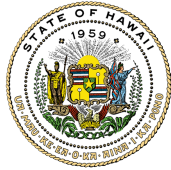


HB33

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. 33, RELATING TO PUBLIC ORDER

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. 33, RELATING TO PUBLIC ORDER.**

This bill would make permanent the law which makes it a violation to urinate or defecate in a public place or any area where such an act is likely to be observed by any member of the public within the boundaries of downtown Honolulu. Persons violating this offense are subject to no more than forty hours of community service work or a fine of not more than \$200. This bill would delete the sunset date of December 31, 2014 for the existing law.

Since the enactment of Act 84, Session Laws of Hawaii 2004, how many citations were issued? What were the final disposition of these cases? How many people were fined, ordered to perform community service, or any combination thereof? How many cases were dismissed? How many people were unable to pay the fine? When I asked the City Prosecutor these questions, he could not give definitive information on the outcome of these cases.

More importantly, has this law served as a deterrent to public urination or defecation in downtown Honolulu? Obviously not, as evidenced by even more draconian measures introduced by the Chair of the House Judiciary Committee and approved by the House -- three of which are before you today.

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", has made it a priority to write a whole new set of Jim Crow laws to pander to

Testimony on House Bill No. 33
March 19, 2014
Page 2

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? What would you do?

Certainly, there is nothing particularly dignified about urinating or defecating in public. No reasonable person would want to do this. But if there is no choice at all, what is a person to do?

Criminalizing basic human actions such as how this law does 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.

As I stated on the House Floor on a similar measure on January 29, 2014:

"But I can't get over the fact that when I review the revised ordinances of the City and County of Honolulu, that a person walking their pet animal, a dog would happen to urinate or defecate on a sidewalk, would face less severe penalties than a human being for doing the same. In fact, a pet, a dog, if it did defecate on a sidewalk in a public place, the owner would face no penalties if the owner simply went back and cleaned it up. That's not allowed for in this measure. It's a strict liability standard that applies. I think the penalty for a dog pooping or urinating in public on a sidewalk is like two hundred, two hundred fifty bucks. In this measure here, Mr. Speaker, it's up to a thousand dollars."

Furthermore, 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 operate their businesses or use our sidewalks in peace. We all do. The elderly and vulnerable especially. 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. 33
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Page 2

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 better off 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.

**Testimony of the Office of the Public Defender
State of Hawaii
to the Senate Committee on Judiciary and Labor**

March 19, 2014

H.B. No. 33: RELATING TO PUBLIC ORDER

Chair Hee and Members of the Committee:

We oppose passage of H.B. No. 33 which would make permanent the downtown public urination and defecation law. This law was one in a line of legislation which applies disproportionately to the homeless or needy population. It has often been lamented that downtown Honolulu is in need of better public accommodations. Until that problem is solved, it is extremely insensitive to penalize persons who have no other choice but to relieve themselves in public areas.

Moreover, there have been instances where laws in this area appear to be unreasonably enforced. Police have patrolled the area around public restrooms in Waikiki after they have closed and cited persons who relieve themselves after discovering the restrooms are locked.

Thank for the opportunity to comment on this measure.



HB33

JDL

Wednesday, March 19, 2014

10:00 a.m.

Room 016

Hawaii's Voice for a Better Future

COMMITTEE ON JUDICIARY AND
LABOR

Senator Clayton Hee, Chair

Senator Maile S.L. Shimabukuro, Vice
Chair

March 18, 2014

**Re: HB33 Prohibition against urinating or defecating in public within the boundaries of
downtown Honolulu**

In Opposition

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

Although there may be some popular sympathy for the intent of this bill, together with the other two bills on today's agenda, this bill has the effect of criminalizing homelessness in Honolulu (but strangely, not in other cities of the state). This bill would be more appropriately proposed as a municipal ordinance.

Kokua Council agrees with the testimony presented for this bill last session by the ACLU:

H.B. 33 is poor public policy because it fails to address the underlying causes of homelessness. Treating homelessness as a crime only exasperates the problem as punitive actions like this bill serve only to make the lives of homeless individuals more difficult. H.B. 33 will push people away from services and turn them into criminals (just for not having access to bathroom facilities), both of which make it more difficult for them to obtain employment and housing.

Rather than passing punitive measures like H.B. 33, we should look towards constructive alternatives to combating the underlying causes of homelessness and its consequences.

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: dave.mulinix@juno.com
Subject: Submitted testimony for HB33 on Mar 19, 2014 10:00AM
Date: Tuesday, March 18, 2014 6:50:42 PM

HB33

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 oppose this bill because there are public toilets provided—not only for homeless persons but also for residents and tourists. If there are no public toilets where are people who have no home supposed to go to the bathroom? H.B. 33 is poor public policy because it fails to address the underlying causes of homelessness. Treating homelessness as a crime only exasperates the problem as punitive actions like this bill serve only to make the lives of homeless individuals more difficult. H.B. 33 will push people away from services and turn them into criminals (just for not having access to bathroom facilities), both of which make it more difficult for them to obtain employment and housing. Rather than passing punitive measures like H.B. 33, we should look towards constructive alternatives to combating the underlying causes of homelessness and its consequences.

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
To: [JDLTestimony](#)
Cc: davidsher@juno.com
Subject: Submitted testimony for HB33 on Mar 19, 2014 10:00AM
Date: Tuesday, March 18, 2014 9:04:41 PM

HB33

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
Sherry Pollack	Individual	Oppose	No

Comments: Please don't waste our tax dollars enforcing laws that aim to criminalize homelessness and don't solve serious existing problems. Our money is better spent providing public restrooms which would benefit all. Even tourists have written letters to the editor complaining how there is no public restrooms available. Money towards housing first projects would help too.

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From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: paulakomarajr@yahoo.com
Subject: Submitted testimony for HB33 on Mar 19, 2014 10:00AM
Date: Tuesday, March 18, 2014 9:35:59 PM

HB33

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: I oppose this Bill 33 because there are too few public bathrooms in downtown Honolulu.

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From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: tofuhonda@gmail.com
Subject: Submitted testimony for HB33 on Mar 19, 2014 10:00AM
Date: Tuesday, March 18, 2014 11:53:07 PM

HB33

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
Danson Honda	Individual	Support	No

Comments: A majority of Hawaii's income is through tourism. If unsanitary actions such as urinating or defecating in public is seen by tourists, it is inevitable that the amount of tourists that come to Hawaii will drop. Such things will spread: just like how Hawaii became known for nice beaches, Hawaii might also become known for unsanitary residents. This will prove to be detrimental to Hawaii's economic growth.

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March 17, 2014

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

Testimony in SUPPORT of HB 33 Relating to Public Order

I am submitting testimony in SUPPORT of HB 33. Every day, people in Chinatown urinate and defecate on the streets and on the sidewalks. Some are homeless who cannot be bothered to walk the few blocks to the restroom at the police substation or in Aala Park. Others are people coming out of night clubs in a drunken state and others are waiting for their buses and do not want to take the time to find a real bathroom.

This law has been in effect for a years, but unfortunately is still necessary. The stench of shishi and human feces is just overpowering on some streets like River Street. We need this bill and we hope the committee will make this law permanent.

KIM M. TRAM
Name: 
Address: 2281 ALAWAI AVA
Honolulu, HI 96815

March 17, 2014

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

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Name: Mary Nguyen
Address: 174 W. Hotel St
hbn, HI 96817

March 17, 2014

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Chair, Committee on Judiciary & Labor
Conference Room 016

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Name: Dava Ra Long
Address: 159 N Hotel St
Honolulu, HI 96817

March 17, 2014

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Name: Jason Lai
Address: 1016 Manakoa East B207
Hon. Hi 96817

March 17, 2014

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Chair, Committee on Judiciary & Labor
Conference Room 016

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Name: Luanne Leung
Address: 1039 Kekaulike

March 17, 2014


The Honorable Clayton Hee
Chair, Committee on Judiciary & Labor
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Name:



Address:

1039 Kekaulike St. #117

Hon. H: 96817

March 17, 2014

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Name:

Address:

Margaret J. Gault
1144 Manuka Dr.
Honolulu HI 96818

March 17, 2014

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Conference Room 016

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Name: Emelita Wright
Address: 1155 River St, Apt 101
Honolulu, Hawaii, 96817

March 17, 2014

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Name: Clare Ann King
Address: 1155 River St. #1212
Hon. #1-96817

March 17, 2014

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Conference Room 016

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Name: EDNA TIBAYAN
Address: 1016 MAUNALEA ST. B308
HONOLULU, HI 96817

March 17, 2014

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Chair, Committee on Judiciary & Labor
Conference Room 016

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Name:

Shirley Boonji

Address:

1689 Abrahm Pl. (A)
Hon. HI 96817

March 17, 2014

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Chair, Committee on Judiciary & Labor
Conference Room 016

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

March 17, 2014

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Chair, Committee on Judiciary & Labor
Conference Room 016

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Name: Diana Ronquillo
Address: USS River St. #212
Hon. H1. 96817

March 17, 2014

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Chair, Committee on Judiciary & Labor
Conference Room 016

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Name: MAL. JIZSHAN
Address: 1039 KAKAWIKE ST (407)
HONOLULU HI 96817

March 17, 2014

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Chair, Committee on Judiciary & Labor
Conference Room 016

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Name: Enrico Mendez
Address: 1155 RIVER ST APT 215
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. ALMASCU
Address: 1247 BULICK AVE.
HON. HI 96819

March 17, 2014

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

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Name: HUA MEI HE
Address: 1654 OLONA LN #E
HONO HULL HI 96817

March 17, 2014

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Chair, Committee on Judiciary & Labor
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Name: ERIC S.D. YOO
Address: 1205 LILHORN 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: Deborah
Address: Mauaha St.

March 17, 2014

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

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Name: Josephina V. Orca
Address: 1245 Maunakea St.
#3101 - Hon. Hi. 96817

March 17, 2014

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

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Name: Zufocina Mariano
Address: River - Pauahi Apt #402
1155 River St. 96817
Hon. He

March 17, 2014

The Honorable Clayton Hee
Chair, Committee on Judiciary & Labor
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Testimony in SUPPORT of HB 33 Relating to Public Order

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This law has been in effect for a year, but unfortunately is still necessary. The stench of shishi and human feces is just overpowering on some streets like River Street. We need this bill and we hope the committee will make this law permanent.

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

March 17, 2014

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

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Name: Jungalo Mallon
Address: 1155 River St
Apt 207 Hon. H.

March 17, 2014

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

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Name: Victoria Mairano
Address: 1155 RIVER ST #302
HON. HI 96817

March 17, 2014

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Name: SILVESTRE HERRERA
Address: 1416 MANNAKEA ST.
ALBANY, NY 12204

Silvestre Herrera

March 17, 2014

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Name: Jovelyn Sunjant
Address: 1155 River St. Apt. 112
Hon. Hi 96817

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Name: Elizabeth A Temple
Address: 1139 River ST
Honolulu HI 96817

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Name: Mindy S Lee
Address: 1137 River St.
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Name: Susanna Sipes
Address: 649 NAHO ST.
Honolulu, HI 96817