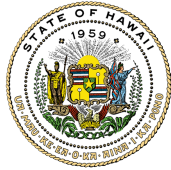


HB2409

LATE

TESTIMONY



OFFICE OF REPRESENTATIVE MARCUS R. OSHIRO

State Capitol, Room 424, Honolulu, Hawaii 96813

Phone: (808) 586-6700 • Fax: (808) 586-6702 • E-Mail: repmoshiro@capitol.hawaii.gov

Testimony to the Senate Committee on Judiciary and Labor

Wednesday, March 19, 2014; 10:00 a.m.

State Capitol, Conf. Room 016

RE: TESTIMONY IN OPPOSITION TO HOUSE BILL NO. 2409, RELATING TO DISORDERLY CONDUCT

Chair Hee, Vice Chair Shimabukuro, and Members of the Committee:

My name is Marcus R. Oshiro, and I am the Representative of the 46th District of the State of Hawaii (Wahiawa, Whitmore Village, Launani Valley). **I am submitting written testimony in OPPOSITION to House Bill No. 2409, RELATING TO DISORDERLY CONDUCT.**

Let's not kid ourselves. This bill criminalizes being poor or homeless in urban Honolulu. This is just one of many bills that have been reported out of the House Judiciary Committee that attacks some of the most vulnerable and politically helpless citizens of our State. As if we've gone through a time warp back to the 1900s, the House Judiciary Committee and the House of Representatives, the so called, "People's House", have made it a priority to write a whole new set of Jim Crow laws to pander to businesses, middle-class voters, and the privileged who shudder every time they walk down a lane or an alley in urban Honolulu.

This bill outrages me because any rule against performing an act in a public place is tantamount to a comprehensive ban on that action so far as the homeless are concerned. If sleeping or putting up a tent on a sidewalk is illegal, where does a homeless person sleep? They can't sleep on the beach. They can't sleep in the parks? Where do they go? No reasonable person would want to sleep at a bus stop if they didn't have to. But if there is no choice at all, what is a person to do? What would you do?

In addition, for persons living in rural areas such as my district, where it is not uncommon for citizens to have to wait an hour for their bus to come, or for workers having to leave their homes at 4:00 or 5:00 a.m. to get to work on time, is it not unreasonable to think that some might nod off as they wait for their bus? This bill would make it a per se violation to lie down at a bus stop in a manner that impedes or obstructs the use of or access to the bus stop.

Testimony on House Bill No. 2409
March 19, 2014
Page 2

By making it a per se violation, the circumstances that caused a person to lie down at a bus stop have no relevance on whether the person would be found in violation:

- (1) A child sprains his ankle at football practice and hobbles to the bus stop to get home. He props up his leg onto the bus stop bench while he waits for his bus.
- (2) A kupuna slips on wet pavement and lies on a bus stop bench while emergency personnel are called.
- (3) An overzealous partier decides not to drive home after a long night of consumption. She leaves her car in the parking lot and waits for a bus. Feeling woozy, she extends her arm over the bench taking up more than the space allotted for one person to sit.

All these situations could constitute violations under this proposed law and each of these persons could be subject to a \$50 fine.

One might argue that no reasonable law enforcement official would enforce this law that way. But is that what we really want? Is it appropriate to write laws and make public policy just to have law enforcement officials or the executive branch decide for themselves what laws are worth enforcing and what laws are not?

If we are writing the law, we must assume that the law will be enforced as how the law is written. To do otherwise abrogates our authority to make public policy and gives law enforcement and the executive branch way too much discretionary authority.

With regard to this bill's impact on the homeless, criminalizing basic human actions such as those proposed in this bill is cruel because it breaks the human spirit. Forcing people to think twice of petty restrictions imposed on the necessities of human life is mean-spirited, plain and simple. As a lawmaker, I am ashamed that we are allowing our laws to reduce thousands of our citizens to something approaching this level of degradation.

It is clear that measures like these are reactive to the very real problems experienced in urban Honolulu. Many of our citizens merely want to use the bus stop in peace. But the enactment of measures like those proposed by the House Judiciary Chair shifts the Legislature's guilt for not addressing homeless onto a group of citizens who have no voice in our political process.

So why don't we do something about it? Why not make ending homeless a priority this session?

Testimony on House Bill No. 2409
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Page 3

But the poor and homeless don't vote, nor are they wanted in any community so let's just make it a crime to be poor or homeless and let the courts and jails deal with them.

How sad for our citizens. So much for Aloha in our State.

This bill is not the answer. It merely placates the affluent by sweeping the poor out of sight.

On behalf of the citizens of the 46th District of the State of Hawaii (Wahiawa, Whitmore Village, Launani Valley), and as a lifelong Democrat, I urge you to file this bill.

Thank you for the opportunity to submit my written testimony. Should you have any questions, please do not hesitate to contact me at 586-6700.

Ho‘opae Pono Peace Project

(808)256-6637 nativepeace@gmail.com

Testimony of Laulani Teale, MPH
in Opposition to HB 2409,
RELATING TO DISORDERLY CONDUCT
COMMITTEE ON JUDICIARY AND LABOR
Senator Clayton Hee, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

3/18/-2014

Aloha Kākou,

I am writing today in opposition to HB 2409, which expands the definition of “Disorderly Conduct” to include the “offense” of laying down at a bus stop.

There are several major problems with this measure. Here are a few:

- Criminalizing the poor is simply not okay. It is a violation of human rights, and does not solve anything. If people are not utilizing shelters or other options, and have no choice but to lay at a bus stop, there is a reason for that – possibly many reasons. These reasons need to be understood and addressed, and respect needs to be given for people’s survival needs, as well as fundamental self-determination and human dignity.

This measure is out of line with the spirit of the law. The commentary on HRS §711-1101 (Disorderly Conduct) gives a clear picture of the deliberate narrowness of the statute, which is as follows (emphasis added):

COMMENTARY ON §711-1101

The offense of "disorderly conduct" has been very broadly defined in the past (see below) to include numerous petty annoyances to the public. Section **711-1101 gives a far narrower definition to the offense**, both because some of the matters previously treated under that heading are now treated elsewhere and because some of the previous provisions seem unwise. The section requires **proof** of an intent to cause physical inconvenience or alarm, or at least a reckless creation of a risk thereof. Subsection (1)(a) is a standard clause in disorderly conduct legislation, aimed at **actual fights and at other behavior tending to threaten the public generally**, for this section requires **public alarm**, etc., as distinguished from the private alarm which may accompany assault. This is an important point. **A person may not be arrested for disorderly conduct as a result of activity which annoys only the police, for example.**^[1] Police officers are trained and employed to bear the burden of hazardous situations, and it is not infrequent that private citizens have arguments with them. Short of conduct which causes "physical inconvenience or alarm to a member or members of the public" arguments with the police are merely hazards of the trade, which do not warrant criminal penalties.

Therefore, it is simply inappropriate to include petty, unavoidable actions such as laying, exhausted, at a bus stop. Such actions carry no “reckless disregard” for the well-being of the public, as required by the law, only exhaustion.



Again, I would like to emphasize the need for cooperative solutions, creative thinking, and bold actions that actually work. The Ho‘opae Pono Peace Project is more than willing to provide support toward achieving these ends. I urge you to please consider and engage in courses of action that are proven to work, and that benefit everyone.

Mahalo nui loa for your time and consideration.

Please contact me at any time.

Me ke aloha ‘oia‘i‘o nō,

A handwritten signature in black ink that reads "Laulani". The signature is fluid and cursive, with a long, sweeping tail on the final letter.

Laulani Teale, MPH

Coordinator, Ho‘opae Pono Peace Project





Hawaii's Voice for a Better Future

COMMITTEE ON JUDICIARY AND
LABOR

Senator Clayton Hee, Chair

Senator Maile S.L. Shimabukuro, Vice
Chair

HB2409

JDL

Wednesday, March 19, 2014

10:00 a.m.

Room 016

March 18, 2014

Re: HB2409 Makes it a disorderly conduct offense to lie down at a bus stop

In Opposition

Dear Sen. Hee, Sen. Shimabukuro and members of the Committee:

This bill has one purpose only: to criminalize homelessness. It is targeted only at the homeless population of our state--it is unlikely, for example, that the HPD will enforce it against a businessman asleep with a briefcase next to him or a student snoozing off on her knapsack.

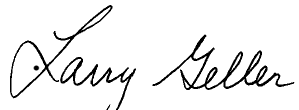
I was reminded while writing this testimony **that older people, including Kokua Council members, may have a tendency to fall asleep**. Is it the intent of the Legislature that they be charged with disorderly conduct and fined? We will not let any instances of that escape public knowledge.

So far, at this writing, state and city efforts to **assist the homeless exist on paper only**--they are in the future. Recently a state legislator was reported to go through Waikiki wielding a sledgehammer in a personal effort that brought the state national and international embarrassment but did not assist the homeless in any way. The city has forced campers to the edge of the sidewalk through its ordinances, and then conducted expensive raids to remove personal possessions--again, no help, only harm. These raids have been unsuccessful, but they continue.

Given that Hawaii is reported to have the highest per-capita homeless population in the country, **it is essential that we change our tack and do something positive rather than continue punishing those citizens who are houseless**.

While I have commented on issues of public policy, I understand that there may be legal grounds to object to this bill as well, related to enforcement of a disorderly conduct charge against a person who is not, in fact, disorderly.

Kokua Council recommends that the Committee defeat this bill.



Larry Geller
President, Kokua Council

The **Kokua Council** is one of Hawaii's oldest advocacy groups. Kokua Council seeks to empower seniors and other concerned citizens to be effective advocates in shaping the future and well-being of our community, with particular attention to those needing help in advocating for themselves. "We embrace diversity and extend a special invitation to any senior or intergenerational minded individual interested in advocating for these important issues in Hawaii."

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: islekisses@yahoo.com
Subject: *Submitted testimony for HB2409 on Mar 19, 2014 10:00AM*
Date: Tuesday, March 18, 2014 1:41:05 PM

HB2409

Submitted on: 3/18/2014

Testimony for JDL on Mar 19, 2014 10:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Ken Burch	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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Subject: *Submitted testimony for HB2409 on Mar 19, 2014 10:00AM*
Date: Tuesday, March 18, 2014 1:48:32 PM

HB2409

Submitted on: 3/18/2014

Testimony for JDL on Mar 19, 2014 10:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Terez Lindsey	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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To: [JDLTestimony](#)
Cc: dave.mulinix@juno.com
Subject: Submitted testimony for HB2409 on Mar 19, 2014 10:00AM
Date: Tuesday, March 18, 2014 6:40:55 PM

HB2409

Submitted on: 3/18/2014

Testimony for JDL on Mar 19, 2014 10:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
David Mulinix	Individual	Oppose	No

Comments: I am a bus rider and a voter and I oppose this bill. Criminalizing Houselessness is unethical.

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Cc: paulakomarajr@yahoo.com
Subject: *Submitted testimony for HB2409 on Mar 19, 2014 10:00AM*
Date: Tuesday, March 18, 2014 9:38:05 PM

HB2409

Submitted on: 3/18/2014

Testimony for JDL on Mar 19, 2014 10:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Paul A. komara, Jr.	Individual	Oppose	No

Comments:

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March 17, 2014

The Honorable Clayton Hee
Chair, Committee on Judiciary & Labor
Conference Room 016

Testimony in SUPPORT of HB 2409 Relating to Disorderly Conduct

I see people lying down at bus stops all the time who obviously have no intention of riding the bus. They are often behaving strangely or are on drugs. It is not fair that bus riders, especially the elderly, cannot use the bus stops when they are waiting for the bus often in the hot sun.

For many residents, the bus is our main form of transportation. Not being able to use bus stops defeats the purpose of having them.

Thank you for considering my testimony. I hope the committee will support HB 2409.

KIM M TRAN

Name:



Address:

2281- MAWA'I BND
Honolulu; HI 96815

March 17, 2014

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Name: Mary Nguyen
Address: 174 Ni Hotel St
Honolulu, HI 96817

March 17, 2014

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Name: Dara Pa Long
Address: 159 N Hotel St 1st floor
Honolulu, HI 96817

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Name: Jason Lai
Address: 1016 Maunaloa St. B207
Hon. HI 96817

March 17, 2014

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Name: Luanne Leung
Address: 1039 Kekaulike

March 17, 2014

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Name:


RAMI SERIL

Address:

1039 Kekaulike St. #117

Hon. H. 96817

March 17, 2014

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Name: Magdalena J. Apostel
Address: 1044 Manuka Dr.
Hon - H7 96818

March 17, 2014

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Chair, Committee on Judiciary & Labor
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Thank you for considering my testimony. I hope the committee will support HB 2409.

Name: Ernie B. Wright
Address: 1155 River St, Apt 101
Honolulu, Hawaii, 96817

March 17, 2014

The Honorable Clayton Hee
Chair, Committee on Judiciary & Labor
Conference Room 016

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Thank you for considering my testimony. I hope the committee will support HB 2409.

Name: Clare Ann Longino
Address: 1155 River St. #212
Hon. H. 96617

March 17, 2014

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Chair, Committee on Judiciary & Labor
Conference Room 016

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Thank you for considering my testimony. I hope the committee will support HB 2409.

Name: EDNA TIBANAN
Address: 1016 MAUNAKKA ST. B308

March 17, 2014

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Name: Shirley Boyk
Address: 11089 Shrub Pl. VA
Ham HI 96817

March 17, 2014

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Name: ALFONSO PONQUILLO
Address: 1155 RIVER ST. #212
HON. HI. 96817

March 17, 2014

The Honorable Clayton Hee
Chair, Committee on Judiciary & Labor
Conference Room 016

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Name: Diane Ronquillo
Address: 1155 River St. #212
Hon. HI. 96817

March 17, 2014

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Name: MAI TIE SHAW
Address: 1039 128 KAWI KE ST A67
Honolulu HI 96817

March 17, 2014

The Honorable Clayton Hee
Chair, Committee on Judiciary & Labor
Conference Room 016

Testimony in SUPPORT of HB 2409 Relating to Disorderly Conduct

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Name: Emilio Mena
Address: 1155 RIVER ST APT 213
HONOLULU HI 96817

March 17, 2014

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Chair, Committee on Judiciary & Labor
Conference Room 016

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Name: MERLYN P. ALVARADO
Address: 1247 GULICK AVE.
HON. HI 96819

March 17, 2014

The Honorable Clayton Hee
Chair, Committee on Judiciary & Labor
Conference Room 016

Testimony in SUPPORT of HB 2409 Relating to Disorderly Conduct

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Name: Hua Mei He
Address: 1654 OLONA LANE
HONOLULU HI 9687

March 17, 2014

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Chair, Committee on Judiciary & Labor
Conference Room 016

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Name: ERIC S. D. YOO
Address: 1205 LILIHUA ST #206
Eric D. Yoo

March 17, 2014

The Honorable Clayton Hee
Chair, Committee on Judiciary & Labor
Conference Room 016

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Name: Gibayan
Address: Manuotea St.

March 17, 2014

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Chair, Committee on Judiciary & Labor
Conference Room 016

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Name: Joseph V. Orea
Address: 1245 Maunakea St.
H 3701 - Hon. Hi. 96817

March 17, 2014

The Honorable Clayton Hee
Chair, Committee on Judiciary & Labor
Conference Room 016

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Name: Lufoemia Mariano
Address: River-Pauahi Apt. #403
1155 River Pt. Hm. HI 96817

March 17, 2014

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Chair, Committee on Judiciary & Labor
Conference Room 016

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Name: Paul Y. H. Min
Address: 221 SAN ANTONIO AVE
HON. HI 96813

March 17, 2014

The Honorable Clayton Hee
Chair, Committee on Judiciary & Labor
Conference Room 016

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Name: Maria Luisa Soliven
Address: 1155 RIVER ST.
APT 207 Honolulu Hawaii

March 17, 2014

The Honorable Clayton Hee
Chair, Committee on Judiciary & Labor
Conference Room 016

Testimony in SUPPORT of HB 2409 Relating to Disorderly Conduct

I see people lying down at bus stops all the time who obviously have no intention of riding the bus. They are often behaving strangely or are on drugs. It is not fair that bus riders, especially the elderly, cannot use the bus stops when they are waiting for the bus often in the hot sun.

For many residents, the bus is our main form of transportation. Not being able to use bus stops defeats the purpose of having them.

Thank you for considering my testimony. I hope the committee will support HB 2409.

Name: Felipino P. Rivera
Address: 1155 River St. apt. 310
Honolulu, HI 96817

March 17, 2014

The Honorable Clayton Hee
Chair, Committee on Judiciary & Labor
Conference Room 016

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Name: Victoria A. Aranda
Address: 1155 RIVER ST #
302 HON. H. 96817

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Name: SYLVESTER LAVONNE
Address: 1016 MAUWAKEA SR
1st flr. 96 & 17

Sylvester Lavonne

March 17, 2014

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Name: Jocelyn Sajat
Address: 1155 River St. Apt. 112
Hon. HI 96817

March 17, 2014

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Name: Elizabeth A. Temple
Address: 1139 RIVER ST
Honolulu HI 96817

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Name: Yermesio R. Camilo
Address: 1155 RIVER ST. Apt. 106
Hon. HI 96817

March 17, 2014

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Chair, Committee on Judiciary & Labor
Conference Room 016

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Name: Myung S Lee
Address: 1137 River St
Honolulu, HI 96817

March 17, 2014

The Honorable Clayton Hee
 Chair, Committee on Judiciary & Labor
 Conference Room 016

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Name: Susanna Sipes
 Address: 1969 NARD ST
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