



SB192
RELATING TO BAIL

Senate Committee on Judiciary

February 7, 2019

9:00 a.m.

Room 016

The Office of Hawaiian Affairs (OHA) **STRONGLY SUPPORTS** SB192, 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 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'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 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 is a tailored and targeted approach to mitigate the harsh and disproportionate consequences of cash bail on poor defendants and their families. **Notably, SB192 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.^{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’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’s proposed unsecured bail system does not conflict with the recommendations of the HCR134 Task Force on pretrial reform. In fact, SB192’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’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. 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).



The Judiciary, State of Hawai‘i

Testimony to the Senate Committee on Judiciary

Senator Karl Rhoads, Chair
Senator Glenn Wakai, Vice Chair

Thursday, February 7, 2019, 9:00 a.m.
State Capitol, Conference Room 016

by

Shirley M. Kawamura
Deputy Chief Judge, Criminal Administrative Judge
Circuit Court of the First Circuit
Reporter, HCR 134 Criminal Pretrial Task Force

WRITTEN TESTIMONY ONLY

Bill No. and Title: Senate Bill No. 192, 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 Procedures Task Force proposed significant legislation regarding pretrial release, which may alleviate some of the concerns underlying this bill.

Senate Bill No. 192 authorizes a defendant in custody to petition a court for unsecured bail bond, but does not set forth any procedures with respect to implementation or enforcement. The proposal in this bill requires an agency be designated to monitor the status of any unsecured bonds, and more resources to fund the designated agency. In addition, in the event that the defendant released on unsecured bond does not appear in court, specified procedures regarding the enforcement and collection of the bond are needed because, without enforcement, any incentive for defendants to return to court would be lost.



Senate Bill No. 192, Relating to Bail
Senate Committee on Judiciary
Thursday, February 7, 2019, 9:00 a.m.
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Moreover, unsecured bonds may not be necessary. In state court, defendants eligible for supervised release are released without any financial obligation. Defendants can be released on their own recognizance, or on supervised release to the Department of Public Safety's Intake Service Center, to a sponsor (often a family member or friend with a stable residence), or to a treatment program. Because non-financial release alternatives are currently available, there is little need for unsecured bonds.

Thank you for the opportunity to testify on this matter.



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 Public Safety, Veterans and Military Affairs February 4, 2019

S.B.192: RELATING TO BAIL

Chair Gregg Takayama, Vice Cedrick Gates and Members of the Committee:

The Office of the Public Defender strongly supports H.B. 192

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 recommendations. We therefore respectfully support the passage of S.B. 192 out of your committee.

SB-192

Submitted on: 2/5/2019 10:02:44 AM

Testimony for JDC on 2/7/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Office of the County Clerk, Council Services Div.	Individual	Support	No

Comments:

SB-192

Submitted on: 2/2/2019 6:32:30 PM

Testimony for JDC on 2/7/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
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.



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www.lwv-hawaii.com | 808.531.7448 | voters@lwv-hawaii.com

COMMITTEE ON JUDICIARY

THURSDAY, 2/7/19, 9 AM, Room 016
SB192 RELATING TO BAIL

TESTIMONY

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

Chair Rhoads, Vice-Chair Wakai and Committee Members:

The League of Women Voters of Hawaii **strongly support SB192 which provides conditions which would avoid the inequities of the cash bail system currently in use in Hawaii.**

Much attention is being paid to the inequities of the judicial systems across the US. Books describing the discrimination faced by people of color, people living in poverty, etc. who are under arrest for criminal conduct have become best-sellers, e.g. Just Mercy (Bryan Stevenson, 2015), The New Jim Crow (Michelle Alexander, 2010).

In his introduction to "The New Jim Crow", Cornell West, a professor of Public Policy at Harvard and author of many books writes, "The New Jim Crow" is a grand wake-up call in the midst of a long slumber of indifference to the poor and vulnerable. "

In December, 2018 the Criminal Pretrial Task Force released its report and recommendations on Hawaii Criminal Pre-Trial Reform. The Report describes the current cash bail system as follows:

Our system relies upon money bail largely to the exclusion of other financially-neutral alternatives. While alternatives such as release on one's own recognizance and supervised release are available, setting a monetary bail amount is entrenched in our system and has been used for decades as the primary means of quantifying a defendant's perceived risks of nonappearance, danger and re-offending. (p.67)

Bail amounts are initially set by police and approved by a judge, but often are not based upon a consideration of the defendant's financial ability to afford bail. Initial bail amounts are set by police based upon guidelines correlating specific amounts with specific offenses. Prosecutors also generally recommend bail amounts based upon the accepted practice in their circuits. (p.68)

This is inherently unfair as a defendant's release from custody is solely based upon the defendant's ability to post a specific amount of money as bail, yet there is no requirement that a defendant's financial situation be considered in setting the bail amount. (p.68)



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SB192 is designed to implement the Task Force recommendation that the “amount of bail ... be set in reasonable amounts based upon all available information, including the offense alleged, possible punishment upon conviction and the offender’s financial ability to afford bail. **Bail amounts 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** (emphasis added),” p. 85.

Please support SB192 to improve the social and economic justice of our pre-trial system.



SB 192, RELATING TO BAIL

FEBRUARY 6, 2019 · SENATE JUDICIARY
COMMITTEE · CHAIR SEN. KARL RHOADS

POSITION: Support.

RATIONALE: IMUAlliance supports SB 192, 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.

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

Sen. Karl Rhoads, Chair

Sen. Glenn Wakai, Vice Chair

Thursday, February 7, 2019

9 am

Room 016

SUPPORT SB 192 - UNSECURED BAIL

Aloha Chair Rhoads, Vice Chair Wakai 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 5,400 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 supports 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.

Community Alliance on Prisons supports this legislation and urges its passage.

Mahalo for this opportunity to testify.

SB-192

Submitted on: 02/05/2019 2:30 PM

Testimony for JDC on 02/07/2019 9:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Faye Kennedy	Hawaii Friends of Civil Rights	Support	

Comments

Testifier called and stated that as a Former New York parole officer she believes that bail is unfair and discriminatory against people who have lower incomes.



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		

Feb. 5 , 2018

TO: Honorable Chair Rhoads & JDL Committee Members

RE: SB 192 Relating to Bail

Support for hearing on Feb. 7

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 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





Aloha Chair Rhoads, Vice Chair Wakai, and members of the committee,

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 let 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 people 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 truly not 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 the norm.

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

This is our plea, please pass SB192 out of committee

Mahalo,

Destiny Brown
YPDA Social Justice Action Committee Chair
Email: dbrown31@my.hpu.edu



Board of Directors:

Senate Committee on Judiciary

Gary L. Hooser
President

Hawai'i Alliance for Progressive Action Supports SB 192

Andrea N. Brower
Ikaika M. Hussey
Co-Vice Presidents

Aloha Chair Rhoads, Vice Chair Wakai & Members of the Committee,

Kim Coco Iwamoto
Treasurer

On behalf of the Hawai'i Alliance for Progressive Action (HAPA) we submit this testimony in strong support of SB 192. HAPA is a statewide environmental, social and economic justice organization HAPA that engages over 10,000 local residents throughout Hawai'i annually.

Bart E. Dame
Secretary

Paul Achitoff

Nancy Aleck

Laura Harrelson

Kaleikoa Ka'eo

Michael Miranda

Walter Ritte Jr.

Pua Rossi-Fukino

Karen Shishido

Leslie Malulani Shizue Miki

SB 192 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 SB 192 out of your committee.

Respectfully,

A handwritten signature in black ink, appearing to read 'Anne Frederick', with a stylized, cursive script.

Anne Frederick,
Executive Director

SB-192

Submitted on: 2/6/2019 2:50:22 AM

Testimony for JDC on 2/7/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
De MONT R. D. CONNER	Testifying for Ho'omanapono Political Action Committee (HPAC)	Support	Yes

Comments:

WE STRONGLY SUPPORT THIS BILL.



O`ahu County Committee on Legislative Priorities

COMMITTEE ON JUDICIARY

Senator Karl Rhoads, Chair
Senator Glenn Wakai, Vice Chair

DATE: Wednesday, February 7, 2019

TIME: 9:00 a.m.

PLACE: Conference Room 016, State Capitol

SB 192 RELATING TO BAIL

To the Honorable Karl Rhoads, Chair; the Honorable Glenn Wakai, Vice Chair; and Members of the Committee on Judiciary:

The O`ahu County Committee on Legislative Priorities (OCCLP) of the Democratic Party of Hawai`i (DPH) hereby submits its testimony in **SUPPORT of SB 192 relating to Bail.**

SB 192 provides that after an amount of bail is determined by a justice or judge pursuant to section 804-9, a defendant in custody may petition the court for unsecured bail. Upon a showing that: (1) Securing the bail bond or obtaining a surety or sureties to secure the bail bond pursuant to section 804-11.5 would result in significant financial hardship; and (2) The continued incarceration of the defendant 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.

In granting or denying a petition for unsecured bail, the court may consider: (1) The defendant's: (A) Employment status and history; (B) Family relationships, specifically the nature and extent of those relationships; (C) Past and present residences; (D) Character and reputation; (E) Ties to the community; (F) Financial circumstances; and (G) Prior criminal record, if any, and any prior failures to appear in court; (2) The agreement of any person to assist the defendant to appear in court when required and to satisfy the conditions of release; (3) The results of an empirical and validated pretrial risk assessment; (4) The offense charged and any potential sentence; and (5) Any other facts the court finds relevant to the defendant's likelihood to appear in court and satisfy the conditions of release.

DPH supports reforms to our criminal justice system, including but not limited to bail reform, that encourage the reintegration of formally incarcerated individuals into greater society and reduces their rate of recidivism. *Democratic Party of Hawai`i Platform (2018), p. 9, ln. 1-2.*

For the foregoing reasons, i.e., to support reforms to our criminal justice system, including but not limited to, bail reform, OCCLP supports SB 192 and urges its passage out of the Committee on Judiciary.

Mahalo nui loa
Me ka `oia`i`o

/s/ *Melodie Aduja*

Melodie Aduja

Chair, O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i

Ph. (808) 258-8889

Email: legislativepriorities@gmail.com

LATE

SB-192

Submitted on: 2/6/2019 3:28:15 PM

Testimony for JDC on 2/7/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael L Inouye	Testifying for Democratic Socialists of Honolulu	Support	Yes

Comments:

Money bail for pretrial detention is demonstrably counterproductive, making its persistence punitive and unconstitutional. Like the rest of the Criminal Justice System it disproportionately affects Hawaiians and other people of color. Members of our community who are held in pretrial detention for no reason other than lack of access to money lose jobs, housing, and parental rights everyday – this fact is an abomination of justice and must end.

Our current bail system violates due process and equal protection under the law for those who can't afford to post bail. In essence, money bail is the criminalization of poverty. This bill is a step towards ending this unconscionable injustice.



LATE

HAWAII INNOCENCE 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
Senate Committee on Judiciary
Senator Karl Rhoads, Chair
Senator Glenn Wakai, Vice Chair
Public Hearing – Thursday, February 7, 2019
9:00 AM, State Capital, Conference Room 016

February 6, 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. The ability to pay money bail is neither an indicator of a person’s guilt nor an indicator of risk in release.¹ However, one significant effect of money bail systems such as Hawai‘i’s is that they coerce those who cannot pay into pleading guilty in order to get out of jail sooner.² Many of those who take such pleas may be actually innocent of the crime.

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.

LATE

SB-192

Submitted on: 2/6/2019 10:25:43 PM

Testimony for JDC on 2/7/2019 9:00:00 AM

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

Comments:

DPFH strongly supports HB175 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 HB175 out of your committee.

SB-192

Submitted on: 2/4/2019 5:15:04 PM

Testimony for JDC on 2/7/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Leanne Fox	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.

SB-192

Submitted on: 2/4/2019 8:42:56 PM

Testimony for JDC on 2/7/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
david derauf	Individual	Support	No

Comments:

I strongly support HB175/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 are poor. Remaining in jail for prolonged periods of time 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 HB175/SB192 out of your committee.

SB-192

Submitted on: 2/4/2019 9:08:24 PM

Testimony for JDC on 2/7/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Christina H. Young	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.

SB-192

Submitted on: 2/4/2019 10:15:34 PM

Testimony for JDC on 2/7/2019 9:00:00 AM

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

Comments:

I strongly support SB192. This measure would seek to provide relief to Hawai'i's jail overcrowding issues while mitigating the unnecessary harms that cash bail may inflict on indigent individuals awaiting trial, by offering judges the additional option to allow for unsecured or partially secured bail.

Under this system, defendants who would experience significant financial hardship by paying for bail or a bail bondsman could be released instead of a bond requiring the payment of only part of the bail amount or no security at all. This would enable the release of indigent defendants without cash payments up front but would maintain accountability as defendants, and their families could still be liable for the bail amounts if the defendants fail to appear for court or commit new crimes while out on bail.

SB-192

Submitted on: 2/5/2019 6:34:13 AM

Testimony for JDC on 2/7/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
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.

SHERRY P. BRODER
Law Offices of Sherry P. Broder

Suite 400, Seven Waterfront Plaza, 500 Ala Moana Blvd., Honolulu, HI 96813

Phone: 808-531-1411

Email: sherrybroder@sherrybroder.com

February 5, 2019

Chairman and Committee Members
Judiciary Committee

Re: SB 192, Relating to Bail

Dear Chairman Takeyama and Committee Members,

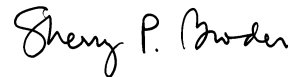
This letter is submitted in strong support of SB 192, Relating to Bail. I am submitting this letter in my individual capacity.

The bail system in Hawaii is grossly unfair, penalizing poor defendants who cannot afford to pay their way out of jail while rewarding others with the financial means to pay bail as they await trial. It is time to fix the status quo stacked against people at the bottom of the socioeconomic ladder. Flight risk and the seriousness of the crime should be taken into consideration and evaluated in setting bail.

Bail reform is very important to bring fairness to the criminal justice system. In the long run, the state will save money by not incarcerating people who cannot afford bail but are not flight risks.

Please do not hesitate to contact me should you have any questions.

Sincerely,



SHERRY P. BRODER, Esq.

SB-192

Submitted on: 2/5/2019 8:22:17 AM

Testimony for JDC on 2/7/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Alexandra Ibrahim	Individual	Support	No

Comments:

I am in strong support of HB 175/SB 192. The penalization of individuals who cannot afford bail is not equitable and this bill will allow for a social justice oriented solution to this issue. Those who cannot afford bail are currently forced to stay in overcrowded jails while their wealthier counterparts are given the opportunity to await a fair trial from the comfort of their homes. This is inequitable and unfair; The measure in question would allow for the defendant to sign a promissory note and commitment to attend trial. Research has found that this measure is equally as effective as cash bail and will allow for less crowding in jails and less burden on Hawai'i taxpayers.

SB-192

Submitted on: 2/5/2019 8:50:23 AM

Testimony for JDC on 2/7/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Brent Keliokamalu Nakihei	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.

SB-192

Submitted on: 2/5/2019 8:54:09 AM

Testimony for JDC on 2/7/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Shannon Rudolph	Individual	Support	No

Comments:

Support

SB-192

Submitted on: 2/5/2019 9:25:37 AM

Testimony for JDC on 2/7/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Davianna McGregor	Individual	Support	No

Comments:

Chair and members of the committee. I strongly support HB175/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. This would assist Native Hawaiians in navigating the social justice system and begin to address a part of the proces that discriminates against Native Hawaiians, as reflected in the disproportionate over-representation of Native Hawaiians in our prison systems. mahalo

SB-192

Submitted on: 2/5/2019 9:28:28 AM

Testimony for JDC on 2/7/2019 9:00:00 AM

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

Comments:

Support!

SB-192

Submitted on: 2/5/2019 10:15:40 AM

Testimony for JDC on 2/7/2019 9:00:00 AM

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

Comments:

It is not a question of right and wrong but more so the need for us to open our eyes to those who are less privileged and provide them the same opportunities as others regardless of their ability or inability to pay. Justice doesn't always serve those who deserve it. All too often, innocent people pay for the crimes of others by spending time behind bars because they were in the wrong place at the wrong time. In order to protect those who may be later found innocent, I strongly believe that this bill should be carefully debated on and ultimately passed. This has the potential to make a huge difference in people's lives as well as their families who are directly impacted by the current bail system which only serves those who are wealthy enough to pay. In an effort to keep families together and give everyone a fair chance at maintaining a steady income, and having the opportunity to continue as a productive member of society while awaiting court, I support this bill. It is detrimental to the good of our society and each individual's rights.

From: [Nate Hix](#)
To: [JDCTestimony](#)
Subject: SUPPORT SB192
Date: Tuesday, February 5, 2019 8:58:53 AM

Chair Rhoads, Vice Chair Wakai, members,

Wealth should not be a factor in someone's treatment by the judicial system. Cash bail ensures that poor people's experience is significantly worse. Please end cash bail.

Thanks,

Nate

From: [Will Caron](#)
To: [JDCTestimony](#)
Subject: Testimony in SUPPORT of SB192
Date: Tuesday, February 5, 2019 10:46:01 AM

Chair Rhoads, Vice Chair Wakai, members,

I support a reduction or elimination of our state's reliance on cash bail in determining pretrial incarceration. Cash bail does not serve the function for which it was intended. The purpose of bail is not pretrial punishment. Bail is supposed to minimize the risk of flight and danger to society while preserving the defendant's constitutional rights. However, requiring cash bail does not achieve any of these outcomes.

Jurisdictions like Washington D.C. that have all-but replaced cash bail with smart justice reforms have seen better rates of court attendance and lower rates of re-arrest, all while satisfying the intent of bail without violating civil liberties.

Cash bail has serious societal costs. Incarceration disrupts lives, often leading to loss of employment, custody issues and loss of housing. These worsened outcomes derail people from the trajectory of their lives, increasing the likelihood of negative outcomes like homelessness, health problems and crime: costs for which we all pay the price.

Mahalo,

From: [Korynn Grenert](#)
To: [JDCTestimony](#)
Subject: Testimony in SUPPORT of SB192
Date: Tuesday, February 5, 2019 10:50:49 AM

Chair Rhoads, Vice Chair Wakai, members,

I support a reduction or elimination of our state's reliance on cash bail in determining pretrial incarceration. Cash bail does not serve the function for which it was intended. The purpose of bail is not pretrial punishment. Bail is supposed to minimize the risk of flight and danger to society while preserving the defendant's constitutional rights. However, requiring cash bail does not achieve any of these outcomes.

Jurisdictions like Washington D.C. that have all-but replaced cash bail with smart justice reforms have seen better rates of court attendance and lower rates of re-arrest, all while satisfying the intent of bail without violating civil liberties.

Cash bail has serious societal costs. Incarceration disrupts lives, often leading to loss of employment, custody issues and loss of housing. These worsened outcomes derail people from the trajectory of their lives, increasing the likelihood of negative outcomes like homelessness, health problems and crime: costs for which we all pay the price.

Mahalo,
Korynn Grenert

From: [Eric Schragar](#)
To: [JDC Testimony](#)
Subject: Testimony in SUPPORT of SB192
Date: Tuesday, February 5, 2019 11:15:31 AM

Chair Rhoads, Vice Chair Wakai, members,

I support a reduction or elimination of our state's reliance on cash bail in determining pretrial incarceration. Cash bail does not serve the function for which it was intended. The purpose of bail is not pretrial punishment. Bail is supposed to minimize the risk of flight and danger to society while preserving the defendant's constitutional rights. However, requiring cash bail does not achieve any of these outcomes.

Jurisdictions like Washington D.C. that have all-but replaced cash bail with smart justice reforms have seen better rates of court attendance and lower rates of re-arrest, all while satisfying the intent of bail without violating civil liberties.

Cash bail has serious societal costs. Incarceration disrupts lives, often leading to loss of employment, custody issues and loss of housing. These worsened outcomes derail people from the trajectory of their lives, increasing the likelihood of negative outcomes like homelessness, health problems and crime: costs for which we all pay the price.

Cash bail does not serve the function for which it was intended. Bail is supposed to minimize the risk of flight and danger to society while preserving the defendant's constitutional rights. However, requiring cash bail does not achieve any of these outcomes. Jurisdictions like Washington D.C. that have all-but replaced cash bail with smart justice reforms have seen better rates of court attendance and lower rates of re-arrest, satisfying the intent of bail without violating civil liberties. Source: https://www.psa.gov/?q=data/performance_measures

Cash bail has serious societal costs. Incarceration always disrupts lives, often leading to loss of employment, custody issues and loss of housing. These worsened outcomes derail people from the trajectory of their lives, leading to increased criminality, homelessness, health problems and other societal costs for which we all pay the price. Cash bail leads to over-incarceration. Source: [https://www.law.upenn.edu/cf/faculty/roberts1/workingpapers/b56StanLRev1271\(2004\).pdf](https://www.law.upenn.edu/cf/faculty/roberts1/workingpapers/b56StanLRev1271(2004).pdf)

Cash bail is overused and arbitrary. Hawai'i's courts require bail as a condition of release in 88 percent of cases. More than half of the arrestees in those cases were unable to post the amount required by the court. Although Hawai'i's Constitution prohibits "excessive bail," many judges in Hawai'i admit to arbitrarily setting bail at a certain amount based solely on the offense the individual is accused of committing. Source: <https://acluhi.org/bailstudy/> ypdahawaii.org/criminal-justice-reform

Cash bail violates the right to presumption of innocence and due process. In the United States, the accused is presumed innocent until proven guilty, and the the Fifth and Fourteenth Amendments prohibit depriving a person of his or her liberty without due process of law (including while awaiting trial and regardless of indigence). Yet, in Hawai'i, some 1,145 individuals are currently being held behind bars without having been convicted of a crime. Nationwide, 443,000 people are being detained without ever having been tried in a court of law. This is a gross violation of their civil liberties and amounts to an unconstitutional, extrajudicial punishment. Sources: <https://dps.hawaii.gov/wp-content/uploads/2018/01/Pop-Reports-EOM-2017-12-31.pdf> <https://www.prisonpolicy.org/reports/pie2017.html>

Mahalo,

Eric Schrager
Ewa Beach

From: [Wendy Hudson](#)
To: [JDC Testimony](#)
Subject: Please Support HB175/SB192 Relating to Bail Reform
Date: Tuesday, February 5, 2019 11:56:11 AM

I strongly support HB175/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.

I was a Public Defender for over 18 years and the MAJORITY of my clients could simply not afford to post bail. Another person of means would be charged with the exact same charges but would just bail out. It is much more difficult to provide a vigorous defense, let alone an adequate defense to some one in custody. It's hard to get into the facilities to visit them, it's hard to get calls in to speak with them and it is very hard to investigate the events in question without the client there with you at the scene.

Waiting for trial in custody means most of those defendants end up just taking deals, especially when the prosecutor offers to let them out at change of plea as part of the deal. Even when I would counsel some one to just wait for trial and have their day in court, more often than not, they would just take a deal so they could get out of custody and back to work.

Our Hawaii jails would NOT be overcrowded if we had more reasonable bail amounts in the first place. This bill would allow defendants to get out without having to post money and mirrors the Federal system already in place that allows for unsecured bail.

Studies have shown that 80% of defendants will appear in court, regardless of whether they had to post money bail or not. Unsecured bail would make our system in Hawaii much more fair.

Please pass this bill.
Wendy Hudson

From: [Marilyn Mick](#)
To: [JDCTestimony](#)
Subject: Testimony in SUPPORT of SB192
Date: Tuesday, February 5, 2019 2:45:37 PM

Chair Rhoads, Vice Chair Wakai, members,

I support a reduction or elimination of our state's reliance on cash bail in determining pretrial incarceration. Cash bail does not serve the function for which it was intended. The purpose of bail is not pretrial punishment. Bail is supposed to minimize the risk of flight and danger to society while preserving the defendant's constitutional rights. However, requiring cash bail does not achieve any of these outcomes.

Jurisdictions like Washington D.C. that have all-but replaced cash bail with smart justice reforms have seen better rates of court attendance and lower rates of re-arrest, all while satisfying the intent of bail without violating civil liberties.

Cash bail has serious societal costs. Incarceration disrupts lives, often leading to loss of employment, custody issues and loss of housing. These worsened outcomes derail people from the trajectory of their lives, increasing the likelihood of negative outcomes like homelessness, health problems and crime: costs for which we all pay the price.

Mahalo, Marilyn Mick, Honolulu

SB- 192

Submitted on: 02/05/2019 3:30 PM

Testimony for JDC on 02/07/2019 9:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Rose Carolyn Wilcox	Individual	Support	

Comments:

SB-192

Submitted on: 2/5/2019 3:29:23 PM

Testimony for JDC on 2/7/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Donna K Santos	Individual	Support	No

Comments:

From: [Randy Gonce](#)
To: [JDCTestimony](#)
Subject: Testimony in SUPPORT of SB192
Date: Tuesday, February 5, 2019 3:48:21 PM

Chair Rhoads, Vice Chair Wakai, members,

I am writing in STRONG SUPPORT of HB175. Cash bail is a cruel system which punishes the vulnerable and extends privilege to those who are well off. Cash bail does not serve the function for which it was intended. The purpose of bail is not pretrial punishment. Bail is supposed to minimize the risk of flight and danger to society while preserving the defendant's constitutional rights. However, requiring cash bail does not achieve any of these outcomes.

Jurisdictions like Washington D.C. that have all-but replaced cash bail with smart justice reforms have seen better rates of court attendance and lower rates of re-arrest, all while satisfying the intent of bail without violating civil liberties.

Cash bail has serious societal costs. Incarceration disrupts lives, often leading to loss of employment, custody issues and loss of housing. These worsened outcomes derail people from the trajectory of their lives, increasing the likelihood of negative outcomes like homelessness, health problems and crime: costs for which we all pay the price.

Cash bail is directly linked to our growing homeless population as well. Please pass this measure.

Mahalo,
Randy Gonce
Young Progressives Demanding Action
The Drug Policy Forum of Hawaii

SB-192

Submitted on: 2/5/2019 7:37:36 PM

Testimony for JDC on 2/7/2019 9:00:00 AM

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.

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

Submitted on: 2/5/2019 8:29:51 PM

Testimony for JDC on 2/7/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Mary Lacques	Individual	Support	No

Comments:

From: [Elizabeth O'Connor](#)
To: [JDC Testimony](#)
Subject: Re: Testimony in Support of SB192 - Elizabeth O'Connor
Date: Tuesday, February 5, 2019 7:34:26 PM



Testimony in Support of SB192

Name	Elizabeth O'Connor
Email	island.auntee@gmail.com
Subject	Testimony in SUPPORT of SB192
Testimony	<p>Chair Rhoads, Vice Chair Wakai, members,</p> <p>I support a reduction or elimination of our state's reliance on cash bail in determining pretrial incarceration. Cash bail does not serve the function for which it was intended. The purpose of bail is not pretrial punishment. Bail is supposed to minimize the risk of flight and danger to society while preserving the defendant's constitutional rights. However, requiring cash bail does not achieve any of these outcomes.</p> <p>Jurisdictions like Washington D.C. that have all-but replaced cash bail with smart justice reforms have seen better rates of court attendance and lower rates of re-arrest, all while satisfying the intent of bail without violating civil liberties.</p> <p>Cash bail has serious societal costs. Incarceration disrupts lives, often leading to loss of employment, custody issues and loss of housing. These worsened outcomes derail people from the trajectory of their lives, increasing the likelihood of negative outcomes like homelessness, health problems and crime: costs for which we all pay the price.</p> <p>Mahalo,</p>

You can [edit this submission](#) and [view all your submissions](#) easily.

From: [Patricia Blair](#)
To: [JDCTestimony](#)
Subject: Re: Testimony in Support of SB192 - Patricia Blair
Date: Tuesday, February 5, 2019 10:06:00 PM



Testimony in Support of SB192

Name	Patricia Blair
Email	patriciablair@msn.com
Subject	Testimony in SUPPORT of SB192
Testimony	<p>Chair Rhoads, Vice Chair Wakai, members,</p> <p>I support a reduction or elimination of our state's reliance on cash bail in determining pretrial incarceration. Cash bail does not serve the function for which it was intended. The purpose of bail is not pretrial punishment. Bail is supposed to minimize the risk of flight and danger to society while preserving the defendant's constitutional rights. However, requiring cash bail does not achieve any of these outcomes.</p> <p>Jurisdictions like Washington D.C. that have all-but replaced cash bail with smart justice reforms have seen better rates of court attendance and lower rates of re-arrest, all while satisfying the intent of bail without violating civil liberties.</p> <p>Cash bail has serious societal costs. Incarceration disrupts lives, often leading to loss of employment, custody issues and loss of housing. These worsened outcomes derail people from the trajectory of their lives, increasing the likelihood of negative outcomes like homelessness, health problems and crime: costs for which we all pay the price.</p> <p>Mahalo,</p>

You can [edit this submission](#) and [view all your submissions](#) easily.

From: [Michelle Kaio](#)
To: [JDCTestimony](#)
Subject: Please Support HB175/SB192 Relating to Bail Reform
Date: Wednesday, February 6, 2019 7:09:44 AM

TO: Senate Committee

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

RE: SUPPORT FOR [SB192](#)

Hearing set for Thursday, February 7, 2019 at 9:00 am, Hawai'i State Capitol,
Conference Room 016

Members of the Senate Committee:

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

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

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 poor experience

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

Mahalo nui,
Michelle Malia Ka'io

February 6, 2019



TO: Senate Committee on Judiciary
RE: SB 192
HEARING DATE: February 7, 2019
TIME: 9:00 AM
ROOM: 016
POSITION: **SUPPORT**

Chair Rhoads, Vice Chair Wakai, and members of the committee:

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

SB 192 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 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.

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

From: [Laura Ramirez](#)
To: [JDCTestimony](#)
Subject: Re: Testimony in Support of SB192 - Laura Ramirez
Date: Wednesday, February 6, 2019 3:29:48 PM

LATE



Testimony in Support of SB192

Name	Laura Ramirez
Email	lauraramirez87@hotmail.com
Subject	Testimony in SUPPORT of SB192
Testimony	<p>Chair Rhoads, Vice Chair Wakai, members,</p> <p>I support a reduction or elimination of our state's reliance on cash bail in determining pretrial incarceration. Cash bail does not serve the function for which it was intended. The purpose of bail is not pretrial punishment. Bail is supposed to minimize the risk of flight and danger to society while preserving the defendant's constitutional rights. However, requiring cash bail does not achieve any of these outcomes.</p> <p>Jurisdictions like Washington D.C. that have all-but replaced cash bail with smart justice reforms have seen better rates of court attendance and lower rates of re-arrest, all while satisfying the intent of bail without violating civil liberties.</p> <p>Cash bail has serious societal costs. Incarceration disrupts lives, often leading to loss of employment, custody issues and loss of housing. These worsened outcomes derail people from the trajectory of their lives, increasing the likelihood of negative outcomes like homelessness, health problems and crime: costs for which we all pay the price.</p> <p>Mahalo,</p>

You can [edit this submission](#) and [view all your submissions](#) easily.

LATE

SB-192

Submitted on: 2/6/2019 4:07:48 PM

Testimony for JDC on 2/7/2019 9:00:00 AM

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

Comments:

From: [Courtney Mrowczynski](#)
To: [JDCTestimony](#)
Subject: Re: Testimony in Support of SB192 - Courtney Mrowczynski
Date: Wednesday, February 6, 2019 4:33:28 PM

LATE

 **Testimony in Support of SB192**

Name	Courtney Mrowczynski
Email	cmrow@hawaii.edu
Subject	Testimony in SUPPORT of SB192
Testimony	<p>Chair Rhoads, Vice Chair Wakai, members,</p> <p>I support a reduction OR elimination of our state's reliance on cash bail in determining pretrial incarceration. Cash bail does NOT serve the function for which it was intended. The purpose of bail is NOT pretrial punishment. Bail is supposed to minimize the risk of flight and danger to society while preserving the defendant's constitutional rights. However, requiring cash bail does NOT achieve ANY of these outcomes.</p> <p>Jurisdictions like Washington D.C. that have all-but replaced cash bail with SMART JUSTICE reforms have seen better rates of court attendance AND lower rates of re-arrest, all while satisfying the intent of bail without violating civil liberties.</p> <p>Cash bail has SERIOUS societal costs. Incarceration disrupts lives, often leading to loss of employment, custody issues and loss of housing. These worsened outcomes derail people from the trajectory of their lives, increasing the likelihood of negative outcomes like homelessness, health problems and crime: costs for which we all pay the price.</p> <p>Mahalo, Courtney Mrowczynski</p>

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LATE

Testimony by
James Waldron Lindblad
SB 192
Support with Reservations

The Senate Court

THE SENATE

Third Language Language
THE THIRTIETH LEGISLATURE

Judgment Act 2019
REGULAR SESSION OF 2019

The Trial Chamber

COMMITTEE ON JUDICIARY

Senator Karl Rhoads, Speaker / Chair

Senator Glenn Wakai, Deputy Chairman / Vice Chair

Listening Sound Report
NOTICE OF HEARING

SB192 Relating to Bail

Date / DATE: Wednesday , February 7, 2019 / Thursday, February 7, 2019

Hola / TIME: 9:00 am

Location / PLACE: Consolidated Light 016 / Conference Room 016
State Capital / State Capitol
415 South Beretania Street

Support with Reservations. SB-192

Citation release and own recognizance release should be preferred in the pretrial process. Unsecured bail is the same as citation release and release on own recognizance. No one should be held in jail simply for lack of funds but these pretrial release decisions should be individually made by a judge and we cannot group or batch these decisions.

Hawaii has a very high-functioning pretrial process and is rated very high among states in fewest numbers of persons held pretrial on a per-capita basis.

Hawaii is not New York where only 15% of those arrested make bail. Of the 50 or more DUI arrests every weekend by HPD, 100% make bail or are released by the weekend duty judge. The booking logs posted online prove this. Remember 704 fitness hearings can skew data and the median or mean data collections must be made clear. We cannot include 200 HOPE and 400 Probations as pretrial.

There are about 500 felons and 77 misdemeanants at OCCC after about 20,000 arrests by HPD.

The HCR 134 report has encouraged the judiciary to make changes now and not wait for legislation. For instance, bail hearing are now taking place every Monday and Thursday at arraignments. Bail are becoming lower very quickly and amount are evening out across the circuits by island.

Our judges have produced a very high-functioning pretrial process. Giving judges options or choices is important but we should allow judicial discretion and not force individual judicial decisions.

Remember the Federal system detains significant numbers. Nationally at over 70% detention and in Hawaii at least 33% detention, (see page 37 of the HCR 134 report) Kentucky detains at least 37% too. Oregon has tried 10% to the state and now just keeps the money to pay costs if defendant found guilty.

As a pretrial worker, I saw the failures first hand and I personally released at least 2000 defendants on their own recognizance. As a bail agent I have bailed out at least 25,000 defendants in the past forty-two years. I sell to family members and not individual defendants. Most of my clients are parents bailing out their children. The courts must decide based on individual circumstance which is much harder to do when determining pretrial release without bail or on a monitor. Bail, itself should be three party in nature and someone with skin the game makes for better results. The court does not have that luxury when looking at a defendant without friends or family present. The bail reports help but justice can be served better when judges have options that include outside third party sponsors.

Thank you for the opportunity to present this testimony.

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