



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTIETH LEGISLATURE, 2019**

ON THE FOLLOWING MEASURE:

S.B. NO. 1422, H.D. 1, RELATING TO LAW ENFORCEMENT.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY

DATE: Monday, March 25, 2019

TIME: 2:00 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Clare E. Connors, Attorney General, or
Lance Goto, Deputy Attorney General

Chair Lee and Members of the Committee:

The Department of the Attorney General (the Department) submits comments on this bill.

The purpose of this bill is to "free up space in police cellblocks, county jails, and courthouse holding cells without jeopardizing public safety" by giving law enforcement officers the discretion to issue citations, in lieu of making an arrest, for non-violent class C felony offenses.

While the Department appreciates the intent of this bill, this bill will largely not achieve its intended purpose. The initial detention and arrest of a suspect will be necessary in most instances to record and confirm the suspect's identity to ensure that the right person will be prosecuted. And even if the suspect is issued a citation at some point in the process, he will still need to be charged and will be subject to a bail determination by the court that could result in the suspect being placed in custody.

A felony charge cannot be initiated simply by an officer issuing a citation. Law enforcement officers must confer with a prosecuting attorney, who decides whether to initiate a felony charge by obtaining a determination of probable cause to charge the defendant. A probable cause determination does not occur when an officer just issues a citation. Instead, it occurs in one of the following ways:

- (1) Filing a complaint and obtaining a probably cause determination by the court through a preliminary hearing;

- (2) Filing a complaint and information and obtaining a probable cause determination by the court with the filed information; or
- (3) Obtaining a probable cause determination through a grand jury indictment.

After a probable cause determination is made in one of these three ways, a defendant is charged and the prosecution is initiated. A defendant's pretrial bail/custody status is determined by the court with the initiation of the charge.

On the issue of citation versus arrest, it should be noted that when a suspect is initially detained by an officer, the suspect will likely be arrested and put through a booking process to record and verify the suspect's identity through photographs and fingerprints. It is important to verify a suspect's identity to confirm identity for prosecution, and to check on prior criminal history. Such information will help law enforcement and the courts determine whether or not a suspect is a flight risk or danger to the public. It will also help to ensure that the wrong person is not prosecuted for the felony offense. If appropriate, a suspect can be released while law enforcement completes its investigation. Once law enforcement has completed its investigation, it can confer with the prosecutor, who can then initiate charges.

The Department appreciates this opportunity to provide comments.



The Judiciary, State of Hawai‘i

House Committee on Judiciary
Representative Chris Lee, Chair
Representative Joy A. San Buenaventura, Vice Chair

Monday, March 25, 2019, 2:00 PM
State Capitol, Conference Room 325

WRITTEN TESTIMONY ONLY

By
Shirley M. Kawamura
Deputy Chief Judge, Criminal Administrative Judge, Circuit Court of the First Circuit
Reporter, Criminal Pretrial Task Force

Bill No. and Title: Senate Bill No. 1422, H.D. 1, Relating to Law Enforcement.

Purpose: Senate Bill No. 1422, H.D. 1 specifies that law enforcement officers have the discretion to issue citations, in lieu of making an arrest, for non-violent class C felonies, misdemeanors, petty misdemeanors, and violations.

Judiciary's Position:

The Judiciary respectfully supports Senate Bill No. 1422, H.D. 1 which adopts the recommendation of the Criminal Pretrial Procedures Task Force to allow law enforcement officers broader discretion to issue citations.

Pursuant to House Concurrent Resolution No. 134, H. D. 1 Regular Session of 2017, Chief Justice Mark E. Recktenwald established the Criminal Pretrial Procedures Task Force to examine and recommend legislation to reform Hawai‘i’s criminal pretrial system. The Task Force embarked on its yearlong journey in August 2017. It began with an in-depth study of the history of bail and the three major generations of American bail reform of the 1960s, 1980s, and the last decade. The Task Force members researched the legal framework underlying current practices, which are firmly rooted in our most basic constitutional principles of presumption of innocence, due process, equal protection, the right to counsel, the right to confrontation and that in America, liberty is the norm and detention is the very limited exception. We invited national experts and delved into the latest research and evidence-based principles and learned from other



Senate Bill No. 1422, H.D. 1, Relating to Law Enforcement
House Committee of Judiciary
Monday, March 25, 2019, 2:00 PM
Page 2

jurisdictions where pretrial reforms are well underway. We reviewed previous studies conducted in our state, engaged with community experts and heard the views of our local stakeholders. We visited our cellblocks, jails, ISC offices and arraignment courts in an effort to investigate and present an unbridled view of our criminal pretrial process.

The recommendations set forth in the report seek to improve our current practices, with the goal of achieving a more just and fair pretrial release and detention system, maximizing defendants' release, court appearance and protecting community safety. With these goals in mind, the Task Force submitted twenty-five recommendations, to include amending Section 803-6 of the Hawaii Revised Statutes to allow law enforcement officers to issue citations in lieu of arrest for certain offenses, including non-violent Class C felonies. The Judiciary respectfully supports Senate Bill No. 1422, H.D. 1 in so far as it adopts the recommendation of the Criminal Pretrial Task Force.

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



SB1422 HD1/SB1423
RELATING TO LAW ENFORCEMENT/RELATING TO PAYMENT OF BAIL
House Committee on Judiciary

March 25, 2019

2:00 p.m.

Room 325

The Office of Hawaiian Affairs (OHA) **SUPPORTS** SB1422 HD1 and SB1423, measures which would effectuate two of the recommendations of the HCR134 Task Force on Pretrial Reform: reinforcing law enforcement authority to cite low-level defendants in lieu of arresting them, and allowing for bail posting on a 24-hours-a-day/7-day-a-week basis. OHA, as a member of the Task Force, has endorsed each of these recommendations.

Unfortunately, our current bail system is overwhelmed, inefficient, ineffective, and has resulted in harmful, unnecessary socioeconomic impacts¹ on low-income individuals and their families, a disproportionate number of whom may be Native Hawaiian. The intended purpose of bail is not to punish the accused, but rather to permit their pretrial release while ensuring their return to court. Presently, our bail system, overwhelmed by a historically increasing volume of arrests, is fraught with delays and frequently does not provide sufficient information to judges and attorneys seeking timely and appropriate pretrial release determinations. Moreover, mounting evidence demonstrates that overreliance on cash-secured bail punishes poor individuals and their families before any trial, much less conviction. In Hawai'i, indigent defendants must often decide between posting hefty cash bail or bond amounts that impose considerable financial hardship, or pretrial incarceration that threatens their employment and housing. Notably, detaining individuals for weeks or months before their trial simply because they are too poor to post bail also represents a substantial cost to taxpayers,² and further exacerbates the overcrowding in our detention facilities.³

Criminal justice experts have identified the pressing need for comprehensive reform of our pretrial system to adequately address the inherent and systemic inefficiency, ineffectiveness, and inequity in our bail system. The HCR134 Task Force, composed of experts and representatives from a broad collection of agencies and organizations who interface with the pretrial system, spent one and a half years examining the breadth and depth of Hawai'i's bail system and, in its 2018 report, made specific recommendations for

¹ Socioeconomic effects include daily costs of detaining each inmate, family separations, child and welfare interventions, loss of family income, reduction of labor supply, forgone output, loss of tax revenue, increased housing instability, and destabilization of community networks. See, e.g., MELISSA S. KEARNEY THE ECONOMIC CHALLENGES OF CRIME & INCARCERATION IN THE UNITED STATES THE BROOKINGS INSTITUTION (2014) available at <https://www.brookings.edu/opinions/the-economic-challenges-of-crime-incarceration-in-the-united-states/>.

² On average, it costs \$182 per day—\$66,439 per year—to incarcerate an inmate in Hawai'i. STATE OF HAWAII DEPARTMENT OF PUBLIC SAFETY: FISCAL YEAR 2018 ANNUAL REPORT 16 (2018) available at <https://dps.hawaii.gov/wp-content/uploads/2018/12/PSD-ANNUAL-REPORT-2018.pdf>.

³ All four of the state-operated jail facilities—where pretrial defendants are detained—are assigned populations between 166-250% of the capacities for which they were designed and hold populations amounting to 127-171% of their modified operational capacities. STATE OF HAWAII DEPARTMENT OF PUBLIC SAFETY, END OF MONTH POPULATION REPORT, NOVEMBER 30, 2018 available at <https://dps.hawaii.gov/wp-content/uploads/2018/12/Pop-Reports-EOM-2018-11-30.pdf>.

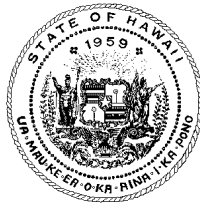
many areas marked for improvement. The OHA representative to the HCR134 Task Force endorsed nearly all of these recommendations and OHA generally supports efforts to reduce the State's reliance on cash bail, increase resources and reduce inefficiency in administrative operations and judicial proceedings, improve access to robust and relevant information related to pretrial release determinations, and reduce unnecessary pretrial detention and its impacts on families and communities.

Specifically, OHA emphasizes the Task Force recommendation addressed in SB1422 HD1, which would **reinforce law enforcement authority and discretion to cite low-level defendants instead of arresting them, to reduce pretrial procedural volume and the pretrial incarcerated population.** OHA further emphasizes the Task Force recommendation addressed in SB1423, which would **expand the timeframe in which defendants may post bail beyond normal business days and hours, to similarly reduce the pretrial procedural volume and incarcerated population resulting from defendants who are unable to post timely cash bail.** OHA supports these and other efforts to reduce the harms arising from the State's overreliance on cash bail, and to maximize pretrial release.

For the reasons set forth above, OHA respectfully urges the Committee to **PASS** SB1422 HD1 and SB1423. Mahalo piha for the opportunity to testify on these important measures.

DAVID Y. IGE
GOVERNOR

LATE



STATE OF HAWAII
HAWAII PAROLING AUTHORITY

1177 Alakea Street, First Floor
Honolulu, Hawaii 96813

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JOYCE K. MATSUMORI-HOSHIJO
MICHAEL A. TOWN
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FITUINA F. TUA
MEMBERS

TOMMY JOHNSON
ADMINISTRATOR

No. _____

WRITTEN TESTIMONY ONLY

TESTIMONY ON SENATE BILL 1422, HD1
A BILL FOR AN ACT RELATING TO LAW ENFORCEMENT

BY
HAWAII PAROLING AUTHORITY
Edmund "Fred" Hyun, Chairman

House Committee on Judiciary
Representative Chris Lee, Chair
Representative Joy A. San Buenaventura, Vice Chair

Monday, March 25, 2019, 2:00 p.m.
State Capitol, Conference Room 325

Chair Lee, Vice Chair Gates, San Buenaventura, and Members of the Committee:

The Hawaii Paroling Authority (HPA) opposes Senate Bill 1422 HD1, which seeks to expand the discretion of law enforcement officers to include issuing citations to appear for non-violent class C felonies in certain circumstances.

While the intent is well meaning, it does not distinguish an ordinary citizen from a convicted felon on probation, parole, or on a federal release program. Issuing a citation to appear in court to an offender for a new felony level offense puts the public at risk of continued victimization. Doing so in the case of parolees is particularly problematic as it increases the likelihood of the parolee absconding. Also, there is no guidance provided on how the supervision agency would be notified of the issuance of a citation.

As written, Senate Bill 1422, HD1 does not provide any guidance on how the Police Officer would come to a reasonable determination that the person issued the citation would appear in court at the time designated. For these critically important reasons, the HPA opposes this measure.

Thank you for the opportunity to provided testimony on Senate Bill 1422, HD1.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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DWIGHT K. NADAMOTO
ACTING PROSECUTING ATTORNEY

FIRST DEPUTY
PROSECUTING ATTORNEY



**THE HONORABLE CHRIS LEE, CHAIR
HOUSE COMMITTEE ON JUDICIARY**

**Thirtieth State Legislature
Regular Session of 2019
State of Hawai'i**

March 25, 2019

RE: S.B. 1422, H.D. 1; RELATING TO LAW ENFORCEMENT.

Chair Lee, Vice Chair San Buenaventura, and members of the House Committee on Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony in opposition to S.B. 1422, H.D. 1.

The purpose of S.B. 1422, H.D. 1 is to examine the current criminal pretrial procedures involving the discretion of law enforcement as it relates to citations for non-violent class C felonies. While the Department appreciates the Committee's good intentions of improving upon current procedures, we agree with the H.C.R. 134 Task Force's recommendation from the informational briefing on January 22, 2019, when it suggested that the prudent next step would be data collection following current changes implemented by various stakeholders, since the conclusion of H.C.R. 134.

The Department expresses strong concerns to the fact that S.B. 1422, H.D. 1 creates a broad range of eligible offenses (non-violent Class C felony, any misdemeanor or petty misdemeanor offenses) while limiting excludable offenses to a static list (domestic violence, sexual assault, robbery and offenses contained in chapter 707 of the H.R.S.), thereby failing to take into account the plethora of charges classified as non-violent Class C felony, misdemeanor and petty misdemeanor offenses that are not excluded from being citation eligible. This includes but is not limited to Habitual OVUII (§291E-61.5, H.R.S.), Promoting Pornography for Minors (§712-1215, H.R.S.), and Solicitation of a Minor for Prostitution (§712-1209.1, H.R.S.), Aggravated Harassment by Stalking (§711-1106.4, H.R.S.), and Theft in the Second Degree (§708-831, H.R.S.). In addition, this bill fails to outline a court procedure or mechanism for

initiating a case as it relates to individuals who are only issued a citation for a class C felony offense.

Although the Task Force report provided twenty-five various recommendations for pre-trial reform, many recommendations have already been applied without statutory requirements or mandates. Since the completion of the Task Force, it is our understanding that each agency has re-evaluated their policies and procedures and reassessed their approach to the current pretrial issues. As previously noted, we would strongly encourage the Committee to allow time for appropriate data collection and analysis as recommended by the Task Force at the informational briefing on January 22, 2019, before making any further statutory changes.

For all the reasons above, the Department of the Prosecuting Attorney of the City and County of Honolulu opposes the passage of S.B. 1422, H.D. 1. Thank you for the opportunity to testify on this matter.

COMMUNITY ALLIANCE ON PRISONS

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

Phone/E-Mail: [\(808\) 927-1214](tel:8089271214) / kat.caphi@gmail.com



COMMITTEE ON JUDICIARY

Rep. Chris Kalani Lee, Chair

Rep. Joy SanBuenaventura, Vice Chair

Monday, March 25, 2019

2:00 pm

Room 325

STRONG SUPPORT - SB 1422 HD1 - LAW ENFORCEMENT DISCRETION

Aloha Chair Lee, Vice Chair SanBuenaventura 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 more than two decades. This testimony is respectfully offered on behalf of the families of **ASHLEY GREY, DAISY KASITATI, JOEY O'MALLEY, JESSICA FORTSON AND ALL THE PEOPLE WHO HAVE DIED UNDER THE "CARE AND CUSTODY" OF THE STATE** as well as the approximately 5,500 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 more than 1,600 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 Kanaka Maoli, far, far from their ancestral lands.

SB 1422 HD1 specifies that law enforcement officers have the discretion to issue citations, in lieu of making an arrest, for non-violent class C felonies, misdemeanors, petty misdemeanors, and violations. **THIS IS ANOTHER RECOMMENDATION OF THE HCR 134 TASK FORCE.**

Community Alliance on Prisons is in strong support of this measure. This bill would also help the LEAD program that has been stymied by the Honolulu prosecutor.

I serve as the Policy Chair of the LEAD Hawai'i Hui and as we were meeting to put together the list of offenses that could be eligible for LEAD participation, the Hui felt strongly that Class C drug felonies should be included, as they are in other jurisdictions.

Law enforcement officers know many of the people in their district and, after working with several LEAD officers, Community Alliance on Prisons trusts that these police officers want what is best for the community and for the individual needing assistance.

I want to give a special shout out to HPD Captain Mike Lambert, who is the LEAD leader! He has proven to the community that the police can truly be PEACE OFFICERS!

Community Alliance on Prisons urges the committee to pass HB 1422 HD1.

Mahalo for this opportunity to testify.

SB-1422-HD-1

Submitted on: 3/23/2019 1:18:33 AM

Testimony for JUD on 3/25/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Lorenn Walker	Hawai'i Friends of Restorative Justice	Support	No

Comments:

Dear Honorable Committee Members,

We strongly support this measure giving law enforcement officers the discretion to issue citations, instead of making arrests for non-violent class C felonies, misdemeanors, and petty misdemeanors. The bill adopts the Criminal Pretrial Procedures Task Force recommendation to allow law enforcement officers broader discretion to issue citations.

Police discretion would ultimately help provide social services for those who need them instead of wasting the resources on criminal justice interventions that make problems worse http://www.policchiefmagazine.org/wp-content/uploads/Policyreform_September2015.pdf

Thank you for your public service.

Lorenn Walker, JD, MPH, Director, Hawai'i Friends of Restorative Justice



Mothers Against Drunk Driving HAWAII
745 Fort Street, Suite 303
Honolulu, HI 96813
Phone (808) 532-6232
Fax (808) 532-6004
hi.state@madd.org

March 25, 2019

To: Representative Chris Lee, Chair, House Committee on Judiciary ;
Representative Joy A. San Buenaventura, Vice Chair; and members of
the Committee

From: Carol McNamee and Theresa Paulette, Public Policy and Victim Services
Committees - MADD Hawaii

Re: Senate Bill 1422, HD 1– Relating to Law Enforcement

I am Carol McNamee, submitting comments concerning Senate Bill 1422 HD1- relating to Law Enforcement, on behalf of the Hawaii Chapter of Mothers Against Drunk Driving

MADD appreciates the work of the Hawaii Criminal Pretrial Reform Task Force but has serious concerns about community safety in this particular bill.

On page 2, Section 2. Section 803-6 HRS (b) states “In any case in which it is lawful for a police officer to arrest a person without a warrant for a non-violent class C felony, any misdemeanor, any petty misdemeanor or violation, the police officer may exercise discretion and issue a citation in lieu of the requirements of subsection (a). Those categories would include OVUII and habitual OVUII (class C felony) cases.”

MADD does not believe it is appropriate for these crimes to ever be considered for a citation in lieu of an arrest. Anyone driving with a .08 BAC higher is a definite threat on our highways and approximately one third of arrestees will be arrested again for the same crime. Individuals convicted of a habitual OVUII have had three previous convictions for the same crime and have been extraordinarily lucky not to have had a serious crash resulting in the death or injury of innocent people.

MADD asks the committee to defer passage of SB1422,HD1 until further discussions can be held with input from victim service agencies and amendments made.

Thank you for the opportunity to present our comments.



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

TO: House Committee on Judiciary
FROM: Carl Bergquist, Executive Director
HEARING DATE: March 25, 2019, 2PM
RE: SB1422 HD1, RELATING TO LAW ENFORCEMENT, **SUPPORT**

Dear Chair Lee, Vice Chair San Buenaventura and Committee Members:

The Drug Policy Forum of Hawai'i (DPFHI) **strongly supports** this measure to add non-violent class C felonies to the list of offenses for which a law enforcement officer can issue a citation in lieu of carrying out an arrest. This would free up police resources while allowing the individual to go about their business and have a better chance of preparing their defense. Minimizing incarceration, including being detained pretrial unable to post bail for a class C felony, is healthier for both the person and the community at large.

As the bill's findings indicate, other states are contemplating similar measures. According to the National Conference on State Legislatures, "[f]our states—Alaska, Louisiana, Minnesota, and Oregon—permit citations for some felonies."¹ *Those laws are highlighted after this testimony.* We note that **the Alaska law** in particular, was part of a broader criminal justice package passed in 2016.² Among other measures in that package is **reducing drug possession offenses to misdemeanors**. That policy, **defelonization**, was heard in the Senate on 2/7/19 in the form of [SB1367](#). We humbly submit that this bill and the contents of SB1367 work best in concert. Therefore, **we respectfully request that you incorporate SB1367 into this measure.**

Mahalo for the opportunity to testify.

¹ <http://www.ncsl.org/research/civil-and-criminal-justice/citation-in-lieu-of-arrest.aspx>.

² https://www.pewtrusts.org/~media/assets/2016/12/alaskas_criminal_justice_reforms.pdf.

State & Statute	For What Offenses Can a Citation be Issued?	Exceptions	Presumption of Citation	When is Citation Issued?	Who Issues Citation?
Alaska §12.25.180 (a)	Class C felonies, misdemeanors, municipal ordinances	Offenses involving violence to property or person; when there is probable cause that domestic abuse was involved.	No	Prior to arrest	Peace officers
Louisiana C. Crim. Proc. Art. 211	Misdemeanors; felony theft or illegal possession of stolen items worth \$500-\$1000; writing worthless checks; driving without license in possession	None identified.	No (Yes—driving without license in possession)	Prior to arrest	Peace officers
Minnesota Crim. Proc. R. 6.01, subd. 2	Felonies and gross misdemeanors without warrant	Aggravated DWI. (§ 169A.40)	No	After arrest	Peace officer, officer in charge of police or sheriff station
Oregon §§ 133.055; 133.070	Misdemeanors; felonies authorized by law to be reduced to a misdemeanor; certain ordinances	Domestic disturbance with probable cause to believe that: an assault occurred	No	Not specified	Peace officers

Source: <http://www.ncsl.org/research/civil-and-criminal-justice/citation-in-lieu-of-arrest.aspx>.

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Adriana Ramelli

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Date: March 2, 2019

To: The Honorable Chris Lee, Chair
The Honorable Joy A. San Buenaventura, Vice Chair
House Committee on Judiciary

From: Justin Murakami, Manager, Prevention Education and Public Policy
The Sex Abuse Treatment Center
A Program of Kapi'olani Medical Center for Women & Children

RE: Testimony in Opposition to S.B. 1422 H.D. 1
Relating to Law Enforcement

Good afternoon Chair Lee, Vice Chair San Buenaventura, and members of the House Committee on Judiciary:

The Sex Abuse Treatment Center (SATC) respectfully opposes S.B. 1422 H.D. 1, which would allow suspects to receive citations and remain in the community in Class C Felony cases that would otherwise result in arrests.

We are concerned that this would take place without meaningful assessment of whether suspects are likely to commit more crimes, be no-shows to court proceedings, or endanger the safety and wellbeing of crime victims, witnesses, or the general community. In addition, it is our understanding that the suspects would not be subject to ongoing monitoring or other conditions that are applied for arrested suspects in class C felony cases who are granted pretrial release.

Class C Felonies that would be made citable include stalking, breaking and entering, violation of privacy (peeping toms who record their victims and perpetration of revenge porn), promoting pornography for minors, solicitation of minors for prostitution, theft, criminal property damage, identity theft, and drunk driving crimes.

SATC finds this particularly concerning because many of these crimes are red flags for sexual offending and a heightened risk of interpersonal violence.

We appreciate the opportunity to testify on S.B. 1422 H.D. 1, and ask that the Committee please defer this measure.

SB-1422-HD-1

Submitted on: 3/23/2019 6:53:48 AM

Testimony for JUD on 3/25/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Cathy Tilley	Individual	Support	No

Comments:

Giving lawenforcement officers the discession to write sitations instead of arresting people will aagain help with the overcrowding of jails that is a huge problem in itself and save fthe taxpayers a lot of money. It is working in other states and could work here. It is better to collect money than to cost the taxpayers money.

SB-1422-HD-1

Submitted on: 3/22/2019 5:52:31 PM

Testimony for JUD on 3/25/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Karin Nomura	Individual	Support	No

Comments:

I believe this will make it easier for officers as I'm told without a positive identity (hearing without seeing the faces insufficient/issues with groups at the location; etc.), including the officer before divulging information to a party(s) who claimed to be, though told that they are not, requiring a driver's license to be presented by the party posing as (false information provided to authorities), etc. into fining those involved/assisting in activities that are harmful, socially unacceptable, or illegal.

SB-1422-HD-1

Submitted on: 3/23/2019 7:36:48 AM

Testimony for JUD on 3/25/2019 2:00:00 PM

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

Comments:

SB-1422-HD-1

Submitted on: 3/23/2019 4:11:46 PM

Testimony for JUD on 3/25/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Diana Bethel	Individual	Support	No

Comments:

SB 1422 HD1 adopts the very successful LEAD program to allow law enforcement officers on the ground to exercise discretion in issuing citations to low-level defendants instead of arresting them.

The nationally acclaimed LEAD program was recommended by the HCR 134 Pre-Trial Task Force. LEAD stands for Law Enforcement Assisted Diversion.

LEAD programs are currently operating in 36 cities and counties in 20 states and are being launched in 5 more jurisdictions. 15 more jurisdictions in 13 states are developing LEAD programs and 41 more jurisdictions in 21 states are exploring the LEAD program. So in total 97 jurisdictions in 35 states are either operating LEAD programs or launching, developing or exploring new LEAD programs. Please see the LEAD National Support Bureau at LEADBureau.org for more detail.

The LEAD program would help divert individuals into appropriate programs rather than arrest them and continue to bloat our incarceration facilities with people who do not need to be there.

According to LEAD website statistics, "LEAD participants were 58% less likely to be arrested after enrollment in the LEAD program in Seattle, compared to those who went through the 'system as usual' criminal justice processing."

Currently, the LEAD program in four states - Alaska, Louisiana, Minnesota, and Oregon - allows citations for some felonies.

Hawaii police already have this authority, but enshrining this program in statute would give it more weight and perhaps greater application.

The LEAD program provides multiple beneficial outcomes: fewer arrests, less disruption in a person's life that would handicap their ability to sustain themselves and their family, and less cost to the taxpayer for incarcerating people unnecessarily.

Please pass SB 1422 HD1.

Thank you.

HOUSE OF REPRESENTATIVES
THE THIRTIETH LEGISLATURE
REGULAR SESSION OF 2019



COMMITTEE ON JUDICIARY

Rep. Chris Lee, Chair

Rep. Joy A. San Buenaventura, Vice Chair

Testimony and Comments, James Waldron Lindblad

Comments and Suggestions SB 1422, HD1.

Rep. Tom Brower	Rep. Calvin K.Y. Say
Rep. Richard P. Creagan	Rep. Gregg Takayama
Rep. Nicole E. Lowen	Rep. Ryan I. Yamane
Rep. Angus L.K. McKelvey	Rep. Cynthia Thielen
Rep. Dee Morikawa	

DATE: Monday, March 25, 2019

TIME: 2:00pm

PLACE: Conference Room 325
State Capitol
415 South Beretania Street

Chair and Members of the Committee:

My name is James Waldron Lindblad. I am a former pretrial worker having released at least 2000 persons on their own recognizance and presently I am a bail agent having bailed out at least 25,000 persons. My ideas involve equal access to justice, quick and sure, and accountability. I believe no person should be held in jail simply for lack of funds.

To improve SB 1422, HD1, I think making use of improvements provided on pages 12, 13, & 14 of HB 1289 that contain precise instructions and exclusions for any new bail procedures would improve this bill. These exclusions were drawn in whole or in part from page 136, of the HCR 134 Task Force Report labeled as Testimony from Professional Bail Agents of United States.

Non-Monetary Release Recommendations-

Although we support the commercial bail industry and feel monetary bail is the best option for the criminal justice system, we understand the need for certain occasions when non-monetary or "own recognizance" bonds are necessary or preferred. At no time do we as an industry feel that judicial discretion be removed from the equation totally.

The commercial bail industry stands by the below core principles for own recognizance (OR) and non-monetary release:

- Eligible- Non-monetary release as a first option for violation of traffic laws, and look at what traffic laws can be completely decriminalized
- Eligible- Non-monetary release as a first consideration for first time offenders with no criminal history
- Eligible- Non-monetary release as a first consideration on individuals with no failures to appear (FTA)
- Not Eligible- Non-monetary option for an individual currently out on a bond for a felony or misdemeanor
- Not Eligible- Non-monetary option for someone convicted of a felony in the past 3 years or misdemeanor in the past 1 year
- Not Eligible- Non-monetary release option for someone with multiple cases or in multiple counties
- Not Eligible- Any release on crimes where there is a victim should be guaranteed and supervised
- Not Eligible- Any defendant who has previously failed to appear on an OR bond on a criminal charge shall only be released with secured bail and would not be eligible for another OR bond for at least one year
- Not Eligible- Any defendant currently released on a secured bond for a felony offense would not be eligible for non-monetary release
- Not Eligible- Any defendant currently on a non-monetary bond would not be eligible for a second non-monetary bond in any county
- Not Eligible- Any defendant who has been charged with a sexual assault on a child/minor causing great bodily harm would not be eligible for non-monetary release
- Not Eligible- Any defendant who has been convicted of a charge of escape in the last five years would not be eligible for non-monetary release
- Most importantly, a policy should be created that stops unlimited non-monetary release for any defendant

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Further, the identification of all persons coming into contact with law enforcement is very important and in my view, booking and then releasing has advantages over only citation and

then release. The matter of book and release is what I favor rather than citation and then release. This is especially true for the felony cases. Further, it is the desk sergeant at the booking facility who should be doing the releasing and not the arresting officer.

Most misdemeanants at HPD are released by the court the next day and on weekends the duty judge releases many more as HPD arrest logs posted online document.

The purpose of this bill is to “free up space in police cell blocks, county jails, and courthouse holding cells without jeopardizing public safety” by giving law enforcement officers discretion to issue citation, in lieu of making an arrest, for non-violent class C felony offenses. Since identity these days is so crucial to public safety I think booking to verify identification should be required first and as I said, only the desk sergeant or higher rank should be authorized to release felony defendants after booking at the station.

Thank you,

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