

DAVID Y. IGE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**Testimony of  
SUZANNE D. CASE  
Chairperson**

**Before the House Committee on  
WATER & LAND**

**Wednesday, March 15, 2017  
10:30 AM  
State Capitol, Conference Room 325**

**In consideration of  
SENATE BILL 895, SENATE DRAFT 1  
RELATING TO CRIMINAL TRESPASS**

Senate Bill 895, Senate Draft 1, proposes to add the offense of criminal trespass onto state lands to the penal code and amend criminal trespass in the second degree to apply to government agricultural property regardless of whether it is fenced, enclosed, or otherwise secured. **The Department of Land and Natural Resources (Department) supports this Administration measure with the following suggested amendment:**

The Department previously suggested this amendment to the original version of this measure. The suggested language, which stated whenever the phrase, *“placed at reasonable intervals along the boundary line of the land and at roads and trails entering the land in a manner and position as to be clearly noticeable from outside the boundary”* occurs in the measure, the Department suggests that language be replaced with, *“placed at intervals not less than three signs to a mile along the boundary line of the land and at all roads and trails entering the land”* instead.

The Department believes that the terms “reasonable intervals”, whether by our suggested language or other, must be defined. Having a measurable interval between signs would make it clear for prosecution and easily understandable for the public.

Thank you for the opportunity to comment on this measure.

**SUZANNE D. CASE**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**KEKOA W. KALUHIWA**  
FIRST DEPUTY

**JEFFREY. T. PEARSON, P.E.**  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS



**EXECUTIVE CHAMBERS**  
HONOLULU

**DAVID Y. IGE**  
GOVERNOR

March 15, 2017

**TO:** The Honorable Representative Ryan I. Yamane, Chair  
House Committee on Water & Land

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

**SUBJECT: SB 895 – RELATING TO CRIMINAL TRESPASS**

Hearing: Wednesday, March 15, 2017, 10:30 a.m.  
Conference Room 325, State Capitol

**POSITION:** The Governor's Coordinator on Homelessness supports this Administration bill. The Coordinator notes that when enforcement of trespass laws on state lands impacts persons experiencing homelessness, these efforts should be coordinated with homeless outreach efforts that connect homeless persons to necessary services and housing. Accordingly, the Coordinator asks for the Legislature's support of the Governor's Executive Budget request, which includes funding for homeless outreach, and for a stored property program that addresses property abandoned on or seized from state lands. The Coordinator defers to other departments in regard to statutory processes and issues related to enforcement of trespass on state lands.

**PURPOSE:** The purpose of the bill is to add the offense of criminal trespass onto State lands to the penal code. The bill also amends criminal trespass in the second degree to apply to government agricultural property regardless of whether it is fenced, enclosed, or otherwise secured. The Senate Committee on Judiciary & Labor, amended the measure by clarifying section 708-814(1)(c), HRS, regarding posting of signs, and adding a provision that the Department of the Attorney General submit a written report to the Legislature regarding the extent to which criminal trespassing laws are utilized.

The intent of the bill is not to criminalize homelessness, but to address issues related to theft and vandalism on state lands, as well as issues related to public safety. This includes

addressing the safety of individuals who may be residing in unauthorized areas, which are often closed off or restricted because they may be hazardous and not intended for human habitation or public use.

The Coordinator further notes that – if or when homeless individuals are displaced or adversely impacted by the enforcement of trespass laws on state lands – state departments and agencies work with the Coordinator’s office to ensure that homeless outreach is provided both in advance of any enforcement action, as well as during the time of enforcement. The offer of outreach is essential to provide direct assistance to unsheltered homeless households, and to build rapport that connects them to housing and services, such as Housing First, Rapid Rehousing, or shelter.

In addition to outreach, the Coordinator works with State departments and agencies to address concerns related to property or other items that may be left behind on state lands following the enforcement of trespass laws. The Legislature provided in section 171-31.5, Hawaii Revised Statutes (HRS), a process for the disposition of abandoned property on state land for all individuals, including individuals who are homeless. Section 171-31.5, HRS, requires a 30 day notice that property has been abandoned or seized, and provides a means for owners of abandoned or seized property to retrieve such property, which could include government issued identification or other government records. By following the provisions of section 171-31.5, HRS, in coordination with homeless outreach, the State works to protect the due process rights of homeless persons who may be adversely impacted by enforcement of criminal trespass laws.

Finally, the State’s strategy to address homelessness acknowledges the connection between homeless outreach and public safety efforts impacting homeless persons, and is aimed at connecting homeless persons to long-term housing as opposed to merely displacing individuals from one property to another. For example, in Kaka'ako Makai, the State balanced the enforcement of trespass in the public park with the provision of homeless outreach services that assisted over 290 of an estimated 300 homeless individuals to access shelter and permanent housing between August 2015 and present.

Thank you for the opportunity to testify on this bill.



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-NINTH LEGISLATURE, 2017**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 895, S.D. 1, RELATING TO CRIMINAL TRESPASS.

**BEFORE THE:**

HOUSE COMMITTEE ON WATER & LAND

**DATE:** Wednesday, March 15, 2017      **TIME:** 10:30 a.m.

**LOCATION:** State Capitol, Room 325

**TESTIFIER(S):** Douglas S. Chin, Attorney General, or  
Russell A. Suzuki, First Deputy Attorney General

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Chair Yamane and Members of the Committee:

The Department of the Attorney General supports this administration measure, which is intended to close an existing gap within current criminal trespass laws.

The purpose of this bill is to create the new offense of criminal trespass onto state lands under chapter 708, Hawaii Revised Statutes (HRS). It addresses issues presented by individuals entering or remaining on: (1) improved state land when closed or otherwise restricted; and (2) unimproved state land with appropriate signage stating "Government Property—No Trespassing." It clarifies that trespassing includes state land on or under any highway. The bill also amends the offense of criminal trespass in the second degree to clarify that it includes government agricultural lands that are not fenced, enclosed, or secured in a manner designed to exclude intruders.

Existing criminal trespass laws apply comprehensively to private property, including dwellings, hotels, apartment buildings, private schools, fenced or enclosed properties, and commercial properties. With regard to state-owned or -controlled land, existing criminal trespass laws apply to public schools (section 708-813, HRS), enclosed agricultural lands (section 708-814, HRS), certain unimproved or unused land (section 708-814, HRS), state-owned public housing projects and state low-income housing projects (section 708-814, HRS), and public parks and recreational grounds (section 708-814.5, HRS).

Existing criminal trespass laws do not, however, apply comprehensively to all state lands, including improved state lands. They are unclear as to their applicability to state land on, under or a part of any highway, or unfenced, unenclosed, or unsecured agricultural lands owned by the government, and with respect to harbors. This effectively leaves a gap in current criminal trespass laws, resulting in certain types of state lands being without the protections afforded to other properties or other types of state lands. This bill is intended to close that gap. For example, section 708-814, HRS, criminal trespass in the second degree, includes a definition for “unimproved or unused lands.” This bill will help ensure that criminal trespass laws also apply to *improved* state lands, by both defining such lands and making the law directly applicable to them.

This bill would be an important crime prevention tool. It would better enable law enforcement to keep people out of harm’s way and allow the State to preserve and protect its lands. As an example, this law would assist law enforcement in keeping individuals off highways where, amongst other things, copper theft is a dangerous and expensive problem. It would allow law enforcement to address trespassers, individuals who refuse to keep out of or away from state-owned buildings and surrounding premises that are closed for business, in the same manner as those who perform the same unlawful conduct on private property or certain state lands. The bill as drafted makes criminal trespass on state lands a petty misdemeanor, which means that people in violation may be subject to arrest.

Pursuant to sections 706-663 and 706-640, HRS, petty misdemeanors are punishable by a maximum of thirty days in jail or a fine of not more than \$1,000. In practice, state courts typically impose much smaller penalties. This practice is consistent with and pursuant to section 706-641(3)(a), HRS, which specifically provides in part that “the court *shall not* sentence a defendant to pay a fine unless ... the defendant is or will be able to pay the fine.” (Emphasis added).

In addition to this existing statutory protection for defendants who may be unable to pay a fine, and upon further consideration to address one of the concerns expressed to our department by the American Civil Liberties Union, we propose additional wording

be added to the bill to provide for prior verbal notice in certain circumstances. Specifically, we suggest the following wording be added to section 708- (1)(a)(i), starting on page 2, line 7, of the bill, so that this subparagraph reads as follows:

- (a) The person enters or remains unlawfully in or upon any improved state land when:
  - (i) The land is closed to public use and its closure hours are posted on a sign or signs on the improved state land and after a request to leave is made by any law enforcement officer, the person remains in or upon the land; or

We believe it is appropriate to add this wording *only* to the foregoing subparagraph, and not to sections 708- (1)(a)(ii) or 708- (1)(b). The reason for this differentiation is that the properties addressed by section 708- (1)(a)(i) are open to the public only during posted hours. We do not believe it is appropriate for the same wording to be added to sections 708- (1)(a)(ii) or 708- (1)(b), however, since the properties addressed by those subparagraphs are *never* open to the public and there should be no misunderstanding that someone could be allowed on those properties, based on the required “Government Property - No Trespassing” signs.

The Department respectfully requests that the Committee pass this bill with this suggested amendment.

DAVID Y. IGE  
Governor

SHAN S. TSUTSUI  
Lt. Governor



State of Hawaii  
**DEPARTMENT OF AGRICULTURE**  
1428 South King Street  
Honolulu, Hawaii 96814-2512  
Phone: (808) 973-9600 FAX: (808) 973-9613

SCOTT E. ENRIGHT  
Chairperson, Board of Agriculture

PHYLLIS SHIMABUKURO-GEISER  
Deputy to the Chairperson

**TESTIMONY OF SCOTT E. ENRIGHT  
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE HOUSE COMMITTEE ON WATER & LAND**

**MARCH 15, 2017  
10:30 A.M.  
CONFERENCE ROOM 325**

**SENATE BILL NO. 895 SD1  
RELATING TO CRIMINAL TRESPASS**

Chairperson Yamane and Members of the Committee:

Thank you for the opportunity to comment on Senate Bill No. 895 SD1. The purpose of this bill is to add the offense of criminal trespass onto state lands to Part II of Chapter 708, Hawaii Revised Statutes, and amend criminal trespass in the second degree to include and apply to agricultural property owned by the government that is fenced, enclosed, or otherwise secured in a manner designed to exclude intruders. The Hawaii Department of Agriculture (HDOA) strongly supports this measure.

The department manages and operates a variety of facilities and improvements on state lands which are not always fenced, enclosed, or secured in a manner designed to exclude intruders; therefore, the department 's current practice has been to install and maintain "Danger – No Trespassing" signage giving notice that trespassing is prohibited. An example of HDOA's signage is attached as Exhibit "A." Presently, these signs are placed on security fencing around state owned and operated irrigation reservoirs and are installed on entry gates and along security fences at intervals of approximately 80 to 100 feet apart.



The department respectfully requests clarification of the terms "reasonable notice ... such signs shall contain letters not less than two inches in height and shall be placed at reasonable intervals" as they are used in Section 2, §708-\_\_ (1)(a)(ii). This language implies that only the words "Government Property – No Trespassing" shall be not less than two inches in height and no other words or wording are necessary.

Statewide, illegal trespass and illegal activities are a serious problem on state lands and in facilities overseen by the department. The department needs the criminal statutes to allow immediate removal of offenders; otherwise, state lands become a venue for illegal activities, such as entry into closed and often unsafe areas, unpermitted camping, illegal alcohol consumption and disorderly conduct.

Criminal trespass laws can be an effective deterrent to these activities. Thank you for the opportunity to testify on this measure.

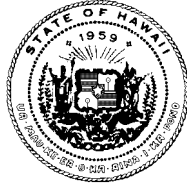
Attachment: Exhibit "A"



EXHIBIT A



DAVID Y. IGE  
GOVERNOR



PANKAJ BHANOT  
DIRECTOR

BRIDGET HOLTHUS  
DEPUTY DIRECTOR

STATE OF HAWAII  
DEPARTMENT OF HUMAN SERVICES  
P. O. Box 339  
Honolulu, Hawaii 96809-0339

March 15, 2017

TO: The Honorable Representative Ryan I. Yamane, Chair  
House Committee on Water and Land

FROM: Pankaj Bhanot, Director

SUBJECT: **SB895 SD1 – RELATING TO CRIMINAL TRESSPASS**

Hearing: Wednesday, March 15, 2017, 10:30 a.m.  
Conference Room 325, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) supports this administration bill to protect State lands and offers comments. DHS notes that enforcement of trespass onto State lands may impact homeless persons. When enforcement takes place there should be an effort to coordinate with homeless outreach providers. DHS asks the Legislature to support the Governor's Executive Budget requests, so that combined outreach services by homeless services providers with enforcement efforts on state lands, will assist to connect homeless individuals and families with services, and provide an orderly process for removal, storage, and retrieval of personal property. DHS defers to other departments in regard to statutory processes and issues related to enforcement of trespass on state lands.

**PURPOSE:** The purpose of the measure is to add the offense of criminal trespass onto State lands to the penal code. The measure also amends criminal trespass in the second degree to apply to government agricultural property regardless of whether it is fenced, enclosed, or otherwise secured. The Senate Committee on Judiciary & Labor, amended the measure by clarifying section 708-814(1)(c), HRS, regarding posting of signs, and adding a provision that the Department of the Attorney General submit a written report to the Legislature regarding the extent to which criminal trespassing laws are utilized.

DHS understands the intent of the bill is not to criminalize homelessness, but to address issues related to theft and vandalism on state lands, as well as issues related to public safety. DHS encourages other state departments and agencies to continue to work with the Governor's Coordinator on Homelessness (Coordinator) to secure and provide appropriate homeless outreach services. Outreach services will help build trust with individuals and families and encourage them to utilize available services to address their homelessness, such as Housing First, Rapid Rehousing, or shelter.

In addition to outreach, the Coordinator works with State departments and agencies to address concerns related to personal property or other items that may be left behind on state lands following the enforcement of trespass laws. This coordination will help to protect the due process rights of homeless persons who are subjects of the enforcement of trespass laws on State lands.

Thank you for the opportunity to testify and provide comments on this measure.

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

**Renee R. Sonobe Hong**  
Deputy Director  
Law Enforcement

No. \_\_\_\_\_

TESTIMONY ON SENATE BILL 895, SENATE DRAFT 1  
RELATING TO CRIMINAL TRESPASS

by  
Nolan P. Espinda, Director  
Department of Public Safety

House Committee on Water and Land  
Representative Ryan I. Yamane, Chair  
Representative Sam Satoru Kong, Vice Chair

Wednesday, March 15, 2017; 10:30 a.m.  
State Capitol, Conference Room 325

Chair Yamane, Vice Chair Kong, and Members of the Committee:

The Department of Public Safety (PSD) **supports** Senate Bill (SB) 895, Senate Draft (SD) 1, which proposes to create a new offense of criminal trespass onto state lands to include improved lands when closed or otherwise restricted and any state land on or under any highway having a sign or signs restricting access. SB 895, SD 1 also proposes to amend criminal trespass in the second degree to include government agricultural lands that are not fenced, enclosed, or secured in any manner to exclude intruders.

Regarding state lands, the current trespass laws apply to public schools, enclosed agricultural lands, some unimproved or unused lands, state public housing projects, and public parks and recreational grounds. Current trespass laws, however, do not apply to all state lands.

This bill provides an important tool for law enforcement to address trespassers who remain in or around state-owned office buildings and surroundings premises that are closed for business. Employees arriving early or working after

Testimony on SB 895, SD1  
House Committee on Water and Land  
March 15, 2017  
Page 2

hours and on weekends do not feel safe with trespassers loitering on state premises. This bill provides law enforcement another tool to more effectively ensure public safety.

Thank you for the opportunity to provide testimony.



HAWAII COMMUNITY  
DEVELOPMENT AUTHORITY



KAKA  
KALAELOA

David Y. Ige  
Governor

John Whalen  
Chairperson

Jesse K. Souki  
Executive Director

547 Queen Street  
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STATEMENT OF

JESSE K. SOUKI, EXECUTIVE DIRECTOR  
HAWAII COMMUNITY DEVELOPMENT AUTHORITY

BEFORE THE  
HOUSE COMMITTEE ON WATER AND LAND

Wednesday, March 15, 2017  
10:30 A.M.

State Capitol, Conference Room 325

in consideration of  
**SB895, SD1– RELATING TO CRIMINAL TRESPASS**

Chair Yamane, Vice Chair Kong and members of the committee.

The Hawaii Community Development Authority (HCDA) supports  
SB895, SD1.

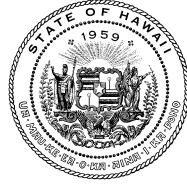
The HCDA has the responsibility to ensure public lands it oversees are safe and well-managed for the benefit of all members of the public. As such, any tool that allows state agencies to manage our precious resources for the maximum safety and enjoyment of all our citizens is a step in the right direction.

I urge support for this Administration measure.



DAVID Y. IGE  
GOVERNOR

SHAN TSUTSUI  
LT. GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
P.O. BOX 259  
HONOLULU, HAWAII 96809  
PHONE NO: (808) 587-1540  
FAX NO: (808) 587-1560

MARIA E. ZIELINSKI  
DIRECTOR OF TAXATION

DAMIEN A. ELEFANTE  
DEPUTY DIRECTOR

To: The Honorable Ryan I. Yamane, Chair  
and Members of the House Committee on Water and Land

Date: Wednesday, March 15, 2017  
Time: 10:30 A.M.  
Place: Conference Room 325, State Capitol

From: Maria E. Zielinski, Director  
Department of Taxation

Re: S.B. 895, S.D. 1, Relating to Criminal Trespass

The Department of Taxation (Department) supports S.B. 895, S.D. 1, an Administration measure, and provides the following comments for your consideration.

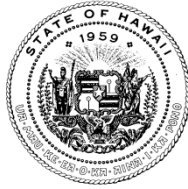
S.B. 895, S.D. 1, adds a new offense of criminal trespass onto state lands to the penal code. In general, the new offense applies when a person unlawfully enters state land if the state land is closed to the public and the closure has been made clear. S.B. 895, S.D. 1, also amends the offense of criminal trespass in the second degree to apply to government agricultural property, whether the property is secured or not. The bill has a defective effective date of January 7, 2059.

The Department notes that the new offense of criminal trespass onto state land would apply to state buildings, including the building where the Department's main office is located. In the past, the Department has experienced isolated incidents of vandalism to and trespass upon its facilities. The Department takes the security of its facilities and personnel very seriously and believes this measure will provide additional recourse should such incidents recur.

Thank you for the opportunity to provide support and comment on this measure.



DAVID Y. IGE  
GOVERNOR



**STATE OF HAWAII**  
**DEPARTMENT OF TRANSPORTATION**  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

March 15, 2016  
10:30 a.m.  
State Capitol, Room 325

**S.B. 895, S.D. 1**  
**RELATING TO CRIMINAL TRESPASS**

House Committee on Water and Land

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The Department of Transportation (DOT) strongly **supports** this Administration bill which adds the offense of criminal trespass onto state lands to part II of chapter 708, Hawaii Revised Statutes, and amends criminal trespass in the second degree to include and apply to agricultural and DOT property owned by the government that is not fenced, enclosed or otherwise secured in a manner designed to exclude intruders, unpermitted hikers, copper thieves, vandals and other criminal trespassers.

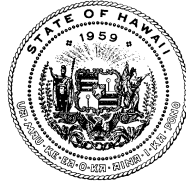
This bill aims to clarify an important statute that will assist the DOT in protecting its lands, property, and facilities under its jurisdiction in providing a safe, efficient, accessible, and sustainable inter-modal transportation system that ensures the mobility of people and goods, and enhances and/or preserves economic prosperity and the quality of life.

Thank you for the opportunity to provide testimony.

**Testimony by:**  
FORD N. FUCHIGAMI  
DIRECTOR

Deputy Directors  
JADE T. BUTAY  
ROSS M. HIGASHI  
EDWIN H. SNIFFEN  
DARRELL T. YOUNG

IN REPLY REFER TO:



**STATE OF HAWAII**  
**DEPARTMENT OF HEALTH**  
P. O. Box 3378  
Honolulu, HI 96801-3378  
doh.testimony@doh.hawaii.gov

**Testimony in SUPPORT of SB895 SD1  
RELATING TO CRIMINAL TRESPASS**

REPRESENTATIVE RYAN YAMANE, CHAIR  
HOUSE COMMITTEE ON WATER & LAND

Hearing Date: March 15, 2017

Room Number: 325

1 **Fiscal Implications:** None for Department of Health.

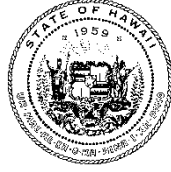
2 **Department Testimony:** The Department of Health supports SB895 SD1, which is part of  
3 Governor Ige's Administrative Package, that adds the offense of criminal trespass onto state  
4 lands to the penal code.

5 Although the State does not own land through the Department of Health, there are Department of  
6 Health facilities on state land. Services to some of Hawaii's most vulnerable residents are  
7 provided at these facilities. This includes the provision of mental health services to children and  
8 families or individuals with judiciary involvement. The ability to appropriately control access to  
9 these facilities, while protecting the constitutional rights of at-risk populations such as the  
10 homeless, will help the department manage safety at its facilities.

11 **Offered Amendments:** N/A.

12

DAVID Y. IGE  
GOVERNOR



RODERICK K. BECKER  
Comptroller

AUDREY HIDANO  
Deputy Comptroller

**STATE OF HAWAII**  
**DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES**

P.O. BOX 119, HONOLULU, HAWAII 96810-0119

WRITTEN TESTIMONY OF  
RODERICK K. BECKER, COMPTROLLER  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
TO THE  
HOUSE COMMITTEE ON WATER AND LAND  
ON  
WEDNESDAY, MARCH 15, 2017  
10:30 A.M.  
CONFERENCE ROOM 325

S.B. 895, S.D. 1

RELATING TO CRIMINAL TRESPASS.

Chair Yamane, Vice Chair Kong, and members of the Committee, thank you for the opportunity to provide written testimony on S.B. 895, S.D. 1.

The Department of Accounting and General Services (DAGS) supports the measure and offers the following comments for the committee's consideration.

As a matter of equity and for the protection and preservation of State resources, DAGS supports providing similar protections against criminal trespass to various state lands (improved, on or under any highway, unfenced, unenclosed, or unsecured government agricultural lands) that are currently afforded to other property interests such as dwellings, hotels, apartment buildings, public and private schools, fenced or enclosed properties, commercial properties, certain agricultural lands, unimproved or unused lands, public housing projects and low-income housing projects, and public parks and recreational grounds.

Thank you for the opportunity to submit written testimony on this matter.



**SB895 SD1**  
**RELATING TO CRIMINAL TRESPASS**  
House Committee on Water and Land

March 15, 2017

10:30 a.m.

Conference Room 325

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The Office of Hawaiian Affairs (OHA) **OPPOSES** SB895 SD1. This measure may have a substantial chilling effect on the perpetuation of constitutionally-protected Native Hawaiian traditional and customary practices. SB895 SD1 also has a high likelihood of unintentionally criminalizing the homeless community, many of whom may be OHA beneficiaries, potentially exacerbating the homelessness crisis facing our islands.

**While OHA appreciates the desire to protect state land and property, OHA is concerned with SB895's potential chilling effect on the perpetuation of constitutionally-protected Native Hawaiians traditional and customary practices.** "Improved" state lands that are less than fully developed may contain a variety of natural and cultural resources and sites that are necessary to the exercise of Native Hawaiian traditional and customary practices. Native Hawaiians may also have to traverse "improved" state lands and state highway areas, to access wilderness areas that similarly host deeply-valued resources and sites essential to the continuation of their traditional and customary practices. **Should this measure be enacted, the prospect of committing an arrestable offense for simply traversing or occupying state lands could undoubtedly discourage Native Hawaiian cultural practitioners from accessing areas of cultural significance, and perpetuating their otherwise protected cultural practices.**

**OHA further believes that this measure would only serve to further criminalize the state's homeless population, who often seek shelter and safety on state lands.** While OHA understands the difficulty of balancing the integrity of state property with the mental and physical integrity of members of our most vulnerable population, this measure may unreasonably impact the homeless community, for little actual benefit to the property interests of the state. **In addition to simply displacing homeless individuals from certain state lands to other areas, this measure may in fact further exacerbate the homelessness crisis, by subjecting homeless individuals to criminal liability, thereby reducing their ability to obtain or maintain gainful employment.** Numerous existing laws currently serve to protect state property and the public welfare, including laws on vandalism and disorderly conduct; adding an additional layer of criminal trespass liability for simply occupying state lands appears unnecessary to address these legitimate state concerns.

OHA notes that our beneficiaries may be at particular risk of becoming homeless, and therefore may be disproportionately affected and effectively criminalized by this measure.

According to the *2015 Homeless Service Utilization Report*,<sup>1</sup> Native Hawaiians account for almost one-third of those utilizing homeless services. In addition to high homeless service utilization, 14.1% of Native Hawaiian households include a ‘hidden homeless’ member, compared to the only 4.2% of other households.<sup>2</sup> Research shows that Native Hawaiians also have higher levels of housing insecurity, with more than half of Native Hawaiian renters living in homes they struggle to afford, and often in overcrowded conditions. Despite the fact that Native Hawaiians participate in the labor force at higher rates than the state average<sup>3</sup> and have larger than average family sizes,<sup>4</sup> Native Hawaiian median family income is at \$9,627 (or 12.2%) lower than the state median family income.<sup>5</sup> Such data suggests that changes in the economic conditions of the state and county may result in a disproportionate number of Native Hawaiians becoming homeless, and targeted for criminal liability under this measure. **OHA emphasizes that the disproportionate impact of the criminal justice system on Native Hawaiians accumulates at each stage,<sup>6</sup> and may be exacerbated by this measure’s further criminalization of our homeless population.**

Therefore, OHA urges the Committee to **HOLD** SB895 SD1. Mahalo for the opportunity to testify on this measure.

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<sup>1</sup> University of Hawai ‘i, Homeless Service Utilization Report 5 (2015), available at [http://uhfamily.hawaii.edu/publications/brochures/789af\\_HomelessServiceUtilization2015.pdf](http://uhfamily.hawaii.edu/publications/brochures/789af_HomelessServiceUtilization2015.pdf).

<sup>2</sup> 2016 Hawai ‘i Housing Planning Study 73, available at [https://dbedt.hawaii.gov/hhfdc/files/2016/12/State\\_HHPS2016\\_Report\\_111416-FINAL-122216.pdf](https://dbedt.hawaii.gov/hhfdc/files/2016/12/State_HHPS2016_Report_111416-FINAL-122216.pdf).

<sup>3</sup> See American Community Survey, 2013, Civilian Labor Force Datapoint, U.S. Census Bureau.

<sup>4</sup> In 2014, the average size of a Native Hawaiian family was 4.06, .45 larger than the state average. See Office of Hawaiian Affairs, Native Hawaiian Homeownership Ho ‘okahua Waiwai Fact Sheet Vol. 2016, No. 1, page 3, available at <http://www.oha.org/wp-content/uploads/NH-Homeownership-Fact-Sheet-2016.pdf>.

<sup>5</sup> In 2015, the median family income for Native Hawaiians was \$69,560 compared to state median family income of \$79,187. See Office of Hawaiian Affairs, 2010-2018 Strategic Results: Median Family Income Indicator Sheet 2015, available at <http://www.oha.org/wp-content/uploads/Hookahua-Waiwai-Indicator-Sheet.-MFI.-2015.pdf>.

<sup>6</sup> The Disparate Treatment of Native Hawaiians in the Criminal Justice System, see <http://www.oha.org/wp-content/uploads/2015/01/native-hawaiians-criminal-justice-system.pdf>.



# UNIVERSITY OF HAWAII SYSTEM

## Legislative Testimony

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Testimony Presented Before the  
House Committee on Water and Land  
March 15, 2017 at 10:30 a.m.

By  
Jan Gouveia, Vice President for Administration  
University of Hawai'i System

### SB 895 SD1 – RELATING TO CRIMINAL TRESPASS

Chair Yamane, Vice Chair Kong and members of the committee:

I am submitting written testimony on behalf of the University of Hawai'i in support of Senate Bill 895 SD1 – Relating to Criminal Trespass – which adds the offense of criminal trespass onto state lands to the penal code; and amends criminal trespass in the second degree to apply to government agricultural property regardless of whether it is fenced, enclosed, or otherwise secured.

The University of Hawai'i takes measures to ensure the safety of our students and employees but the university has experienced finding drug paraphernalia and other debris left behind by trespassers. This leads to potential health and safety concerns for not only the UH 'ohana, but the public in general. Current trespass laws apply to enclosed or fenced in areas, but it is not clear if these same trespass laws apply to unenclosed or unfenced areas, which includes many properties owned and managed by the University.

Thank you for the opportunity to testify on this bill.

DAVID Y. IGE  
GOVERNOR



KATHRYN S. MATAYOSHI  
SUPERINTENDENT

STATE OF HAWAII  
DEPARTMENT OF EDUCATION  
P.O. BOX 2360  
HONOLULU, HAWAII 96804

**LATE**

**Date:** 03/15/2017

**Time:** 10:30 AM

**Location:** 325

**Committee:** House Water & Land

**Department:** Education

**Person Testifying:** Kathryn S. Matayoshi, Superintendent of Education

**Title of Bill:** SB 0895, SD1 RELATING TO CRIMINAL TRESPASS.

**Purpose of Bill:** Establishes the offense of criminal trespass onto state lands to the penal code. Amends the offenses of criminal trespass in the second degree to apply to government agricultural property regardless of whether it is fenced, enclosed, or otherwise secured. Takes effect on 1/7/2059. (SD1)

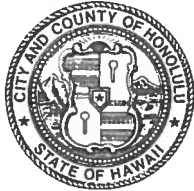
**Department's Position:**

The Department of Education supports the intent of SB 0895, SD1 establishing the offense of criminal trespass onto state lands to the penal code and amends the offenses of criminal trespass in the second degree to apply to government agricultural property regardless of whether it is fenced, enclosed, or otherwise secured. Adding the provision that criminal trespassing onto state lands is a petty misdemeanor adds the necessary impact needed to deter potential violations and punish suspects who violate the law. Furthermore, adding the requirement to post signs around designated state property pinpoints the demarcation of the property and provides clear warning to suspects that trespassing is strictly prohibited. Any preventative measures to reduce trespassing on school campuses will enhance the safety of our students, staff, and visitors.

Thank you for the opportunity to testify on this measure.

POLICE DEPARTMENT  
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813  
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulu.org



KIRK CALDWELL  
MAYOR

LOUIS M. KEALOHA  
CHIEF

CARY OKIMOTO  
JERRY INOUE  
DEPUTY CHIEFS

OUR REFERENCE DI-KP

March 15, 2017

The Honorable Ryan I. Yamane, Chair  
and Members  
Committee on Water and Land  
House of Representatives  
State Capitol, Room 420  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Yamane and Members:

Subject: Senate Bill 895 S.D. 1, Relating to Criminal Trespass

I am Darren Izumo, Major of the Wahiawa Police Station, District 2, Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports Senate Bill 895 S.D. 1, which adds the offense of criminal trespass onto state lands to the penal code.

The HPD believes that the passage of this bill will help clarify, for jurisdictional and enforcement purposes, the inclusion of state lands in the criminal trespass law (HRS 708-). The current law is unclear on unenclosed state lands such as open agricultural lands or areas under or around freeways.

The HPD requests that your committee support the passage of Senate Bill 895 S.D. 1, Relating to Criminal Trespass.

Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read "Darren Izumo", written over a horizontal line.

Darren Izumo, Major  
District 2

APPROVED BY:

A handwritten signature in black ink, appearing to read "Cary Okimoto", written over a horizontal line.

Cary Okimoto  
Acting Chief of Police



BEFORE THE COMMITTEE ON WATER AND LAND

March 15, 2017

Senate Bill No. 895 SD1  
Relating to Criminal Trespass

Aloha Chair Yamane, Vice Chair Kong and Members of the Committee:

KPAC submits the following testimony in strong opposition to SB 895 SD1. This bill adds the offense of criminal trespass onto lands held by the State including agricultural lands to the penal code.

The Ka Lāhui Hawai‘i Political Action Committee (KPAC) affirms and defends the Kanaka Maoli (aka Native Hawaiian) peoples' right to over 1.8 million acres of the former Crown and government lands of the Kingdom of Hawaii which were illegally transferred to the US and as a condition of Statehood was transferred to the State of Hawaii to be held as a public trust. Much of the lands currently held by DOT are public trust lands where the traditional, customary, and subsistence access and gathering rights of the Kanaka Maoli are reserved and have been since the time of the Mahele (1848) and Kuleana Act of 1850.

Kanaka Maoli rights to access lands for traditional, customary, and subsistence purposes are recognized in the Hawaii State Constitution (1978) Article XII Section 7 which gives the government a duty to “protect all rights customarily and traditionally exercised for subsistence, cultural and religious purposes.” The right to access lands was reconfirmed by the court in the *Kalipi vs. Hawaiian Trust* (1982) case. The cultural and customary access rights of Kanaka Maoli were further expanded in the courts in the *Paty vs. Pele Defense Fund* (1992) and in the *Public Access and Shoreline vs. Hawaii County Planning Commission* (1995) court decisions.

This bill criminalizes Kanaka Maoli rights to access public lands for traditional, customary, and subsistence purposes and provides no accommodations and protections for Kanaka Maoli and initially assumes guilt - putting the burden of legal protection of rights upon the Kanaka Maoli people. This coupled with the fact that Kanaka Maoli as a group are socio-economically challenged would give undue hardship and stress to the people of the ‘āina (land).

Respectfully Submitted,

Healani Sonoda-Pale  
KPAC Chair

# COMMUNITY ALLIANCE ON PRISONS

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

Phone/E-Mail: (808) 927-1214 / [kat.caphi@gmail.com](mailto:kat.caphi@gmail.com)



## COMMITTEE ON WATER AND LAND

Rep. Ryan Yamane, Chair

Rep. Sam Kong, Vice Chair

Wednesday, March 15, 2017

10:30 a.m.

Room 325

## **OPPOSITION TO SB 895 SD1 - CRIMINAL TRESPASS ON STATE DOT LANDS**

Aloha Chair Yamane, Vice Chair Kong and Members of the Committee!

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 approximately 6,000 Hawai'i individuals living behind bars or under the "care and custody" of the Department of Public Safety on any given day. 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.

SB 895 adds the offense of criminal trespass onto State Department of Transportation lands to the penal code. Community Alliance on Prisons is in opposition to this bill because it is incongruent with the state's homeless outreach. The SD1 clarifies that signs displayed on the unenclosed cultivated or uncultivated agricultural land shall be placed at reasonable intervals along the boundary line of the land and at roads and trails entering the land; requires the Attorney General to submit a written report to the Legislature prior to the regular sessions of 2018, 2019, and 2020, rather than only the Regular Session of 2018, regarding the extent to which the criminal trespassing laws have been utilized and defected the date.

The better way of addressing houseless people is through programs like LEAD - Law Enforcement Assisted Diversion that establishes a pre-arrest diversion pilot project for individuals with mental health or substance abuse challenges who allegedly commit nonviolent, non-felony offenses on state property.

It is common knowledge that houseless people congregate under bridges and this bill will open the door for even more houseless individuals to be imprisoned and have to bear the additional burden of a criminal record. We just participated in the Point in Time count of our houseless people and met so many nice and respectful people who are down on their luck. Please have a heart for the less fortunate.

Community Alliance on Prisons respectfully asks the committee to humanize, not criminalize some of the most vulnerable people in our communities. We, therefore respectfully ask the committee to hold this bill.

Mahalo for the opportunity to testify.

**kong2 - Crystal**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, March 10, 2017 4:39 PM  
**To:** waltestimony  
**Cc:** cathyg@animalrightshawaii.org  
**Subject:** \*Submitted testimony for SB895 on Mar 15, 2017 10:30AM\*

**SB895**

Submitted on: 3/10/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Cathy Goeggel	Animal Rights Hawai'i	Oppose	No

Comments:

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## kong2 - Crystal

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, March 11, 2017 1:01 PM  
**To:** waltestimony  
**Cc:** mendezj@hawaii.edu  
**Subject:** \*Submitted testimony for SB895 on Mar 15, 2017 10:30AM\*

### **SB895**

Submitted on: 3/11/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Javier Mendez-Alvarez	Individual	Support	No

### Comments:

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March 13, 2017

**TESTIMONY IN OPPOSITION TO SB895 RELATING TO CRIMINAL TRESPASS**  
**by Barbara Polk**

Dear Chair Ryan Yamane, Vice Chair Sam Kong and Members of the Committee on Water and Land,

SB 895 would criminalize remaining on State land when it is closed or otherwise restricted or under state highways. I strongly oppose this bill because it is yet another step in criminalizing homelessness. The State Legislature, over the past decade, has done little to provide housing or adequate shelter for people who cannot afford the high cost of rentals or home purchase in Hawaii. Yet these are continuing steps to see to it that those people cannot stay or sleep anywhere.

The sweeps of homeless people (as though they were trash to be swept up!) has been a failed strategy, only increasing the pain of the weakest members of our community rather than addressing their needs. While the human cost has been extremely high, as a taxpayer I am also concerned with the monetary cost of this failed policy. Many millions of dollars have been wasted over the past decade to arrest, jail prior to trial, and try those who do not have houses, and more recently, to set up procedures for recording confiscated property and providing a system for reclaiming it. Please do not waste more money pushing people around.

I have read the testimony presented at the Senate hearing on this bill by the Governor's Coordinator on Homelessness, seeking to reassure legislators that removal of homeless people is paired with support and assistance. However, we all know that there is not enough housing to place currently homeless people in. That testimony reads like a fairy tale, presenting aspirations as though they were successes. Surely assisting 290 Kakaako homeless individuals over a two to three year period to find "shelter" *or* permanent housing, makes little difference to the other 6000-12,000 homeless individuals in the State, and hardly justifies further limitations on where homeless individuals can stay.

Until such time as the state can provide permanent housing for those who are homeless, I urge you to defer SB 895.

## kong2 - Crystal

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 14, 2017 10:49 AM  
**To:** waltestimony  
**Cc:** raulg@nohea.com  
**Subject:** Submitted testimony for SB895 on Mar 15, 2017 10:30AM

### **SB895**

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Raul Nohea Goodness	Individual	Oppose	No

Comments: I oppose this bill strongly. I am Hawaiian and a voter in the State of Hawaii system. -The Hawaiian people has a right to over 1.8 million acres of the former Crown and government lands of the Kingdom of Hawaii which were illegally transferred to the US and as a condition of Statehood. - Much of the lands currently held by DOT are public trust lands where the traditional, customary, and subsistence access and gathering rights of the Hawaiian people are reserved and have been since the time of the Māhele (1848) and Kuleana Act of 1850. -Hawaiian rights to access lands for traditional, customary, and subsistence purposes are recognized in the Hawaii State Constitution (1978) Article XII Section 7 which gives the government a duty to “protect all rights customarily and traditionally exercised for subsistence, cultural and religious purposes.” -The right to access lands was reconfirmed by the court in the Kalipi vs. Hawaiian Trust (1982) case. -The cultural and customary access rights of the Hawaiian people were further expanded in the courts in the Paty vs. Pele Defense Fund (1992) and in the Public Access and Shoreline vs. Hawaii County Planning Commission (1995) court decisions. -This bill criminalizes Hawaiian rights to access public lands for traditional, customary, and subsistence purposes and provides no accommodations and protections for Hawaiians and initially assumes guilt -putting the burden of legal protection of rights upon the Hawaiian people. -This coupled with the fact that the Hawaiian people as a group are socio-economically challenged would give undue hardship and stress to the people of the ‘āina (land).

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## kong2 - Crystal

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 14, 2017 11:24 AM  
**To:** waltestimony  
**Cc:** mmcardle19@aol.com  
**Subject:** Submitted testimony for SB895 on Mar 15, 2017 10:30AM

### **SB895**

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Peggy McArdle	Individual	Oppose	No

Comments: Aloha. Please oppose SB 895 This measure would criminalize Native Hawaiians who practice customary and traditional gathering rights protected under the Hawaii State Constitution on state land. Move on from the plantation mentality and protect Hawaii's indigenous people's rights.

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**kong2 - Crystal**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 14, 2017 11:36 AM  
**To:** waltestimony  
**Cc:** jennymaliaHUDSON@yahoo.com  
**Subject:** \*Submitted testimony for SB895 on Mar 15, 2017 10:30AM\*

**SB895**

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
jenny hudson	Individual	Oppose	No

Comments:

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## kong2 - Crystal

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 14, 2017 11:58 AM  
**To:** waltestimony  
**Cc:** noelopes4625@gmail.com  
**Subject:** Submitted testimony for SB895 on Mar 15, 2017 10:30AM

### **SB895**

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
noe lopes	Individual	Oppose	No

Comments: I will never give up my Birthrights, it's our resources, our lifestyle, our birthright! To continue to simply live....I Oposse SB895

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## kong2 - Crystal

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 14, 2017 12:17 PM  
**To:** waltestimony  
**Cc:** pratt.ronni@yahoo.com  
**Subject:** Submitted testimony for SB895 on Mar 15, 2017 10:30AM

### **SB895**

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Ronni Pratt	Individual	Oppose	No

Comments: Aloha Senators, I am asking you to please OPPOSE SB895 which adds the offense of criminal trespass onto State Department of Transportation lands to the penal code which is punishable by up to 30 DAYS IN JAIL. HB1142 is unconstitutional and violates Hawaiian rights to access and gather their land for traditional, customary and subsistence purposes recognized in the Hawaii State Constitution Article XII Section 7 and in place since the time of the Māhele in 1848 and the Kuleana Act of 1850. The Hawaiian people have the rights to over 1.8 million acres of the former Crown and government lands of the Kingdom of Hawaii which were illegally transferred to the US and as a condition of Statehood. The right to access lands was reconfirmed by the court in the Kalipi vs. Hawaiian Trust (1982) case. The cultural and customary access rights of the Hawaiian people were further expanded in the courts in the Paty vs. Pele Defense Fund (1992) and in the Public Access and Shoreline vs. Hawaii County Planning Commission (1995) court decisions. This bill criminalizes Hawaiian rights to access public lands for traditional, customary, and subsistence purposes and provides no accommodations and protections for Hawaiians and initially assumes guilt putting the burden of legal protection of rights upon the Hawaiian people. This coupled with the fact that the Hawaiian people as a group are socio-economically challenged would give undue hardship and stress to the people of the 'āina. I urge you to strongly oppose SB895 and similar legislation which criminalizes the rights of Hawaii. Mahalo.

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## kong2 - Crystal

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 14, 2017 1:28 PM  
**To:** waltestimony  
**Cc:** hapagurl7669@yahoo.com  
**Subject:** \*Submitted testimony for SB895 on Mar 15, 2017 10:30AM\*

### **SB895**

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Theodora Akau Gaspar	Individual	Oppose	No

### Comments:

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## kong2 - Crystal

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, March 13, 2017 4:32 PM  
**To:** waltestimony  
**Cc:** burgharc@gmail.com  
**Subject:** Submitted testimony for SB895 on Mar 15, 2017 10:30AM

### **SB895**

Submitted on: 3/13/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
cheryl	Individual	Oppose	No

Comments: State lands belong to whom really? Where will you decide to trespass people and for what reasons? This seems to overstep to me and determining who determines the trespass concerns me.

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**kong2 - Crystal**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 14, 2017 2:24 PM  
**To:** waltestimony  
**Cc:** jennahia@yahoo.com  
**Subject:** Submitted testimony for SB895 on Mar 15, 2017 10:30AM

**SB895**

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jennifer Noelani Ahia	Individual	Oppose	No

Comments: I strongly oppose this bill. As Kanaka Maoli, We have the right to gather to practice and protect our culture and spirituality and this bill is in direct conflict of our rights.

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## kong2 - Crystal

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 14, 2017 2:40 PM  
**To:** waltestimony  
**Cc:** akamaimom@gmail.com  
**Subject:** Submitted testimony for SB895 on Mar 15, 2017 10:30AM

### **SB895**

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Felicia Cowden	Individual	Oppose	No

Comments: Please OPPOSE this SB895 bill for criminal trespass on public lands, agriculture lands or otherwise. Public means for the people. Houselessness is a chronic problem. We do not effectively solve it by creating more zones to not allow people to congregate. That is deflecting the problem. We have a crisis. Incrementally eliminating places for people to be able to stand, sit or lie down is heartless and is cruelly attacking the vulnerable. We need to address the jugular of the problem and that being that land and housing is available to the highest bidder from anywhere in the world rather than the citizens. Broader state policies that welcome rather than discourage external business investments marginalize the people of Hawaii to be low-level participants in a global economy. That is the real problem, not the people sleeping on the streets.

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## kong2 - Crystal

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 14, 2017 2:49 PM  
**To:** waltestimony  
**Cc:** shannonkona@gmail.com  
**Subject:** Submitted testimony for SB895 on Mar 15, 2017 10:30AM

### **SB895**

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Shannon Rudolph	Individual	Oppose	No

Comments: STRONGLY OPPOSE!!! As a 34 year Hawai'i resident, I agree with OHA, (SB895)and companion,HB1142 are unfair to the Hawaiian community and criminalize them on their own lands. Enough! "The Office of Hawaiian Affairs OPPOSES HB1142. HB1142 would further criminalize the homeless community, many of whom may be OHA beneficiaries, without providing any substantive relief to the homelessness crisis. HB1142 raises additional concerns regarding potential impacts to Native Hawaiians' ability to exercise their constitutionally protected traditional and customary access and gathering rights."

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## kong2 - Crystal

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 14, 2017 2:54 PM  
**To:** waltestimony  
**Cc:** panther\_dave@yahoo.com  
**Subject:** Submitted testimony for SB895 on Mar 15, 2017 10:30AM

### **SB895**

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dave Kisor	Individual	Oppose	No

Comments: To criminalize Hawaiians for being on their own land by classifying them as trespassers is unconscionable. The charge of criminal trespass goes way beyond the pale and had to been generated by corporations / industry who don't want any indigenous opposition. This is just plain wrong and a prime example of how government is used against those it is supposed to protect. It's supposed to protect us from the moneyed interests, but in reality it usually works backwards against us.

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## kong2 - Crystal

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 14, 2017 3:24 PM  
**To:** waltestimony  
**Cc:** lanarobbins@gmail.com  
**Subject:** Submitted testimony for SB895 on Mar 15, 2017 10:30AM

### **SB895**

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lana Ululani Robbins	Individual	Oppose	No

Comments: While I support the Thirty Meter Telescope which will benefit Hawaiian children who are interested in science and/or astronomy, this bill solely targets and singles out those who don't support it. This bill has bad intentions. No matter what your opinion is about the TMT no one should have their right to peacefully protest infringed upon which this bill intends to do. I strongly and adamantly oppose this bill Senate Bill 895. They have the right to peacefully protest. Aloha.

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**To:** waltestimony  
**Cc:** joeritter3@yahoo.com  
**Subject:** \*Submitted testimony for SB895 on Mar 15, 2017 10:30AM\*

### **SB895**

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dr. Joe Ritter	Individual	Oppose	No

### Comments:

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**To:** waltestimony  
**Cc:** slwsurfing@yahoo.com  
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**SB895**

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
sharon	Individual	Oppose	No

Comments: Protect Native rights ~ please!

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**To:** waltestimony  
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### **SB895**

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Chris Mentzel	Individual	Oppose	No

#### Comments:

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**Sent:** Tuesday, March 14, 2017 3:51 PM  
**To:** waltestimony  
**Cc:** paka@sandwichisles.net  
**Subject:** Submitted testimony for SB895 on Mar 15, 2017 10:30AM

### **SB895**

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Isaac Paka Harp	Individual	Comments Only	No

Comments: I highly encourage each and every decision maker in the Hawaii State Legislature to avoid potential charges of war crimes by avoiding legislation that could infringe on the inherent rights of Hawaiians regardless of race. No intelligent person who has lived in Hawaii for more than a few years is ignorant to the fact that Hawaii is under a prolonged unlawful United States occupation, and that the United States is currently in violation of the norms of international laws of occupation, which dictates the application of the occupied country's laws. The State of Hawaii was unlawfully established in 1959 under the United States occupation and is equally responsible for adhering to the norms of international laws of occupation. I encourage you to protect yourself and your memory by opposing any and all legislation that could place restrictions on Hawaiians to access and/or be present upon any lands that were never lawfully ceded to the United States by the Hawaiian Kingdom. This includes lands that the United States pretended to cede to the unlawfully created State of Hawaii as part of the fake Statehood agreement. Mahalo.

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**To:** waltestimony  
**Cc:** Terez.amato@yahoo.com  
**Subject:** \*Submitted testimony for SB895 on Mar 15, 2017 10:30AM\*

**SB895**

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Terez Amato Lindsey	Individual	Oppose	No

Comments:

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**Sent:** Tuesday, March 14, 2017 4:04 PM  
**To:** waltestimony  
**Cc:** frankiestapleton@gmail.com  
**Subject:** Submitted testimony for SB895 on Mar 15, 2017 10:30AM

### **SB895**

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Frances K. (Frankie) Stapleton	Individual	Oppose	No

Comments: Aloha e Chair Yamane and members of the House Committee on Water and Land. My name is Frances K. (Frankie) Stapleton, a 47-year resident of the State of Hawaii, living at 14-803 Crystal Circle, Pahoa HI 96778. I've spent most of my adult life here in Hawaii as a journalist and school teacher, now retired. I am testifying in opposition to SB 895 and HB 1029, HB 1142 as I feel all versions unnecessarily criminalize not just homeless people but the public at large. I have a home but being older now and slightly disabled with knee and ankle problems, going on excursions or just walking my leashed puppy in communities around the state, I have sometimes just needed to sit somewhere and rest. And there are lots of senior citizens, parents with young children, disabled people in wheelchairs or with walkers, just needing to rest. I can't believe the Aloha State is trying to criminalize our pathways. Whatever happened to the Law of the Splintered Paddle? Have you legislators lost all touch with the common people?... that you don't realize every citizen in the state is a potential pedestrian and not everyone travels in automotive vehicles? Nor can we run round looking for signs w/2-inch letters telling us we can't walk there, stand there or sit down! And this bill just adds to the burden of the homeless, ever increasing in number! For shame! Please be pono and vote against HB1029 and HB1142. Respectfully submitted, Frankie Stapleton

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**March 14, 2017**

**Testimony of James Koshiba**

**RE: Oppose SB895**

Chair Yamane, Vice Chair Kong, and Committee Members:

I have spent nearly two years studying homelessness, primarily from a street perspective. Since the summer of 2015, I've regularly spent time in homeless camps on Oahu, built relationships with homeless individuals, interviewed more than 50 individuals in-depth, and shadowed folks through their interactions with caseworkers, counselors, police, probation and parole officers, the courts, public assistance and social service providers. I have also spent time examining local data and national research on homelessness.

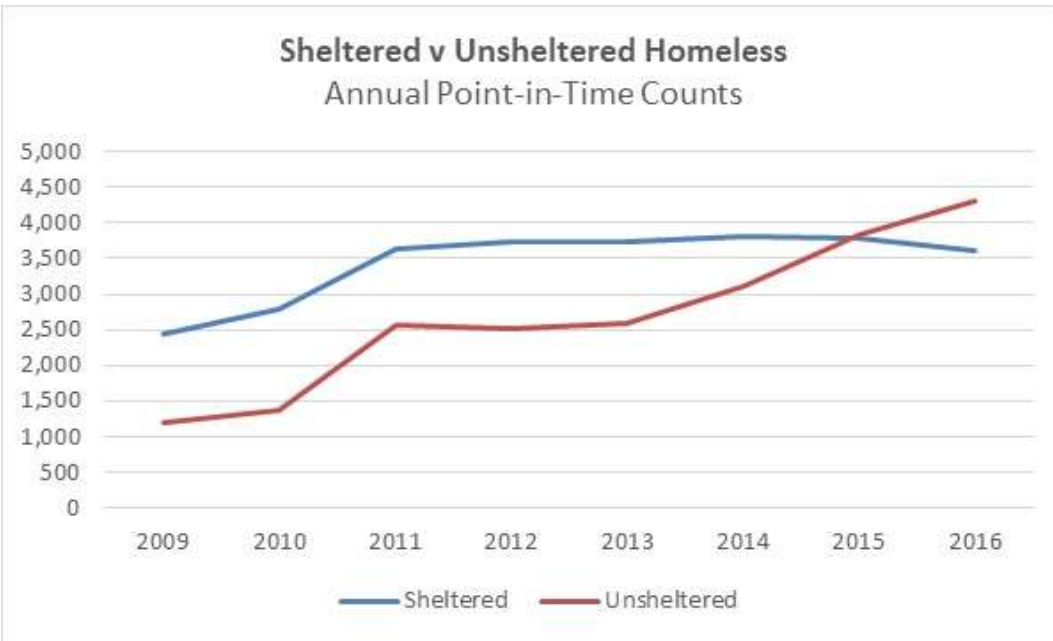
I am writing to oppose SB895. As I read it, the bill would expand the policy of "compassionate disruption" which began with City "sit-lie bans" in urban Honolulu. SB895 would now, "establish a new criminal trespass offense to protect against people remaining on improved state land...or on or under state highways" as well as "government agricultural lands that are not fenced, enclosed, or secured..."

Per the bill, *"Improved state land' means any state land, including but not limited to harbors under the care and control of the department of transportation under chapter 266, and small boat harbors under the care and control of the department of land and natural resources under chapter 200, **upon which there is improvement, including any structure, building, or facility**; or alteration of the land by grading, dredging, or mining that would cause a permanent change in the land or that would change the basic natural condition of the land."* (emphasis added)

This language appears to outlaw the current homeless camp at the Waianae Small Boat Harbor, also known as Pu`u Honua O Waianae. A Tax Map Key search finds that the camp currently sits on parcel TMK 85002011 which lists "land value" of \$585,000 and "building value" of \$811,000. The existence of a "building" would seem to qualify the parcel as "improved state land." The bill would also outlaw other known homeless camps under state highways.

If the pattern of "compassionate disruption" holds, the passage of this law will be followed by enforcement via criminal trespass citations, and then "sweeps" to remove illegal campers from the designated areas. The stated intent of "compassionate disruption" is that by repeatedly disrupting people's lives on the street, they will choose to move into temporary homeless shelters where they can then access social services and get assistance in finding permanent housing.

Over the past several years, compassionate disruption has proven to be a failure. Our past experience and historical PIT Count data illustrate that criminalizing homelessness in specific areas is unlikely to move people into shelters, as intended. Over the past 5 years, as enforcement and sweeps have intensified, the number of unsheltered homeless has **increased** steadily, while the number of sheltered homeless has **declined** slightly – this despite the fact that excess shelter capacity exists.



Homeless people choose not to go into shelters for a variety of reasons. Many find the rules of a shelter difficult to follow and have been kicked out of shelters in the past. Sudden eviction from a shelter can make their lives less predictable than staying in a homeless camp. Some report having belongings stolen, especially from shelters which require them to leave the shelter and their belongings behind during daytime working hours. Others will not go into a shelter because they cannot take their pet with them – for them, a pet may be the closest thing to family they’ve ever had, and they will not abandon their pet for temporary shelter. Finally, shelters are temporary (with stays of a few weeks or months permitted) and the chances of permanent housing afterward are slim. Therefore, many ask, “why go into a shelter and have to jump through all those hoops when I’ll just be back on the street eventually anyway?”

Criminalizing homeless camping not only fails to address homelessness, it exacerbates the conditions and crises that keep people homeless. Citations and “sweeps” of areas where homeless people are camped disrupts the relationships and safety which are necessary preconditions for people to build a better life for themselves and their keiki.

In a camp, people know and trust their neighbors, and therefore feel safe to leave their tents to engage in activities that can help them function in and contribute to society. They have people to look out for them, their children, and their essential belongings.

After a sweep, people are displaced from trusted friends, and may be hesitant to leave their tent and their belongings for fear of theft or violence. Here are some specific ways that camps can help create conditions for progress in the lives of homeless people:

- In camp, people can keep essential belongings like ID and vital records safe and secure – records which are needed to qualify for any type of public assistance (including housing), secure

employment, or enroll in school. During or following sweeps, such records are often lost, destroyed, or stolen.

- In camp, “housed” family members can find them, visit them, and maintain relationships. These family connections are often what get people off the street (e.g., when an extended family member can take someone in). Sweeping people around makes it hard to stay connected to family and friends.
- In camp, outreach workers and case managers know where to find their clients and can maintain relationships with them. If people are scattered, these connections can be lost. A trusted relationship with a case/outreach worker can be a critical link to assistance, including housing.
- In camp, people feel safe in leaving their tents and belongings to go to work or actively seek employment (many homeless are employed; some work multiple jobs). Being displaced and relocated can make it difficult to keep a regular work schedule, and being surrounded by new people after a sweep makes folks reluctant to leave their tents or belongings.
- In camp, children can go to school regularly and keep up with class work. They are not forced to change schools when they move between shelters or are swept to a different area. The move to a new school in the middle of the school year disrupts learning, as well as social and academic development.
- In camp, people with injuries or illnesses have a secure place to rest and recover. They feel safe enough to leave their tent to attend follow-up visits with doctors, attend PT, or refill prescriptions, in order to help them fully recover. If they are scattered by a sweeps, and no longer know the people around them, they may be hesitant to leave their tent and their belongings to pursue follow-up treatment and their conditions may worsen.

All of these assets are lost in the case of a sweep, regardless of how much notice is provided and despite the efforts of government agencies to store the personal property of homeless individuals who are swept. Furthermore, the citations and fines (which cannot be paid by most homeless folks) set people further back. Multiple citations and missed court dates (it can be hard to keep track of paperwork and appointments after a sweep) mean that bench warrants are often issued, which eventually results in jail time. All of this puts the hope of a stable life further out of reach for people on the street.

A better approach would be to establish areas for supportive camping, where people can lawfully congregate, build community, and then access services (which would need to meet people where they are camped) from a position of stability and strength versus disruption, distrust, and crisis. Camps like Puu Honua O Waianae offer many lessons and assets upon which we can build to address homelessness in a lasting way.

For these reasons, I urge the committee to hold SB895.

Mahalo for your consideration.

**kong2 - Crystal**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 14, 2017 4:10 PM  
**To:** waltestimony  
**Cc:** kaleo9@hawaii.edu  
**Subject:** Submitted testimony for SB895 on Mar 15, 2017 10:30AM

**SB895**

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kaleo Keliikoa	Individual	Oppose	No

Comments: The state does not own these lands, these lands belongs to the aboriginal people of Hawai'i.

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**Sent:** Tuesday, March 14, 2017 4:46 PM  
**To:** waltestimony  
**Cc:** suzannakinsey@gmail.com  
**Subject:** Submitted testimony for SB895 on Mar 15, 2017 10:30AM



**SB895**

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Suzanna Kinsey	Individual	Oppose	No

Comments: The state lands often include access to nature trails. We need more access to nature and it's healing aspects. Please do not criminalize access to nature. Thank you.

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**Cc:** maha\_oi@hotmail.com  
**Subject:** Submitted testimony for SB895 on Mar 15, 2017 10:30AM



**SB895**

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Tammy Harp	Individual	Oppose	No

Comments: Please disregard my previous submission on SB895 I did not want to submit only comments as was the case when I submitted my initial opposition to SB895. I oppose SB895. I am hoping that this is not an intent to barricade the people from upcoming unforeseen situation(s) that is opposite of the peoples' concerns. Meaning, TMT/TIO/UH/DLNR, military live fire training land and sea areas, poisoning yours as well as our ohana with pesticides/genetic engineering in agricultural produce/products for human consumption or hooved, aerial shooting of potential food source and such. You folks are public servants and stewards making decisions on our lands, our seas, and our sky. Your ohana(s) live in these islands too; don't they? They don't care what you folks do? Mahalo.

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**Sent:** Tuesday, March 14, 2017 5:10 PM  
**To:** waltestimony  
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**Subject:** \*Submitted testimony for SB895 on Mar 15, 2017 10:30AM\*



**SB895**

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Valerie Barnes	Individual	Oppose	No

Comments:

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**Sent:** Tuesday, March 14, 2017 5:19 PM  
**To:** waltestimony  
**Cc:** teresamlee.51@gmail.com  
**Subject:** Submitted testimony for SB895 on Mar 15, 2017 10:30AM



**SB895**

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Teresa L. Nakama	Individual	Oppose	No

Comments: We strongly oppose SB895...we live on an Island that land is precious to all islanders and we travel North to South and West to East and all State lands are public lands not private property of the State. Our Constitutional rights to gather and religious rights will be violated by this proposed bill. OPPOSE SB895!!!

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**To:** waltestimony  
**Cc:** puaena.n.ahn@gmail.com  
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**SB895**

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Pua'ena N. Ahn	Individual	Oppose	No

Comments: This bill would violate the Kanawai Mamalahoe, which is enshrined one Article 9 Section 10 of the state of Hawai'i constitution. Would lead to an unfair targeting of the homeless and would interfere with the traditional access and cultural practices of Kanaka Maoli.

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**Sent:** Tuesday, March 14, 2017 5:39 PM  
**To:** waltestimony  
**Cc:** tulsigreenlee@icloud.com  
**Subject:** Submitted testimony for SB895 on Mar 15, 2017 10:30AM



**SB895**

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Tulsi Greenlee	Individual	Oppose	No

Comments: I believe this will hurt native Hawaiians and their right to pray and gather. As well as hurting homeless people. Please oppose this bill. Thank you Tulsi

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**To:** waltestimony  
**Cc:** bob-marion@hawaiiantel.net  
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**SB895**

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Marion McHenry	Individual	Oppose	No

Comments: I oppose this bill because it will criminalize Hawaiian traditional practitioners on State land, much which came from crown lands. We must rethink this!

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**To:** waltestimony  
**Cc:** aniko65@live.com  
**Subject:** Submitted testimony for SB895 on Mar 15, 2017 10:30AM



**SB895**

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Avi Okin	Individual	Oppose	No

Comments: Too much criminalization when aide and help are needed.

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**SB895**

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Pono Kealoha	Individual	Oppose	No

Comments:

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**Sent:** Tuesday, March 14, 2017 9:25 PM  
**To:** waltestimony  
**Cc:** aashishhemrajani@yahoo.com  
**Subject:** Submitted testimony for SB895 on Mar 15, 2017 10:30AM



**SB895**

Submitted on: 3/14/2017  
Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Aashish Hemrajani	Individual	Oppose	No

Comments: This will disproportionately affect homeless people, who are already being shuffled from city to state lands and back. We have tried criminalizing homelessness, we've spent millions on it already. There are more homeless people now than there were before, and they are in worse shape as a result of state violence. Please focus on effective, ethical solutions instead of doing more harm. This measure cannot be justified given the lack of available housing units and shelter beds.

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**Sent:** Tuesday, March 14, 2017 9:42 PM  
**To:** waltestimony  
**Cc:** bawoof1@gmail.com  
**Subject:** Submitted testimony for SB895 on Mar 15, 2017 10:30AM



**SB895**

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Brad Wood-Ferren	Individual	Oppose	No

Comments: I Oppose this Bill Hawaiians have Rights to All State Lands

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**kong2 - Crystal**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 14, 2017 9:52 PM  
**To:** waltestimony  
**Cc:** keahipua@yahoo.com  
**Subject:** Submitted testimony for SB895 on Mar 15, 2017 10:30AM



**SB895**

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Joy Mills	Individual	Oppose	No

Comments: As a Native Hawaiian I Oppose this bill. I believe it takes away the rights of Hawaiians and Hawaiian practitioners to gather and practice our culture . It is unlawful and bias for the State to cause such prejudous towards Native Hawaiians . Please do not allow this bill to continue . Mahalo

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 14, 2017 10:06 PM  
**To:** waltestimony  
**Cc:** 333cory@gmail.com  
**Subject:** Submitted testimony for SB895 on Mar 15, 2017 10:30AM

**LATE**

**SB895**

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Cory Harden	Individual	Oppose	No

Comments: Aloha legislators, Please oppose this bill. It may criminalize homeless people and curtail Native Hawaiians' constitutionally protected traditional and customary access and gathering rights. mahalo, Cory Harden

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 14, 2017 10:16 PM  
**To:** waltestimony  
**Cc:** keomaivg@gmail.com  
**Subject:** Submitted testimony for SB895 on Mar 15, 2017 10:30AM

**LATE**

### **SB895**

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kealoha Pisciotta	Individual	Oppose	No

Comments: Aloha Pumehana Lawmakers, I submit this testimony in strong opposition to SB895, that attempts to criminal Homelessness. Homelessness is not a crime and should never be considered a crime--anywhere ever. How can we the people of Hawai'i even consider such a position? This is the home of Aloha-that is deep compassion and protections of the highest values of Humankind and that would specifically include care for those who cannot or are challenged to care for themselves. That is not a crime and it never should be. We as a state and citizens of Hawai'i and the World must seek always to raise the standard of Aloha for all and it must start here with you who have been tasked with making Kanawai (law). I ask that you invoke the Aloha Spirit Law (HRS 5-7.5 Aloha Spirit Law) find it within you heart to find compassion for those less fortunate and to Lift us all out of the darkness of fear and loathing. In Aloha I remain, Kealoha Pisciotta

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**kong2 - Crystal**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 14, 2017 10:32 PM  
**To:** waltestimony  
**Cc:** mmartin96825@gmail.com  
**Subject:** \*Submitted testimony for SB895 on Mar 15, 2017 10:30AM\*

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**SB895**

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Bonnie M. Livingston	Individual	Support	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 14, 2017 10:57 PM  
**To:** waltestimony  
**Cc:** cushmanzoo@hawaiiintel.net  
**Subject:** Submitted testimony for SB895 on Mar 15, 2017 10:30AM



**SB895**

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Sharron Cushman	Individual	Oppose	No

Comments: I strongly oppose SB895 bill.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 14, 2017 11:06 PM  
**To:** waltestimony  
**Cc:** thayne.currie@gmail.com  
**Subject:** Submitted testimony for SB895 on Mar 15, 2017 10:30AM



### **SB895**

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Thayne Currie	Individual	Support	No

Comments: This bill amends HRS 708 to include as committing a criminal trespass offense persons "remaining on improved state land when it is closed or otherwise restricted, or on or under state highways." While currently trespass on state roadways is not explicitly identified in HRS 708, other states have similar laws. I support this bill (and a similar one, HB 1142) primarily on the basis of public safety and secondarily on the basis of enforcing the rule of law. The state has jurisdiction over many dangerous roadways on the Big Island, including (parts of) the Mauna Kea Access Road among many others. We were reminded of this danger recently with back-to-back accidents (including at least one fatality) just south of the Visitor's Center, a tragedy that could have been made far worse had it occurred during a time of heavy foot traffic across the access road. Blocking roadways also impedes the response to medical emergencies. In the recent past, these dangerous situations have happened with protestors on Mauna Kea. They were not just being present on the road and exercising their First Amendment rights to protest. Instead, they were illegally, physically, and dangerously blocking access. The passage of this bill empowers law enforcement to better guarantee safety on public roadways that Hawaii's residents travel upon and fund and uphold the rule of law. Some have criticized this bill as a means to harass/target the homeless population or infringe upon Native Hawaiian rights. The committee should take these concerns very seriously. However, I commend the bill's authors for emphasizing that the bill's intent is to not abridge the rights of homeless persons. I suggest that the bill further emphasize, in no uncertain terms, that it is not intended (and cannot be used) to infringe upon the constitutionally protected customary rights afforded to Native Hawaiians. The ACLU appears to misunderstand the bill's intent, and thus clarifying its safeguarding of rights is helpful. This bill does not infringe upon freedom of assembly or freedom of religion. Rather, (like HB 1142) it is clearly intended to give more teeth to the law enforcement in dealing with people engaging in activities that defy the rule of law and endanger public safety. Thank you for this opportunity to submit comments on this bill.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 14, 2017 11:29 PM  
**To:** waltestimony  
**Cc:** johnnar55@gmail.com  
**Subject:** Submitted testimony for SB895 on Mar 15, 2017 10:30AM



**SB895**

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
johnna rapozo	Individual	Oppose	No

Comments: Oppose

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**Testimony of Laulani Teale, MPH**  
**in OPPOSITION to SB 895 SD1**, Relating to the criminal trespass  
**COMMITTEE ON WATER AND LAND**

Rep. Ryan I. Yamane, Chair, Rep. Sam Satoru Kong, Vice Chair  
Rep. Ty J.K. Cullen, Rep. Nicole E. Lowen, Rep. Cindy Evans, Rep. Calvin K.Y. Say,  
Rep. Linda Ichiyama, Rep. Beth Fukumoto, Rep. Chris Lee

Thursday, March 15, 2017 10:30 AM Conference Room 325

**LATE**

Aloha and mahalo for this opportunity to testify.

As a Public Health professional, trained traditional La‘au Lapa‘au, and an advocate for Kanaka Maoli rights, I must very strongly oppose this measure.

My traditional gathering practices would be severely impacted by SB 895 in any form.

Amending the offense of criminal trespass in the second degree “to include government agricultural lands that are not fenced, enclosed, or secured in a manner designed to exclude intruders when there is appropriate signage giving notice that the property is government property and trespassing is prohibited” would exclude me from many places of medicinal gathering and practice, including many little-recognized sacred sites.

**Please note that I never get a permit to do any of my customary practices.** I cannot. This goes against the kapu that I was given, and must abide by.

The lands of Hawai‘i have always been cared for by Nā Kānaka. If they are to flourish in future generations, they must continue to be. Cutting off that integral relationship is hewa (wrong) and must not occur.

I also oppose this bill because to me, it represents further persecution of the houseless that I find unacceptable. If people are in these areas, it is because they have nowhere to go. Many are there because they were kicked off the streets. Yes, we need solutions – solutions that are in line with Kānāwai Māmalahoe and universal Human Rights. I have attached these for reference.

Please respect and protect all customary traditions.

Mahalo nui loa once again for the opportunity to testify before this committee.

Aloha me ka ‘oia‘i‘o,



Laulani Teale, MPH

# Kānāwai Māmalahoe



E nā kānaka, E mālama ‘oukou i ke akua A e mālama ho‘i ke kanaka nui a me kanaka iki; E hele ka ‘elemakule, ka luahine, a me ke kama Amoe i ke ala ‘A‘ohe mea nāna e ho‘opilikia. Hewa nō, make.

—Kamehameha I

*O people, Honor and care for God; Respect the rights of powerful and humble people as the same; May our aged, our women, and our children Go forth and lay upon any path or roadside Without being harmed or troubled. Disobey, and die.*

[http://www.capitol.hawaii.gov/hrscurrent/Vol01\\_Ch0001-0042F/05-Const/CONST\\_0009-0010.htm](http://www.capitol.hawaii.gov/hrscurrent/Vol01_Ch0001-0042F/05-Const/CONST_0009-0010.htm)

## **PUBLIC SAFETY**

**Section 10.** The law of the splintered paddle, mamala-hoe kanawai, decreed by Kamehameha I--Let every elderly person, woman and child lie by the roadside in safety--shall be a unique and living symbol of the State's concern for public safety.

The State shall have the power to provide for the safety of the people from crimes against persons and property. [Add Const Con 1978 and election Nov 7, 1978]

## **Law Journals and Reviews**

Ke Kanawai Mamalahoe: Equality in Our Splintered Profession. 33 UH L. Rev. 249 (2010).

See Also: <https://www.youtube.com/watch?v=x3jSLdmgKWU>



# Universal Declaration of Human Rights

---

## Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, Therefore THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

## Article 1.

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

## **Article 2.**

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

## **Article 3.**

Everyone has the right to life, liberty and security of person.

## **Article 4.**

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

## **Article 5.**

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

## **Article 6.**

Everyone has the right to recognition everywhere as a person before the law.

## **Article 7.**

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

## **Article 8.**

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

## **Article 9.**

No one shall be subjected to arbitrary arrest, detention or exile.

## **Article 10.**

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

### **Article 11.**

(1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

### **Article 12.**

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

### **Article 13.**

(1) Everyone has the right to freedom of movement and residence within the borders of each state.

(2) Everyone has the right to leave any country, including his own, and to return to his country.

### **Article 14.**

(1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.

(2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

### **Article 15.**

(1) Everyone has the right to a nationality.

(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

### **Article 16.**

(1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

(2) Marriage shall be entered into only with the free and full consent of the intending spouses.

(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

## **Article 17.**

- (1) Everyone has the right to own property alone as well as in association with others.
- (2) No one shall be arbitrarily deprived of his property.

## **Article 18.**

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

## **Article 19.**

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

## **Article 20.**

- (1) Everyone has the right to freedom of peaceful assembly and association.
- (2) No one may be compelled to belong to an association.

## **Article 21.**

- (1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
- (2) Everyone has the right of equal access to public service in his country.
- (3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

## **Article 22.**

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

## **Article 23.**

- (1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

- (2) Everyone, without any discrimination, has the right to equal pay for equal work.
- (3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
- (4) Everyone has the right to form and to join trade unions for the protection of his interests.

## **Article 24.**

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

## **Article 25.**

- (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
- (2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

## **Article 26.**

- (1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
- (2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
- (3) Parents have a prior right to choose the kind of education that shall be given to their children.

## **Article 27.**

- (1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
- (2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

## **Article 28.**

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

### **Article 29.**

(1) Everyone has duties to the community in which alone the free and full development of his personality is possible.

(2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

(3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

### **Article 30.**

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

<http://www.un.org/en/universal-declaration-human-rights/>

**kong2 - Crystal**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 14, 2017 11:51 PM  
**To:** waltestimony  
**Cc:** naniomerod1@gmail.com  
**Subject:** \*Submitted testimony for SB895 on Mar 15, 2017 10:30AM\*



**SB895**

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
MaryAnn Omerod	Individual	Oppose	No

Comments:

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**kong2 - Crystal**

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**Sent:** Wednesday, March 15, 2017 7:19 AM  
**To:** waltestimony  
**Cc:** rfreitasjr@hotmail.com  
**Subject:** Submitted testimony for SB895 on Mar 15, 2017 10:30AM



**SB895**

Submitted on: 3/15/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Robert Freitas Jr.	Individual	Oppose	No

Comments: I oppose this bill!!!

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 15, 2017 9:36 AM  
**To:** waltestimony  
**Cc:** k21loa@gmail.com  
**Subject:** \*Submitted testimony for SB895 on Mar 15, 2017 10:30AM\*



**SB895**

Submitted on: 3/15/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Pi'ikea Loa	Individual	Oppose	No

Comments:

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**Sent:** Wednesday, March 15, 2017 10:54 AM  
**To:** waltestimony  
**Cc:** blawaiianlvr@icloud.com  
**Subject:** Submitted testimony for SB895 on Mar 15, 2017 10:30AM



**SB895**

Submitted on: 3/15/2017  
Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
De MONT R. D. CONNER	Ho'omana Pono, LLC.	Oppose	Yes

Comments: We STRONGLY OPPOSE this bill. We are a native Hawaiian advocacy corporation operating out of the Wai`anae Coast. As it is indisputable that the majority of our homeless population is native Hawaiian, we oppose legislation that seeks to criminalize our homeless population. This bill is worst than the City's "sit-lie" ban, since now you want to actually fill our jails & prisons with people who are less fortunate than you are in a position of wealth & power. This is a BULLY bill, created by those who "have" against those who "have not"! This is HEWALOA, violates the ancient native Hawaiian law: Māmalahoe Kanawai or the law of the splintered paddle, which this State adopted into the Constitution & which you have sworn to uphold. We ask that you hold or defer this bill.

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**kong2 - Crystal**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 15, 2017 11:12 AM  
**To:** waltestimony  
**Cc:** pratt.kauai@gmail.com  
**Subject:** Submitted testimony for SB895 on Mar 15, 2017 10:30AM



**SB895**

Submitted on: 3/15/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kauionalani Pratt-Aquino	PRATT LAW HAWAII, LLC	Oppose	No

Comments: This bill is overbroad and vague. The intent of this measure is to target Native Hawaiian cultural practitioners. The state has a fiduciary duty to protect these rights. Please do not support this measure.

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**LATE**

**LATE**

Committee: Committee on Water & Land  
Hearing Date/Time: Wednesday, March 15, 2017 at 10:30 a.m.  
Place: Conference Room 325  
Re: Testimony of the ACLU of Hawaii in Opposition to S.B. 895, S.D. 1, Relating to Criminal Trespass

Dear Chair Yamane, Vice Chair Kong, and Members of the Committee:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in opposition to S.B. 895, S.D. 1, which seeks to add an additional criminal trespass offense (“criminal trespass onto state lands”) to chapter 708 of the Hawaii Revised Statutes (“HRS”) and to broaden existing criminal trespass statutes.

Existing Hawaii law already penalizes several varieties of trespass, and adding an entirely new criminal trespass offense and broadening existing offenses would be unnecessarily cumulative. *See* HRS §§ 708-13 (criminal trespass in the first degree), -14 (criminal trespass in the second degree), -15 (simple trespass). Much of the conduct prohibited by the proposed offense of “criminal trespass onto state lands” is also covered under existing Hawaii law prohibiting sleeping or camping in a state park after park closure hours. *See* Hawaii Administrative Rule (“HAR”) §§ 13-146-5 (requiring permit for camping in a state park); HRS § 184-5 (violation of park rules constitutes a petty misdemeanor). Existing Hawaii law also covers the bill’s prohibition against remaining unlawfully on any highway. *See* HRS 711-1105(1) (prohibiting obstruction of “any highway or public passage”). This bill is therefore unnecessary.

Criminal trespass laws and other regulations prohibiting use of public lands are often used to disproportionately affect protesters, as well as homeless individuals and families. Indeed, S.B. 895, S.D. 1, seemingly *targets* protesters — such as those who demonstrated at Mauna Kea — by adding redundant penalties for remaining in/on state parks, lands, and highways. S.B. 895, S.D. 1, if passed, would merely add to a problematic national trend of punishing dissenting speech and criminalizing the status of being homeless. We strongly urge this committee to defer S.B. 895, S.D. 1.

Thank you for this opportunity to testify.

Sincerely,

Mandy Finlay  
Advocacy Coordinator  
ACLU of Hawaii

Chair Yamane and Members of the Committee

March 15, 2017

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*The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for 50 years.*