



EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

February 28, 2017

TO: The Honorable Senator Gilbert S.C. Keith-Agaran, Chair
Senate Committee on Judiciary and Labor

The Honorable Senator Jill N. Tokuda, Chair
Senate Committee on Ways and Means

FROM: Scott Morishige, MSW, Governor's Coordinator on Homelessness

SUBJECT: SB 718 – RELATING TO THE COMMUNITY COURT OUTREACH PROJECT

Hearing: Tuesday, February 28, 2017, 9:45 a.m.
Conference Room 211, State Capitol

POSITION: The Governor's Coordinator on Homelessness supports this bill, as it aims to divert homeless individuals from the criminal justice system and connect them to shelter and other social services. The State's strategy to address homelessness includes identifying and connecting with other systems that serve as "touch points" for the homeless, such as the criminal justice system, and aligning outreach and other services as particular entry/exit points (e.g. District Court) to divert individuals to housing. The Coordinator defers to the Judiciary, Department of Prosecuting Attorney, and the Office of the Public Defender regarding appropriations and operational issues.

PURPOSE: The purpose of the bill is to establish a community court outreach project in the City and County of Honolulu, subject to the availability of funds and memoranda of agreements from the Judiciary, Department of the Prosecuting Attorney, and the Office of the Public Defender. The bill also appropriates funds to support a community court outreach project.

The State has adopted a comprehensive framework to address homelessness, which includes a focus on three primary leverage points – affordable housing, health and human

services, and public safety. All three of these leverage points must be addressed to continue forward momentum in addressing the complex issue of homelessness.

The community court outreach project addresses the public safety component of the homeless framework. Many homeless individuals with outstanding bench warrants for unpaid criminal citations can be a major barrier to obtaining housing. The community court outreach project will prevent individuals from encountering these barriers by targeting individuals cited or arrested for nonviolent offenses that often result in bench warrants, and connecting these individuals to shelter and other social services. By providing needed services as an alternative to arrest or citation, the community court outreach project will divert individuals from the criminal justice system and create pathways to permanent housing.

Thank you for the opportunity to testify on this bill.



The Judiciary, State of Hawai'i

**Testimony to the
Senate Committee on Judiciary and Labor**

Senator Gilbert S.C. Keith-Agaran
Senator Karl Rhoads, Vice Chair

and

**Senate Committee on Ways and Means
Senator Jill N. Tokuda, Chair**

Tuesday, February 28, 2017, 9:45 AM
State Capitol, Conference Room 211

by

Calvin C. Ching, Deputy Chief Court Administrator
District Court of the First Circuit

Bill No. and Title: Senate Bill No. 718, Relating to the Community Court Outreach Project.

Purpose: Establishes a community court outreach project in the city and county of Honolulu, from July 1, 2017 to June 30, 2020, subject to availability of funds and memoranda from the Judiciary, prosecuting attorney and public defender. Appropriates funds.

Judiciary's Position:

The Judiciary supports Senate Bill No. 718.

The district court criminal calendars include numerous cases involving nonviolent offenders, many of whom face multiple life challenges, such as substance abuse, mental health issues and the inability to provide themselves and/or their families with basic needs of food and housing. In an effort to address some of these cases, the community court outreach project ("community outreach court") would allow the Judiciary to collaborate with the Office of the Prosecuting Attorney, the Department of the Public Defender and various community organizations to provide meaningful solutions to the problems facing these nonviolent offenders and to prevent recidivism.



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In his State of the Judiciary Address on January 25, 2017, the Chief Justice commended Honolulu Prosecutor Keith Kaneshiro and state Public Defender Jack Tonaki for putting these ideas into action through a program called Community Outreach Courts. The Chief Justice further stated, “The ultimate goal is to send the court and a treatment team out into the community and offer these nonviolent offenders an opportunity to resolve pending cases, obtain needed service and move forward with their lives.”

Subsequently, on January 26, 2017, the Judiciary, the Department of the Prosecuting Attorney, the Office of the Public Defender, successfully held the first session of this court in Honolulu District Court. The next step is to mobilize this court into the community.

To implement and ensure the continuous success of this court, the Judiciary can provide: 1) a judge - for the community outreach court; 2) the ability to hold court sessions at locations (other than traditional courthouses) where offenders can more easily access court proceedings without taking time off from work, traveling substantial distances to traditional courtrooms and/or securing necessary child care; and 3) data on the progress of the community outreach court using the Judiciary’s Information Management System (JIMS).

The Judiciary will also need the following to manage and staff this mobile community outreach court:

1) one (1) new, full-time program coordinator to plan, develop, implement, and coordinate this court’s operations and activities with the Department of the Prosecuting Attorney, the Office of the Public Defender and various community organizations;

2) one (1) new, full-time court clerk position to record and execute the court’s orders and dispositions;

3) one (1) new, full-time court bailiff position to manage the court’s calendar and court proceeding;

4) one (1) new, full-time social worker assigned to the Judiciary’s community service sentencing program to screen and coordinate the multitude of community services for the defendants with various government and private sector agencies, and monitor and report on the defendants’ compliance; and



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5) associated computer and peripheral equipment, and office supplies dedicated for this court's disposition and remote connectivity to JIMS.

Additionally, safety and security is a concern when taking the court staff to other locations away from traditional courthouses (similar to when hearings are held at the Hawaii State Hospital); therefore, assistance from the Department of Public Safety will be required.

Thank you for the opportunity to provide testimony on this measure.

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

February 28, 2017

S.B. No. 718: RELATING TO COMMUNITY COURT OUTREACH
PROJECT

Chairs Keith-Agaran and Tokuda and Members of the Committees:

We strongly support S.B. No. 718 which would establish a community court outreach project in the city and county of Honolulu. Honolulu's homeless situation is well documented and has been highly publicized. Accompanying the explosion in the homeless population has been a tremendous increase in criminal offenses which target homeless persons. The courts have seen a major increase in offenses such as trespassing, littering, sitting or lying on public sidewalks, urinating or defecating in public, unlawful camping and liquor in public places.

The increase in these offenses has impacted the court system and the prosecuting attorneys and public defenders. Many of those cited are not able to come to court or choose not to attend court for fear that they will be incarcerated. These failures become a vicious cycle – persons are cited because they have no place to call home, they are not able to attend court hearings and a bench warrant is issued due to their non-appearance in court. They become more fearful of the system, hide out in parks and feel they are on constant run from the authorities.

Outstanding bench warrants can prevent people from obtaining state identification, renewing drivers' licenses, qualifying for employment and obtaining housing. In other words, the vicious cycle of homelessness is sometimes perpetuated by legal problems arising out of citations which penalize various acts which would not take place but for the very fact that a person is living on the streets.

The Community Court Outreach Project is a collaborative effort by the Honolulu Prosecutor, the Office of the Public Defender and the First Circuit Court to assist non-violent offenders in the community in taking care of their legal problems so that they can "start off with a clean slate" and become productive members of the community once again.

The idea is to take the court into the community via a mobile court to assist needy community members in resolving their legal problems. This would be in lieu of persons having to come to the courthouse which is sometimes impossible because of distance or immobility of the defendant. We are hoping that this outreach effort, in addition to other homeless initiatives which are being

implemented by the Legislature, the Governor's homeless coordinator and the City and County of Honolulu will result in a major alleviation of this very complex issue which currently plagues our state.

Despite not obtaining funding for the Community Court in the 2016 legislature, the collaborators on this project continued their earnest efforts to get the project off the ground using existing resources. As of the date of this hearing, the Honolulu Community Outreach Court has held two court sessions. Eight participants have appeared before the court and about 100 citations and bench warrants have been disposed of in these sessions. The participants have been enthusiastic about the court sessions and seemed to be grateful for the services that were offered to them. Certainly the potential of the Community Court can be gleaned from these inaugural court sessions.

We strongly support S.B. No. 718. Thank you for the opportunity to provide testimony in this matter.

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
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No. _____

TESTIMONY ON SENATE BILL 718
RELATING TO THE COMMUNITY COURT OUTREACH PROJECT

by
Nolan P. Espinda, Director
Department of Public Safety

Senate Committee on Judiciary and Labor
Senator Gilbert S.C. Keith-Agaran, Chair
Senator Karl Rhoads, Vice Chair

Senate Committee on Ways and Means
Senator Jill N. Tokuda, Chair
Senator Donovan M. Dela Cruz, Vice Chair

Tuesday, February 28, 2017; 9:45 a.m.
State Capitol, Conference Room 211

Chairs Keith-Agaran and Tokuda, Vice Chairs Rhoads and Dela Cruz, and Members of the Committees:

The Department of Public Safety (PSD) **appreciates the intent** of Senate Bill (SB) 718, which proposes to establish a community court outreach project and requires the Judiciary to operate a mobile court that travels to community sites where defendants who have been cited or arrested for nonviolent offenses live or gather. PSD offers the following comments.

PSD appreciates that SB 718 proposes an appropriation of \$130,000 or so much thereof as may be necessary for fiscal year 2017 – 2018 and the same sum or so much thereof as may be necessary for fiscal year 2018 -2019 for PSD to provide security for the community court outreach project. PSD notes that if SB 718 envisions two deputy sheriffs specifically assigned to this roving court, which would operate five days a week, then PSD's normal operational plan is to estimate for

three (3) deputy sheriffs to assure that both positions are covered in the event of leave by either of the deputies prompted by sick, vacation, comp time, training, Family Leave, or other issues. Three deputy sheriffs for the first fiscal year would cost \$224,135. A patrol vehicle for the deputy sheriffs to travel to the roving courts would cost \$43,000, for a total cost of \$267,135. Three deputy sheriffs for the second fiscal year would cost \$203,231. The difference in costs from the first to second year is based upon initial equipment issuance (uniforms, gun, badge, etc.) upon graduation from the recruit academy.

If, however, SB 718 envisions two deputy sheriffs assigned to the this roving court, acknowledging that only one deputy sheriff may be present if the other deputy sheriff is in training or on leave, then the cost for two deputy sheriffs the first year will be \$149,424, plus \$43,000 for the vehicle, for a total cost of \$192,424. The cost for two deputy sheriffs the second year will be \$135,488.

PSD further notes that deputy recruits train for six months prior to graduation from the Law Enforcement Recruit Academy. The next Law Enforcement Recruit Class is anticipated to start in May 2017, with graduation in November 2017. If as this bill indicates, the alternative proposal is to use existing full time equivalent deputy sheriffs and use the appropriation for two new positions, then PSD would note that the Sheriff Division would anticipate personnel staffing issues and overtime costs, which are yet to be determined.

Thank you for the opportunity to present this testimony.

DEPARTMENT OF THE PROSECUTING ATTORNEY
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**THE HONORABLE GILBERT S.C. KEITH-AGARAN, CHAIR
SENATE COMMITTEE ON JUDICIARY AND LABOR**

**THE HONORABLE JILL N. TOKUDA, CHAIR
SENATE COMMITTEE ON WAYS AND MEANS
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawai`i**

February 28, 2017

RE: S.B. 718; RELATING TO THE COMMUNITY COURT OUTREACH PROJECT.

Chair Keith-Agaran, Chair Tokuda, Vice Chair Rhoads, Vice Chair Dela Cruz, members of the Senate Committee on Judiciary and Labor, and members of the Senate Committee on Ways and Means, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony in strong support of S.B. 718.

The purpose of this bill is to recognize and address the impact that homelessness has had on our criminal justice system, to the extent that our courts are currently clogged with low-level, non-violent cases, in which the defendants are homeless. To do this, S.B. 718, would implement a new and innovative means of bringing the courtroom into the community, for certain types of cases, in a collaborative effort between our Department, the Department of the Public Defender, and the Judiciary. Essentially, the Community Court Outreach Project would simultaneously:

- Decrease the backlog of pending, low-level, non-violent cases;
- Allow offenders to clear their pending cases;
- Provide court orders for counseling, treatment, and/or referral to homeless services, on a case-by-case basis;
- Provide consequences through community service instead of incarceration or fines.

The Project would begin with a four-year pilot program on the island of Oahu, with ongoing assessment and potential application for other islands thereafter.

Currently, our courts are seeing a large number of defendants, charged with low-level, non-violent crime, who are not appearing for arraignment or other hearings; this leads to a bench warrant (for arrest) being issued by the court. If and when the defendant is subsequently arrested, they are either jailed overnight (unable to post bail) and sentenced to credit for time served, or fined, or released on recognizance. If released on recognizance, they may again fail to appear for their next hearing, and another bench warrant will have to be issued. Ultimately, these cases utilize a disproportionate amount of limited resources from all agencies involved, and clog our court calendars, without offering the defendant sufficient rehabilitation to prevent recurring offenses.

Under S.B. 718, certain designated personnel from our Department, the Department of the Public Defender, and the Judiciary would officially set up a “mobile court” that could be convened in public schools, recreation centers, community health centers, or other community-based locations that are more convenient for selected defendants. Each case and defendant would be specifically reviewed and selected ahead of time, for participation in this program. The types of offenses that could likely be considered are:

- Parking violations (currently a total of 7,163 in our court system)
- Liquor in public place (2,173)
- Smoking violations (1,146)
- Simple trespass (1,312)
- Criminal littering (282)

All participating defendants would be represented by a Deputy Public Defender, and assisted by a social worker/advocate arranged by the Public Defender, both of whom would be present at the “mobile court” location. Appropriate sentences would be determined on a case-by-case basis, and would not include imprisonment, but may include a range of other options, such as court-imposed community service, mental health care and/or substance abuse treatment.

Because our Department, along with the Department of the Public Defender and the Judiciary have long recognized the issues that S.B. 718 seeks to address, we have already begun exploring the potential for a Community Court Outreach Project on Oahu. After being awarded one of 10 federal grants in 2016—two year grant in the amount of \$200,000 annually—for planning, training and staffing this type of project, our three agencies initiated a test-run of the Community Court Outreach Project on January 26, 2017. Due to restrictions on the grant monies, the test-run was held at the Honolulu District Court at 1111 Alakea Street, Honolulu Hawaii.

For purposes of this “soft launch,” our Department and the Department of the Public Defenders selected four (4) defendants who voluntarily agreed to participate in the project. Between these four (4) defendants, fifty-three (53) different cases were consolidated and resolved through agreed-upon plea agreements that imposed community service work without incarceration. These charges ranged from low-level traffic offenses to minor nuisance cases. In the process, a total of nineteen (19) outstanding bench warrants were also addressed and resolved. Moreover, each defendant was able to speak with various service providers on-site, such as substance abuse or housing. Most importantly, each defendant was given the chance to clean their slate, give back to the community and finally have the chance to regain control of their life and start anew. **On February 23, 2017, court reconvened for the initial four (4)**

defendants to provide proof of compliance with the conditions of the plea agreement. Three (3) of the four (4) defendants had fully completed their community service work while the last defendant has not been allowed to start community service work, as his medical clearance is still pending. Additionally, on February 23, 2017, three (3) new defendants voluntarily agreed to participate and entered into the Community Courts Outreach Project. Between the three (3) defendants, fifty-six (56) cases were consolidated and resolved, while six (6) outstanding bench warrants were also addressed and resolved in court.

The Department is proud to be part of an innovative plan to address these various aspects of homelessness, while also maintaining respect for our criminal justice system and relieving some of the backlog that currently weighs on our court system. Homelessness should not equate to lawlessness.

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu strongly supports the passage of S.B. 718. Thank you for the opportunity to submit testimony on this matter.

COMMUNITY ALLIANCE ON PRISONS

P.O. Box 37158, Honolulu, HI 96837-0158

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COMMITTEE ON JUDICIARY AND LABOR

Sen. Gil Keith-Agaran, Chair

Sen. Karl Rhoads, Vice Chair

COMMITTEE ON WAYS AND MEANS

Sen. Jill Tokuda, Chair

Sen. Donovan Dela Cruz, Vice Chair

Tuesday, February 28, 2017

9:45 am

Room 211

SUPPORT - SB 718 - COMMUNITY COURT OUTREACH

Aloha Chairs Keith-Agaran and Tokuda and Members of the Committees!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies in Hawai'i for two decades. This testimony is respectfully offered on behalf of the almost 6,000 Hawai'i individuals living behind bars or under the "care and custody" of the Department of Public Safety. We are always mindful that approximately 1,700 of Hawai'i's imprisoned people are serving their sentences abroad thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Native Hawaiians, far from their ancestral lands.

Community Alliance on Prisons supports helping houseless individuals clear up outstanding warrants for non-serious offenses and we are happy to see the acknowledgement by both Chairs that this Honolulu pilot program can beautifully dovetail with Law Enforcement Assisted Diversion (LEAD) program to reduce the jail population. We respectfully ask that the LEAD bill SB 108 also be scheduled.

The success of the LEAD program in Seattle is because the participation in the program is voluntary. Research shows that voluntary treatment has better outcomes than mandatory/coerced treatment. SB 718 requires mandatory participation in programs.

Another aspect of this measure that we respectfully ask the committee to consider is funding for the community services to which an individual's participation is mandated. Currently, this measure asks for funding for the prosecutor, the public defender, and the department of public safety. Since the services are mandatory, it is only fair that the service providers in the community be funded as well.

The purpose of this program is to (1) Travel to communities where defendants who: (A) Have been cited or arrested for certain nonviolent offenses; and (B) Do not pose a threat to the public, and (2) Disposes of the cases of defendants who enter plea agreements after negotiations between the prosecuting attorney and public defender. This program will help those who have minor violations.

As reported by the prosecutor, these violations include: parking violations (currently a total of 7,163 in our court system); liquor in public place (2,173); smoking violations (1,146); simple trespass (1,312); and criminal littering (282).

The program is designed to decrease the backlog of pending, low-level, non-violent cases; allow offenders to clear their pending cases; provide court orders for counseling, treatment, and/or referral to homeless services, on a case-by-case basis; and provide consequences through community service instead of incarceration or fines.

This is a more humane way of addressing the issues of many in our houseless population. It can give hope to those who feel overwhelmed by their circumstances and promotes the Aloha Spirit that must be the guiding force in all decisions that we make.

Mahalo for this opportunity to testify in support of more humane treatment of some of the most vulnerable members of our community.



Dedicated to safe, responsible, humane and effective drug policies since 1993

TO: Senate Committees on Judiciary and Labor, Ways and Means
FROM: Carl Bergquist, Executive Director
HEARING DATE: 28 February 2017, 9:45AM
RE: SB718, Relating to the Community Court Outreach Project, **IN SUPPORT**

Dear Chairs Keith-Agaran and Tokuda, Vice Chairs Rhoads and Dela Cruz, Members of the Committees:

The Drug Policy Forum of Hawai'i (DPFHI) supports the establishment of a community outreach court as one tool to deal with non-violent offenders who enter the criminal justice system, do not receive proper rehabilitative services and instead wind up burdening law enforcement whose resources should be focused elsewhere. Many of these non-violent offenders are in need of treatment for drug use or mental health issues.

Ideally, the Court can serve as the backend solution for some of these individuals, complementing the front-end solutions of existing diversion programs and an innovative new one known as Law Enforcement Assisted Diversion (LEAD) as proposed in [SB716](#), [SB108](#) and the Governor's budget. LEAD would operate pre-arrest or pre-booking and divert certain individuals into treatment rather than into prison.

Above and beyond these initiatives, in order to further decrease the burden on the criminal justice system **we also believe in changing some of our outdated statutes, particularly as they relate to controlled substances.** Decriminalization of cannabis for adult personal use and of drug paraphernalia (as proposed by e.g. [HB107](#) and [HB1501](#)) would strike offenses from the books that should no longer be part of the HRS. This would help not just the individuals being criminalized and stigmatized, but also allow both the diversion programs like LEAD and the proposed Community Court to better focus their limited resources.

Mahalo for the opportunity to testify.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: maukalani78@hotmail.com
Subject: Submitted testimony for SB718 on Feb 28, 2017 09:45AM
Date: Sunday, February 26, 2017 4:17:04 PM

SB718

Submitted on: 2/26/2017

Testimony for JDL/WAM on Feb 28, 2017 09:45AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
E. Ileina Funakoshi	Individual	Support	No

Comments: Support SB718. Having the Prosecutor and Public Defender working together to alleviate the overcrowding of our courts; the overcrowding of our jails; and cutting costs, is a win-win situation.

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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