

**SB-192-SD-1**

Submitted on: 2/19/2019 9:28:23 AM

Testimony for WAM on 2/20/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Melodie Aduja	Testifying for O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i	Support	No

Comments:



**SB192 SD1  
RELATING TO BAIL**

Ke Kōmike Ki'ina Hana a me nā Kumuwaiwai

Pepeluāli 20, 2019

10:05 a.m.

Lumi 211

The Office of Hawaiian Affairs (OHA) **STRONGLY SUPPORTS** SB192 SD1, 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 impacts<sup>i</sup> 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 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,<sup>ii</sup> and further exacerbates the overcrowding in our detention facilities.<sup>iii</sup>

SB192 SD1's unsecured bail alternative will help to ensure that poor defendants are not unnecessarily punished by our secured-cash bail system. Rather than requiring defendants granted cash bail to surrender their entire bail amount up-front, SB192 SD1 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 grant such "unsecured bail" 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 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 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 proven to successfully relieve the burden of cash bail on the poor, while 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.<sup>iv</sup> Notably, the Federal District also reports that zero percent of their released defendants fail to appear for trial.<sup>v</sup> 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.<sup>vi</sup> Thus, **SB192 SD1’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’s proposed unsecured bail system does not conflict with the recommendations of the HCR134 Task Force on pretrial reform. In fact, SB192 SD1’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’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. Mahalo piha for the opportunity to testify on this important measure.

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<sup>i</sup> 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/>.

<sup>ii</sup> On average, it costs \$182 per day—\$66,439 per year—to incarcerate an inmate in Hawai‘i. STATE OF HAWAI‘I 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>.

<sup>iii</sup> 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 HAWAI‘I 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>.

<sup>iv</sup> 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).

<sup>v</sup> Refers to the calendar year period from April 1, 2016 through March 31, 2017. *Id.*

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

**LATE**



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Aloha Committee Chair Dela Cruz, Vice Chair Keith - Agaran, and Committee members,

On these islands that were invaded,  
Taken and stay illegally occupied  
We have a problem with mass incarceration  
The cash bail system  
And harsh sentencing regulations  
Because they harm our communities and destroy lives.

We are Young Progressives Demanding Action and we will not stand idly by and watch as our government support  
Endorse and enforce poorly drafted policy that is supposed to protect us but in truth only reflects the views of special interest groups.

Bail is not meant to be a form of pretrial punishment however they're using it to get convictions, now pay attention:  
69% of arrestees in Hawaii during a 2017 bail study changed their plea from innocent to guilty while in custody.  
Money is set as a condition of release almost 90% of the time.  
and less than half of these folks actually have a dime.  
So in the state of Hawaii more than 50% of all detainees haven't even been convicted of a crime.

We have outdated policies and regulations that disproportionately place native hawaiians and Pacific islanders behind bars  
Target the poor and furthermore are not fucking pono at their core.

It has to stop  
We are asking our governing bodies to stand up.  
We want reform  
A cash bail system should not be a norm.

So we have to fight.  
Fight for the people,  
Fight for the families,  
Fight for community,  
And fight for humanity.

This is our plea, please pass this bill out of committee.

Mahalo,  
Destiny Brown  
YPDA Social Justice Action Committee Chair  
Email: [dbrown31@my.hpu.edu](mailto:dbrown31@my.hpu.edu)

**SB-192-SD-1**

Submitted on: 2/16/2019 11:40:03 AM

Testimony for WAM on 2/20/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Louis Erteschik	Testifying for Hawaii Disability Rights Center	Comments	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.

**SB-192-SD-1**

Submitted on: 2/16/2019 4:23:05 PM

Testimony for WAM on 2/20/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Michael Golojuch Jr	Testifying for LGBT Caucus of the Democratic Party of Hawaii	Support	Yes

Comments:

Aloha Senators,

The LGBT Caucus of the Democratic Party of Hawaii supports the passage of SB 192 SD1.

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

# COMMUNITY ALLIANCE ON PRISONS

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

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



## COMMITTEE ON WAYS AND MEANS

Sen. Donovan Dela Cruz, Chair

Sen. Gilbert Keith-Agaran, Vice Chair

Wednesday, February 20, 2019

10:05 am

Room 211

### STRONG SUPPORT - SB 192 SD1- UNSECURED BAIL

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies in Hawai'i for more than two decades. This testimony is respectfully offered on behalf of the families of **ASHLEY GREY, DAISY KASITATI, JOEY O'MALLEY, JESSICA FORTSON AND ALL THE PEOPLE WHO HAVE DIED UNDER THE "CARE AND CUSTODY" OF THE STATE** as well as the approximately 5,500 Hawai'i individuals living behind bars or under the "care and custody" of the Department of Public Safety on any given day. We are always mindful that more than 1,600 of Hawai'i's imprisoned people are serving their sentences abroad thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Kanaka Maoli, far, far from their ancestral lands.

SB 192 SD1 authorizes a defendant in custody to petition a court for unsecured bail.

Community Alliance on Prisons is in strong support of releasing people who present no flight risk or danger to the community on unsecured bonds. 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 later the agreed bail bond amount before the 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 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, SD 1, RELATING TO BAIL

FEBRUARY 20, 2019 · SENATE WAYS AND MEANS  
COMMITTEE · CHAIR SEN. DONOVAN DELA CRUZ

**POSITION:** Support.

**RATIONALE:** IMUAlliance supports SB 192, SD 1, relating to bail, which authorizes a defendant in custody to petition a court for unsecured bail.

IMUAlliance is one of the state's largest victim service providers for survivors of sex trafficking. Over the past 10 years, we have provided comprehensive direct intervention services to 135 victims, successfully emancipating them from slavery and assisting in their restoration, while providing a range of targeted services to over 1,000 victims in total. Each of the victims we have assisted has suffered from complex and overlapping trauma, including post-traumatic stress disorder, depression and anxiety, dissociation, parasuicidal behavior, and substance abuse. Trafficking-related trauma can lead to a complete loss of identity. A victim we cared for in 2016, for example, had become so heavily trauma bonded to her pimp that while under his grasp, she couldn't remember her own name. Yet, sadly, **many of the victims with whom we work are misidentified as so-called "voluntary prostitutes" and are subsequently arrested and incarcerated, with no financial resources from which to pay for their release.**

Hawai'i has approximately 5,500 inmates, over, 1,500 of whom are incarcerated overseas, away from their families and homeland. According to a report by the American Civil Liberties Union released last year, pre-trial detainees in Honolulu wait an average of 71 days for trial because they cannot afford bail. Additionally, researchers found that circuit courts in Hawai'i set money

bail as a condition of release in 88 percent of cases, though only 44 percent of those people managed to post the amount of bail set by the court. Moreover, the study found the average bail amount for a Class C felony on O'ahu is set at \$20,000. Even with help from a bail bonding agency, posting bond, in such cases, would require an out-of-pocket expense of roughly \$2,000. Finally, while officials claim that bail amounts are supposed to be based on a consideration of multiple factors—including flight risk, ability to pay, and danger to the community—researchers learned that in 91 percent of cases in Hawai'i, money bail mirrored the amount set by police in arrest warrants, an amount based solely on the crime charged. These injustices led the ACLU to declare that our state's pretrial detention system was and remains unconstitutional.

Furthermore, as the visitor industry reaps record profits and supports expansion of the local prison-industrial complex, people of Native Hawaiian ancestry, who comprise approximately 25 percent of the state's population, continue to suffer the pangs of a biased criminal (in)justice system. Approximately 39 percent of incarcerated detainees are Hawaiian, according to a comprehensive study by the Office of Hawaiian Affairs, with the proportionality gap being even greater for Hawaiian women, who comprise 19.8 percent of the state's female population, but 44 percent of the state's female inmate population. Researchers also found that, on average, Hawaiians receive longer sentences, more parole revocations, and, importantly for this measure, **harsher drug-related punishments than other ethnic groups**. Therefore, passage this measure is a step toward reforming and preventing more people from becoming victims of our unjust and racially coded prison system.

**SB-192-SD-1**

Submitted on: 2/19/2019 7:32:21 AM

Testimony for WAM on 2/20/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Christina H. Young	Individual	Support	No

Comments:

I strongly support SB192 SD1 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. 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. I humbly request that you pass SB192 SD1 out of your committee.

**SB-192-SD-1**

Submitted on: 2/18/2019 8:44:38 PM

Testimony for WAM on 2/20/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Samantha Keaulana	Individual	Support	No

Comments:

I strongly support SB192 SD1 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. 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. I humbly request that you pass SB192SD1 out of your committee.

**SB-192-SD-1**

Submitted on: 2/18/2019 2:29:08 PM

Testimony for WAM on 2/20/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Leanne Fox	Individual	Support	No

Comments:

I strongly support SB192 SD1 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. 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. I humbly request that you pass SB192 SD1 out of your committee.

**LATE**

**SB-192-SD-1**

Submitted on: 2/19/2019 3:04:26 PM

Testimony for WAM on 2/20/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Carla Allison	Individual	Support	No

Comments:

*Our bail system is broken -- our jails are bursting with people who cannot pay bail. Justice should not be based on one's financial status.* Defendants in custody should be able to petition the court for unsecured bail. This is a necessary tool for our judges.

**LATE**

**SB-192-SD-1**

Submitted on: 2/19/2019 3:08:00 PM

Testimony for WAM on 2/20/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jen Jenkins	Individual	Support	No

Comments:

strongly support SB192 SD1 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. 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. I humbly request that you pass SB192 SD1 out of your committee.

**LATE**



## **Office of the Public Defender State of Hawai'i**



### **Testimony of the Office of the Public Defender,**

#### **State of Hawai'i to the Senate Committee on Ways and Means**

Prepared by William C. Bagasol, Supervising Deputy Public Defender

February 19, 2019

S.B.192, HD1: RELATING TO BAIL

Chair Donovan M. Dela Cruz, Vice Chair Gilbert S.C. Keith-Agaran and  
Members of the Committee:

The Office of the Public Defender strongly supports S.B. 192, 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 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, HD 1 out of your committee.

**LATE**

**SB-192-SD-1**

Submitted on: 2/19/2019 4:22:58 PM

Testimony for WAM on 2/20/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Marissa Pettus	Individual	Support	No

Comments:

I strongly support SB192 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. 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. I humbly request that you pass SB192 out of your committee.

**LATE**

**SB-192-SD-1**

Submitted on: 2/19/2019 4:53:29 PM

Testimony for WAM on 2/20/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Wayne	Individual	Support	No

Comments:

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

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

**Multiple testifiers**

Mark Vascincellos

Jayna Weatherwax

Katherine Burke

I strongly support SB192 that would create a fairer 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. Remaining in jail for months or even years awaiting trial has become the norm for many poor defendants. 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 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. I humbly request that you pass SB192 out of your committee.

February 19, 2019

TO: Committee on Ways and Means  
RE: SB 192, SD 1  
HEARING DATE: February 20, 2019  
TIME: 10:05 AM  
ROOM: 211  
POSITION: **SUPPORT**

Chair Dela Cruz, Vice Chair Keith-Agaran, and members of the committee:

SB 192, SD 1 would give judges the option of allowing unsecured or partially secured bail when a defendant is unable to secure his or her release through cash bail or a surety, and continued incarceration would create a hardship on the defendant or his family.

SB 192, SD 1 provides judges with important options to prevent hardship and avoid injustice. It is a much-needed bill, and should be enacted as an adjunct to pretrial reform bills that seek to implement the recommendations of the HCR 134 Task Force, or as an independent measure to improve the current system. Either way, SB 192, SD 1 is an important step in the right direction and would reduce the number of pretrial detainees in our jails, and make bail system more just.

I apologize for submitting my testimony late, and thank you for the opportunity to comment on this bill.

**LATE**

**SB-192-SD-1**

Submitted on: 2/19/2019 5:42:34 PM

Testimony for WAM on 2/20/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Joseph Kohn MD	Testifying for We Are One, Inc. - www.WeAreOne.cc - WAO	Support	No

Comments:

**LATE**

**SB-192-SD-1**

Submitted on: 2/19/2019 7:09:24 PM

Testimony for WAM on 2/20/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Carl Bergquist	Testifying for Drug Policy Forum of Hawaii	Support	No

Comments:

DPFH strongly supports SB192 SD1 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. I humbly request that you pass SB192 SD1 out of your committee.

**LATE**

**SB-192-SD-1**

Submitted on: 2/19/2019 8:56:24 PM

Testimony for WAM on 2/20/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Ronald S. Fujiyoshi	Testifying for Ohana Ho`opakele	Support	No

Comments:

Ohana Ho'opakele has been in existence since 2000 supporting pa'ahao, or our incarcerated brothers and sisters. We are concerned at the disproportionate number of native Hawaiians who are incarcerated. We believe this bill will help reform the bail system that works against those with little financial resources. Please support this bill!

Mahalo for the opportunity to testify!





**LATE**

Luna O Na Papa Alakai

Committee on Ways and Means

Pelekikena  
A. Makana Paris

February 20, 2019  
Room 211  
State Capitol  
415 South Beretania Street

Hope Pekekikena  
Ekahi  
Randi Fernandez

Hope Pelekikena  
Elua  
Matthew Gumapac

Re: SB192 SD1 - RELATING TO BAIL

Puuku  
Denise Kekuna

*Aloha* Chair Donovan Dela Cruz, Vice-Chair Gilbert Keith-Agaran and members of the Senate Committee on Ways and Means:

Kakauolelo Hoopaa  
Sai Furukawa

The Prince Kūhiō Hawaiian Civic Club (PKHCC) **SUPPORTS** SB192 SD2. This bill will allow judges the option to use “unsecured bail” through a promissory note for certain incarcerated persons. The current cash bail system has caused undue harm and adverse social and economic impacts on those individuals in our society that are low-income and their families, especially those that are Native Hawaiian. These individuals are innocent until proven guilty but nonetheless are held in our overcrowded facilities until their trial, simply because they cannot afford bail. This strikes against a sense of fairness because those that can afford bail are able to be released until trial, while those that are poor are incarcerated. Further, to house those persons incarcerated until trial, Hawaii’s taxpayers must foot the bill. This bill will provide judges the discretion to use “unsecured bail” for those they deem fit not to be a flight risk or a risk to public safety while they await their day in court resulting in savings to taxpayer.

Kakauolelo Hooholo  
Palapala  
Kamuela Werner

Pelekikena Hala  
Koke  
Yvonne ‘PeeWee’  
Ryan

Founded in 1964, PKHCC was organized to promote the education and social welfare of people of Hawaiian ancestry and objectives include supporting high ethical standards in business, industry and the professional fields of enterprise.

Luna Alakai  
Kuni Agard  
Puamana Crabbe  
Kanani Pali  
Marlene Sai  
Jennifer Smythe  
Bruce Wong

PKHCC urges the committee to **PASS** SB192 SD2.

Mailing Address:  
P.O. Box 4728  
Honolulu ~ Hawaii  
96812

www.pkhcc.org

*Me ke aloha,*

  
A. Makana Paris  
Pelekikena  
president@pkhcc.org

Founded in 1964  
by Liliuokalani  
Kawananakoa Morris

**LATE**

**SB-192-SD-1**

Submitted on: 2/20/2019 2:38:31 AM

Testimony for WAM on 2/20/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Ashley LeCarno	Individual	Support	No

Comments:

SUPPORT!

**LATE**

**SB-192-SD-1**

Submitted on: 2/20/2019 6:22:56 AM  
Testimony for WAM on 2/20/2019 10:05:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Terina Faagau	Individual	Support	No

Comments:

I strongly support SB192 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. 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. I humbly request that you pass SB192 out of your committee.