

SB 589

Measure Title: RELATING TO THE HOUSELESS BILL OF RIGHTS.

Report Title: Houseless Bill of Rights

Description: Defines specific rights granted to a person who is houseless including equal access to housing, jobs, and shelters, equal treatment by government agencies, and access to life-sustaining activities and essential services.

Companion:

Package: None

Current Referral: HOU, WAM/JDL

Introducer(s): ESPERO, HARIMOTO



EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

February 14, 2017

TO: The Honorable Will Espero, Chair
Senate Committee on Housing

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

SUBJECT: **SB 589 – RELATING TO THE HOUSELESS BILL OF RIGHTS**

Hearing: Tuesday, February 14, 2017, 3:00 p.m.
Conference Room 225, State Capitol

POSITION: The Governor's Coordinator on Homelessness appreciates the intent of this measure, as it seeks to clarify the legal rights of persons experiencing homelessness, and offers the following comments.

PURPOSE: The purpose of the bill is to define specific rights granted to a person who is houseless, including equal access to housing, jobs, and shelters; equal treatment by government agencies; and access to life-sustaining activities and essential services.

The Coordinator notes that many of the specific rights defined by the bill are rights already defined by the U.S. Constitution, the Hawaii State Constitution, and other federal and state laws. In addition, the courts have recently issued decisions that further clarify specific constitutional rights relating to due process when property is seized, and the right of homeless persons to sleep outdoors if no alternative options for shelter are available.

The State has adopted a comprehensive framework to address homelessness, which includes a focus on three primary leverage points – affordable housing, health and human services, and public safety. All three of these leverage points must be addressed to continue forward momentum in addressing the complex issue of homelessness.

The Coordinator notes that the State has developed procedures that provide due process when property is abandoned or seized by a government agency, and ensure that homeless outreach providers work closely with government agencies to provide alternative shelter or housing options if a homeless individual is displaced from government lands.

In addition, the Department of Human Services (DHS) adopted a 'housing first' philosophy for all homeless service contracts, which is aimed to reduce barriers to shelter and accelerate placement into permanent housing. These efforts are intended to balance the rights of persons experiencing homelessness with the delivery of homeless services and the ability of state agencies to maintain state properties.

The Coordinator respectfully defers to the Department of the Attorney General and the Hawaii Civil Rights Commission in regard to potential conflicts between this bill and other existing laws.

Thank you for the opportunity to comment on this bill.

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

February 14, 2017

TO: The Honorable Senator Will Espero, Chair
Senate Committee on Housing

FROM: Pankaj Bhanot, Director

SUBJECT: **SB589 – RELATING TO THE HOUSELESS BILL OF RIGHTS**

Hearing: February 14, 2017, 3:00 p.m.
Conference Room 225, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent of this bill and provides comments. DHS defers to the Department of the Attorney General regarding rights which are already defined and protected by existing State and Federal laws, as well as potential conflicts of law.

PURPOSE: The purpose of the bill is to define and protect specific rights granted to a person who is houseless including equal access to housing, jobs, shelters, equal treatment by government agencies, and access to life sustaining activities and essential services.

DHS is concerned that some portions of the bill may contradict other laws, create unfunded mandates, or add confusion by not clearly defining certain terms or intent.

While DHS understands that legislators are looking for quick solutions, DHS is concerned that enumerating additional rights and benefits to homeless individuals would not lead toward a permanent solution such as housing. Item (9) which would allow homeless people to sleep in their vehicles on public streets as long as certain conditions are met, and (10) which would allow homeless individuals the right to have twenty-four hour access to public hygiene facilities anywhere in the State, are in conflict with other existing laws, ordinances and rules, and would bestow exemptions from obeying laws upon homeless

individuals which others must continue to respect. With regard to access to public hygiene facilities, perhaps there are specific alternatives that may be developed in different communities that will be safe and managed, rather than an outright exemption to access facilities 24 hours anywhere in the State.

Exempting homeless individuals from respecting existing healthy and safety laws does nothing to move the individual to permanent housing.

Thank you for the opportunity to testify on this bill.



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

ON THE FOLLOWING MEASURE:

S.B. No. 589, RELATING TO THE HOUSELESS BILL OF RIGHTS.

BEFORE THE:

SENATE COMMITTEE ON HOUSING

DATE: Tuesday, February 14, 2017 **TIME:** 3:00 p.m.

LOCATION: State Capitol, Room 225

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Melissa L. Lewis, Deputy Attorney General

Chair Espero and Members of the Committee:

The Department of the Attorney General offers the following comments.

This bill seeks to create a "Houseless Bill of Rights" for individuals deemed to be houseless. Section 1, on page 4, lines 16-18, provides houseless individuals with the right to sleep in a legally parked automobile. This provision conflicts with the traffic code section that prohibits individuals from using a parked vehicle for human habitation during the nighttime hours, specifically sleeping in the vehicle. Section 291C-112, Hawaii Revised Statutes (HRS), provides:

(a) No person shall use any vehicle for purposes of human habitation, whether or not the vehicle is designed or equipped for that purpose, while the vehicle is parked on any roadway, street, or highway or other public property between the hours of 6:00 p.m. and 6:00 a.m. or while the vehicle is parked on private property without authorization of the owner or occupant authorizing both the parking of the vehicle there and its use for purposes of human habitation.

(b) As used in this section "purposes of human habitation" includes use as a dwelling place, living abode, or sleeping place.

(c) This section does not apply to the parking of vehicles and their use for purposes of human habitation in parks, camps, and other recreational areas in compliance with law and applicable rules and regulations, or under emergency conditions in the interest of vehicular safety.

(d) The department of health shall promulgate rules and regulations, pursuant to chapter 91, necessary for the administration of this section.

To resolve this conflict, we recommend that the proposed provision contained in section 1, on page 4, lines 16-18, be deleted. Alternatively, if the Legislature intends to

leave the proposed provision in this bill, the repeal of section 291C-112, HRS, should be incorporated into another bill with a title broad enough to encompass the subject matter of that section.

In section 1, on page 4, lines 19-21, and page 5, lines 1-2, as currently written the proposed right to “equal opportunity to have twenty-four hour access to hygiene facilities and live in decent, safe, sanitary, and healthful accommodations anywhere within the State, regardless of housing status,” is vague and may lead to inconsistent implementation. The measure does not identify who is responsible for the required necessary steps to construct and maintain the accommodations and does not define what is meant by “anywhere in the State.” We recommend that the terms in this section be defined.

On page 5, lines 4-8, the measure provides that “[a]ction by the State, a county, or private organization shall not impede an individual’s ability to maintain access to services essential to survival, including but not limited to medical services, shelter, food, and water.” This provision does not define what “action” would constitute a violation. As currently written, the term “action” may be interpreted to intrude on the State and counties’ police powers to protect public health, safety, and welfare. Moreover, the provision does not give sufficient notice to the government agencies and private organizations as to which “actions” are prohibited. This lack of specificity may result in (1) inconsistent application by those government agencies and private organizations charged with applying the law, (2) inconsistent enforcement by law enforcement, and (3) inconsistent interpretation by the courts. We recommend that the term “action” be defined in a way to exclude law enforcement activities and efforts to promote health, safety, and welfare.

If this bill is to proceed we respectfully request that the recommended modifications be made.

Thank you.



49 South Hotel Street, Room 314 | Honolulu, HI 96813
www.lwv-hawaii.com | 808.531.7448 | voters@lwv-hawaii.com

COMMITTEE ON HOUSING
Tuesday, February 14, 2017, 3 pm, Room Number 225
SB589, Relating to the Houseless Bill of Rights

TESTIMONY

Beppie Shapiro, Legislative Committee, League of Women Voters of Hawaii

Chair Espero, Vice-Chair Harimoto, and Committee Members:

The League of Women Voters of Hawaii supports SB589 that establishes puuhonua safe zones for homeless people, which would include hygienic facilities.

Most of the houseless population do not choose to be homeless - they are stuck with little income in a state where rental rates are unaffordable even for many middle class households. Some are also, perhaps as a result of the stress of houselessness, addicted to alcohol or other drugs, and/or mentally ill.

We have watched with distress the process of pushing homeless people away from one area after another, with their belongings including identification, medications, and personal records at the mercy of police and movers. Those who own cars are not legally allowed to sleep in them, when their car offers the only shelter from rain and cold, and a fragile privacy. We agree that many of the places where homeless individuals and families camp are not appropriate for residential use - e.g. there are no nearby toilets or water and electricity supplies. The houseless often do not have a place to receive postal mail, by which many needed official documents are delivered.

SB589 lays out Hawai'i's commitment to a burgeoning homeless population while we work to create an adequate supply of affordable housing. As we've seen with the laudable work by city and state to house homeless people, it's slow and expensive work to house even a tiny fraction of the homeless. Meanwhile we can at least guarantee a minimum level of equity with those more fortunate. SB 589 spells out protections against the many ways that this population suffers discrimination. It is a humane and civilized recognition that we are all human beings together on these islands.

Please pass SB589.

Thank you for the opportunity to submit testimony.

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 9, 2017 12:26 PM
To: HOU Testimony
Cc: 808nateyuen@gmail.com
Subject: Submitted testimony for SB589 on Feb 14, 2017 15:00PM

SB589

Submitted on: 2/9/2017

Testimony for HOU on Feb 14, 2017 15:00PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Nathan Yuen	Individual	Support	No

Comments: I support SB 589. The roots of homelessness is complex with personal dysfunction interacting with economic and societal factors. In order for people to overcome their personal issues whether it be addiction, mental health, lack of employment, etc., they need a safe place to live so they can rehabilitate and recover their lives. There are societal components to homelessness – the high cost of living, lack of affordable rentals, inadequate fixed income for elderly, etc. which are just as responsible for creating homelessness. Disrupting their lives by evicting them from the public spaces where they live and taking their belongings only puts them further behind in recovery and moves the problem to another place. I urge you to take stand for the rights of the poorest and most vulnerable among us and to provide conditions where they can escape their situation. We must also address the societal factors that create a shortage of affordable rentals and public housing. Please look into your hearts to create a houseless bill of rights and pass SB 589. Mahalo.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 9, 2017 2:39 PM
To: HOU Testimony
Cc: pulermq@gmail.com
Subject: *Submitted testimony for SB589 on Feb 14, 2017 15:00PM*

SB589

Submitted on: 2/9/2017

Testimony for HOU on Feb 14, 2017 15:00PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
RuthMarie Quirk	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 13, 2017 4:40 AM
To: HOU Testimony
Cc: laulani@gmail.com
Subject: Submitted testimony for SB589 on Feb 14, 2017 15:00PM

SB589

Submitted on: 2/13/2017

Testimony for HOU on Feb 14, 2017 15:00PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Laulani Teale	Individual	Support	Yes

Comments: I absolutely support this measure. Human rights are for everyone. And yet, those who are forced to live without shelter are routinely abused at an alarming rate. They regularly face discrimination and persecution, and very little is done to stop this. We need to stop criminalizing the houseless, and start standing up for them. This measure is a good start. Mahalo! Laulani Teale, MPH

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: mailinglist@capitol.hawaii.gov [mailto:mailinglist@capitol.hawaii.gov]
Sent: Sunday, February 12, 2017 8:02 PM
To: HOU Testimony <HOUTestimony@capitol.hawaii.gov>
Cc: tkhampha@hawaii.edu
Subject: Submitted testimony for SB589 on Feb 14, 2017 15:00PM

SB589

Submitted on: 2/12/2017

Testimony for HOU on Feb 14, 2017 15:00PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Tiffany Peek	Individual	Support	Yes

Comments:

Tiffany Peek | Community Member | Mililani, HI 96789
Testimony for Senate Bill 589
Public Hearing: 14 February, 2017

Dear Chair, Vice Chair, and Housing Committee members,

Mahalo for the opportunity to submit testimony on Senate Bill 589. I am a former office manager for PHOCUSED Hawai'i, a candidate in the MBT School of Social Work at UH Manoa, current intern at Planned Parenthood Votes Greater Northwest and Hawaii, and a constituent of Hawai'i. **I stand in support for SB589, but with several suggestions for ramifications.**

To quote Michael Daly in a 2014 article by Hawaii Independent, *Homeless Bill of rights fall short for homeless*, the houseless bill of rights “should identify what makes homeless people special and unusual as a group and give them particular rights and protections that address their situation properly.”

Recall the Universal Declaration of Human Rights and think honestly of its current effectiveness, at home and globally. Hawai'i herself has violated Article 13, the right to “freedom of movement and residence within the borders of each State” with such laws as the sit-lie ban. Human rights violations go unpunished, underreported, ignored, and such as in our case, are even supported. Declaring the Houseless Bill of Rights as written in SB589 serves, unfortunately, to *only* remind us that our neighbors are not second-class citizens simply because they do not have a roof over their head. Alas, shouting, “I am a human being, I have rights too”, has not and will not stop discrimination. Such a bill must have repercussions for violations and direct intervention to be of any real value to our houseless. Furthermore, assuming that a houseless individual's rights were violated based on this bill, who could they seek out for remediation? How could they afford such action? What would they possibly gain from undertaking such monumental tasks?

We punish those who already have so little by demanding even more of them. I refer to several things; of exorbitant fines for violating ridiculous and insensitive laws, of having belongings taken (oftentimes belongings which are key to one's future and wellbeing) when there is clearly nowhere to store them, being forced to move when one is mentally or physically incapable of doing so, or being forced to move to dangerous areas. The proposed Houseless Bill

of Rights—Hawai'i's state legislators—need to be braver and address these issues with the urgency befitting of a homeless state of emergency as signed by Governor Ige. The bill of rights should not *just* be a meager step in the right direction when it could be and mean so much more to those it is meant to protect.

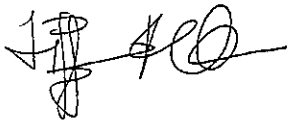
I suggest several sections be added dedicated to protecting our houseless from the very laws and entities which discriminate against them. If someone is houseless and financially incapable of paying fines upwards of \$1,000, then they should be exempt from the fine. If someone lacks reliable transportation or is physically or mentally incapacitated, they should not have to be cited, fined and forced to move when they simply do not have the means; rather, they should have the right to “habitat” within reasonable consideration and appropriate measures should be taken to assist them to move them *and* their belongings somewhere safe and reasonable. If someone has no home but they do have a car, then they should be given the right to sleep in the safety and comfort of their car. If someone is a COFA migrant, they should not be barred from services simply because of their status.

Lastly, as of the 2016 Hawaii Point in Time Count, 33% of the houseless population are Hawai'ian. While every houseless individual merits different approaches, I believe that since we live in Hawai'i, special attention should be paid to our significantly large houseless kanaka maoli population because they were, after all, here first. They deserve far better than what we have put them through since their land was first illegally occupied by the United States in the late 1800s.

It would be hypocritical to declare a bill of rights which claims to protect its houseless, yet utterly lacks the backbone and teeth to stand up for them. Again, while I stand in support for SB589 and its good intentions, I strongly urge the committee to reconsider the degree of seriousness they would like to address this bill and considerably revise and add to its language to be more effective, culturally sensitive, and aware of the pressing risks to our houseless.

Thank you very much for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tiffany Peek', with a stylized flourish at the end.

Tiffany Peek

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 12, 2017 1:27 PM
To: HOU Testimony
Cc: erinrutherford815@gmail.com
Subject: *Submitted testimony for SB589 on Feb 14, 2017 15:00PM*

SB589

Submitted on: 2/12/2017

Testimony for HOU on Feb 14, 2017 15:00PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Erin Rutherford	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

Amy Kaaha, Community Member
Honolulu, HI. 96819
SB589 – Public Hearing 02-14-2017

Dear Chair, Vice Chair and Housing Committee Members,

Aloha! My name is Amy Kaaha and I am a student at the University of Hawai'i at Manoa. I am currently a junior enrolled in the Myron B. Thompson School of Social Work Program. I stand before you in strong support of SB589.

The homeless issue here in Hawai'i is a continuing issue that is still awaiting significant and drastic change. I was a volunteer in this year's Point-In-Time count and was given the opportunity to go out and survey the *houseless* population. Many of them expressed how they are frustrated with the state because they see no change that is benefiting them. Some of them even said things like, "why should I do the survey? Nothings changing. I do it every year and I'm still out here on the streets." I also remember a houseless person saying something like, "They say they want to help us but instead, they "kick us out" of the *only* places that we can really call home." This was in reference to the fence built up alongside the Kapalama Canal, next to Honolulu Community College, that forced houseless persons and families to relocate. As Todd Nitta said, "We're not solving the problem. We're just moving them from here to there." In addition, it is stated that violators could be fined up to a \$1,000 and be put in jail. Most of us know that the people occupying these areas are of the houseless population, with little to no money, no food, no clothes, etc. and they are expected to be fined at this amount when they are clearly incapable of paying for it. Although it has been said that 56 people were immediately moved to the Institute for Human Services (IHS) after the fence was built, we all know that shelters are overpopulated. People of this population need better alternatives and safety nets to accommodate their situations.

According to last year's Point-In-Time count, about 7,921 houseless persons and families were accounted for, statewide, on a *single* night in January. This number went up 4% in comparison to 2015's Point-In-Time count. We must remind ourselves and take into account that these numbers are significantly under-estimated. Point-In-Time Count volunteers who are surveying the houseless population are only counting the houseless person or family if they were sleeping on the street the night before. For example, if a volunteer speaks to a houseless person and asks them where they slept the night before and they respond, "at a hospital" or "at a friend's house" the volunteer will thank them for their time and go on to the next houseless person or family. The lack of affordable housing in Hawai'i still remains to be the biggest reason why so many individuals and families find themselves houseless.

Because of the great number of houseless we have here in Hawaii, there is no doubt that this issue requires special attention. Our houseless persons and families need more resources, accessibility and rights to receive the adequate care and safety that they much so need. For example, if a houseless child needs medical attention, they should be given this right, free of charge. Or if a houseless person who has a mental health problem needs medical attention, they should be able to receive it. Our houseless should be given these rights that are mentioned in SB589. However, I feel as if further action could be taken into consideration if we truly want to find a solution for our houseless population.

Mahalo for your time!

Sincerely,
Amy Kaaha

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 13, 2017 10:27 AM
To: HOU Testimony
Cc: dabitbol@chowproject.org
Subject: *Submitted testimony for SB589 on Feb 14, 2017 15:00PM*

SB589

Submitted on: 2/13/2017

Testimony for HOU on Feb 14, 2017 15:00PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Heather Lusk	CHOW Project	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

Shai-lynn Ranchez-Langit, Community Member
Honolulu, HI 96819

Support for SB 589, Relating to Houseless Bill of Rights, February 14, 2017

Dear Housing Committee Members, Chair Senator Will Espero, & Vice Chair Senator Breene Harimoto,

My name is Shai-lynn Ranchez-Langit. I am currently a junior at University of Hawaii Manoa in the Myron B. Thompson School of Social Work Program. I have volunteered at River of Life Mission, Next Step Shelter Kakaako, and Institute of Human services to gain a better understanding of homeless resources. I support Senate Bill 589.

According to the 2016 State of Hawaii Point-in-time count, there was a “4 percent increase in one-day homelessness from 7,620 persons in 2015 to 7,921 person”. The cost of living in Hawaii has become ridiculously unaffordable for families and individuals. Penalizing the homeless for being houseless is an act of injustice. Focusing on helping the homeless rather than discriminating would better help the lives of the homeless to getting back on their feet. As privileged individuals, we can only imagine the difficulty of not having a roof over our head. The last thing we want to feel is discrimination for being poor. Addressing the houseless bill of rights is for the justice of the people struggling to endure life.

In evidence of proposing houseless bill of rights, a film name *Dear Thalia* is about a homeless family living in Kakaako. The mother of Thalia shared her daughter knows what a “sweep” is and when it occurs. Every time a sweep occurs she packs her stuff and responds “ready to go”. The father was working crazy hours to make it for his family living paycheck to paycheck. He ended up having a heart attack and was unable to return to work. *Dear Thalia* is a film that shows the reality of homeless lives and the negative judgments they endure. If you looked at three-year old Thalia and believe that children are our future, then would you believe these individuals and families deserve the right to know they still are someone? Being discriminated is one thing, but living somewhere without a permanent dwelling does not make these homeless individuals any different of a being human. No matter what socioeconomic background a person comes from, every individual is born with rights. A person is a person. A stranger is a person. A homeless is a person. While the homeless person or family is in more of special need, they are still a person in society. People who are in need of resources should not be discriminated against just for where they are. Although the challenging issues concern the community, the reality is even individuals who are not homeless break the law.

Similar to the houseless bill of rights, the Universal Declaration Human Rights Article 1 states, “All human beings are born free and equal in dignity and rights”. It clearly states “human beings are born to be treated with dignity no matter who or where they are”. Article 2 entitles “individuals to not suffer discrimination no matter how rich or poor they are”. The Universal Declaration Human of Right is addressed to all people, for all people. Homeless individuals should not be excluded.

All in all, I support Senate Bill 589, as the homeless should be recognized as a human being. Although the Universal Declaration Human Rights is a given birthright, the homeless' rights have been violated. With the houseless bill of rights, it is one step toward helping them. The bigger issue is applying these rights and informing the homeless.

Thank you for your time.

Sincerely,

A handwritten signature in black ink, appearing to read 'Shai-lynn Ranchez-Langit', written in a cursive style.

Shai-lynn Ranchez-Langit