



The Judiciary, State of Hawai‘i

House Committee on Public Safety, Veterans, and Military Affairs

Representative Gregg Takayama, Chair

Representative Cedric Asuega Gates, Vice-Chair

Wednesday, March 13, 2019, 10:30 AM

State Capitol, Conference Room 430

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. 1423, Relating to Payment of Bail.

Purpose: Senate Bill No. 1423 permits defendants for whom a monetary amount of bail has been set to pay the bail amount on a twenty-four hours a day, seven days a week basis and be released from custody forthwith upon posting or payment of bail.

Judiciary’s Position:

The Judiciary respectfully supports Senate Bill No. 1423, which adopts the recommendation of the Criminal Pretrial Procedures Task Force to allow payment of bail and defendant’s subsequent release, at any time.

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



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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 804-7 of the Hawaii Revised Statutes to allow criminal defendants to post bail and be released from detention at any time. The Task Force concluded that defendants should not be detained simply because of an administrative barrier requiring that bail or bond be payable only during normal business days/hours. The Judiciary respectfully supports Senate Bill No. 1423 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.

COMMUNITY ALLIANCE ON PRISONS

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

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



COMMITTEE ON PUBLIC SAFETY, VETERANS, AND MILITARY AFFAIRS

Rep. Gregg Takayama, Chair

Rep. Cedric Gates, Vice Chair

Wednesday, March 13, 2019

10:30 am

Room 430

STRONG SUPPORT - SB 1423 - 24/7 BAIL

Aloha Chair Takayama, Vice Chair Gates 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 1423 permits defendants for whom a monetary amount of bail has been set to pay the bail amount on a twenty-four hours a day, seven days a week basis and be released from custody forthwith upon posting or payment of bail.

Community Alliance on Prisons is in strong support of this measure. Currently, a person who is arrested on a Friday night has been stuck in jail all weekend and if Monday is a holiday, they are imprisoned until Tuesday. This does not promote justice and is another burden on taxpayers, for something that can be easily fixed.

Community Alliance on Prisons thanks committees for hearing this important bill and we urge you to pass it!

Mahalo for this opportunity to testify.

SB-1423

Submitted on: 3/11/2019 11:48:11 PM

Testimony for PVM on 3/13/2019 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Carl Bergquist	Drug Policy Forum of Hawaii	Support	No

Comments:

SB-1423

Submitted on: 3/10/2019 11:36:23 AM

Testimony for PVM on 3/13/2019 10:30:00 AM

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

Comments:

STRONG SUPPORT

SB-1423

Submitted on: 3/11/2019 7:40:09 AM

Testimony for PVM on 3/13/2019 10:30:00 AM

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

Comments:

SB-1423

Submitted on: 3/11/2019 8:18:36 AM

Testimony for PVM on 3/13/2019 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Christine Weger	Individual	Support	No

Comments:

If the Big Island can do this, so can the remainder of our State.

The state agencies charged with implementing this proposal will naturally emphasize the impact on their limited resources. I believe they have stated the need for additional funding to accomplish it.

Please consider this possible short-term cost versus the long-term costs of housing people who are ready and able to post bail over the weekend. We desperately need to reduce our jail population--this is one fairly easy way to work toward that end--one that endanger no one.

Where people are incarcerated even for short time periods, it can result in financial disaster for their families. Especially in Hawaii, where many of our citizens work on traditional weekends--they may post bail on Monday morning only to find that they have lost one or more jobs.

The HCR 134 Task Force recommends this change. After such careful study undertaken by your own commission, the answers are clear. Your constituents are looking for you to act to implement these changes.

Mahalo,

Christine Weger, Atty at Law

Testimony of Philip H. Lowenthal

Aloha Hon. Committee Chair and Members

Over the past 50 years, as a practicing Hawaii attorney, I have observed steadily increasing pretrial detainees as bail has increased. The only beneficiary has been the bail bond industry. The cost to the State has been enormous. The cost to the detainees is incalculable, as it only takes a few days of detention to lose a job, a home, and a reputation.

The inequities between the rich and the poor are exacerbated contrary to our mantra of "equal justice for all".

In the federal court system there are relatively few pretrial detainees and most arrestees are released on their execution of a signature bond. Bail is generally set in an amount an arrestee can afford. The bail bond industry is not supported by the judiciary. There is no apparent problem with "no-shows" and no public outcry.

I urge you to support the bail reform bills.

SB-1423

Submitted on: 3/11/2019 10:39:27 AM

Testimony for PVM on 3/13/2019 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Carla Allison	Individual	Support	No

Comments:

I strongly support SB1423 because it adopts the recommendation of the HCR 134 PreTrial Task Force to allow payment of bail and defendant's subsequent release, at any time. Hawai'i island is the only place in the state with 24/7 bail. The rest of the state should adopt this practice and reduce Hawai'i's overcrowded jails. This bill will reduce the pretrial procedural volume and the incarcerated population.

Please move this bill forward.

ROBERT K. MERCE
2467 Aha Aina Place
Honolulu, Hawaii 96821

Telephone: (808) 732-7430
mercer001@hawaii.rr.com

March 11, 2019

TO: Committee on Public Safety, Veterans & Military Affairs
RE: SB 1423
HEARING DATE: Wednesday, March 13, 2019
TIME: 10:30 AM
CONF. ROOM: 430
POSITION: **STRONG SUPPORT**

Dear Chair Takayama, Vice Chair Gates, and Members of the Committee:

I **support** SB 1423 which would allow people in custody to make bail payments twenty-four hours a day, seven days a week, and be released from custody upon posting or payment of bail at any time.

A 2008 study found that Honolulu had the longest average jail length of stay among several large U. S. cities,¹ and recommended that the State “undertake a concerted effort to significantly reduce the length of stay at OCCC.” SB 1423 would reduce the length of stay for inmates who are able to make bail, and that in would save money for the state, and result in less disruption of the defendant’s life.

I urge you to pass SB 1423.

Thank you for allowing me to testify on this measure.

¹ See *Creating Better Outcomes, Safer Communities, Final Report of the HCR 85 Task Force on Prison Reform to the Hawaii Legislature, 2019 Regular Session*, p. 74.

SB-1423

Submitted on: 3/11/2019 2:13:57 PM

Testimony for PVM on 3/13/2019 10:30:00 AM

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

Comments:

Based on the recommendation of the HCR 134 PreTrial Task Force, SB 1423 allows payment of bail and subsequent release at any time.

This would enable a defendant to maintain a job and care for their family, among other necessary tasks that would be interrupted by incarceration due to the State's convenience (business hours on the weekend, etc.).

The entire state should adopt the example of Hawaii island which has this enlightened policy already in place.

Implementation of this 24/7 bail payment and release practice will reduce the volume of pretrial inmates and the unnecessary procedural burden.

March 12, 2019

Support for SB1423 RE: 24Hr. Bail payment

TO: Chair Greg Takayama, Vice Chair Cedric Gates and Members of the Committee

FROM: Barbara Polk

I **support SB1423 strongly** because no person should be held in custody longer than is necessary. At present, the "necessity" is due to administrative procedures that could be changed, rather than to public safety or other considerations. Ability to pay monetary bail as soon as it is set will help clear our jails of people who do not need to be there. Even a few days of incarceration, such as over a weekend or holiday, has serious negative effects on an individual and constitutes a punishment when the person has not been found guilty of a crime. (When did we move from "innocent until proven guilty" to "guilty until proven innocent?")

Since there is one jurisdiction in the State in which posting bail 24 hours a day, seven days a week is already the practice, it is clear that this could be done in other jurisdictions as well.

Please pass SB1423