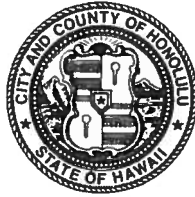


POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
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KIRK CALDWELL
MAYOR

LOUIS M. KEALOHA
CHIEF

MARIE A. McCAULEY
CARY OKIMOTO
DEPUTY CHIEFS

OUR REFERENCE LL-NTK

January 21, 2016

The Honorable Karl Rhoads, Chair
and Members
Committee on Judiciary
State House of Representatives
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Rhoads and Members:

SUBJECT: House Bill No. 362, Relating to Resisting Arrest

I am Larry R. Lawson, Major of the Criminal Investigation Division of the Honolulu Police Department, City and County of Honolulu.

The Honolulu Police Department supports House Bill No. 362, Relating to Resisting Arrest.

This bill seeks to amend Section 710-1026, Resisting Arrest, Hawaii Revised Statutes, by creating a first degree (class C felony) and a second degree (misdemeanor) version of the law.

The proposed section, Resisting arrest in the first degree, would address those situations in which law enforcement officers engage in a physical struggle with a person and the person grabs hold of the officer's firearm in an attempt to remove the firearm. The Honolulu Police Department believes that this bill would further discourage offenders from resisting the actions of law enforcement officers while the officers are making an arrest.

The Honolulu Police Department urges you to support House Bill No. 362, Relating to Resisting Arrest.

Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry R. Lawson", is written over a horizontal line.

LARRY R. LAWSON, Major
Criminal Investigation 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

DAVID Y. IGE
GOVERNOR



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

NOLAN P. ESPINDA
DIRECTOR

Cathy Ross
Deputy Director
Administration

Jodie F. Maesaka-Hirata
Deputy Director
Corrections

Shawn H. Tsuha
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON HOUSE BILL 362
RELATING TO RESISTING ARREST

By

Nolan P. Espinda, Director

House Committee on Judiciary
Representative Karl Rhoads, Chair
Representative Joy A. San Buenaventura, Vice Chair

Thursday, January 21, 2016, 02:00 PM
State Capitol, Conference Room 325

Chair Rhoads, Vice Chair San Buenaventura, and Members of the Committee:

The Department of Public Safety (PSD) **supports** House Bill (HB) 362 which seeks to establish the offense of resisting arrest as a felony when the accused offender attempts to remove or gain possession of the law enforcement officer's weapon while being subdued during arrest. Such an encounter between an offender and arresting officer, involving the struggle for control of the officer's weapon, creates an immediate, high-risk scenario. Not only is the officer in danger, but also, any innocent bystander in the near vicinity.

If an offender manages to escape with the officer's weapon, history shows there is a high likelihood that the weapon will be used in the commission of subsequent criminal acts, or be passed on or sold to other criminals, creating a latent, dangerous scenario for the future.

The enactment of HB 362 will serve as an important deterrent and help keep our communities safe.

Thank you for the opportunity to present this testimony.

TESTIMONY OF THE HAWAI`I POLICE DEPARTMENT

HOUSE BILL 362

RELATING TO RESISTING ARREST

BEFORE THE COMMITTEE ON JUDICIARY

LATE

DATE : Thursday, January 21, 2016

TIME : 2:00 P.M.

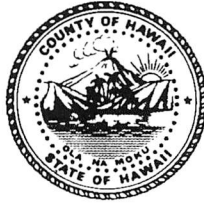
PLACE : Conference Room 325
State Capitol
415 South Beretania Street

PERSON TESTIFYING:

Police Chief Harry S. Kubojiri
Hawai`i Police Department
County of Hawai`i

(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 Kapi'olani Street • Hilo, Hawai'i 96720-3998
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January 19, 2016

Representative Karl Rhoads
Chairperson and Committee Members
Committee On Judiciary
415 South Beretania Street, Room 325
Honolulu, Hawai`i 96813

Re: House Bill 362 Relating To Resisting Arrest

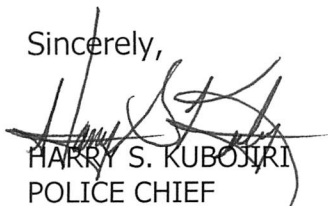
Dear Representative Rhoads:

The Hawai`i Police Department strongly supports the passage of House Bill 362, Relating to Resisting Arrest. The purpose of this Bill is to establish the offense of Resisting Arrest in the First Degree as a felony for anyone who either removes or attempts to remove a firearm from the person of a law enforcement officer who is acting under the color of his authority.

The Hawai`i Police Department is aware that all law enforcement officers receive detailed training in the facts and circumstances that must be present in order to ensure their use of a firearm is appropriate. The necessary facts and circumstances must not only be in accordance with applicable state statutes but must also take into account the safety of all persons nearby as well. It is our firm belief that anyone who would knowingly attempt to disarm a law enforcement officer who is acting under the color of his/her authority, has already displayed malicious conduct and becomes an immediate threat not only to the officer but to all other persons present. Further, any person based on their own ill-conceived desire to disarm an officer would thereby place their own life at jeopardy as they would then be viewed as an immediate threat to the safety and well-being of not only the officer but to all other persons present.

For these reasons and as a matter of deterrence from such behavior, we urge this committee to approve this legislation. Thank you for allowing the Hawai`i Police Department to provide comments relating to House Bill 362.

Sincerely,



HARRY S. KUBOJIRI
POLICE CHIEF

LATE

**Testimony of the Office of the Public Defender,
State of Hawaii to the House Committee on
Judiciary**

January 21, 2016

H.B. No. 362: RELATING TO RESISTING ARREST

Chair Rhoads 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. The current offense of resisting arrest would be reclassified as resisting arrest in the second degree, a misdemeanor. The Office of the Public Defender opposes H.B. No. 362.

The deterrent effect of enacting a stiffer penalty is often overstated and should be questioned. Persons who resist arrest are often 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.

A law enforcement officer's firearm is often 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. In the vast majority of cases, only the officer's allegation will exist that a suspect was attempting to remove the officer's firearm. There will be no scientific or objective evidence of the incident.

Finally, the history of the resisting arrest charge suggests that it is frequently used as a cover-up for police brutality. In these situations, when an officer has used unjustifiable and excessive physical force in apprehending a member of the public, he or she claims that the arrestee resisted arrest thus forming a justification for the conduct. It is suggested that this measure should not be seriously considered unless all police officers are outfitted with evidence preservation devices such as "body cameras" such that firm evidence can be recorded so that courts and juries can sort out these situations.

Thank you for the opportunity to provide testimony in this matter.