

**SB-2453**

Submitted on: 1/31/2018 2:24:32 PM

Testimony for JDC on 2/2/2018 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Renee Ishikawa Delizo	Dept. Prosecuting Attorney, County of Maui	Support	No

Comments:

The Department of the Prosecuting Attorney, County of Maui SUPPORTS SB 2453 which will deter flight from law enforcement, promote compliance with a law enforcement officer's directions, and promote the protection of the public, in effecting a stop of a motor vehicle under unauthorized control.

**TESTIMONY OF THE HAWAI`I POLICE DEPARTMENT**

**SENATE BILL 2453**

**RELATING TO THE HAWAII PENAL CODE**

BEFORE THE COMMITTEE ON JUDICIARY

DATE : Friday, February 2, 2018

TIME : 9:30 A.M.

PLACE : Conference Room 016  
State Capitol  
415 South Beretania Street

PERSON TESTIFYING:

Police Chief Paul K. Ferreira  
Hawai`i Police Department  
County of Hawai`i

(Written Testimony Only)

Harry Kim  
Mayor



Paul K. Ferreira  
Police Chief

Kenneth Bugado Jr.  
Deputy Police Chief

## County of Hawai'i

### POLICE DEPARTMENT

349 Kapi'olani Street • Hilo, Hawai'i 96720-3998  
(808) 935-3311 • Fax (808) 961-2389

January 30, 2018

Senator Brian T. Taniguchi  
Chairperson and Committee Members  
Committee On Judiciary  
415 South Beretania Street, Room 016  
Honolulu, Hawai`i 96813

### **RE: SENATE BILL 2453, RELATING TO THE HAWAI`I PENAL CODE**

Dear Senator Taniguchi:

The Hawai`i Police Department strongly supports the passage of Senate Bill 2453, relating to the Hawai`i Penal Code. The purpose of this Bill is to establish the offense of Resisting an Order to Stop a motor vehicle under unauthorized control, a Class B felony offense.

The Hawai`i Police Department is aware that at times, those persons who are in unauthorized possession of motor vehicles will go to great lengths to avoid being contacted by law enforcement officers for a traffic stop. At times, these individuals will operate their vehicles in a reckless manner in eluding law enforcement by resisting a lawful order to stop the motor vehicle. These types of incidents serve to put both the law enforcement officers and the community in danger.

For these reasons and as a matter of deterrence from such behavior, we urge this committee to approve this legislation. Thank you for allowing the Hawai`i Police Department to provide comments relating to Senate Bill 2453.

Sincerely,

PAUL K. FERREIRA  
POLICE CHIEF



## Office of the Public Defender State of Hawaii



### Testimony of the Office of the Public Defender, State of Hawaii to the Senate Committee on Judiciary

February 2, 2018, 9:30 a.m.

S.B. No. 2453: RELATING TO THE HAWAII PENAL CODE

Chair Taniguchi and Members of the Committee:

This measure would create a new offense of resisting an order to stop a motor vehicle under unauthorized control, a class B felony. In addition, it would increase the penalty for the offense of unauthorized control of propelled vehicle (§708-836, H.R.S.) from a class C felony to a class B felony. The Office of the Public Defender strongly opposes both portions of S.B. 2453.

We understand the reason this measure was proposed – law enforcement safety and public safety. This legislature has an interest in the prevention of high speed chases with people in stolen vehicles, where there is potential for injury to our law enforcement officers and members of the public.

First, this bill will not have a deterrent effect on people fleeing law enforcement officers while evading arrest. People flee because they panic. It is a person's innate "fight or flight" reaction. A person driving a stolen vehicle will not stop to think about the offense of resisting an order to stop a motor vehicle under unauthorized control before choosing to disobey a police officer's order to stop the vehicle.

Second, this bill makes no provision for someone who unknowingly drives a vehicle without authorization from the "real" owner. For example, what if a woman is driving a friend or relative's car, mistakenly believing that the friend or relative is the vehicle's owner. Upon being told to stop by an officer, she chooses to continue driving until she finds a safe place to stop, like a store parking lot, or police station. Should this woman be charged with a class B felony? Should she have to await her day in court in custody, unable to post bail?

Third, we believe there are other offenses applicable to this situation that penalize defendants in an equal or more severe fashion than that which is proposed in this measure. If, while fleeing or resisting an order to stop a stolen vehicle, the driver hits a car occupied by a driver and/or other occupants. That person could be charged with criminal property damage in the first degree (§708-820, H.R.S), a class B felony. If someone is killed during a suspect's attempt to evade arrest in a stolen car, that person could be charged with manslaughter (§707-702, H.R.S), a class A felony or negligent homicide in the first or second degree (§707-702.5 & 707-703, H.R.S.). Negligent homicide in the first degree is a class B felony.

There are other offenses of ranging from misdemeanor to class C felonies that also address the concerns raised in this measure. If a person sustains serious bodily injury because of a suspect's attempt to evade arrest, he could be charged with negligent injury in the first degree (§707-704, H.R.S.), a class C felony. If a person sustains substantial bodily injury because of a suspect's attempt to evade arrest, he could be charged with negligent injury in the second degree (§707-705, H.R.S.), a misdemeanor.

Finally, in 2016, this legislature created the offense of resisting an order to stop a motor vehicle in the first degree (§710-1026.9, H.R.S.). A person commits the offense of resisting an order to stop a motor vehicle in the first degree if they intentionally disobey an order of a law enforcement officer to stop the vehicle and are intentionally fleeing or attempting to elude a law enforcement officer (§710-1026.9(1)(b)(i), H.R.S.). This offense is a class C felony.

While we believe this measure to be duplicitous, we would not oppose the insertion of the language of this bill into §710-1026.9, H.R.S. as subsection (iii). The statute, as amended, would read as follows:

**[§710-1026.9] Resisting an order to stop a motor vehicle in the first degree.** (1) A person commits the offense of resisting an order to stop a motor vehicle in the first degree if the person:

(a) Intentionally fails to obey a direction of a law enforcement officer, acting under color of the law enforcement officer's official authority, to stop the person's motor vehicle; and

(b) While intentionally fleeing from or attempting to elude a law enforcement officer:

(i) Operates the person's motor vehicle in reckless disregard of the safety of other persons; or

(ii) Operates the person's motor vehicle in reckless disregard of the risk that the speed of the person's vehicle exceeds:

(A) The applicable state or county speed limit by thirty miles per hour or more; or

(B) Eighty miles per hour or more, irrespective of the applicable state or county speed limit.

For purposes of this section, "the applicable state or county speed limit" shall have the same meaning as in section 291C-105.

(iii) (A) Intentionally fails to obey a direction of a law enforcement officer, acting under color of the law enforcement officer's official authority to stop the vehicle; and

(B) The person is operating the motor vehicle in violation of section 708-836.

(2) Resisting an order to stop a motor vehicle in the first degree is a class C felony. [L 2016, c 231, §47]

We strongly oppose increasing the offense of unauthorized control of propelled vehicle from a class C to a class B felony. We talk about prison overcrowding, we talk about sentencing reform, but at the same time see attempts every year at increasing the severity of offenses, which directly contradicts efforts at reforming our criminal justice system. We believe the primary focus of this measure is the safety of law enforcement officers and members of the public, which we have addressed in our testimony and proposes amendment to this bill.

Thank you for the opportunity to be heard on this matter.

**TESTIMONY FROM LISA M. KING**  
**SENATE BILL 2453**  
**RELATING TO THE HAWAII PENAL CODE**  
**BEFORE THE COMMITTEE ON JUDICIARY**

DATE : Friday, February 2, 2018

TIME : 9:30 A.M.

PLACE: Conference Room 016  
State Capitol  
415 S. Beretania St.

PERSON TESTIFYING:

Lisa M. King, PhD  
Member, Volcano Neighborhood Watch

(Written Testimony Only)

January 31<sup>st</sup>, 2017

Lisa M. King, PhD  
PO Box 764  
Volcano, Hawaii 96785

Senator Brian T. Taniguchi  
Chairperson and Committee Members  
Committee on Judiciary  
415 S. Beretania St., Room 016  
Honolulu, Hawaii 96813

**RE: TESTIMONY IN SUPPORT FOR SENATE BILL 2453, RELATING TO THE HAWAII PENAL CODE**

Dear Senators of the Committee on the Judiciary,

As an active member of the Volcano Neighborhood Watch and a concerned member of the community, I fully support SB 2453.

We have too many young men who engage in car theft. They laugh at the courts and the police. They look forward to the chase and brag to their friends that the police have to play by the rules; but they, the car thieves, don't and won't. All Big Island car thieves are aware that if they endanger the public, the police are required to back off; thus, frustrated, the police watch these wise guys speed away. To counteract this situation, we desperately need an amendment to current law that makes it an offense to intentionally fail to stop a vehicle when an officer asks you to or when police are chasing you. We need to have a law that has consequences when these car thieves refuse to stop.

I also support Section 3 of this bill that changes car theft from a class c to a class b felony. Car thieves here on the Big Island have made it a game of stealing cars. They do not take the law and its penalties seriously. Changing the offence from a class c to a class b felony will help protect City and County property; as well as, private property, and make these men and women think a little harder about their actions.

We need help in curbing crime in Hawaii and further supporting our police departments, AG activities and judiciary. Please approve SB 2453.

Sincerely,

Lisa M. King, PhD  
Member, Neighborhood Watch



**SB-2453**

Submitted on: 1/30/2018 3:33:26 PM

Testimony for JDC on 2/2/2018 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Natalie Veriato	N Kulani NHW	Support	No

## Comments:

My name is Natalie Veriato and I live on the Big Island. I am the current coordinator of the N. Kulani Neighborhood Watch group. We've been seeing a drastic increase of car thefts on the East side of our island. These criminals have extensive records and are repeat offenders. They not only steal the cars, but their drive recklessly with the vehicles and are putting innocent people in danger. I don't think that we should have to live with these guys in our communities. It feels like our islands have become a third world country. As citizens, we have to put alarms in our cars, as well as "kill switches" to hopefully prevent our vehicles from being stolen. IT'S A REAL PROBLEM HERE. These car theives have to be stopped and held accountable for their actions. Most of them see it as a game and keep stealing as soon as they are let out. Please pass this bill. We have a long way to go to get our Islands safe again, but it's a start. Thank You.

**SB-2453**

Submitted on: 1/30/2018 11:14:16 AM

Testimony for JDC on 2/2/2018 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Victor K. Ramos	Maui Police Department	Support	No

Comments:

Thank you.

**SB-2453**

Submitted on: 1/31/2018 10:23:38 PM

Testimony for JDC on 2/2/2018 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Penelope Hazzard		Support	No

Comments:

Testimony for SB 2453

To Committee Member

I support creating stiffer penalties for car theft. Too many car thieves are repeat offenders released on very low bail. They do not learn a lesson that crime doesn't pay.

Thank you,

Penelope Hazzard

1550 Rycroft St #522

96814

**SB-2453**

Submitted on: 2/1/2018 8:36:06 AM

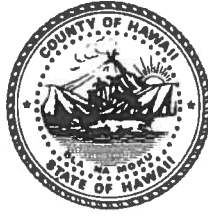
Testimony for JDC on 2/2/2018 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Emily Herb		Support	No

Comments:

I support SB2453. Thank you.

**Maile Medeiros David**  
Council District 6  
Portion N. S. Kona/Ka'ū/Volcano



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## HAWAI'I COUNTY COUNCIL

County of Hawai'i  
West Hawai'i Civic Center, Bldg. A  
74-5044 Ane Keohokalole Hwy.  
Kailua-Kona, Hawai'i 96740

**LATE**

February 2, 2018

Honorable Brian T. Taniguchi, Chair  
Honorable Karl Rhoads, Vice Chair  
Committee on Judiciary  
Hawai'i State Capitol, House Conference Room 016  
Honolulu, Hawai'i 96813

Re: S.B. No. 2453 – Relating to the Hawai'i Penal Code.

Honorable Chair Taniguchi and Vice Chair Rhoads:

Aloha and mahalo a nui loa for this opportunity to provide testimony in support of S.B. No. 2453. My name is Maile David, Councilmember representing Council District 6 (rural districts of South Kona, Ka'ū and Volcano Village). I am a strong supporter of enforcing unauthorized control of a motor vehicle resulting in strict penalties for the offender

I, therefore, respectfully request that S.B. 2453 be favorably considered.

Mahalo a nui loa for your positive consideration.

Very truly yours,

*Maile David*

Maile David, Council Member  
Council District 6, S. Kona, Ka'ū, and Volcano Village

**SB-2453**

Submitted on: 2/2/2018 11:28:29 AM

Testimony for JDC on 2/2/2018 9:30:00 AM

**LATE**

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Georjean Adams		Support	No

Comments:

Car theft is a serious crime that exceeds the Blue Book value of the car that has been stolen. It can be a serious impact on the livelihood of the victims and their families in many ways and certainly disturbs their piece of mind. Increasing the classification to be a Felony Class B will hopefully deter would-be criminals who consider current penalties to be a trivial risk.

I support SB 2453.

Georjean Adams, Hawaii Island resident



BERNARD P. CARVALHO JR.  
Mayor

WALLACE G. REZENTES JR.  
Managing Director

## POLICE DEPARTMENT COUNTY OF KAUAI

3990 KAANA STREET, SUITE 200  
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MICHAEL M. CONTRADES  
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February 2, 2018

**LATE**

Senator Brian T. Taniguchi, Chairperson  
Committee Members  
Committee on Judiciary  
415 South Beretania Street, Room 016  
Honolulu, Hawai'i 96813

RE: SENATE BILL 2453, RELATING TO THE HAWAI'I PENAL CODE

Dear Senator Taniguchi:

The Kaua'i Police Department supports the passage of Senate Bill 2453, relating to the Hawai'i Penal Code.

There have been many incidents in which individuals who have unauthorized possession of a motor vehicle attempted to evade capture by operating the motor vehicle in a reckless and dangerous manner. This essentially places the lives of law enforcement officers and members of the community in jeopardy.

We believe that Senate Bill 2453 will help to deter such instances and therefore, support this legislation. Thank you for your time and consideration.

Sincerely,

MICHAEL M. CONTRADES  
Deputy Chief of Police