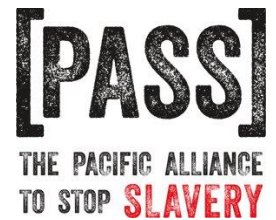
From: Linda Hamilton Krieger, Chair  
and Commissioners of the Hawai‘i Civil Rights Commission

Re: H.B. No. 1889, H.D.1

The Hawai‘i Civil Rights Commission (HCRC) has enforcement jurisdiction over Hawai‘i’s laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state funded services. The HCRC carries out the Hawai‘i constitutional mandate that no person shall be discriminated against in the exercise of their civil rights. Art. I, Sec. 5.

H.B. No. 1889, H.D.1, if enacted, would establish a statutory homeless person’s bill of rights. The HCRC offers these comments on the bill.

The HCRC opposes discrimination and disparate treatment against people because they are poor or homeless. Regardless of socio-economic class, all of Hawai‘i’s people should be accorded respect and dignity, equal opportunity, and equal protection of law. People should not be denied access to goods, services, accommodations, or opportunities based on discriminatory reasons. It should be recognized and acknowledged that these proposed protections, while they may overlap with existing protected bases (e.g., disability) that are disparately impacted by discrimination against the poor, are different in kind from the other protected bases in our civil rights / non-discrimination laws (race, ancestry, sex, etc.).



March 7, 2014

**SENATE COMMITTEE ON HUMAN SERVICES**

Senator Suzanne Chun Oakland, Chair  
Senator Josh Green, Vice Chair  
Senator Michelle N. Kidani  
Senator Brian T. Taniguchi  
Senator Sam Slom

**NOTICE OF HEARING**

DATE: Tuesday, March 11, 2014  
TIME: 1:30 pm  
PLACE: Conference Room 016

**RE: TESTIMONY IN STRONG SUPPORT OF HB1889 HD 1  
RELATING TO HOMELESS PERSONS BILL OF RIGHTS**

Aloha, Senate Committee on Human Services:

On behalf of the Pacific Alliance to Stop Slavery (PASS), I stand in strong support of HB1889 HD1. PASS supports this bill for many reasons including our mission to protect juveniles at high risk for human trafficking who are houseless and endangered runaways who deserve basic rights, services, and care in this present culture of criminalization. Criminalizing the Houseless does not succeed in solving problems relating to either public safety or effectively addressing homelessness. Criminalization of the Houseless only leads to civil rights abuses and a waste of tax payer dollars used to enforce these measures.

**CAUSE FOR CONCERN:** Establishing a Bill of Rights for the Houseless will restore the eroded rights that have taken place due to the passage of recent City Ordinances which in practice criminalize the houseless in the name of “public safety.” However, public safety is never achieved in this way. Examples of ordinances include, in lay terms, the confiscation of property and the fining of houseless persons (City Ordinance 11-029 aka Bill 54 and Ordinance 13-8, aka Bill 7). There are also bills in the State that currently seek to further criminalize nonviolent houseless including HB1660 Relating to Sidewalks and HB2409 Relating to Disorderly Conduct. The application of laws that currently exist to disproportionately criminalize the non-violent and law abiding houseless for finding respite on the sidewalk, has resulted in many abuses of innocent people by law enforcement and city officials. These abuses include: verbal harassment, physical assault, and the unconstitutional seizure of property belonging to houseless persons and families.

It has become clear that the Houseless have become an unprotected class suffering from abuse and an erosion of basic civil rights through their recent criminalization through laws described above. For this reason we must establish a Bill of Rights for the Houseless.

I enumerate some facts to consider with regard to criminalization and erosion of rights for the Houseless:

- 1) **PRISON OVERCROWDING/INCARCERATION OF NONVIOLENT OFFENDERS:** Established ordinances and laws that criminalize the houseless exacerbate the overcrowding of our prison system and add more costs for the price of incarceration. To make room for the influx of more inmates, other inmates who have committed felonies, would be either moved into the Federal Detention Center (FDC) or to mainland prisons, all at the taxpayers' expense.
  - i. As of the end of 2009, it cost approximately \$118 per day to incarcerate an inmate in OCCC (over \$42,000 per year per inmate), and at least \$62 per day to incarcerate him or her in a private prison on the mainland (over \$22,000 per year per inmate)<sup>1</sup>.
  - ii. Furthermore, it is unjust to incarcerate nonviolent offenders along with violent convicted felons as a method of “rehabilitation” or to prevent recidivism. It only serves to traumatize these nonviolent offenders and create anti-social behavior.
  
- 2) **WASTE OF TAXPAYER DOLLARS:** Criminalizing the houseless has proved, in other places (San Francisco, Los Angeles, South Carolina, Massachusetts, Florida, etc.) as well as in Honolulu, to be massively ineffective and only succeeds in wasting taxpayer dollars. Once the “offenders” have served their time, they go back to the streets and sidewalks and the State and City will have accomplished nothing. The only outcome these policies do is make it even harder for houseless persons to exit out of poverty since they will then have an additional hardship: a criminal record. <http://www.kitv.com/news/hawaii/sidewalk-nuisance-law-has-done-little-to-clear-clutter/-/8905354/21507216/-/8sv5eez/-/index.html>
  - a. Mayor Caldwell has already spent well over \$300,000 on city sweeps of the houseless—moving them from one district to another. <http://www.kitv.com/news/hawaii/city-plans-on-homeless-sweeps-3-times-a-week/-/8905354/23876950/-/guhguxz/-/index.html>
  - b. Criminalization is no solution to addressing poverty, houselessness, or public safety. And this fact has been proven by other cities faced with similar problems as Honolulu. Between 2004 and 2008, San Francisco spent \$9.8 million dollars on incarcerating the houseless with no significant impact on houselessness or public safety.
  
- 3) **DEHUMANIZATION:** Criminalization of the houseless has serious repercussions in our overall society. When marginalized groups of people are criminalized by law, surrounding community members tend to dehumanize this group as we’ve seen throughout the past, especially with the Nuremberg Laws of Nazi Germany. In present day Hawaii, we have seen several violent beatings, and even murder of houseless persons in the recent past, coming on the heels of well publicized laws and ordinances criminalizing the houseless. <http://www.examiner.com/article/third-homeless-man-murdered-on-oahu-6-weeks>

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<sup>1</sup> Johnson, D. (2011) Hawaii’s Imprisonment Policy and the Performance of Parolees Who Were Incarcerated In-State and on the Mainland. Hawaii State Department of the Attorney General. Retrieved on January 11, 2014, from: <http://ag.hawaii.gov/cpja/files/2013/01/AH-UH-Mainland-Prison-Study-2011.pdf>

- 4) **HUMAN RIGHTS VIOLATION:** Criminalizing the houseless is also a human rights violation recognized by the United Nations. The UN has called upon the United States to repeal laws criminalizing homelessness.  
<http://www.unmultimedia.org/radio/english/2012/04/united-states-urged-to-repeal-laws-criminalizing-homelessness/>

The Bill of Rights established by HB1889 will counter the bad policies and re-focus our efforts on proven solutions such as funding affordable housing projects, allowing tax relief for low-income workers and families, appropriations to services such as mental health and drug rehabilitation, and investing in public education. All of these things, including maintaining our basic civil rights for all people, reduce the poverty that leads to homelessness. However, if any groups' rights have been eroded, clear and swift attention must be paid in restoring justice for that group. HB1889 brings this restorative justice to the poor.

### **Houseless population on O'ahu**

According to the 2013 Point In Time Study, between 2012 and 2013, the houseless population in Honolulu County increased 4.7%, more than any other county in Hawai'i. Among O'ahu's houseless, the portion that live unsheltered is growing rapidly, by a margin of 11% since 2012 and 23% since 2009. The rate of unsheltered families with children also rose 5% since 2012.

PASS kindly urges your committee to pass HB1889 HD1.

Sincerely,

Kathryn Xian  
Executive Director



46-063 Emepela Pl. #U101 Kaneohe, HI 96744 · (808) 679-7454 · Kris Coffield · Co-founder/Legislative Director

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**TESTIMONY FOR HOUSE BILL 1889, HOUSE DRAFT 1, RELATING TO A  
HOMELESS PERSON'S BILL OF RIGHTS**

**Senate Committee on Human Services  
Hon. Suzanne Chun Oakland, Chair  
Hon. Josh Green, Vice Chair**

**Tuesday, March 11, 2014, 1:30 PM  
State Capitol, Conference Room 016**

Honorable Chair Chun Oakland and committee members:

I am Kris Coffield, representing IMUAlliance, a nonpartisan political advocacy organization that boasts over 175 local members. On behalf of our members, we offer this testimony in support of, with proposed amendments for House Bill 1889, HD1, relating to a homeless person's bill of rights.

Homeless people's rights are human rights. To date, the City and County of Honolulu has spent more than \$350,000 enforcing sidewalk nuisance regulations that went into effect last year, despite recent recognition by federal courts that homeless people's property is protected by the Constitution's due process and the Fourth Amendment's privacy guarantees. These efforts evince and symbolize a mean-spirited dehumanization of our state's homeless population, many of whom are hardworking men and woman struggling to find financial opportunities that match Hawaii's high cost of living.

That said, we encourage you to amend Section 1 of this bill by adding a subsection (b)(8), to read: **(8) Apply for and choose to accept assistance or services from any federal, state, or county government to improve one's quality of life without discrimination based upon being homeless, mental illness, substance abuse, or domestic violence.** Many housing options for the homeless, especially shelters, require homeless persons to seek, obtain, and maintain self-benefit or rehabilitation programs as a condition for admittance. The City and County of Honolulu, where the state's homeless majority resides, is currently moving toward implementation of a Housing First Initiative, which

provides immediate housing before offering a variety of support services. Our state has received a \$2.1 million grant from the Substance Abuse and Mental Health Administration to cover the cost of piloting the program for 100 people. The Housing First paradigm operates on the assumption that homeless people must meet basic survival needs before treatment or assistance programs can be effective. Thus, in our view, it is important to codify this philosophy into the list of rights proposed by this measure, emphasizing that homeless persons cannot be rejected by support services or government programs, like Housing First, because of factors ancillary to and exacerbated by the state of being homeless. Additionally, we encourage you to amend Section 1, subsection (b)(1) to read: “Move freely in **and use** public spaces, including ~~on~~ public sidewalks, ~~in~~ public parks, ~~on~~ public transportation, and ~~in~~ public buildings without harassment or intimidation from law enforcement officials, in the same manner as other persons;” thereby preventing the counties from enforcing draconian and unconstitutional ordinances that violate homeless people's rights to due process and privacy of property. Finally, all Homeless Person's Bills of Rights passed in the United States have included an enforcement provision allowing for injunctive and declaratory relief in the adjudication of alleged rights violations. Therefore, we encourage you to add a subsection (d) to the bill to state: “In any civil action alleging a violation of this section, the court may award appropriate injunctive and declaratory relief, actual damages, reasonable attorney's fees and costs to a successful claimant.”

Mahalo for the opportunity to testify in support of this bill.

Sincerely,  
Kris Coffield  
*Legislative Director*

## Hawaii Guerrilla Video Hui

H. Doug Matsuoka

PO Box 22046 / Honolulu HI 96823

@hdoug on Twitter

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9 March 2014

Re: ADDITIONAL SUPPORT FOR HB1889 HD1 RELATING TO A HOMELESS  
PERSON'S BILL OF RIGHTS

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Aloha Chair Oakland, Vice Chair Green, and the Committee,

Over the past two plus years, Hawaii Guerrilla Video Hui and associated videographers have documented many of the raids on the homeless. I want to make vehemently clear that it's a simple fact that the homeless are routinely deprived of their fundamental civil rights, and that this fact is widely known by those in government, law enforcement, and members of the community at large.

I continue to strongly support HB1889 in its current draft HD1 as I have for the original draft and offer this testimony to supplement my previously submitted testimony.

Although being without private residence is almost always temporary, the disenfranchisement and alienation endured by the homelessness is more permanent. They — and those who have witnessed their treatment— know one thing: the protection of the law does not extend to the homeless. They have no right to personal possessions, privacy, police protection, or dignity.

But I have seen the perception of homelessness change greatly over the past few years. During "normal" economic times any large community may have some homeless people, and there was an unreasonable but understandable increase in the homeless population as a result of the Crash of '08. During these recent periods, most of the community would treat the homeless as nuisances and demand legislation and action that would summarily "sweep" the homeless from the streets as though they were garbage.

But the persistence of homelessness into our economic "Recovery" is changing the perception of homelessness. The 100,000 "hidden" homeless finding ad hoc accommodation know how difficult it is to find housing and so do the friends and relatives who are providing the support.

Although the rights addressed in HB1889 are clearly stated in the US Constitution and reiterated in the Hawaii Constitution's Article 1, these rights are treated as merely symbolic unless specifically implemented in statute.



Clearly, homelessness is emerging as an economic and civil rights issue. A Homeless Bill of Rights would clearly signal Hawaii's recognition that the protection of the law extends equally to all, even those who cannot afford much justice otherwise.

Mahalo nui for your public service,

H. Doug Matsuoka  
Makiki, Honolulu

Dear Chair Suzanne Chun Oakland and Vice Chair Josh Green,

I write in strong support of HB 1889 to establish a Homeless Bill of Rights as a matter of law and as a matter of human dignity.

Over the last few years I have watched in horror as the Honolulu City Council has enacted measure after measure criminalizing the very existence of homeless people in our public spaces. The Hawaii State Legislature can and should remind our city officials that being homeless does not render you less of a person. If anything, the vulnerability of homelessness should engender greater compassion and concern for the human beings who are without homes. Someone's need to sleep should not be prohibited or prevented because he or she does not have a private home in which to sleep. Someone's favorite book or any favorite belonging should not be confiscated because he or she does not have a private home in which to put it. Someone's human dignity should not be denied because they have no other option but to be poor or dirty or sick in public.

I quote legal scholar Jeremy Waldron who has written with great insight and thought in his essay "Homelessness and the Issue of Freedom."

Since private places and public places between them exhaust all the places that there are, there is nowhere that these actions may be performed by the homeless person. And since freedom to perform a concrete action requires freedom to perform it at some place, it follows that the homeless person does not have the freedom to perform them. If sleeping is prohibited in public places, then sleeping is comprehensively prohibited to the homeless. If urinating is prohibited in public places (and if there are no public lavatories) then the homeless are simply unfree to urinate. These are not altogether comfortable conclusions, and they are certainly not comfortable for those who have to live with them.

Waldron goes on to note that many of the laws that we have enacted, for example against sleeping in the subway, stem from the fact that we do not want to be confronted with the sight of the homeless, that we are willing to deprive people of their sleep in order to protect ourselves from that discomfort. That these laws -- ones that prohibit sleeping in parks or Honolulu's stored property ordinance -- are called for and promoted and passed by people who are secure in the knowledge that they themselves have some place where they are permitted to sleep (or to keep their belongings). And that because we have some place to sleep, to put our clothes and our bags and our belongings, we are certain that our public spaces should not be for those activities, even if some people have no other place but public space in which to live.

The Aloha Spirit should not be reserved for tourists with fat wallets. Aloha Spirit is upholding everyone's human dignity.

Thank you for hearing this bill.

Annette Koh

Ph.D. student in Urban & Regional Planning at UH Manoa

Resident of Birch St, Honolulu 96814

March 9, 2014

To: Senator Suzanne Chun Oakland, Chair

Senator Josh Green, Vice Chair

And members of the senate Committee on Human Services

From: Aubrey Tolentino, Student at the University of Hawaii's Myron B. Thompson School of Social Work

RE: HB 1889 HD 1, Relating to Homeless Person's Bill of Rights – Testimony in Support

Good afternoon Senator Suzanne Chun Oakland, Chair, Senator Josh Green, Vice Chair, and members of the Human Services Committee, I Aubrey Tolentino am in support of HB 1889 HD 1, Relating to Homeless Person's Bill of Rights.

I strongly support this measure for the following reasons:

- This will guarantee that the individuals will have protection from Law enforcement instead of being harassed and treated as if they should not exist. Throughout the media will have seen numerous accounts where Hawaii's homeless are being treated unfair and inhuman.
- This bill will ensure that Hawaii's homeless have rights just as every other resident of Hawaii. This guarantees their rights, privacy, and property are adequately safeguarded and protected under State Laws. This will allow them to have self-worth knowing they have the same rights as every other human being. This will allow them to have equal opportunity for emergency medical care, employment, and the ability to vote.

I urge your favorable consideration of HB 1889 HD 1.

Thank you for the opportunity to testify on behalf of this measure.

**HB1889**

Submitted on: 3/7/2014

Testimony for HMS on Mar 11, 2014 13:30PM in Conference Room 16

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Brad Parsons	Individual	Support	No

Comments:

**HB1889**

Submitted on: 3/8/2014

Testimony for HMS on Mar 11, 2014 13:30PM in Conference Room 16

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
claudia rice	Individual	Support	No

Comments:

**HB1889**

Submitted on: 3/7/2014

Testimony for HMS on Mar 11, 2014 13:30PM in Conference Room 16

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Javier Mendez-Alvarez	Individual	Support	No

Comments:

## **TESTIMONY IN SUPPORT OF HB1889 RELATING TO THE** **HOMELESS PERSONS' BILL OF RIGHTS**

Aloha, my name is Michael Tada and I stand in full support of HB1889, Homeless Persons' Bill of Rights. Over the past two years I have been involved in the De Occupy Honolulu movement. During that time I have been witness to numerous raids on our encampment, as well as the houseless encampment on the Victoria Street/ Beretania Street corner of Thomas Square.

I think that the first place to begin this essay would be to look at some of the reasons why people become houseless. I think the first place to look for a reason would be to look at the job market. With the minimum, wage starting at \$7.25/hour, and rent for a decent apartment starting at around \$1,000.00, figuring in food, clothing, personal care, etc., let's be real, it's VERY HARD to survive for a family of three. We need to totally abolish the minimum wage, and come up to a LIVING WAGE. This would be a very must do thing before we condemn ANY houseless person. That to me should be a non starter. With everything in Hawai'i costing more than what the continental US charges, and with the minimum wage is less than adequate, is it any wonder why many people are houseless? Not to mention the lack of jobs, good paying jobs

due to the current economic situation we now are currently facing. When a couple has to choose between food for the family or rent, you know that a serious situation is on our hands. When healthcare causes a family to file bankruptcy, you know something is not right. Add to that what is regarded as 'entertainment' where women are all too often portrayed in an almost humiliating role of being a sex symbol for man's desires, to be used, abused, raped, and then tossed out like yesterday's news. All of these are signs signaling that we have definitely lost our way. When theft is celebrated (Can you say 'statehood day?'), without any feelings of guilt, (Need I mention the number of NATIVE HAWAIIANS THAT ARE HOUSELESS IN THEIR OWN HOMELANDS?), when lies are taught in school in ALL LEVELS) Example: Hawai'i is the 50th state), you know that we are on life support!

We have to remember that people who are houseless are human beings who, for the reasons mentioned above, need help, not criminalization. This Bill of Rights is a good first step in maintaining the civil and human rights of all who are houseless.

In closing, I just want to say a big Mahalo for considering this bill. It is my prayer that this bill passes and is fully implemented in such a way that we live up to our name as the 'ALOHA' State!

Mahalo for hearing my testimony!!



**HB1889**

Submitted on: 3/7/2014

Testimony for HMS on Mar 11, 2014 13:30PM in Conference Room 16

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mitsuko Hayakawa	Individual	Support	No

Comments: Please ensure the safety and protection of houseless people. Mahalo.

Testimony in support of HB1889: Homeless Bill of Rights

March 10<sup>th</sup>, 2014

Please vote to support House Bill 1889 HD1, aka “Homeless Bill of Rights.” This bill is important in protecting those of our community that are most vulnerable to harassment and violence. In the past few years it seems that the city has been forging an attack on houseless people by criminalizing their presence in public spaces. This is unconstitutional and morally repugnant. Please pass this legislation so that homeless people can find some protection under the law, despite the wider publics continued assault.

Sincerely,  
Molly Chlebnikow  
Honolulu, HI  
96826

March 9, 2014

To: Senator Suzanne Chun Oakland, Chair

Senator Josh Green, Vice Chair

And members of the senate Committee on Human Services

From: Noahlani Fata-Tauanuu, Student at the University of Hawaii's Myron B. Thompson  
School of Social Work

RE: HB 1889 HD 1, Relating to Homeless Person's Bill of Rights – Testimony in Support

Good afternoon Senator Suzanne Chun Oakland, Chair, Senator Josh Green, Vice Chair, and members of the Human Services Committee, I Noahlani Fata-Tauanuu am in support of HB 1889 HD 1, Relating to Homeless Person's Bill of Rights.

I strongly support this measure for the following reasons:

- This will guarantee that the individuals will have protection from Law enforcement instead of being harassed and treated as if they should not exist. Throughout the media will have seen numerous accounts where Hawaii's homeless are being treated unfair and inhumane.  
Our homeless population is continually growing but they should continue to maintain rights just like any other resident of Hawaii. Although they live unsheltered in Hawaii, they have a home which is Hawaii.

I urge your favorable consideration of HB 1889 HD 1.

Thank you for the opportunity to testify on behalf of this measure.

March 9, 2014

TO: Senator Suzanne Chun Oakland, Chair  
Senator Josh Green, Vice Chair  
And members of the Senate Committee on Human Services

FROM: Royce Okamura, Student at the University of Hawaii's Myron B. Thompson School of Social Work

RE: HB 1889 HD 1, Relating to Homeless Person's Bill of Rights - Testimony in **SUPPORT**

Senator Suzanne Chun Oakland, Chair, Senator Josh Green, Vice Chair, and members of the Human Services Committee, I support HB 1889 HD 1, Relating to Homeless Person's Bill of Rights.

I strongly support this measure for the following reasons:

- Grants rights to homeless persons: It guarantees their rights, privacy, and property are adequately safeguarded and protected under State law.
- Gives homeless persons the dignity and respect that should be afforded to all people: This measure calls for homeless persons to be treated as human beings, and allows for them to have equal opportunity for employment, emergency medical care, protection of their personal information and personal property, equal treatment by state and county agencies, and the ability to register to vote.
- Allows some protection from harassment by law enforcement officials: It will restore the rights of homeless persons that have been taken away by city ordinances that have been aimed at criminalizing the homeless. Recent raids of homeless camps have violated the rights of the homeless with law enforcement officials harassing homeless persons, confiscating their property, and forcing the homeless to move out of the area. HB 1889 HD 1 will return the basic rights and protections to all homeless persons.

I urge your favorable consideration of HB 1889 HD 1.

Thank you for the opportunity to testify on behalf of this measure.

**HB1889**

Submitted on: 3/10/2014

Testimony for HMS on Mar 11, 2014 13:30PM in Conference Room 16

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Sarah Leone	Individual	Support	No

Comments: Please promote equality and justice for all.

**HB1889**

Submitted on: 3/7/2014

Testimony for HMS on Mar 11, 2014 13:30PM in Conference Room 16

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Shannon Rudolph	Individual	Support	No

Comments: Strongly Support