

LATE

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CITY AND COUNTY OF HONOLULU

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**THE HONORABLE CLARENCE K. NISHIHARA, CHAIR
SENATE COMMITTEE ON PUBLIC SAFETY,
INTERGOVERNMENTAL, AND MILITARY AFFAIRS
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawai`i**

January 30, 2018

RE: S.B. 2814; RELATING TO THE RELEASE OF MISDEMEANANTS.

Chair Nishihara, Vice Chair Wakai and members of the Senate Committee on Public Safety, Intergovernmental, and Military Affairs, the Department of the Prosecuting Attorney of the City and County of Honolulu (“Department”) submits the following testimony in opposition to S.B. 2814.

The purpose of S.B. 2814 is to expand the Department of Public Safety’s (“PSD”) ability to release defendants convicted of, or awaiting trial for, misdemeanor or petty misdemeanor offenses. It appears this bill is intended to reduce overcrowding in PSD’s facilities, and serve as an alternative to incarceration, yet it provides no alternative programs or oversight for those who are released this way.

Ultimately, the Department strongly believes that allowing the Director of PSD to summarily release individuals from custody—whom our courts have specifically ordered to remain in custody—seems directly contrary to the goal of public safety, and undermines the judgement and authority of our courts. As it is, our courts are already very liberal about releasing misdemeanants from custody pending trial, and those who are sentenced to serve additional incarceration, even after their date of sentencing (i.e. more than “credit for time served”), are sentenced that way for very good reason, based on their past criminal history and/or the nature of their specific offense.

As written, the amendments on page 2, lines 12-13, appear to preclude the Director from qualifying anyone whose only “offense that involves injury or threat of injury to another” is the

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present offense/arrest. To further clarify this, the Committee should consider taking the word “previously” out of page 2, line 14.

In addition, it is unclear what effect the amendments on page 1, lines 16-17, would have on implementation of this statute, as Section 706-663 is the sentencing provision for those who are convicted of an offense identified as a petty misdemeanor or misdemeanor.

For the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu opposes the passage of S.B. 2814. Thank you for the opportunity to testify on this matter.

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

TO: Senate Committee on Public Safety, Intergovernmental and Military Affairs
FROM: Carl Bergquist, Executive Director
HEARING DATE: 30 January 2018, 1:15 PM
RE: SB2814, RELATING TO THE RELEASE OF MISDEMEANANTS, **OPPOSE**

Dear Chair Nishihara, Vice Chair Wakai, Committee Members:

The Drug Policy Forum of Hawai'i (DPFHI) opposes this measure to further limit the early release of misdemeanants. The bill amends, in the wrong direction, a program under the auspices of the Department of Public Safety (DPS), a program that may not currently be operating as advertised. In other words, instead of early release to prevent overcrowding in our prisons, this authority is not being exercised much, if at all. This new category of individuals, who would be excluded from a hypothetical early release, include any one "previously" arrested for, i.e. a conviction is no longer required, Title 37 offenses such as threat of injury to another, stalking and sexual harassment in the 4th degree. This is widening the dragnet of non-early release, and perhaps punishing someone acquitted of the offense in question.

We submit that a better course is to not only reform the bail system as proposed in SB2860, but to ensure that this early release authority is actually exercised, and that more, not less, individuals become eligible. [SB2880](#) provides an example of how to do just that. It proposes to reform a current law, promoting dangerous drugs in the third degree, which is currently a class C felony. Instead, a new fourth degree promotion misdemeanor offense. The number of individuals currently housed in pre-trial detention and charged with a violation of §712-1243, and thus currently ineligible for early release, is likely significant. In [a 3/5/2017 Star Advertiser article regarding the drug paraphernalia reform](#), it emerged that some 109 inmates were detained pre-trial with that then class C felony as the lead charge. With the enactment of Act 72 (2017), this will no longer be the case. The next step to reduce the overcrowding is change the even more commonly charged offense, promoting a dangerous drug in the third degree, from a class C felony to a misdemeanor.

Thank you for the opportunity to testify.

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SB-2814

Submitted on: 1/30/2018 5:11:57 PM
Testimony for PSM on 1/30/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Richard K. Minatoya	Maui Department of the Prosecuting Attorney	Oppose	No

Comments:

The Department of the Prosecuting Attorney, County of Maui, OPPOSES SB 2814, Relating to the Release of Misdemeanants. This measure will give the Director of Public Safety the ability to override the carefully contemplated orders issued by the courts. Accordingly, the Department requests that this measure be HELD.

Thank you very much for the opportunity to provide this testimony.

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SB-2814

Submitted on: 1/30/2018 12:24:07 AM
Testimony for PSM on 1/30/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Raelyn Reyno Yeomans		Comments	No

Comments:

The language is being changed in this bill so that it will NOT expand the opportunities for the Director Of Public Safety to release misdemeanants early. Take out the word "arrested" and increase eligibility for early release! We must immediately begin to ease the overcrowding.

Thank you-

Raelyn Reyno Yeomans