



The Judiciary, State of Hawai‘i

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

Thursday, March 21, 2019, 2:05 PM
State Capitol, Conference Room 325

by

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

WRITTEN TESTIMONY ONLY

Bill No. and Title: Senate Bill No. 192, S.D. 1, H.D. 1, Relating to Bail.

Purpose: Authorizes a defendant in custody to petition a court for unsecured bail.

Judiciary's Position:

The Judiciary appreciates the intent of this proposed bill but respectfully suggests that the Committee defer consideration of this bill. The HCR 134 Criminal Pretrial Practices Task Force proposed significant legislation regarding pretrial release, which in the future may alleviate some of the concerns underlying this bill.

Senate Bill No. 192, S.D. 1, H.D. 1 authorizes a defendant in custody to petition a court for unsecured bail bond. However, the proposed bill does not set forth any procedures with respect to implementation of the unsecured bond.

The bill proposes “[i]n event that a defendant fails to appear in court as required or breaches any other condition of release, the court shall take appropriate steps to collect the amount of the unsecured financial bond from the defendant or any additional obligors originally required by the court.” The court currently is not equipped to collect funds from a defendant or



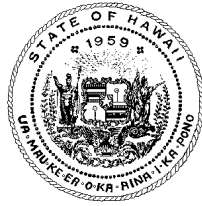
Senate Bill No. 192, S.D.1, H.D. 1, Relating to Bail
House Committee on Judiciary
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an obligor. Such a responsibility will require significant and appropriate resources for implementation. Without the ability to enforce collection, any incentive for defendants to return to court would be lost.

Moreover, unsecured bonds may be unnecessary. In state court, defendants eligible for supervised release are already released without any financial obligation. Non-financial release alternatives are already utilized. Defendants can be release on their own recognizance, on supervised release to the Department of Public Safety's Intake Service Center, on supervised release to a sponsor (often a family member or friend with a stable residence), or on supervised release to a treatment program. Because non-financial release alternatives are already available, there is little need for unsecured bonds.

Thank you for the opportunity to testify on this matter.

DAVID Y. IGE
GOVERNOR



MARI McCAIG
Chair

MARTHA ROSS
Commissioner

SANDRA JOY EASTLACK
Commissioner

PAMELA FERGUSON-BREY
Executive Director

STATE OF HAWAII
**CRIME VICTIM COMPENSATION
COMMISSION**

1164 Bishop Street, Suite 1530
Honolulu, Hawai'i 96813
Telephone: 808 587-1143
FAX 808 587-1146

TESTIMONY ON SB 192 SD 1 HD 1
RELATED TO BAIL

by

Pamela Ferguson-Brey, Executive Director
Crime Victim Compensation Commission

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

Thursday, March 21, 2019; 2:05 p.m.
State Capitol, Conference Room 325

Good afternoon Chair Lee, Vice Chair San Buenaventura, and Members of the House Committee on Judiciary. Thank you for providing the Crime Victim Compensation Commission (the "Commission") with the opportunity to request deferral of Senate Bill 192 SD1 HD 1. This bill seeks to implement one of the recommendations of the Criminal Pretrial Task Force convened pursuant to House Concurrent Resolution No. 134, House Draft 1, Regular Session of 2017 ("Task Force"). The Commission requests that the Committee defer SB192 SD1 HD1 pending a review of data collected from the current implementation efforts and to address the provisions that jeopardize victim and community safety.

The Commission was established in 1967 to mitigate the suffering and financial impact experienced by victims of violent crime by providing compensation to pay un-reimbursed crime-related expenses. Many victims of violent crime could not afford to pay their medical bills, receive needed mental health or rehabilitative services, or bury a loved one if compensation were not available from the Commission.

Lack of Supervision Threatens Victim and Public Safety

Current law already allows judges in state courts to reduce bail, or release offenders on conditions that are, among other things, for the purpose of keeping victims and the community safe. The difference between SB192 SD1 HD1 and current law is that under current law, in most cases, release on conditions usually requires supervision from a court pre-trial officer. If an offender violates those conditions, the supervising pretrial officer alerts the prosecutor or the court. The offender could be taken back into custody or bail could be increased. This process protects the public, while still giving offenders a chance to be released from custody.

It is not clear that SB192 SD1 HD1 will require offenders to be supervised by the court to ensure that offenders abide by those conditions. Without court supervision, there is no mechanism for the court to find out when an offender has violated conditions. In that case, the public cannot depend on offenders being sent back to custody when necessary.

Since current law already allows for courts to exercise discretion and reduce bail and allows for offenders to be released on conditions with court supervision, there is no need for SB192 SD1 HD1.

Thank you for providing the Commission with the opportunity to request deferral of SB192 SD1 HD1.



SB192 SD1 HD1
RELATING TO BAIL
House Committee on Judiciary

March 21, 2019

2:05 p.m.

Room 325

The Office of Hawaiian Affairs (OHA) **STRONGLY SUPPORTS** SB192 SD1 HD1, a measure in OHA's 2019 Legislative Package. **This bill would give judges the option to offer "unsecured bail," or a promissory note, to certain incarcerated individuals, as a means to reduce the severe and disproportionate consequences of cash bail on indigent defendants and communities, relieve the overcrowding of our detention facilities, and save significant taxpayer dollars.**

Unfortunately, our current cash-secured bail system has resulted in harmful, unnecessary socioeconomic impactsⁱ on low-income individuals and their families, a majority of whom are Native Hawaiian. The purpose of bail is to not to punish the accused, but to allow for their pretrial release and ensure their return to court; however, our cash bail system as applied effectively punishes low-income defendants without even a trial. Unlike the wealthy, indigent defendants often may not be able to come up with their categorically predetermined cash bail amounts up front, particularly when they may already be struggling to pay their rent, or support their families. For such individuals, being too poor to surrender their cash bail amount means not only the loss of their freedom for weeks, months, or longer, but can also result in the loss of their jobs, housing, and even custody of their children. In effect, our cash bail system punishes poor individuals and their families without any trial or conviction; many indigent defendants facing uncertain and potentially lengthy trial timelines may even forego their right to a trial, and agree to plea deals in exchange for more certain release dates. 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,ⁱⁱ and further exacerbates the overcrowding in our detention facilities.ⁱⁱⁱ

SB192 SD1 HD1's unsecured bail alternative will help to ensure that poor defendants are not unnecessarily punished by our cash-secured bail system. Rather than requiring defendants granted cash bail to surrender their entire bail amount up-front, SB192 SD1 HD1 gives judges the option to allow certain defendants to secure their release by signing a promissory note for all or part of their bail amount. Specifically, judges may make such an "unsecured bail" option available to a defendant granted cash bail who 1) would face financial hardship in surrendering their set bail amount or paying a bail bonding agent, and 2) would face threats to their employment, housing, health, or family stability if they were to remain incarcerated pending trial; judges may make their

decision based on a defendant's and their co-signers' financial and personal circumstances, pre-trial risk assessment factors, the offense charged and potential sentence carried, and any other relevant factors. Should a defendant fail to appear at trial or violate any conditions of their release, the promissory note and any surrendered bail amount would ensure that the defendant and their cosigners are still held financially accountable. Accordingly, SB192 SD1 HD1 is a tailored and targeted approach to mitigate the harsh and disproportionate consequences of cash bail on poor defendants and their families. **Notably, SB192 SD1 HD1 does not limit judicial discretion in setting bail amounts or even granting bail; if a defendant poses a flight risk or threat to public safety, judges may still deny bail altogether.**

In other jurisdictions and in the federal system, unsecured bail has been shown to relieve the burden of cash bail on the poor, while at the same time reducing the overcrowding of detention facilities, with studies further showing no effect on trial appearance rates. For example, the Federal District of Hawai'i uses unsecured bail along with recognizance and conditional and supervised releases to execute 98 percent of its pretrial releases, without any cash, property, or other security.^{iv} Notably, the Federal District also reports that zero percent of their released defendants fail to appear for trial.^v Studies from other jurisdictions also show that unsecured bail is **just as effective** at ensuring defendants' court appearance and maintaining public safety as cash-secured bail, while being **far more efficient** than cash bail at freeing up jail space.^{vi} Thus, **SB192 SD1 HD1's unsecured bail system offers an alternative that can reduce the severe consequences of cash bail on poor defendants and communities, provide relief to rampant overcrowding in our detention facilities, and save taxpayer dollars —without affecting trial appearance rates or public safety.**

OHA notes that SB192 SD1 HD1's proposed unsecured bail system does not conflict with the recommendations of the HCR134 Task Force on pretrial reform. In fact, SB192 SD1 HD1's unsecured bail proposal complements the Task Force's recommendations, by mitigating the disparate impacts of cash bail that may remain even if the Task Force's recommendations are adopted. SB192 SD1 HD1's proposed system can also stand alone as an independent approach to reducing the impacts of the cash bail system on poorer communities, should the Legislature decline to adopt some or all of the Task Force's recommendations.

For the reasons set forth above, OHA respectfully urges the Committee to **PASS** SB192 SD1 HD1. Mahalo piha for the opportunity to testify on this important measure.

ⁱ 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/>.

ⁱⁱ 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>.

ⁱⁱⁱ 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>.

^{iv} Carol M. Miyashiro, Chief U.S. Pretrial Services Officer, U.S. District Court-District of Hawaii, Presentation to HCR 134 (2017) Task Force (Aug. 11, 2017).

^v Refers to the calendar year period from April 1, 2016 through March 31, 2017. *Id.*

^{vi} See, e.g., MICHAEL R. JONES, UNSECURED BONDS: THE AS EFFECTIVE AND MOST EFFICIENT PRETRIAL RELEASE OPTION 10-11, 14-15 (2013).



Office of the Public Defender State of Hawai'i



Testimony of the Office of the Public Defender, State of Hawai'i to the House Committee on Judiciary Prepared by William C. Bagasol, Supervising Deputy Public Defender

March 20, 2019

S.B.192, SD1, HD1: RELATING TO BAIL

Chair Chris Lee, Vice Chair Joy A. San Buenaventura and Members of the Committee:

The Office of the Public Defender strongly supports S.B. 192, SD1, HD 1

All too often individuals charged with a crime remain in custody unable to post bail. Many of these people are not dangerous but they and their families are unable to gain release simply because of they are too poor. This unnecessary incarceration causes a myriad of social and economic problems. The current money bail system unfairly impacts the poor which results in needless incarceration and eventual increased burdens to Hawai'i taxpayers.

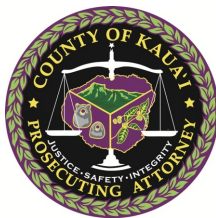
The Office strongly supports this measure allowing for **unsecured bond** as part of an efficient and fair pretrial system. Many defendants are not able to post cash bail or to work with bail bond company that may require cash and collateral for the posting of bail. People will often be left with a hard-financial choice to use limited resources for basic necessities or to make bail for themselves or a loved one. Unsecured bond offers some relief and gives the Court another option or tool for assuring a defendant's appearance in court while allowing release of individual that should not otherwise be incarcerated. This method adds more responsibility on the Defendant or persons that may assist the defendant in appearing in court.

This method of release has proven successful in other jurisdictions, such as in the Federal Criminal Justice system. In the Federal system, defendants are released via unsecured bond, and in most cases, they return to court and discharge their obligations to the court. The same think can be done here in Hawai'i. Furthermore, under the proposed measure, the court may still impose additional other types of conditions if it still deems it appropriate.

While unsecured bond was not one of the recommendations of the Pretrial Task Force, the proposal is certainly not inconsistent with its purpose or recommendations. We therefore respectfully support the passage of S.B. 192, SD 1 out of your committee.

Justin F. Kollar
Prosecuting Attorney

Jennifer S. Winn
First Deputy



Rebecca A. Vogt Like
Second Deputy

Diana Gausepohl-White
Victim/Witness Program Director

OFFICE OF THE PROSECUTING ATTORNEY

County of Kaua'i, State of Hawai'i

3990 Ka'ana Street, Suite 210, Lihu'e, Hawai'i 96766
808-241-1888 ~ FAX 808-241-1758
Victim/Witness Program 808-241-1898 or 800-668-5734

**THE HONORABLE CHRIS LEE, CHAIR
HOUSE COMMITTEE ON JUDICIARY
The Thirtieth Legislature
Regular Session of 2019
State of Hawai'i**

March 21, 2019

RE: S.B. 192 S.D. 1: RELATED TO BAIL HEARINGS.

Chair Lee, Vice-Chair San Buenaventura, and members of the House Committee on Judiciary, the Office of the Prosecuting Attorney of the County of Kaua'i **opposes** this Bill. Although we support comprehensive pretrial bail reforms, and the elimination of the use of bail bonds, this particular Bill is flawed in a number of ways. If your Committee is inclined to pass the Bill, we recommend amendments that will ensure the defendant's success while on release and also protect the public.

Threatens Victim and Public Safety

SB 192 SD 1 is essentially bail reduction, without the safeguard of court supervision.

Current law already allows judges in state courts to reduce bail, or release offenders on conditions that are supposed to keep victims and the community safe. If an offender violates those conditions, the supervising pretrial officer alerts the prosecutor or the court.

SB 192 SD 1 does not have a mechanism for court supervision. Although SB 192 SD 1 allows courts to impose conditions of release, there would be no pretrial officer monitoring the offender. The offender may violate the court's conditions that were supposed to ensure victim and community safety, without anyone knowing.

Conflicts with Current Law

SB 192 SD 1 conflicts with current laws that provide consequences when offenders violate conditions of release or skip court.

Under HRS §§ 804-7.2 and 804-7.3, when offenders violate conditions or miss a court date, the offenders may be arrested. Then courts can increase bail, or even revoke bail, to protect the public and ensure offenders appear at court. Under SB 192 SD 1 Section (b), the only remedy listed for when offenders violate conditions or skip court is that the court should collect the unsecured portion of the bond, a daunting task which will do nothing to ensure the defendant actually comes to court. At the very least, SB 192 SD 1 brings into question whether offenders who violate conditions or skip court will suffer any consequences. If Section (b) of SB 192 SD 1 is interpreted to be the only consequence in unsecured bond cases, then offenders released on unsecured bonds will be free to skip court and violate conditions without being arrested or having their bail increased.

Unable to Enforce

SB 192 SD 1 does not say how courts are supposed to collect the unsecured portion of the bond. Unsecured bonds are, by their definition, virtually uncollectable. Enforcement will require an unknown amount of appropriations and resources.

Proposed Amendments

If the Committee passes SB 192 SD 1, we respectfully submit that should be a requirement that offenders who are released on conditions shall be supervised by a pretrial officer. Section (b) should be clarified so that it is clear courts shall collect the unsecured portion of the bail bond in addition to the processes and remedies in HRS §§ 804-7.2 and 804-7.3.

Thank you for this opportunity to testify on this bill.



**TESTIMONY OF TINA YAMAKI
PRESIDENT
RETAIL MERCHANTS OF HAWAII
March 21, 2019
Re: SB 192 SD1 HD1 Relating to Bail**

Good afternoon Chairperson Lee members of the House Committee on Judiciary. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii (RMH) as founded in 1901 and is a statewide, not for profit trade organization committed to the growth and development of the retail industry in Hawaii. The retail industry is one of the largest employers in the state, employing 25% of the labor force.

While we understand the intent, RMH is strongly opposed to SB 192 SD1 HD1 Relating to Bail. This measure authorizes a defendant in custody to petition a court for unsecured bail.

This bill essentially gives those who “allegedly” committed a non-violent crime to be caught and released without much consequence or an assurance they will in fact show up for court.

In 2016 the legislature raised the felony theft charge from \$300 to \$750. Since then, many retailers have been facing an upward increase in theft – from designer clothing to hand bags to sunglasses to electronics to spam to cosmetics to liquor to tobacco to name a few. While some thieves steal right under \$750 many go above and beyond. The thieves are part of organized retail crime and come into the stores daily with a list of items, like your grocery list, of things that they are going to steal. They consider stealing from our stores their daily job.

It is a losing battle for many retailers where the police may or may not catch and arrest the thieves. When HPD does arrests them and lets them go after being processed, the thieves are right back into the stores stealing again. Then it is the prosecutors who may or may not prosecute them regardless of the number of priors they have. IF they don't prosecute, the thieves are right back in the stores stealing. If we are lucky to get a prosecution, the judges often let the thieves off easy with a slap on the wrist as it is a non-violent crime and within hours the thieves are back in the stores stealing again.

Although these crimes are not violent, they are still crimes and the victims are not just the retailers but the community as well. There is only so much a retailer can absorb before we have to raise the prices of items to cover the loss. And there is a limit on how much we can raise our prices to remain competitive and in business. When we raise our prices the cost of living in Hawaii also increases. The alternative we have is to let go hard working law abiding employees or close our doors for good.

If you can't afford the crime – don't do the crime. We urge you to hold this measure. Mahalo again for this opportunity to testify.

SB-192-HD-1

Submitted on: 3/18/2019 6:37:14 PM

Testimony for JUD on 3/21/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Golojuch Jr	LGBT Caucus of the Democratic Party of Hawaii	Support	Yes

Comments:

Aloha Representatives,

The LGBT Caucus of the Democratic Party of Hawaii supports the passage of SB 192 HD1.

Our current bail system has turned our jails into a debtor's prisons. This is unacceptable to the LGBT Caucus. This proposed change will allow the judicial system to view people as people. It will help with the over crowding while protecting society from violent offenders.

Mahalo for your consideration and for the opportunity to testify.

Mahalo,

Michael Golojuch, Jr.
Chair
LGBT Caucus of the Democratic Party of Hawaii

TESTIMONY IN SUPPORT OF SB 192, SD 1, HD 1

TO: House Committee on Judiciary

FROM: Nikos Leverenz
Grants, Development & Policy Manager

DATE: March 21, 2019 (2:05 PM)

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

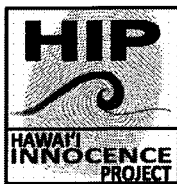
Hawai'i Health & Harm Reduction Center (HHRC) **strongly supports** SB 192, SD 1, HD 1, which would allow for the execution of an unsecured financial bond for those facing significant financial hardship and whose employment, education, housing, child care, or medical treatment would be jeopardized from continued incarceration. We would support an amendment to this bill that would allow unsecured bail solely based on financial hardship or placing employment, education, housing, child care or medical treatment at risk (on line 11, delete "and" and replace with "or").

HHRC works with many individuals who are impacted by poverty, housing instability, and other social determinants of health. Many have behavioral health problems, including those relating to substance use and underlying mental health conditions. [Incarceration for any length of time for those with undiagnosed or undertreated behavioral health conditions compounds their suffering and is neither wise nor compassionate public policy.](#)

The Department of Public Safety relayed a critical data point to the [HCR 85 Prison Reform Task Force, which published its final report in January 2019](#): ***only 26% of the combined jail and prison population is incarcerated for class A or B felony, while the remaining 74% are incarcerated for a class C felony or lower (misdemeanor, petty misdemeanor, technical offense, or violation).***

In contrast to the over-incarceration of low-level offenders, Hawai'i should increase its capacity to provide low-threshold, evidence-based care and medical treatment for those who need it apart from the criminal justice framework. Continued criminalization of behavioral health concerns is not conducive to individual or public health.

Thank you for the opportunity to testify on this measure.



HAWAII INNOCECE PROJECT – LAW OFFICES
WILLIAM S. RICHARDSON SCHOOL OF LAW
2515 Dole Street, Honolulu, HI 96822
contacthip@hawaiiinnocenceproject.org

S.B. No. 192 - Relating to Bail
Committee on Judiciary - Rep. Chris Lee, Chair, Rep. Joy A. San Buenaventura, Vice Chair
Public Hearing – Thursday, March 21, 2019, 2:05 PM, State Capital, Conference Room 325

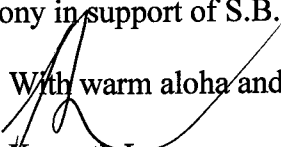
March 19, 2019

S.B. No. 192 seeks to decrease the financial burden on indigent defendants by giving judges discretion to release defendants on unsecured bail. The Hawai'i Innocence Project **strongly supports** S.B. No. 192, and respectfully requests that the committee pass this bill.

The Hawai'i Innocence Project is a non-profit legal clinic with the goals of exonerating the wrongfully convicted, reforming the criminal justice system that failed our clients, and ultimately seeking justice for the victims by determining the real perpetrator of the crime. We support S.B. No. 192 because every accused individual must be presumed innocent and our current bail process does not effectively afford that presumption to indigent defendants. Money bail is not an appropriate measure of a person's guilt or an indicator of risk in release and disproportionately impact low income individuals and people of color.¹ The inequity in the money bail system allows those with financial means the opportunity to be immediately released, while penalizing those without the necessary funds with immediate jail time while their court case is pending. This system further exacerbates the poor defendant's financial situation by holding them in custody and preventing them from making any income while they exercise their constitutional right to trial. Money bail systems coerce those who cannot pay into pleading guilty in order to get out of jail sooner, even if they are innocent of the crime.² Bail should not be used to penalize defendants, but to ensure their appearance at subsequent court appearances. Judges should have the discretion to offer poor defendants with unsecured bail, which would ensure that a defendant returns to court while not overly burdening those who do not have cash on hand for bail.

The Hawai'i Innocence Project believes that S.B. No. 192 would lead to positive reform for Hawai'i's criminal justice system because it would help afford a true presumption of innocence to all, regardless of the defendant's socio-economic status. We appreciate your time and the opportunity to provide testimony in support of S.B. No. 192.

With warm aloha and gratitude,


Kenneth Lawson
Co-Director, Hawai'i Innocence Project
and Law Professor, William S. Richardson School of Law

¹ JUSTICE POLICY INSTITUTE, BAIL FAIL: WHY THE U.S. SHOULD END THE PRACTICE OF USING MONEY FOR BAIL 1, (2012).

² *Id.* at 4.



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

COMMITTEE ON JUDICIARY
THURSDAY, March 21, 2019, 2:05 p.m. Room 325.

SB 192, SD1. HD1 RELATING TO BAIL
TESTIMONY

Laurie Tomchak, Legislative Committee, League of Women Voters of Hawaii

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

The League of Women Voters Supports SB192 SD1, (SSCR885) which authorizes a defendant in custody to petition a court for unsecured bail if securing the bail bond would result in significant financial hardship; and continued incarceration would jeopardize the defendant's ability to maintain employment, remain enrolled in any educational or training program, care for a dependent, continue medical or therapeutic treatment, or maintain housing.

The bail system is a little like the board game Monopoly. After you have been charged with a misdemeanor or felony, the judge may give you a card that sends you to jail: do not pass go, do not collect two hundred dollars. If you are a poor defendant, that is what you get. Or you can be given a get out of jail card. The roll of the dice that made you wealthy will give you the means to pay bail or get a bail bond. You do not have to rely on an overworked public defender and can work on your defense more easily. Whether you are innocent or guilty, you will get your bail or bond money back, less "court costs."

Those who end up staying in jail because they can't pay thousands of dollars for bail or hundreds for bail bonds may stay locked up for weeks or even months, depending on how long their cases take to come to trial. In that time, they are unable to work (and thus may lose their jobs) or otherwise earn money to pay rent or mortgages, support their children or keep up with their bills.

Another negative consequence of this system is that the people who are in jail pretrial may be innocent. They may have trouble resuming daily life after the court and prisons let them go. They may even plead guilty just for that get out of jail Monopoly card that can enable them to go back to work and family. The prosecutor may pressure them to make a guilty plea, even when it is not in their interest.



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If bail is taken out of the picture, rich and poor defendants are on a more level playing field (it will never be completely level). The prison system will not be so crowded and instead of relying on private prisons or building more jails, money can go into systems like pretrial supervised release. Recent unrest in Maui's overcrowded facilities points up the consequences of overcrowding. Five out of nine of Hawaii's detention facilities are currently over capacity (Report from the Department of Public Safety, February 2019).

Thank you for letting us testify on this important criminal justice issue, and please make the bill effective once it has passed.



Aloha Chair Lee, Vice-Chair San Buenaventura and Committee Members,

I am writing in support of SB192 SD1 HD1. I appreciate you taking the time to hear this bill. Cash bail is unconstitutional, inhumane and perpetuates the criminalization of our most vulnerable. Offering an alternative to a cash bail system can assist in ensuring that socioeconomically disadvantaged populations are not left sitting in jail simply because they cannot afford to leave.

Pre-trial detainment is not supposed to be used as punishment or as a tool to pressure defendants into taking a plea. However all too often the poor conditions of prison compounded with the high cost of bail cause innocent people to do whatever they can in order to get out as fast as possible.

I support SB192 SD1 HD1 because it is a move towards the direction of providing access to justice to those most in need and can be utilized to help in assisting in the reduction of pre-trial imprisonment.

Mahalo,
Destiny Brown
Young Progressives Demanding Action
Social Justice Action Committee Chair
Email: dbrown31@my.hpu.edu



AMERICANS FOR DEMOCRATIC ACTION

OFFICERS	DIRECTORS			MAILING ADDRESS
John Bickel, President	Melodie Aduja	Ken Farm	Stephen O'Harrow	P.O. Box 23404
Alan Burdick, Vice President	Guy Archer	Chuck Huxel	Doug Pyle	Honolulu
Marsha Schweitzer, Treasurer	Juliet Begley	Jan Lubin		Hawai'i 96823
Dylan Armstrong, Secretary	Gloria Borland	Jenny Nomura		

March 18, 2018

TO: Honorable Chair Lee & JUD Committee Members

RE: SB 192 SD1 HD1 Relating to Bail

Support for hearing on March 21

Americans for Democratic Action is an organization founded in the 1950s by leading supporters of the New Deal and led by Patsy Mink in the 1970s. We are devoted to the promotion of progressive public policies.

We support SB 192 SD1 HD1 as it would offer some defendants a non-monetary bail option. We incarcerate too many people at too much cost at O.C.C. C. This bill is a start.

Thank you for your favorable consideration.

Sincerely,

John Bickel, President



COMMUNITY ALLIANCE ON PRISONS

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

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



COMMITTEE ON JUDICIARY

Rep. Chris Lee, Chair

Rep. Joy San Buenaventura, Vice Chair

Thursday, March 21, 2019

2:05 pm

Room 325

STRONG SUPPORT- SB 192 SD1 HD1 -UNSECURED BAIL

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.

Community Alliance on Prisons is in strong support of releasing people on unsecured bonds who present no flight risk or threat of imminent harm. An unsecured bond is a commitment/contract signed by the defendant who agrees to appear before the court. If s/he fails to do so, s/he promises to pay the agreed bail bond amount if s/he fails to appear in court. Let's remember that these individuals are innocent until proven guilty.

Hawai'i's bail system has created a debtor's prison in defiance of the Hawai'i Constitution:

Article 1.19 Imprisonment for debt
There shall be no imprisonment for debt.
[Ren Const Con 1978 and election Nov 7, 1978]

The current system has turned OCCC into Hawai'i's answer for housing - very expensive and substandard housing, at that - for our most vulnerable people.

This bill complements the HCR 134 Task Force and gives the court another tool -- the option to allow certain defendants to secure their release by signing a promissory note for all or part of their bail amount.

Community Alliance on Prisons urges the committee to pass this important bill!

Mahalo for this opportunity to testify.

SB-192-HD-1

Submitted on: 3/20/2019 11:44:58 AM

Testimony for JUD on 3/21/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Louis Erteschik	Hawaii Disability Rights Center	Support	No

Comments:

We believe that the various bail measures pending this session are significant proposals that could go a long way towards reforming our penal system in Hawaii. While the issue extends beyond those individuals with mental illness our focus is on that and unfortunately they do comprise a fairly high percentage of the pretrial inmates. Many of these individuals are arrested for relatively minor offenses and are held as pretrial detainees simply because they cannot post bond. While they are incarcerated their mental health can deteriorate. In reality they pose little risk of flight which is what the purpose of bail was intended to be. It makes no sense and serves no purpose to house these individuals for months on end while they are awaiting trial. If they are ultimately convicted and sentenced then so be it. However, in the meantime it is a waste of resources to the state to keep them there and it is an infringement on their liberty to be held simply because they are too poor to have the resources needed for the bail. Our facility at OCCC is particularly overcrowded and it would be a smart move for the state to seriously consider if it makes any financial sense to clog up the prison with individuals who do not pose a risk of not appearing for Court or any danger to the community.

TESTIMONY ON SB 192, SD 1, HD 1 RELATING TO BAIL BEFORE THE HOUSE
COMMITTEE JUDICIARY

March 21, 2019

2:05 pm

Conference Rm. 325

Aloha Chair Lee, Vice Chair Sanbuenaventura, and members of the House Committees on Judiciary, **my name is Stephen Morse. I am the Executive Director of Blueprint for Change (BFC) and am here today to support SB 192, SD 1, HD 1, Relating to Bail.**

Members, for the record, BFC is the fiscal, technical, and administrative support entity for seven Neighborhood Place centers statewide that provide support and strengthening services to families at risk of child abuse and neglect under a POS contract with the Department of Human Services. Historically, our work has focused on traditional risk factors for child abuse, including homelessness or unstable housing, unemployment and low incomes, substance abuse, chronic health problems, and physical disabilities. However, in 2014, after much research and analysis, BFC determined that one of the most severe risk factors for child neglect in the families we serve is that there is at least one parent who is incarcerated.

An estimated 2.7 million children nationwide have at least one parent that is incarcerated, and studies conducted by the National Fatherhood Initiative show that in terms of negative impacts on children, incarceration may be worse than the death of a parent or the divorce of parents. Even more disheartening is the evidence that children of incarcerated parents are more likely to become incarcerated themselves as teenagers or adults, thus continuing the “cycle of incarceration” that sadly becomes generational in some families.

Because of these alarming statistics, BFC, in January 2014, helped organize and convene a working group to explore the issues surrounding children and families impacted by parental incarceration and to come up with solutions. Called the Family Reunification Working Group (FRWG), the group is comprised of representatives from several child and family serving organizations and service providers. Besides ourselves, it includes, Hawaii Prisoners Resource Center, dba Holomua Center, the Office of Hawaiian Affairs, ALU LIKE, Inc., Lili`uokalani Trust, Keiki O Ka Aina, Family Programs Hawaii, Adult Friends for Youth, Community Alliance on Prisons, the Ka Hale Ho`ola No Na Wahine Program at the Fernhurst YWCA, Hawaii Technology Institute, Grandparents Raising Grandchildren, Pacific Alliance to Stop Slavery, Makana O Ke Akua Clean and Sober Living, Holomua Pu`uhonua, and the University of Hawai`i Center on the Family. It also includes parents of children who have been affected by incarceration, adults who were former children of incarcerated parents, ex-offenders, and Native Hawaiian cultural practitioners. The group established two immediate priorities to work on, one of which was to develop a database of children in Hawaii impacted by incarceration. During the 2015 State Legislature, the group was successful in getting a measure passed and signed into law (Act 16, SLH 2015) that requires the Hawaii Department of Public Safety’s Corrections Division to collect data at the point of intake on the number of minor children under the age of 18 that offenders entering the Hawaii corrections system have.

We now have three years of data collected from Public Safety, and although there remains some reliability issues relating to the collection, a problem we are working with Public Safety on to fix, we feel safe in saying two things: (1) of the inmates being processed through intake during this period of time, at least 30% identified themselves as parents; and (2) approximately 4,000

children under the age of 18 are annually affected by parental incarceration. Again, this is based only on the intake data and does not include the number of minor children of parents who have been in the correctional system for several years.

One of the other main issues the FRWG identified in its discussions was the lack of resources to assist the affected children and families from becoming victimized themselves. Parental incarceration has been identified nationally as one of the top five Adverse Childhood Experiences (ACES) for children in the country. Studies have concluded that it contributes to low educational attainment, deviant behavior, and delinquency that eventually leads to incarceration itself.

The families left behind often struggle to sustain themselves financially and socially after the incarceration of one or more parents. For a large majority of these families, they are left without their primary means of support, namely the incarcerated parent who is unable to continue to provide an income. Many are left without adequate health care and other supports and are plunged into a deadly spiral of despair and hopelessness.

The passage of this bill is important for several reasons, but primarily, from a social services perspective, it will reduce the amount of time an incarcerated parent needs to spend incarcerated during the pre-trial period, allowing them to return home and once again be the income providers their families need to sustain themselves. It will help keep families united and the important familial bond between the children and the parent without which can lead to adverse effects that are detrimental to a child's development.;

Mahalo for allowing us to share this testimony with the Committee.

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Joshua A. Wisch

Date: March 21, 2019

To: The Honorable Chris Lee, Chair
The Honorable Joy A. San Buenaventura, Vice Chair
Senate 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. 192 S.D. 1 H.D. 1
Relating to Bail

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

The Sex Abuse Treatment Center (SATC) opposes S.B. 192 S.D. 1 H.D. 1 and asks that the Committee please defer this measure.

This measure would allow criminal defendants to be released on unsecured bail, without providing Hawaii the tools and infrastructure needed to ensure their appearance in court and – of key concern to SATC – protect crime victims, witnesses, and the community.

Pretrial Risk Assessment

An effective, validated pretrial risk assessment tool that predicts whether a defendant will (a) appear for court, (b) commit more crimes, and (c) be a danger to specific persons and the public is needed to successfully implement unsecured bail practices and pretrial reform generally. This was a key takeaway from other jurisdictions that have implemented unsecured bail systems, and from the Hawai'i Pretrial Task Force.

However, the Ohio Risk Assessment System Pretrial Assessment Tool (ORAS-PAT) used in Hawai'i only assesses a defendant's likelihood of appearance in court and whether they will commit more crimes. It does not assess whether the defendant is a danger to specific people – like crime victims and witnesses – or the general public.

Moreover, ORAS-PAT has a relatively high failure rate, as demonstrated by a 2017 Ohio revalidation study which found defendants deemed "low risk" by ORAS-PAT were newly arrested 19.3 percent of the time, and newly convicted 10.3 percent of the time, *within 6 months*.

If Hawai'i adopted unsecured bail practices, our state would need a new, validated tool that is more accurate than ORAS-PAT and able to assess whether a defendant is dangerous. Unfortunately, S.B. 192 S.D. 1 H.D. 1 does not reach this important issue.

Monitoring, Enforcement, and Collection Activities

Commercial bail bond companies are effective at making sure that defendants will appear in court and do not commit new crimes while released. To accomplish these outcomes, the companies impose additional conditions on released defendants and invest in monitoring, enforcement activities, and collection of forfeited bail.

If the State of Hawaii became an unsecured bail jurisdiction, the public would become lenders to defendants in place of commercial bail companies. This means that to ensure defendants appear for court and do not commit more crimes, and that forfeited bail owed to the public is recovered, a competent state agency would need to be designated, provided funding and resources, and granted authority to conduct monitoring, enforcement, and collection activities.

Hawaii should be cognizant of the example of the First Judicial District of Pennsylvania (Philadelphia), which did a poor job of administering its unsecured bail system. By 2008, approximately 19,000 defendants failed to appear each year, estimated cost of uncollected forfeited bail totaled a billion dollars, and defendants were able to defeat the system by failing to showing up for court, wearing down witnesses, and causing cases to collapse in large numbers.

The current language of S.B. 192 S.D. 1 H.D. 1 only directs courts to collect forfeited bail, without designating the mechanisms by which defendants will be monitored, enforcement action taken, and forfeited amounts recovered.

In the interests of public safety and the integrity of our criminal justice system, Hawaii should not implement unsecured bail practices without first ensuring that the necessary tools and infrastructure are in place.

Thank you for this opportunity to testify in opposition to S.B. 192 S.D. 1 H.D. 1.



Hawai'i

Committees: Committee on Judiciary
Hearing Date/Time: Thursday, March 21, 2019, 2:05 p.m.
Place: Conference Room 325
Re: Testimony of the ACLU of Hawai'i in Support of S.B. 192, S.D. 1, H.D. 1 Relating to Bail

Dear Chair Lee, Vice Chair San Buenaventura, and members of the Committee on Judiciary:

The American Civil Liberties Union of Hawai'i writes in **support of, with suggested amendments to**, S.B. 192, S.D. 1, H.D. 1, which allows courts to offer unsecured bail. It is a positive first step in reforming our fundamentally flawed pretrial system. While we support this legislation, however, we respectfully request that the bill be amended to 1) allow judges to consider unsecured bail even absent a request by a defendant; and 2) narrow the list of factors that the court may consider to only include a defendant's ability to pay.

An unsecured bond would require no upfront payment. Instead, the individual would sign a promissory note and the bail amount would be due if that person did not show up to court or comply with their conditions of release. This option helps people who cannot afford their bail, and reduces the involvement of for-profit agencies. Non-monetary options, such as unsecured bail, have been shown to be as effective as cash bail in ensuring that an individual appears in court. **While we believe that this proposal is only one piece in a much larger puzzle of solving Hawaii's broken pretrial system**, we appreciate that this legislation would reduce the system's disparate harm on low-income people.

Pursuant to this legislation, unsecured bail would only become an option *after* a determination by that court that an individual is eligible for release. Therefore, it is unnecessary and contrary to the intent of the legislation to 1) require a defendant to petition for unsecured bail before the option may be considered by the court, or 2) to include the current list of factors that the court may consider in setting unsecured bail. Unsecured bail is just as effective at ensuring appearance in court, and it is *unconstitutional to use cash bail for the purpose of detaining someone*. We request that these provisions be amended to allow judges to consider unsecured bail with or without a request by a defendant and to eliminate all factors to be considered by the court except for an individual's ability to pay.

Pretrial incarceration is one of the major drivers of overcrowding in Hawai'i's jails.

Currently, around 1,000 men and women in Hawai'i – around half of the individuals in Hawai'i's jails – have not been convicted of the crime they're accused of committing and are merely awaiting trial, often because they cannot afford the amount of bail set in their case.¹

¹ State of Hawai'i Dep't of Pub. Safety, End of Month Population Report (Feb. 28, 2019).

To better understand why so many people, who are innocent in the eyes of the law, are being jailed pretrial in Hawai‘i’s jails, the ACLU of Hawai‘i recently conducted an in-depth study of the state’s bail setting practices. Our study reviewed all cases filed in Hawai‘i’s circuit courts in 2017. While we have published a preliminary report examining cases between January and June of 2017, this testimony reflects our most recent findings, which includes a full year’s worth of cases.

Courts’ reliance on money bail results in people who otherwise pose no risk of flight or threat to public safety staying in jail because they are simply too poor to get out. Our research revealed that circuit courts heavily rely on the use of money bail to secure court appearances, setting cash bail as a condition of release in 90 percent of cases. The Pretrial Task Force similarly found that Hawai‘i’s system “relies upon money bail largely to the exclusion of other financially-neutral alternatives” and that this is problematic because “the setting of money bail alone . . . does not correlate with a defendant’s risks of non-appearance, danger, or recidivism.”² Put simply, money bail is not necessary to ensure public safety or an individual’s appearance in court.

Moreover, courts often assign money bail solely based on the crime charged and without regard to an individual’s financial circumstances. Indeed, the median bail amount on Oahu for a single class C felony was \$11,000. This is despite the lack of serious inquiry into ability to pay or specific risks of flight or danger to the community. Given this and that about half of Hawai‘i residents cannot afford to cover basic needs³, it was not a surprise when we learned that only 46 percent of arrestees were able to post bail. Allowing courts to offer unsecured bail preserves judicial discretion in bail setting while also honoring HRS Section 804-9, which requires considering one’s ability to pay and not rendering the right to bail “useless to the poor.”⁴ S.B. 192, S.D. 1, H.D. 1 offers an alternative to cash bail that is just as effective in ensuring an individual’s appearance in court.

For these reasons, the ACLU of Hawai‘i supports S.B. 192, S.D. 1, H.D. 1, with amendments. Hawai‘i’s pretrial system is ripe for reform. With the passage of S.B. 192, Hawai‘i can begin to

² Hawai‘i Criminal Pretrial Reform, Recommendations of the Criminal Pretrial Task Force to the Thirtieth Legislature of the State of Hawai‘i, pp 66-67 (December 2018).

³ Alice: A Study of Financial Hardship in Hawai‘i (2017), *available at*: https://www.auw.org/sites/default/files/pictures/AlohaUnitedWayALICE%20Report_HIFINAL.pdf.

⁴ Haw. Rev. Stat. § 804-9 (“The amount of bail . . . should be so determined as not to suffer the wealthy to escape by the payment of a pecuniary penalty, nor to render the privilege useless to the poor. In all cases, the officer letting to bail should consider the punishment to be inflicted on conviction, and the pecuniary circumstances of the party accused.”).

Chair Lee and members of the Committee on Judiciary
March 21, 2019
Page 3 of 3

address overcrowding in its jails while also creating a more individualized system that is in line with constitutional and fairness principles.

Thank you for the opportunity to testify.

Sincerely,

Mandy Fernandes
Policy Director
ACLU of Hawai'i

The mission of the ACLU of Hawai'i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai'i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai'i is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawai'i has been serving Hawai'i for 50 years.

LATE

SB-192-HD-1

Submitted on: 3/21/2019 1:50:26 PM
Testimony for JUD on 3/21/2019 2:05:00 PM

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

Comments:

Chair Lee, Vice Chair San Buenaventura, Committee Members:

DPFH strongly supports SB192 SD1 HD1 that would create a more fair and equitable bail process by providing judges with an additional tool that does not penalize poor defendants simply because they cannot afford bail. Overwhelming data nationwide shows that pre-trial cash bail disproportionately impacts poor defendants and is a major factor in overcrowding of detention facilities. While the bail system is intended to allow for the release of accused individuals while they await a fair trial, it often punishes the poor who cannot afford to post bail.

Those individuals are all too often charged with non-violent drug offenses.

Remaining in jail for months or even years awaiting trial has become the norm for many poor defendants. This has multiple detrimental impacts on those defendants and their families. Another by-product of this flawed process is overcrowding of Hawai'i's jails, which ends up costing Hawai'i taxpayers significantly.

This measure, if passed, would allow judges discretion in offering poor defendants who cannot afford to post bail, the option of unsecured bail. This means that by signing a promissory note, and a commitment to attend their trial, an indigent defendant could be released on bail, without having to pay cash upfront. Data has shown that unsecured bail is just as effective at ensuring defendants' court appearance and maintaining public safety as cash bail, while also freeing up jail space.

Judges would still have the option to deny bail, just as they do now, to those defendants who pose a greater flight risk or those that pose a threat to public safety. This measure merely gives judges an additional option that could prevent unnecessary impacts on indigent families. DPFH humbly requests that you pass SB192 SD1 HD1 out of your committee.

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

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

March 20, 2019

TO: Committee on Judiciary
RE: SB 192, SD 1, HD 1
HEARING DATE: Thursday, March 21, 2019
TIME: 2:05 pm
CONF. ROOM: 325
POSITION: **STRONGLY SUPPORT**

Dear Chair Lee, Vice Chair Buenaventura, and Members of the Committee:

I strongly support SB 192, SD 1, HD 1 which would make our bail system more just by allowing judges to offer unsecured or partially secured bail to certain pretrial detainees when there is a showing that continued incarceration would create a hardship on the detainee or his family.

In addition to preventing a hardship to poor pretrial detainees, SB 192, SD 1, HD 1 would reduce the number of pretrial detainees in our jails. That is important because studies have shown that even a short time in jail increases the likelihood of a sentence of incarceration, reduces economic viability, and promotes future criminal behavior - making jail "a gateway to deeper and more lasting involvement in the criminal justice system, at considerable costs to the people involved and to society at large."¹

Reducing the jail population is also important because the State is planning to build a 1,380-bed jail on Oahu at a cost of \$525 million, or roughly \$380,00 per bed. If SB 192, SD 1, HD 1 reduced the number of beds needed in the new jail by just 5% (69 beds), the State would save over \$26 million in new jail construction costs, and millions more in staffing, operating, and maintenance costs over the life span of the jail.

Finally, SB 192, SD 1, HD 1 is particularly important because the bail reform measures proposed by the HCR 134 Task Force and incorporated into HB 1289 have been deferred.

Thank you for allowing me to testify on this measure.

¹ Ram Subramanian, Ruth Delaney, Stephen Roberts, Nancy Fishman, Peggy McGarry, *Incarceration's Front Door: The Misuse of Jails in America* (New York: Vera Institute of Justice, 2015), <http://www.safetyandjusticechallenge.org/wp-content/uploads/2015/01/incarcerations-front-door-report.pdf>.

SB-192-HD-1

Submitted on: 3/18/2019 7:00:46 PM

Testimony for JUD on 3/21/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Benton Kealii Pang, Ph.D.	Individual	Support	No

Comments:

I strongly support SB192 SD1 HD1. The unsecured bail system being proposed offers an alternative that can reduce the severe consequences of cash bail on poor defendants and communities, provide relief to rampant overcrowding in our detention facilities, and save taxpayer dollars —without affecting trial appearance rates or public safety.

SB-192-HD-1

Submitted on: 3/19/2019 3:33:22 PM

Testimony for JUD on 3/21/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jen Jenkins	Individual	Support	No

Comments:

Aloha Chair Lee, Vice Chair Buenaventura, and Honorable Members:

Re: Individual Testimony in **strong** support of SB192 SD1 HD1

I strongly support SB192 SD1 HD1 because it would create a more fair and equitable bail process. It would offer judges with an additional tool that does not penalize poor defendants simply because they cannot afford bail. Overwhelming nationwide data shows that pre-trial cash bail disproportionately impacts poor defendants and is a major factor in overcrowding of detention facilities. While the bail system is intended to allow for the release of accused individuals while they await a fair trial, it often punishes the poor who cannot afford to post bail. Remaining in jail for months or even years awaiting trial has become the norm for many poor defendants. This has many detrimental impacts on those defendants and their families. Another by-product of this flawed process is overcrowding of Hawai'i's jails, which ends up costing Hawai'i taxpayers significantly.

This measure, if passed, would allow judges discretion in offering poor defendants who cannot afford to post bail the option of unsecured bail. This means that by signing a promissory note, and a commitment to attend their trial, an indigent defendant could be released on bail without having to pay cash up front. Data has shown that unsecured bail is just as effective as traditional cash bail at ensuring defendants' court appearances and maintaining public safety, while also freeing up jail space.

Judges would still have the option to deny bail, just as they do now, to those defendants who pose a greater flight risk or those that pose a threat to public safety. This measure merely gives judges an additional option that could prevent unnecessary harmful impacts on indigent families. I humbly request that you pass SB192 SD1 HD1 out of your committee.

Mahalo,

Jen

SB-192-HD-1

Submitted on: 3/19/2019 3:05:58 PM

Testimony for JUD on 3/21/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Wayne	Individual	Support	No

Comments:

Mahalo nui for the opportunity to testify in STRONG SUPPORT of SB192 SD1 HD1.

This measure would provide critical relief to our clearly overcrowded jail facilities, reduce the disparate impact of cash-secured bail on indigent defendants, and allow more of our pretrial detention resources to be focused on those who truly should remain detained pending trial, rather than those who are simply too poor to post bail.

Thank you,

Wayne Tanaka

SB-192-HD-1

Submitted on: 3/20/2019 7:38:25 AM

Testimony for JUD on 3/21/2019 2:05:00 PM

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

Comments:

I strongly support sb192 . The poor have been suffering from the way our system is now and it is time for a change to give the people who can not afford ball and change to keep there lives in tact

**SB192, SD1, HD1
RELATING TO BAIL
House Committee on Judiciary
Public Hearing – March 21, 2019
2:05 PM, State Capital, House Conference Room 325**

Representative Chris Lee, Chair
Representative Joy A. San Buenaventura, Vice Chair

By: Dannah G. Yamamoto

I am writing to express my **support of SB192, SD1, HD1 (with strong future considerations)** to provide alternatives to the cash-bail system that unfairly targets our poor and vulnerable communities.

It is no secret the current cash-bail system is broken and needs reform. Low-income individuals are punished before they receive a fair trial, simply for their inability to pay bail. Meanwhile, their wealthier counterparts can easily walk free. The only factor between freedom and remaining locked up is a defendant's wealth. This puts these low-income individuals at risk of further financial hardship as they may face job loss, loss of housing, and relational difficulties.

I am aware there are some community members concerned with how unsecured bail is seen as 'catch and release' for those with non-violent crimes. Understandably, they fear that crimes will continue to escalate if there are little consequences. However, for several decades Washington, D.C. has implemented an effective pretrial system with almost no cash bail. D.C. releases 94% of defendants pretrial, 90% of them make their court dates, and 98% are not rearrested for a violent crime pretrial. It is important to note these statistics are higher than the national average.

As this bill is just the beginning of a needed change within the cash-bail system, I strongly urge the committee to consider the new processes that will develop as a result. The importance of remaining committed to the common goal of promoting equality cannot be stressed enough. Tools proposed in SB192, SD1, HD1, such as risk assessments (b. 3.), do not alone ensure that our pretrial systems will move closer to decarceration and equality. In fact, these same tools may be used to promote the opposite of its original intentions. Labeling someone as a 'public safety risk', may hold the risk of unfairly presuming a defendant guilty before a fair trial. Therefore, I urge there to be adequate safeguards in place, so these tools will be used justly.

It's fair to say change is needed within our current bail system, but I ask the committee to ensure the new procedures accompanying this bill are adequately designed to promote equality for everyone. Or else I fear a different type of injustice may be ensued under the disguise of 'reform'. Thank you for this opportunity to testify.

Dannah G. Yamamoto

91-1649 Burke St
Ewa Beach, HI 96706

SB-192-HD-1

Submitted on: 3/20/2019 12:38:43 PM

Testimony for JUD on 3/21/2019 2:05:00 PM

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

Comments:

SB 192 SD1 allows a defendant to petition for unsecured bail based on a number of factors assessed by a judge.

Unsecured bail ensures that poor defendants are not disadvantaged by their weak financial status.

If unsecured bail becomes an implemented policy, it will reduce the pre-trial population and help ease prison overcrowding.

Pre-trial incarceration has been shown to increase guilty pleas because detainees often plead guilty in order to return to their daily lives to take care of their families, keep a job and housing, etc.

Also, pre-trial incarceration often leads to the detainee going to prison, simply because they are already behind bars, as if further incarceration justifies their long period of pre-trial detention. This is not fair.

Please pass SB 192 SD1.

Mahalo.

SB-192-HD-1

Submitted on: 3/20/2019 1:52:29 PM

Testimony for JUD on 3/21/2019 2:05:00 PM

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

Comments:

Aloha, please consider:

(1) Your own commissions report that our overcrowded jails are due largely to the fact that we have an unusually high rate of pre-trial incarceration.

(2) Any money bail system disproportionately jails the poor--and incarceration, even for short time periods, often results in the loss of employment and financial disaster for the family--a domino effect that only increases poverty and crime.

(3) Statistics show that over half of detainees plead guilty simply in order to secure quicker release from pre-trial detention.

This system is morally and constitutionally unsound. And even more shameful in the Aloha State. Please do something about this.

Mahalo,

Christine Weger, Atty at Law

SB-192-HD-1

Submitted on: 3/20/2019 3:03:18 PM

Testimony for JUD on 3/21/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Noalani Nakasone	Individual	Support	No

Comments:

Aloha,

I strongly support SB192 SD1 HD1 because it would create a more fair and equitable bail process. It would offer judges with an additional tool that does not penalize poor defendants simply because they cannot afford bail. Overwhelming nationwide data shows that pre-trial cash bail disproportionately impacts poor defendants and is a major factor in overcrowding of detention facilities. While the bail system is intended to allow for the release of accused individuals while they await a fair trial, it often punishes the poor who cannot afford to post bail. Remaining in jail for months or even years awaiting trial has become the norm for many poor defendants. This has many detrimental impacts on those defendants and their families. Another by-product of this flawed process is overcrowding of Hawai'i's jails, which ends up costing Hawai'i taxpayers significantly.

This measure, if passed, would allow judges discretion in offering poor defendants who cannot afford to post bail the option of unsecured bail. This means that by signing a promissory note, and a commitment to attend their trial, an indigent defendant could be released on bail without having to pay cash up front. Data has shown that unsecured bail is just as effective as traditional cash bail at ensuring defendants' court appearances and maintaining public safety, while also freeing up jail space.

Judges would still have the option to deny bail, just as they do now, to those defendants who pose a greater flight risk or those that pose a threat to public safety. This measure merely gives judges an additional option that could prevent unnecessary harmful impacts on indigent families. I humbly request that you pass SB192 SD1 HD1 out of your committee.

Mahalo from Kauai!

LATE

SB-192-HD-1

Submitted on: 3/20/2019 10:55:59 PM

Testimony for JUD on 3/21/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Erica Scott	Individual	Support	No

Comments:

SB-192-HD-1

Submitted on: 3/21/2019 6:09:42 AM

Testimony for JUD on 3/21/2019 2:05:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Ashley LeCarno	Individual	Support	No

Comments:

I support this bill.

LATE

SB-192-HD-1

Submitted on: 3/21/2019 8:01:41 AM

Testimony for JUD on 3/21/2019 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kehaulani Lum	Individual	Support	No

Comments:

Aloha Chair Lee, Vice Chair Buenaventura and members of the Committee on Judiciary,

I strongly support SB192 SD1 HD1 because it would create a more fair and equitable bail process. It would offer judges with an additional tool that does not penalize poor defendants simply because they cannot afford bail. Overwhelming nationwide data shows that pre-trial cash bail disproportionately impacts poor defendants and is a major factor in overcrowding of detention facilities. While the bail system is intended to allow for the release of accused individuals while they await a fair trial, it often punishes the poor who cannot afford to post bail. Remaining in jail for months or even years awaiting trial has become the norm for many poor defendants. This has many detrimental impacts on those defendants and their families. Another by-product of this flawed process is overcrowding of Hawai'i's jails, which ends up costing Hawai'i taxpayers significantly.

This measure, if passed, would allow judges discretion in offering poor defendants who cannot afford to post bail the option of unsecured bail. This means that by signing a promissory note, and a commitment to attend their trial, an indigent defendant could be released on bail without having to pay cash up front. Data has shown that unsecured bail is just as effective as traditional cash bail at ensuring defendants' court appearances and maintaining public safety, while also freeing up jail space.

Judges would still have the option to deny bail, just as they do now, to those defendants who pose a greater flight risk or those that pose a threat to public safety. This measure merely gives judges an additional option that could prevent unnecessary harmful impacts on indigent families. I humbly request that you pass SB192 SD1 HD1 out of your committee.

Mahalo nui loa,

Kehaulani Lum

LATE

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, Comments, Suggested Amendments, Presented by James Waldron Lindblad

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

AMENDED NOTICE OF HEARING

DATE: Thursday, March 21, 2019

TIME: 2:05pm

PLACE: Conference Room 325
 State Capitol
 415 South Beretania Street

AMENDED AGENDA

Re: Matters Pertaining to Bail SB 1539 SD1 and SB 192, SD1, HD1.

[SB 1539, SD1](#)
[\(SSCR803\)](#)
[Status](#)

RELATED TO BAIL HEARINGS.

JUD, FIN

Adds provision that, upon formal charge and detention, and upon motion by either party, defendants shall have the right to a prompt bail hearing concerning release or detention and whether any condition will reasonably assure the defendant's appearance. Allows defendants to be represented by counsel at the hearing, or have one appointed if they are financially unable to obtain representation. Allows defendants to present evidence and witnesses and to cross-examine witnesses who appear at the hearing. Effective 3/15/2094. (SD1)

[SB 192, SD1, HD1](#)
[\(HSCR1319\)](#)
[Status](#)

RELATING TO BAIL.

PVM, JUD, FIN

Authorizes a defendant in custody to petition a court for unsecured bail. (SB192 HD1)

Chair and Members of the Committee:

My name is James Waldron Lindblad. I began my career in 1973, as a recognizance officer working in pretrial release and later when I saw the deficiencies of court run programs like mine and their use of questionnaires we called tools to assist us in decision making rather than making use of relatives with skin in the game and money to ensure compliance I switched to bail bonding in 1976, where money was involved and every single customer I had for two years had already been rejected and had been denied free own recognizance release and yet, I made money and those persons I bailed out were released and all attended court as required. This is because I used relatives, primarily the mother to co-sign and promise they would see to court attendance and compliance. Bail bond work is suretyship and three party in nature and contains a co-signer or indemnitor in the three party contract. Court sponsored free release or OR or SR is between only the court and the defendant with no third party. This means it is very difficult for any court to ensure compliance when making use of only the defendant and the defendant's promise without a cosigner or collateral. We cannot trust every recognized person to comply but we can trust mothers who bail out their children to comply as I have proven many times.

SB 192, SD1, HD1 and SB 1539, SD1 pertain to bail and pretrial release and the bills are both telling our judges what the legislators want. These matters also pertain to HCR 134 and HCR 85 along with the new jail, prison population management and how to better deal with equal protection and fairness. The task of eliminating money and suretyship and changing pretrial release conditions to defendant only promises is complex and we must ensure individual attention as every release is unique and we cannot put defendants into three buckets based on a list of questions and a black box algorithm, like Sears, good, better, and best and our judges know this. Other states and the District of Columbia have spent and continue to spend huge money with poor results that include higher crime, less fairness due to more detention and still the mainland jails are full in Oregon, New Mexico, Chicago, and New York. West Virginia had a similar matter and their experience can be read about here.

<http://ambailcoalition.org/breaking-west-virginia-legislature-rejects-bail-reform-legislation-in-2019-session-as-the-gavel-comes-down>

Charleston, WV – Legislators from the Mountain State rejected calls for bail reform and sent to pasture [House Bill 2190: Modifying Bail Requirements](#) as the session came to a close for 2019.

H.B. 2190, which was supported by the ACLU, died on the calendar March 9, 2019.

The bill, while well intended, simply forced the hand of West Virginia judges to release a wide range of offenders on their own recognizance, a discretion judges already have and use often. Removing judicial discretion is an insult to the judiciary, who are tasked with maintaining the rule of law and protecting public safety.

The sponsors of H.B. 2190 attempted to convince their colleagues that criminal defendants are solely in jail because they can't afford their bail. At best, this is a misunderstanding of the function and intent of bail. These statements were and are made without evidence – not only in West Virginia but across many states considering similar reforms.

Bail is typically a third-party provided benefit that most often does not depend on the resources of the defendant. It is more akin to a test of your ties to the community, and whether the community believes in you to comply with release conditions. In addition, many defendants are negotiating plea

deals involving time served, and that calculation is never backed out of the equation, even though it is a significant amount of jail time that would otherwise be served and perhaps for longer durations.

Further, many defendants suffer from alcohol abuse, substance abuse, addiction issues, mental health issues, and co-occurring disorders that the criminal justice system is not addressing. Families and friends of defendants often choose not to post their bail due lack of alternatives for defendant's suffering from these issues. In addition, there are many other reasons that defendants are held in jail that make up the vast majority of reasons people are in jail in the first place.

Certainly, there are some for whom bail will not be posted. But there is no right to "pretrial release" in America—there is instead a right to reasonable bail, a bail that is not excessive under the settled law on this continent for over 400 years. The right to bail doesn't guarantee release, and judges get motions for bail reductions all the time, and they decide these cases based on the facts and circumstances of each case – not with a broad brush as this legislation would have mandated.

We think maintaining accountability is in the best interest of West Virginia and exploring more reasonable options to improve the criminal justice system is a better idea. The 2020 West Virginia legislature should instead focus on alternatives, such as;

1. **Due process.** Defendants should be given a bail review by a judge within 48 hours of arrest should they not post bail.
2. **Nuisance Bail:** If a bail bond is under \$500 and the finding of guilt results in no jail time, the jailing of these individuals seems excessive considering the circumstances.
3. **Uniform Bail Schedules:** Bail schedules act only as a guide for judges in the setting of bail. In addition, uniformity of these schedules allow for defendants to act quickly in securing their release and therefore slow down the jail turnstile as a result. Review of schedules should occur periodically by the judiciary, along with other stakeholders.

Making large wholesale changes to the criminal justice system without adequate research and consideration from all stakeholders can have consequences that are very difficult to unwind. In states like Alaska and New Hampshire, where similar reforms have passed, law enforcement and

even the Governor are having buyer's remorse mere months into similar policy changes because of repeat offenders being released over and over with no oversight.

Fortunately, West Virginia legislators denied H.B. 2190, instead giving priority to judicial discretion and public safety first.

HD 1289 HD2, contained the following qualifiers that are lacking in either SB 1539, SD1 or SB 192, SD1, HD1 as HB 1289 HD2 was 43 pages long and these bills are only 4 pages each.

To me, SB 192 SD1 is still very confusing. If the legislative intent is to duplicate "own recognizance" release then the bill should say so but it does not. The bill purports to ask for collateral for part of the bond and no collateral for some of the bond. The bill sort of says release without money but then later sort of says cosigner and collateral needed under HRS 804 11.5. The committee should review this language and when needed clarify the intention so those persons in jail and those persons in authority may understand the legislative intent.

As to SB 1539 SD1 and prompt bail hearings, we now already have prompt bail hearings every Monday and Thursday and have had these hearing since January 17, 2019. The court has bail hearing with or without the ISC intake report and many bail amounts are reduced and many defendants are released. These are felony releases. Further district court already releases almost every person on first appearance and the weekend duty judge releases many more defendants from HPD every weekend as proven in the HPD arrest logs posted online at the HPD website.

My feeling is conditions should be outlined and legislative intent made clear in both of these bills in a similar manner to HB 1289 that included the following language and exclusions for special treatment and release without money or surety bail and without collateral of a co-signer pledging collateral. This is where the bail funds demonstrate how the pretrial system should not work as bail funds bail out strangers without cosigners when in my view, the court has always expected a relative or person known to the defendant in the community would offer money bail as bail has

historically been community based. I suggest the following conditions be added if either of these two bills move forward.

Add the following **exemptions** to any free release without money or collateral of cosigners.

(1) The offense involves:

(A) Assault;

(B) Terroristic threatening;

(C) Sexual assault;

(D) Abuse of family or household members;

(E) Violation of a temporary restraining order;

(F) Violation of an order for protection;

(G) Operating a vehicle under the influence of an

intoxicant;

(H) Negligent homicide; or

(I) Any other crime of violence; or

(2) One or more of the following apply:

(A) The defendant has a history of non-appearance in the last twenty-four months;

(B) The defendant has at least one prior conviction for a misdemeanor crime of violence or felony crime of violence within the last twenty years;

(C) The defendant was pending trial or sentencing at the time of arrest;

(D) The defendant was on probation, parole, or conditional release at the time of arrest;

(E) The defendant is also concurrently charged with a violent petty misdemeanor, a violent misdemeanor, or any felony offense arising from the same or separate incident; or

(F) The defendant presents a risk of danger to any other person or to the community.

(c) If any of the exceptions in subsection (b) apply, bail may be set in a reasonable amount. If the defendant is unable to post the amount of bail, the defendant shall be entitled to a prompt hearing under section 804-A. If the defendant is unable to post bail in the amount of \$99 or less, the director of public safety shall be authorized to release the defendant; provided that electronic defendant monitoring devices are used."

I think the courts are trying very hard to make things consistent statewide and I think the courts should be allowed the time to change and make improvements such as already the case with the new twice weekly bail hearing and the new lower bail amounts in many cases. These two things are bringing about the needed consistency.

Thank you for the opportunity to testify on this measure.

Jim Lindblad,

808-780-8887

James.Lindblad@Gmail.com

REV 03.21.2019

LATE

SB-192-HD-1

Submitted on: 3/21/2019 8:22:04 AM
Testimony for JUD on 3/21/2019 2:05:00 PM

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

Comments:

I strongly support SB192 SD1.

Having an unsecured bail alternative will help to ensure that poor defendants are not unnecessarily punished by our current secured-cash bail system. This bill is another tool to reduce pre-trial incarceration. Research has shown that when pre-trial people are incarcerated, their likelihood of going to prison increases, so why would we keep the current system in place? In addition, reducing the number of incarcerated pre-trial people reduces the impact on the prison population.

Please move this bill forward.

March 20,2019

SUPPORT FOR SB192 SD1—Unsecured Bail

TO: Chair Chris Lee, Vice Chair Joy San Buenaventura and
Members of the House Committee on the Judiciary

FROM: Barbara Polk

I support SB192 because it will allow reduction of cash bail amounts for those who cannot afford it, to allow them to continue with their lives. Because a person who is awaiting trial is considered innocent until tried and found guilty, it is not appropriate to completely disrupt the life and well being of someone who is no risk to society and may be innocent.

Please support SB192 SD1.

sanbuenaventura2 - Kevin

From: BS McEwen <bsmcewen9@aol.com>
Sent: Wednesday, March 20, 2019 4:07 PM
To: JUDtestimony
Subject: I Strongly Support SB192 SD1 HD1 Relating to Bail

I strongly support SB192 SD1 HD1 because it would create a more fair and equitable bail process. It would offer judges with an additional tool that does not penalize poor defendants simply because they cannot afford bail. Overwhelming nationwide data shows that pre-trial cash bail disproportionately impacts poor defendants and is a major factor in overcrowding of detention facilities. While the bail system is intended to allow for the release of accused individuals while they await a fair trial, it often punishes the poor who cannot afford to post bail. Remaining in jail for months or even years awaiting trial has become the norm for many poor defendants. This has many detrimental impacts on those defendants and their families. Another by-product of this flawed process is overcrowding of Hawai'i's jails, which ends up costing Hawai'i taxpayers significantly. This measure, if passed, would allow judges discretion in offering poor defendants who cannot afford to post bail the option of unsecured bail. This means that by signing a promissory note, and a commitment to attend their trial, an indigent defendant could be released on bail without having to pay cash up front. Data has shown that unsecured bail is just as effective as traditional cash bail at ensuring defendants' court appearances and maintaining public safety, while also freeing up jail space. Judges would still have the option to deny bail, just as they do now, to those defendants who pose a greater flight risk or those that pose a threat to public safety. This measure merely gives judges an additional option that could prevent unnecessary harmful impacts on indigent families. I humbly request that you pass SB192 SD1 HD1 out of your committee.

Sincerely, BS McEwen, Ph. 808-696-6033

sanbuenaventura2 - Kevin

From: Lisa Barroga <lbarroga@gmail.com>
Sent: Wednesday, March 20, 2019 2:54 PM
To: JUDtestimony
Subject: I Strongly Support SB192 SD1 HD1 Relating to Bail

I strongly support SB192 SD1 HD1 because it would create a more fair and equitable bail process. It would offer judges with an additional tool that does not penalize poor defendants simply because they cannot afford bail. Overwhelming nationwide data shows that pre-trial cash bail disproportionately impacts poor defendants and is a major factor in overcrowding of detention facilities. While the bail system is intended to allow for the release of accused individuals while they await a fair trial, it often punishes the poor who cannot afford to post bail. Remaining in jail for months or even years awaiting trial has become the norm for many poor defendants. This has many detrimental impacts on those defendants and their families. Another by-product of this flawed process is overcrowding of Hawai'i's jails, which ends up costing Hawai'i taxpayers significantly. This measure, if passed, would allow judges discretion in offering poor defendants who cannot afford to post bail the option of unsecured bail. This means that by signing a promissory note, and a commitment to attend their trial, an indigent defendant could be released on bail without having to pay cash up front. Data has shown that unsecured bail is just as effective as traditional cash bail at ensuring defendants' court appearances and maintaining public safety, while also freeing up jail space. Judges would still have the option to deny bail

Please do the right thing!

Lisa Barroga

sanbuenaventura2 - Kevin

From: Ashman Kyle <xashmankyle@gmail.com>
Sent: Wednesday, March 20, 2019 1:20 PM
To: JUDtestimony
Subject: I Strongly Support SB192 SD1 HD1 Relating to Bail

I strongly support SB192 SD1 HD1 because it would create a more fair and equitable bail process. It would offer judges with an additional tool that does not penalize poor defendants simply because they cannot afford bail. Overwhelming nationwide data shows that pre-trial cash bail disproportionately impacts poor defendants and is a major factor in overcrowding of detention facilities. While the bail system is intended to allow for the release of accused individuals while they await a fair trial, it often punishes the poor who cannot afford to post bail. Remaining in jail for months or even years awaiting trial has become the norm for many poor defendants. This has many detrimental impacts on those defendants and their families. Another by-product of this flawed process is overcrowding of Hawai'i's jails, which ends up costing Hawai'i taxpayers significantly. This measure, if passed, would allow judges discretion in offering poor defendants who cannot afford to post bail the option of unsecured bail. This means that by signing a promissory note, and a commitment to attend their trial, an indigent defendant could be released on bail without having to pay cash up front. Data has shown that unsecured bail is just as effective as traditional cash bail at ensuring defendants' court appearances and maintaining public safety, while also freeing up jail space. Judges would still have the option to deny bail, just as they do now, to those defendants who pose a greater flight risk or those that pose a threat to public safety. This measure merely gives judges an additional option that could prevent unnecessary harmful impacts on indigent families. I humbly request that you pass SB192 SD1 HD1 out of your committee.

sanbuenaventura2 - Kevin

From: Michelle Kaio <mkaio@hawaii.edu>
Sent: Wednesday, March 20, 2019 10:44 AM
To: JUDtestimony
Subject: Support SB192 SD1 HD1 Relating to Bail, Criminal Justice Reform

TO: Senate Committee

FROM: Michelle Malia Ka'io, MSW, SAC
Private Health Care

RE: SUPPORT FOR SB192 SD1 HD1
Hearing on Thursday March 21, 2019 at 2:05 pm

Members of the Senate Committee:

Mahalo nui for this opportunity to submit written testimony in support for SB192 SD1 HD1.

I strongly support SB192 SD1 HD1 for the greater good of our criminal justice system and our community for the following reasons:

Create a FAIR and Equitable bail process
Allows the judge the discretion to still utilize the current process in place, however allows another option
Supports the idea that one should not be punished for being economically disadvantaged
Helps relieve occupancy pressure on our jails and prisons
Saves taxpayer money, by not holding people for prolonged periods as well as cuts down on overcrowding in the correctional centers
Seeks to reverse the disproportionate impacts that people in poverty experience
Unsecured bail is just as effective as traditional cash bail (ensuring defendants' court appearances and maintaining public safety)

Please vote in support of SB192 SD1 HD1 to reform our current bail process/system.

Mahalo nui,
Michelle Malia Ka'io

sanbuenaventura2 - Kevin

From: Destiny Tuisano <destiny.tuisano@seariders.k12.hi.us>
Sent: Wednesday, March 20, 2019 8:43 AM
To: JUDtestimony
Subject: I Strongly Support SB192 SD1 HD1 Relating to Bail

I strongly support SB192 SD1 HD1 because it would create a more fair and equitable bail process. It would offer judges with an additional tool that does not penalize poor defendants simply because they cannot afford bail. Overwhelming nationwide data shows that pre-trial cash bail disproportionately impacts poor defendants and is a major factor in overcrowding of detention facilities. While the bail system is intended to allow for the release of accused individuals while they await a fair trial, it often punishes the poor who cannot afford to post bail. Remaining in jail for months or even years awaiting trial has become the norm for many poor defendants. This has many detrimental impacts on those defendants and their families. Another by-product of this flawed process is overcrowding of Hawai'i's jails, which ends up costing Hawai'i taxpayers significantly. This measure, if passed, would allow judges discretion in offering poor defendants who cannot afford to post bail the option of unsecured bail. This means that by signing a promissory note, and a commitment to attend their trial, an indigent defendant could be released on bail without having to pay cash up front. Data has shown that unsecured bail is just as effective as traditional cash bail at ensuring defendants' court appearances and maintaining public safety, while also freeing up jail space. Judges would still have the option to deny bail, just as they do now, to those defendants who pose a greater flight risk or those that pose a threat to public safety. This measure merely gives judges an additional option that could prevent unnecessary harmful impacts on indigent families. I humbly request that you pass SB192 SD1 HD1 out of your committee.

sanbuenaventura2 - Kevin

From: Shannon Bucasas <s.bucasas@seariders.k12.hi.us>
Sent: Wednesday, March 20, 2019 8:42 AM
To: JUDtestimony
Subject: I Strongly Support SB192 SD1 HD1 Relating to Bail

I strongly support SB192 SD1 HD1 because it would create a more fair and equitable bail process. It would offer judges with an additional tool that does not penalize poor defendants simply because they cannot afford bail. Overwhelming nationwide data shows that pre-trial cash bail disproportionately impacts poor defendants and is a major factor in overcrowding of detention facilities. While the bail system is intended to allow for the release of accused individuals while they await a fair trial, it often punishes the poor who cannot afford to post bail. Remaining in jail for months or even years awaiting trial has become the norm for many poor defendants. This has many detrimental impacts on those defendants and their families. Another by-product of this flawed process is overcrowding of Hawai'i's jails, which ends up costing Hawai'i taxpayers significantly. This measure, if passed, would allow judges discretion in offering poor defendants who cannot afford to post bail the option of unsecured bail. This means that by signing a promissory note, and a commitment to attend their trial, an indigent defendant could be released on bail without having to pay cash up front. Data has shown that unsecured bail is just as effective as traditional cash bail at ensuring defendants' court appearances and maintaining public safety, while also freeing up jail space. Judges would still have the option to deny bail

sanbuenaventura2 - Kevin

From: pat pat <truvillion11@gmail.com>
Sent: Tuesday, March 19, 2019 4:01 PM
To: JUDtestimony
Subject: I Strongly Support SB192 SD1 HD1 Relating to Bail

I strongly support SB192 SD1 HD1 because it would create a more fair and equitable bail process. It would offer judges with an additional tool that does not penalize poor defendants simply because they cannot afford bail. Overwhelming nationwide data shows that pre-trial cash bail disproportionately impacts poor defendants and is a major factor in overcrowding of detention facilities. While the bail system is intended to allow for the release of accused individuals while they await a fair trial, it often punishes the poor who cannot afford to post bail. Remaining in jail for months or even years awaiting trial has become the norm for many poor defendants. This has many detrimental impacts on those defendants and their families. Another by-product of this flawed process is overcrowding of Hawai'i's jails, which ends up costing Hawai'i taxpayers significantly. This measure, if passed, would allow judges discretion in offering poor defendants who cannot afford to post bail the option of unsecured bail. This means that by signing a promissory note, and a commitment to attend their trial, an indigent defendant could be released on bail without having to pay cash up front. Data has shown that unsecured bail is just as effective as traditional cash bail at ensuring defendants' court appearances and maintaining public safety, while also freeing up jail space. Judges would still have the option to deny bail, just as they do now, to those defendants who pose a greater flight risk or those that pose a threat to public safety. This measure merely gives judges an additional option that could prevent unnecessary harmful impacts on indigent families. I humbly request that you pass SB192 SD1 HD1 out of your committee.

sanbuenaventura2 - Kevin

From: Craig De Costa <craig@dhlawkauai.com>
Sent: Tuesday, March 19, 2019 4:00 PM
To: JUDtestimony
Subject: I Strongly Support SB192 SD1 HD1 Relating to Bail

I strongly support SB192 SD1 HD1 because it would create a more fair and equitable bail process. It would offer judges with an additional tool that does not penalize poor defendants simply because they cannot afford bail. Overwhelming nationwide data shows that pre-trial cash bail disproportionately impacts poor defendants and is a major factor in overcrowding of detention facilities. While the bail system is intended to allow for the release of accused individuals while they await a fair trial, it often punishes the poor who cannot afford to post bail. Remaining in jail for months or even years awaiting trial has become the norm for many poor defendants. This has many detrimental impacts on those defendants and their families. Another by-product of this flawed process is overcrowding of Hawai'i's jails, which ends up costing Hawai'i taxpayers significantly.

This measure, if passed, would allow judges discretion in offering poor defendants who cannot afford to post bail the option of unsecured bail. This means that by signing a promissory note, and a commitment to attend their trial, an indigent defendant could be released on bail without having to pay cash up front. Data has shown that unsecured bail is just as effective as traditional cash bail at ensuring defendants' court appearances and maintaining public safety, while also freeing up jail space.

Judges would still have the option to deny bail, just as they do now, to those defendants who pose a greater flight risk or those that pose a threat to public safety. This measure merely gives judges an additional option that could prevent unnecessary harmful impacts on indigent families. I humbly request that you pass SB192 SD1 HD1 out of your committee.

sanbuenaventura2 - Kevin

From: Tom Lindsey <hawnrobocop@hotmail.com>
Sent: Tuesday, March 19, 2019 3:56 PM
To: JUDtestimony
Subject: I Strongly Support SB192 SD1 HD1 Relating to Bail

I strongly support SB192 SD1 HD1 because it would create a more fair and equitable bail process. It would offer judges with an additional tool that does not penalize poor defendants simply because they cannot afford bail. Overwhelming nationwide data shows that pre-trial cash bail disproportionately impacts poor defendants and is a major factor in overcrowding of detention facilities. While the bail system is intended to allow for the release of accused individuals while they await a fair trial, it often punishes the poor who cannot afford to post bail. Remaining in jail for months or even years awaiting trial has become the norm for many poor defendants. This has many detrimental impacts on those defendants and their families. Another by-product of this flawed process is overcrowding of Hawai'i's jails, which ends up costing Hawai'i taxpayers significantly. This measure, if passed, would allow judges discretion in offering poor defendants who cannot afford to post bail the option of unsecured bail. This means that by signing a promissory note, and a commitment to attend their trial, an indigent defendant could be released on bail without having to pay cash up front. Data has shown that unsecured bail is just as effective as traditional cash bail at ensuring defendants' court appearances and maintaining public safety, while also freeing up jail space. Judges would still have the option to deny bail, just as they do now, to those defendants who pose a greater flight risk or those that pose a threat to public safety. This measure merely gives judges an additional option that could prevent unnecessary harmful impacts on indigent families. I humbly request that you pass SB192 SD1 HD1 out of your committee.

Sent from my iPhone

sanbuenaventura2 - Kevin

From: Wendy Hudson <wendyHUDSONlaw@gmail.com>
Sent: Tuesday, March 19, 2019 3:50 PM
To: JUDtestimony
Subject: I Strongly Support SB192 SD1 HD1 Relating to Bail

I strongly support SB192 SD1 HD1 because we need a fair bail process. Period. I've been a criminal defense attorney for nearly 20 years.

The judiciary is ripe for a law suit on this issue because bail is set too high in most cases and indigent defendants cannot afford to post the bail amounts set. The Judges don't always consider the defendant's financial situation and therefore, if you're rich, even if charged with a heinous crime, you post bail and get out but if you're poor and charged with a low level non-violent offense, you sit.

Studies show that 80% OF RELEASED DEFENDANTS ARE GOING TO APPEAR, regardless if they posted money bail or put up Tutu's house as collateral. Nationwide data shows that pretrial cash bail disproportionately impacts poor defendants and is a MAJOR FACTOR in overcrowding in our jails. Just look at what happened at MCCC last week. If bails were more reasonable or if defendants could post an unsecured bail, there would be no overcrowding.

Mahalo,

Wendy Hudson, Esq.

sanbuenaventura2 - Kevin

From: Sabrina Gramberg <kamakakaulani@me.com>
Sent: Tuesday, March 19, 2019 1:10 PM
To: JUDtestimony
Subject: I Strongly Support SB192 SD1 HD1 Relating to Bail

Aloha mai, e Ke Kōmike Ho'okolokolo,

My name is Sabrina Rose Kamakakaulani Gramberg; my 'ohana is from both Ko'olaupoko (Waimānalo-Kailua) and Mānoa, O'ahu. Mahalo piha for your time and consideration of this important measure.

I **STRONGLY SUPPORT** SB192 SD1 HD1 because it would create a more fair and equitable bail process. This proposal would offer judges an additional tool that does not penalize poor defendants simply because they cannot afford bail. Overwhelming nationwide data shows that pre-trial cash bail disproportionately impacts poor defendants and is a major factor in overcrowding of detention facilities. While the bail system is intended to allow for the release of accused individuals while they await a fair trial, it often punishes the poor who cannot afford to post bail. Remaining in jail for months or even years awaiting trial has become the norm for many defendants who are without the financial resources to post bail. Prolonged confinement has many detrimental impacts on those defendants, their families, and our communities as a whole.

Another by-product of this inefficient process is overcrowding of Hawai'i's jails, which ends up costing Hawai'i taxpayers significantly. This measure, if passed, would allow judges discretion in offering indigent defendants who cannot afford to post bail the option of unsecured bail. This means that by signing a promissory note, and a commitment to attend their trial, an indigent defendant could be released on bail without having to pay cash up front. **Data has shown that unsecured bail is just as effective as traditional cash bail at ensuring defendants' court appearances and maintaining public safety, while also freeing up jail space.** Judges would still have the option to deny bail.

For the reasons set forth above, I respectfully urge the Committee to **PASS** this measure. Mahalo a nui for the opportunity to testify on this measure.

Me ke aloha,
Sabrina Rose Kamakakaulani Gramberg

Ho'ouna 'ia aku e ka'u iKelepona.

From: Cyd Hoffeld <cyd.hoffeld@gmail.com>
Sent: Thursday, March 21, 2019 8:35 AM
To: JUDtestimony
Subject: I Strongly Support SB192 SD1 HD1 Relating to Bail



I strongly support SB192 SD1 HD1 because it would create a more fair and equitable bail process. It would offer judges with an additional tool that does not penalize poor defendants simply because they cannot afford bail. Overwhelming nationwide data shows that pre-trial cash bail disproportionately impacts poor defendants and is a major factor in overcrowding of detention facilities. While the bail system is intended to allow for the release of accused individuals while they await a fair trial, it often punishes the poor who cannot afford to post bail. Remaining in jail for months or even years awaiting trial has become the norm for many poor defendants. This has many detrimental impacts on those defendants and their families. Another by-product of this flawed process is overcrowding of Hawai'i's jails, which ends up costing Hawai'i taxpayers significantly. This measure, if passed, would allow judges discretion in offering poor defendants who cannot afford to post bail the option of unsecured bail. This means that by signing a promissory note, and a commitment to attend their trial, an indigent defendant could be released on bail without having to pay cash up front. Data has shown that unsecured bail is just as effective as traditional cash bail at ensuring defendants' court appearances and maintaining public safety, while also freeing up jail space. Judges would still have the option to deny bail, just as they do now, to those defendants who pose a greater flight risk or those that pose a threat to public safety. This measure merely gives judges an additional option that could prevent unnecessary harmful impacts on indigent families. I humbly request that you pass SB192 SD1 HD1 out of your committee.

Sent from my iPhone

sanbuenaventura2 - Kevin

From: Robert <robq68@gmail.com>
Sent: Thursday, March 21, 2019 4:34 AM
To: JUDtestimony
Subject: I Strongly Support SB192 SD1 HD1 Relating to Bail

LATE

I strongly support SB192 SD1 HD1 because it would create a more fair and equitable bail process. It would offer judges with an additional tool that does not penalize poor defendants simply because they cannot afford bail. Overwhelming nationwide data shows that pre-trial cash bail disproportionately impacts poor defendants and is a major factor in overcrowding of detention facilities. While the bail system is intended to allow for the release of accused individuals while they await a fair trial, it often punishes the poor who cannot afford to post bail. Remaining in jail for months or even years awaiting trial has become the norm for many poor defendants. This has many detrimental impacts on those defendants and their families. Another by-product of this flawed process is overcrowding of Hawai'i's jails, which ends up costing Hawai'i taxpayers significantly. This measure, if passed, would allow judges discretion in offering poor defendants who cannot afford to post bail the option of unsecured bail. This means that by signing a promissory note, and a commitment to attend their trial, an indigent defendant could be released on bail without having to pay cash up front. Data has shown that unsecured bail is just as effective as traditional cash bail at ensuring defendants' court appearances and maintaining public safety, while also freeing up jail space. Judges would still have the option to deny bail, just as they do now, to those defendants who pose a greater flight risk or those that pose a threat to public safety. This measure merely gives judges an additional option that could prevent unnecessary harmful impacts on indigent families. I humbly request that you pass SB192 SD1 HD1 out of your committee.

From: Jayna Weatherwax <jlweatherwax808@gmail.com>
Sent: Wednesday, March 20, 2019 6:28 PM
To: JUDtestimony
Subject: I Strongly Support SB192 SD1 HD1 Relating to Bail

LATE

I strongly support SB192 SD1 HD1 because it would create a more fair and equitable bail process. It would offer judges with an additional tool that does not penalize poor defendants simply because they cannot afford bail. Overwhelming nationwide data shows that pre-trial cash bail disproportionately impacts poor defendants and is a major factor in overcrowding of detention facilities. While the bail system is intended to allow for the release of accused individuals while they await a fair trial, it often punishes the poor who cannot afford to post bail. Remaining in jail for months or even years awaiting trial has become the norm for many poor defendants. This has many detrimental impacts on those defendants and their families. Another by-product of this flawed process is overcrowding of Hawai'i's jails, which ends up costing Hawai'i taxpayers significantly. This measure, if passed, would allow judges discretion in offering poor defendants who cannot afford to post bail the option of unsecured bail. This means that by signing a promissory note, and a commitment to attend their trial, an indigent defendant could be released on bail without having to pay cash up front. Data has shown that unsecured bail is just as effective as traditional cash bail at ensuring defendants' court appearances and maintaining public safety, while also freeing up jail space. Judges would still have the option to deny bail, just as they do now, to those defendants who pose a greater flight risk or those that pose a threat to public safety. This measure merely gives judges an additional option that could prevent unnecessary harmful impacts on indigent families. I humbly request that you pass SB192 SD1 HD1 out of your committee.

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Sent from Gmail Mobile