

**SB2021**



# Office of the Public Defender State of Hawaii



**Timothy Ho, Chief Deputy Public Defender**  
**Testimony of the Office of the Public Defender,**  
**State of Hawaii to the Senate Committee on Judiciary and Labor**

February 12, 2014, 10:00 a.m.

RE: S.B. 2021: Relating To Resisting Arrest

Chair Hee and Members of the Committee:

This measure would create the offenses of resisting arrest in the first and second degree. If during the course of a lawful arrest, a suspect attempted to remove a law enforcement officer's firearm, he would be charged with resisting arrest in the first degree, a class C felony. Resisting arrest would be reclassified as resisting arrest in the second degree, a misdemeanor.

The Office of the Public Defender opposes S.B. 2021.

Previous testimony in support of this measure suggests the deterrent effect of making resisting arrest in the first degree a felony offense. They believe that a suspect will think twice about reaching for an officer's firearm if this bill is passed.

The deterrent effect of enacting stiff penalties is overstated, and in this instance, a fallacy. A person who resists arrest is usually drunk, under the influence of drugs, mentally ill and/or emotionally disturbed. A felony resisting arrest law will not cause them to stop and think twice before deciding to disobey a law enforcement officer. They are angry, high or out of their mind, and thus incapable of rational thought.

A law enforcement officer's job is not without perils. Sometimes they are put in situations where they must take a life, and in other situations, give their life. But it is their job, and they receive proper training and equipment to help ensure their safety.

A law enforcement officer's firearm is holstered to his belt. During a scuffle, his sidearm, which protrudes from his hip, may accidentally be hit, touched or grabbed by the suspect. We are concerned that officers will be quick to say that the suspect reached for their gun, and charge the felony rather than a misdemeanor.

We oppose S.B. 2021. Thank you for the opportunity to comment on 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 CLAYTON HEE, CHAIR**  
**SENATE COMMITTEE ON JUDICIARY AND LABOR**  
**Twenty-Seventh State Legislature**  
**Regular Session of 2014**  
**State of Hawai`i**

February 12, 2014

**RE: S.B. 2021; RELATING TO RESISTING ARREST.**

Chair Hee, Vice-Chair Shimabukuro, and members of the Senate Committee on Judiciary and Labor, the Department of the Prosecuting Attorney, City and County of Honolulu, submits the following testimony in **support** of Senate Bill 2021.

The purpose of S.B. 2021 is to create a new offense of resisting arrest in the first degree, where the perpetrator removes or attempts to remove a firearm from the person of a law enforcement officer. The current offense of resisting arrest would then become second degree.

The Department agrees that an individual's attempts to resist arrest become exponentially more dangerous for everyone involved, and for the public, where the individual has or attempts to obtain control of a law enforcement officer's firearm. Due to the extreme danger of such a situation--and to strongly discourage such behavior--we agree that this should be a class C felony, and further ask that a conviction for this type of offense be ordered to a mandatory minimum term of imprisonment of 3 years.

For the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu supports S.B. 2021. Thank for you the opportunity to testify on this matter.



# Hawaii Rifle Association

State Affiliate of the National Rifle Association

Founded in 1857

February 8, 2014

Testimony on SB 2021

Before PSM/JDL, Wednesday, February 12, 2014, 10am, Rm 016

## **IN SUPPORT**

Hon. Chairs, Vice Chairs, and Members,

HRA supports our law enforcement officers and this bill.

Thank you for the opportunity to testify on behalf of HRA.

Dr. Maxwell Cooper,  
HRA Legislative Liaison  
macooper.1941@gmail.com  
225-6944

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [JDLTestimony](#)  
**Cc:** [toddhairgrove@hotmail.com](mailto:toddhairgrove@hotmail.com)  
**Subject:** \*Submitted testimony for SB2021 on Feb 12, 2014 10:00AM\*  
**Date:** Friday, February 07, 2014 11:06:03 PM

---

**SB2021**

Submitted on: 2/7/2014

Testimony for JDL on Feb 12, 2014 10:00AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Todd Hairgrove	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.

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