



The Judiciary, State of Hawai‘i

Testimony to the House Committee on Judiciary

Representative Chris Lee, Chair

Representative Joy A. San Buenaventura, Vice Chair

Wednesday, February 13, 2019, 3:00 PM

State Capitol, Conference Room 325

by

Shirley M. Kawamura

Deputy Chief Judge, Criminal Administrative Judge

Circuit Court of the First Circuit

Reporter, HCR134 Criminal Pretrial Procedures Task Force

WRITTEN TESTIMONY ONLY

Bill No. and Title: House Bill No. 175, H.D. 1, Relating to Bail.

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

Judiciary's Position:

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

House Bill 175 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.



House Bill No. 175, H.D. 1, Relating to Bail
House Committee on Judiciary
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Page 2

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.

While unsecured bond was not one of the specific recommendations of the Pretrial Task Force, the proposal is certainly not inconsistent with its purpose and recommendations. We therefore respectfully support the passage of H.B. 175, HD1 out of your committee.



HB175 HD1
RELATING TO BAIL
Ke Kōmike Ho'okolokolo

Pepeluali 13, 2019

3:00 p.m.

Lumi 325

The Office of Hawaiian Affairs (OHA) **STRONGLY SUPPORTS** HB175 HD1, a measure in OHA's 2019 Legislative Package. **This bill would give judges the option to offer "unsecured bail," or a promissory note, to certain incarcerated individuals, as a means to reduce the severe and disproportionate consequences of cash bail on indigent defendants and communities, relieve the overcrowding of our detention facilities, and save significant taxpayer dollars.**

Unfortunately, our current cash-secured bail system has resulted in harmful, unnecessary socioeconomic impactsⁱ on low-income individuals and their families, a majority of whom are Native Hawaiian. The purpose of bail is to not to punish the accused, but 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

HB175 HD1'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, HB175 HD1 gives judges the option to allow certain defendants to secure their release by signing a promissory note for all or part of their bail amount. Specifically, judges may 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, HB175 HD1 is a tailored and targeted approach to mitigate the harsh and disproportionate consequences of cash bail on poor defendants and their families. **Notably, HB175 HD1 does not limit judicial discretion in setting bail amounts or even granting bail; if a defendant poses a flight risk or threat to public safety, judges may still deny bail altogether.**

In other jurisdictions and in the federal system, unsecured bail has 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, **HB175 HD1's unsecured bail system offers an alternative that can reduce the severe consequences of cash bail on poor defendants and communities, provide relief to rampant overcrowding in our detention facilities, and save taxpayer dollars—without affecting trial appearance rates or public safety.**

OHA notes that HB175 HD1's proposed unsecured bail system does not conflict with the recommendations of the HCR134 Task Force on pretrial reform. In fact, HB175 HD1's unsecured bail proposal complements the Task Force's recommendations, by mitigating the disparate impacts of cash bail that may remain even if the Task Force's recommendations are adopted. HB175 HD1's proposed system can also stand alone as an independent approach to reducing the impacts of the cash bail system on poorer communities, should the Legislature decline to adopt some or all of the Task Force's recommendations.

For the reasons set forth above, OHA respectfully urges the Committee to **PASS** HB175 HD1. Mahalo piha for the opportunity to testify on this important measure.

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

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

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

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

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

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

HB-175-HD-1

Submitted on: 2/11/2019 6:06:00 PM

Testimony for JUD on 2/13/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Louis Erteschik	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.

COMMUNITY ALLIANCE ON PRISONS

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

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



COMMITTEE ON JUDICIARY

Rep. Chris Lee, Chair

Rep. Joy SanBuenaventura, Vice Chair

Wednesday, February 13, 2019

3:00 pm

Room 325

SUPPORT for HB 175 HD1 - UNSECURED BAIL

Aloha Chair Lee, Vice Chair SanBuenaventura and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies in Hawai'i for more than two decades. This testimony is respectfully offered on behalf of the families of **ASHLEY GREY, DAISY KASITATI, JOEY O'MALLEY, JESSICA FORTSON AND ALL THE PEOPLE WHO HAVE DIED UNDER THE "CARE AND CUSTODY" OF THE STATE** as well as the approximately 5,400 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.

TESTIMONY IN SUPPORT OF HB 175, HD 1

TO: House Committee on Judiciary

FROM: Nikos Leverenz
Grants, Development & Policy Manager

DATE: February 13, 2019 (3:00 PM)

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

Hawai'i Health & Harm Reduction Center (HHRC) **supports** HB 175, HD 1, which would allow for the execution of an unsecured financial bond for those facing significant financial hardship and whose employment, education, housing, child care, or medical treatment would be jeopardized from continued incarceration. We would support an amendment to this bill that would allow unsecured bail solely based on financial hardship.

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

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

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

Thank you for the opportunity to testify on this measure.

HB-175-HD-1

Submitted on: 2/11/2019 7:15:04 PM

Testimony for JUD on 2/13/2019 3:00:00 PM

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

Comments:

Aloha Representatives,

The LGBT Caucus of the Democratic Party of Hawaii supports the passage of HB 175.

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

Mahalo for your consideration and for the opportunity to testify.

Mahalo,

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



**TESTIMONY OF TINA YAMAKI
PRESIDENT
RETAIL MERCHANTS OF HAWAII
February 13, 2019**

Re: HB 175 HD1 Relating to Bail

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

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

While we understand the intent, RMH is strongly opposed to HB 175 HD1 Relating to Bail. This measure authorizes a defendant in custody to petition a court for unsecured bail.

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

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

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

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



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Judiciary Committee

Wednesday, February 13, 2019, 3:00 PM

TESTIMONY
HB 175, HD1 RELATING TO BAIL

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

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

The League of Women Voters Supports HB 175 HD1, which authorizes a defendant in custody to petition a court for unsecured bail if securing the bail bond would result in significant financial hardship; and continued incarceration would jeopardize the defendant's ability to maintain employment, remain enrolled in any educational or training program, care for a dependent, continue medical or therapeutic treatment, or maintain housing.

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

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

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

If bail is taken out of the picture, rich and poor defendants are on a more level playing field (it will never be completely level). The prison system will not be so crowded and instead of relying on private prisons or building more jails, money can go into systems like pretrial supervised release. Thank you for letting us testify on this important criminal justice issue, and please make the bill effective once it has passed.



HB 175, HD 1, RELATING TO BAIL

FEBRUARY 13, 2019 · HOUSE JUDICIARY
COMMITTEE · CHAIR REP. CHRIS LEE

POSITION: Support.

RATIONALE: IMUAlliance supports HB 175, HD 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.

Helping Hawai'i Live Well

To: Representative Chris Lee, Chair, Representative Joy San Buenaventura, Vice Chair, Members, House Committee on Judiciary

From: Trisha Kajimura, Executive Director

Re: TESTIMONY IN SUPPORT OF HB 175 HD1 Relating to Public Safety

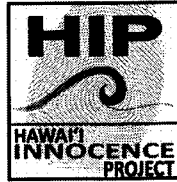
Hearing: February 13, 2019, 3:00 pm, CR 325

Thank you for allowing us to provide testimony in support of HB 175 which amends Chapter 804, Hawaii Revised Statutes, by adding a new section for Unsecured Bail.

Mental Health America of Hawaii is a 501(c)3 organization founded in Hawai'i 77 years ago, that serves the community by promoting mental health through advocacy, education and service. Unfortunately, many people who are arrested and/or incarcerated suffer from untreated mental illness.

Our current bail system unfairly imprisons people who are awaiting trial and do not have the financial means to pay their bail. This can result in a cascade of additional problems such as job loss and the inability to fulfill family responsibilities that puts the pretrial individual in an even worse position than their arrest did. We support this bill and reform of the pretrial system to be more efficient and fairer for the pretrial individuals as well as taxpayers. Implementation will significantly cut our incarcerated population, reduce overcrowding and the cost of our prison system while continuing to equip the Judiciary with the tools needed to protect public safety.

Thank you for the opportunity to testify in support of HB 175 HD1. Please contact me at trisha.kajimura@mentalhealthhawaii.org or (808)521-1846 if you have any questions.



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

H.B. No. 175 - Relating to Bail
House of Representatives Committee on Judiciary
Rep. Chris Lee, Chair
Rep. Joy A. San Buenaventura, Vice Chair
Public Hearing – Wednesday, February 13, 2019
3:00 PM, State Capital, Conference Room 325

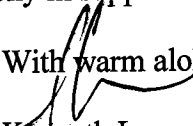
February 12, 2019

H.B. No. 175 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** H.B. No. 175, 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 H.B. No. 175 because every accused individual must be presumed innocent and our current bail process does not effectively afford that presumption to indigent defendants. Money bail is not an appropriate measure of a person’s guilt or an indicator of risk in release and disproportionately impacts low-income individuals and people of color.¹ The inequity in the money bail system allows those with financial means the opportunity to be immediately released but penalizes those without the necessary funds with immediate jail time while their court case is pending. This system further exacerbates the poor defendant’s financial situation by holding them in custody and preventing them from making any income while they exercise their constitutional right to trial. Money bail systems coerce those who cannot pay into pleading guilty to get out of jail sooner, even if they are innocent of the crime.²

The Hawai‘i Innocence Project believes that H.B. No. 175 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 socioeconomic status. We appreciate your time and the opportunity to provide testimony in support of H.B. No. 175.

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.

HB-175-HD-1

Submitted on: 2/12/2019 7:42:18 PM

Testimony for JUD on 2/13/2019 3:00:00 PM



Submitted By	Organization	Testifier Position	Present at Hearing
Carl Bergquist	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.



Aloha Committee Chair Lee, Vice Chair Buenaventura, 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

LATE

HB-175-HD-1

Submitted on: 2/12/2019 10:14:45 PM

Testimony for JUD on 2/13/2019 3:00:00 PM

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

Comments:

LATE

HB-175-HD-1

Submitted on: 2/12/2019 10:34:34 PM

Testimony for JUD on 2/13/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ronald S. Fujiyoshi	Ohana Ho`opakele	Support	No

Comments:

We support any legislation that corrects the disproportionate number of Native Hawaiians incarcerated by the State of Hawaii. A reform of the bail system that keeps poor people incarcerated is needed. The main purpose of the bail is to help insure that the suspect will return to the court for one's hearing. It has become instead a form of incarcerating those who are economically disadvantaged. Surely, those of you who are on this committee can improve this system!

LATE

HB-175-HD-1

Submitted on: 2/12/2019 11:12:04 PM
Testimony for JUD on 2/13/2019 3:00:00 PM

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

Comments:

www.WeAreOne.cc

LATE

Testimony by
James Waldron Lindblad
HB 175, HD1.
Support with Reservations

HOUSE OF REPRESENTATIVES
THE THIRTIETH LEGISLATURE
REGULAR SESSION OF 2019

COMMITTEE ON JUDICIARY

Rep. Chris Lee, Chair

Rep. Joy A. San Buenaventura, Vice Chair

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

AMENDED NOTICE OF HEARING

DATE: Wednesday, February 13, 2019

TIME: 3:00pm

PLACE: Conference Room 325
State Capitol
415 South Beretania Street

Support with Reservations. HB 175, HD1

My name is James Waldron Lindblad and I submit this testimony with the unique perspective of a former pre-trial release employee and current bail bond agent of over 40 years currently residing in Hawaii.

I support this legislation but would like to outline two reservations.

Reservation #1 - The HCR 134 Task Force studied reforms for 2 years and did not recommend this idea.

The HCR 134 Task Force did recommend citation and release in a fair and clearly illustrated way, sorting out for class of crime, danger to the community, and likelihood of appearing in court. Although HB 175 rhymes with the recommendations made by HCR 134, I think HB 175 duplicates what is already in place with citation release, own recognizance release, and supervised release.

Reservation # 2 - The Judiciary has already initiated bail hearings every Monday and Thursday at the Circuit Court, which largely execute the ideas posed by HB 175

I encourage the drafters of this bill to observe Judge Kawamura every Monday and Thursday at the 8:30am A&Ps at circuit court. The court already reviews a defendant's ties to the community, financial circumstances, risk of recidivism, and character in open court. The prosecutor's office explains the risks of release, while the defense advocates for a detainees release. Many times, bails are reduced, or a release through the intake service center is executed. I have witnessed each hearing this year and see little advantage for the detainee that isn't already in practice at these hearing currently."

As a pretrial worker, I saw the failures of unsecured release first hand such as failing to appear as required and getting in trouble again and I personally released at least 2000 defendants on their own recognizance. Part of the problem pertains to what are we, as a society to do when family members prefer the defendant to be in jail. 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 when wearing an ankle monitor. Bail, itself should be three-party in nature and someone with skin the game makes for better results. The Intake Service bail reports can help but justice can be served better when judges have options that include outside third party sponsors with something to lose. What to do with those that no one is willing to help is the problem. Outside resources to assist those with nothing and to help those persons that have burned every family bridge must be developed and made available and this costs money. Further, the defendant must really want to make changes.

I think the legislature should follow the guidelines as set forth in the HCR 134 Task Force Report but the process should be one small step at time and small bite sized pieces taken and then testing of every change to see the results as suggested in the HCR 134 report. We want Hawai'i to maintain the high-functioning pretrial process we have all worked hard to make. Bail is not a crime and the Hawai'i bail system is not broken and our Hawai'i pretrial and bail system is very high-functioning as proven by Hawai'i being rated very high among states with the fewest numbers of pretrial persons on a per capita

basis. There are tweaks like speeding things up and the new bail hearings that are happening right now thanks to our judiciary taking action. Further, bail amounts have taken a nosedive recently with many bail values reduced. This is very important. We also have the other bills following the HCR 134 recommendations.

I think this bill duplicates what we already have in place when using citation release, own recognizance and supervised release.

Thank you for the opportunity to present this testimony.

James Waldron Lindblad

808-780-8887

James.Lindblad@gmail.com

Rev 02.13.2019

ROBERT K. MERCE

February 12, 2019

TO: House Committee on Judiciary
RE: HB 175, HD 1
HEARING DATE: February 13, 2019
TIME: 3:00 PM
ROOM: 325
POSITION: **SUPPORT**

Chair Lee, Vice Chair Buenaventura, and members of the committee:

I am a retired attorney and recently served as vice chair of the HCR 85 Task Force on prison reform.

HB 175, HD 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.

HB 175, HD 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 such as HB 1289 (implementing the recommendations of the HCR 134 Task Force), or as a stand-alone measure to improve the current system if no major reforms are enacted in this session of the legislature. Either way, HB 175, HD 1 is an important step in the right direction and would reduce the number of pretrial detainees in our jails, make our bail system more just, and save the state money.

Thank you for the opportunity to comment on this bill.

Marcella Alohalani Boido, M. A.
Hawaii Judiciary Certified Spanish Court Interpreter, Tier 4

Voting resident, Senate District 10, House District 21. Moili'ili, Honolulu, Hawaii 96826

To: Chair, Rep. Chris Lee; Vice-Chair, Rep. Joy San Buenaventura
Members, House Committee on Judiciary

Re: **HB 175 HD 1, SUPPORT**

Date: Wednesday, February 12, 2019, 3:00 p.m., Room 325

Chair C. Lee, Vice-Chair San Buenaventura, and Committee Members: Thank you for hearing HB 1541 HD 1.

This testimony is presented as a private individual. HB 175 HD 1 will make our bail system fairer to the poor, various ethnic groups, and immigrants.

After reviewing the testimony, I agree with the amendments in HD 1. I would like to see a closer effective date.

My testimony is based in part on my work as a court interpreter. However, for ethics reasons, I must make these comments general. I also read various sources relating to criminal justice.

Immigrant wives who are accused by their husbands may wind up in prison. Financially dependent on their husband, they cannot make bail. They are cut off from their families by distance, and cut off from other resources by their Limited-English Proficiency. While they are in prison, they are cut off from their children. An abusive husband may use this to send the children away, or in another way cut a mother off from her offspring. Both the mothers and their children suffer. Dishonest and abusive husbands are weaponizing our legal system in the hope of pressuring or getting rid of their immigrant wives. They have put women in prison who should not be there.

An immigrant who is mentally ill, or in addition has mental capacity issues, may sit in prison for months before his regular mental health service provider can find him. During that time, he may be unmedicated. Lost among his voices, afraid and alone, his ability to assist his public defender with his defense is seriously compromised. When he finally gets out, he will have lost his housing. His health may have deteriorated. Then I may wind up interpreting for him in a medical setting.

The time that some people spend in prison may greatly exceed any normal legal penalty. By the time the court system provides relief, the damage is done.

Meanwhile, besides needlessly increasing suffering, our current bail system is running up the costs of incarceration, of defense counsel, interpreter services when needed, etc.

The Judiciary has pointed out the lack of implementing procedures. This can be remedied in the next draft. Writing carefully (may I say, "judiciously") their testimony states: "...there is little need for unsecured bonds." (Emphasis added.) "Little need" is not the same as "no need."

The Brennan Center for Justice says: "**Abolish Cash Bail.** The decision of whether a defendant should be jailed while awaiting trial is often based on a defendant's wealth and not on public safety considerations." (<https://www.brennancenter.org/publication/criminal-justice-solutions-model-state-legislation>) I agree with them. They offer model legislation.

Thank you for taking the time to hear this bill. Respectfully, I ask this Committee to pass HB 175 HD 1, with appropriate amendments.

Policies for Interpreted Proceedings in the Courts of the State of Hawaii

Part III. Code of Professional Conduct for Court Interpreters

Rule 1. Court interpreters shall act strictly in the interests of the court they serve.

Rule 2. Court interpreters shall reflect proper court decorum and act with dignity and respect toward the officials and staff of the court and all other participants in the proceeding.

Rule 3. Court interpreters shall avoid professional or personal conduct which could discredit the court.

Rule 4. A court interpreter shall not disclose privileged communications between counsel and client. A court interpreter shall not make statements about the merits of the case during the proceeding. Court interpreters, except upon court order, shall not disclose confidential information about court cases obtained while performing interpreting duties.

Rule 5. A court interpreter shall disclose to the judge and to all parties any actual or apparent conflict of interest. Any condition that may interfere with the objectivity of an interpreter constitutes a conflict of interest. A conflict may exist if the interpreter is acquainted with or related to any witness or party to the action or others significantly involved in the case, or if the interpreter has an interest in the outcome of the case. An interpreter shall not engage in conduct creating the appearance of bias, prejudice, or partiality.

Rule 6. Court interpreters shall work unobtrusively with full awareness of the nature of the proceedings.

Rule 7. Court interpreters shall interpret accurately and faithfully without indicating personal bias and shall avoid even the appearance of partiality.

Rule 8. Court interpreters shall maintain impartiality by avoiding undue contact with witnesses, attorneys, and parties and their families, and by avoiding contact with jurors. This should not limit, however, appropriate contacts necessary to prepare adequately for their assignment.

Rule 9. A court interpreter shall not give legal advice to parties and witnesses, nor recommend specific attorneys or law firms. Court interpreters shall refrain from giving advice of any kind to any party or individual and from expressing personal opinion in a matter before the court.

Rule 10. Court interpreters shall perform to the best of their ability to assure due process for the parties, accurately state their professional qualifications and refuse any assignment for which they are not qualified or under conditions which substantially impair their effectiveness.

A court interpreter's best skills and judgment shall be used to interpret accurately without embellishing, omitting or editing. Court interpreters shall preserve the level of language used, and the ambiguities and nuances of the speaker and the language used. They shall also correct any error of interpretation, and shall request clarification of ambiguous statements or unfamiliar vocabulary and analyze objectively any challenge to their performance. Interpreters shall call to the attention of the court any factors or conditions that adversely affect their ability to perform adequately.

Rule 11. Court interpreters shall accept no remuneration, gifts, gratuities, or valuable consideration in excess of the authorized compensation for the performance of their interpreting duties, and shall avoid conflicts of interest or the appearance thereof.

Rule 12. Court interpreters should support other court interpreters by sharing knowledge and expertise with them to the extent practicable in the interests of the court.

Rule 13. Court interpreters shall not take advantage of knowledge obtained in the performance of duties, or by their access to court records, facilities, or privileges, for their own or another's personal gain.

Rule 14. A court interpreter performing interpretation services in connection with any state court proceeding agrees to be bound by this Code, and understands that appropriate sanctions may be imposed by the court for willful violations.

Rule 15. A court interpreter should, through continuing education, maintain and improve his or her interpreting skills and knowledge of procedures used by the courts. A court interpreter should seek to elevate the standards of performance of the interpreting profession.

Rule 16. Court interpreters should inform the court of any impediment to the observance of this Code or of any act by another in violation of this Code.

HB-175-HD-1

Submitted on: 2/12/2019 12:19:09 PM

Testimony for JUD on 2/13/2019 3:00:00 PM

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

Comments:

Aloha,

I am a Native Hawaiian from the island of Kauai.

I support HB175 that would create an equitable bail process by providing judges with an additional tool that does not penalize poor defendants simply because they cannot afford bail.

I humbly ask that you pass HB175 out of your committee.

Mahalo,

Donna Kaliko Santos

Puna Moku / Kauai

HB-175-HD-1

Submitted on: 2/12/2019 12:33:36 PM

Testimony for JUD on 2/13/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Keoni Lee	Individual	Support	No

Comments:

Aloha Members of the House Judiciary Committee,

I submit this testimony in SUPPORT of HB 175 related to bail.

The Native Hawaiian community has suffered for generations with high incarceration and recidivism rates. This bill would help to alleviate some pressure and adverse affects against our community by creating 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.

Mahalo,
Keoni

HB-175-HD-1

Submitted on: 2/12/2019 3:23:20 PM

Testimony for JUD on 2/13/2019 3:00:00 PM

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

Comments:

Mahalo from Kauai!

HB-175-HD-1

Submitted on: 2/12/2019 3:45:57 PM

Testimony for JUD on 2/13/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

HB-175-HD-1

Submitted on: 2/12/2019 3:49:28 PM

Testimony for JUD on 2/13/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
William Caron	Individual	Support	No

Comments:

Aloha Chair Lee, Vice Chair Buenaventura, members of the committee,

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 violates the right to presumption of innocence. 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.

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.

Please pass HB175 & HB1289.

Mahalo!

HB-175-HD-1

Submitted on: 2/12/2019 4:12:34 PM

Testimony for JUD on 2/13/2019 3:00:00 PM

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

Comments:

HB-175-HD-1

Submitted on: 2/12/2019 4:19:52 PM

Testimony for JUD on 2/13/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Tanya Dreizin	Individual	Support	No

Comments:

I strongly support 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. 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.

HB-175-HD-1

Submitted on: 2/12/2019 4:59:44 PM

Testimony for JUD on 2/13/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Marissa Pettus	Individual	Support	No

Comments:

I strongly support 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. 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.

HB-175-HD-1

Submitted on: 2/13/2019 12:27:45 AM

Testimony for JUD on 2/13/2019 3:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
teddy shapiro	Individual	Support	No

Comments:

Testimony on HB 175 Relating to Bail Reform

Februrary 13st, 2019 3:00 PM Conference Room 325

Aloha Chair Chair Gregg Takayama, Vice Cedrick Gates and Members of the Committee. My name is Stephen Morse. I am the Executive Director of Blueprint for Change (BFC) and am here today to support HB 629 Relating to Medical Release

I strongly support 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. 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. 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.

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

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

LATE

HB-175-HD-1

Submitted on: 2/13/2019 1:37:28 AM
Testimony for JUD on 2/13/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kim Coco Iwamoto	Individual	Support	No

Comments:

Our current system of bail constructs a modern debtors prison for the poor, while the rich can go free - eventhough both remain innocent unless/until proven guilty.

Please pass HB175.

Thank you,

Kim Coco Iwamoto

LATE

HB-175-HD-1

Submitted on: 2/13/2019 1:35:00 PM

Testimony for JUD on 2/13/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Colleen McEneaney	Individual	Support	No

Comments:

I strongly support HB175 because I believe it helps to alleviate inequities in our justice system that in essence additionally punish people for being poor. The pretrial cost is unfair and unjust. Having more or less money shouldn't determine the way you are treated under the law, but tons of national research shows that pre-trial cash bail disproportionately impacts poor defendants and is a major factor in overcrowding of detention facilities.

I think moving this bill forward is a step in the right direction towards true equity and justice.

SUPPORT FOR HB175 HD1—Unsecured Bail

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

FROM: Barbara Polk

I support HB175 because it will allow reduction of cash bail amounts for those who cannot afford it, to allow them to continue with their lives. Because a person who is awaiting trial is considered innocent until tried and found guilty, it is not appropriate to completely disrupt the life and well being of someone who is no risk to society and may be innocent.

Please support HB175.

sanbuenaventura2 - Kevin

From: Raelene <raelenehampton@yahoo.com>
Sent: Tuesday, February 12, 2019 11:40 PM
To: JUDtestimony
Subject: Strongly Support HB175 Relating to Bail

I strongly support HB175 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 HB175 out of your committee.

Sent from my iPhone

sanbuenaventura2 - Kevin

From: Jacque Sinenci <kaleialoha2017@gmail.com>
Sent: Wednesday, February 13, 2019 12:30 PM
To: JUDtestimony
Subject: Please Pass HB175 Relating to Bail

I strongly support 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. 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.

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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.

I'm concerned because I presently face this "Struggle", with my daughter's bail. It's a hardship in all parties involved, self, daughter, ohana, community, county of Maui, and all levels within government.

I support above bill so we can work towards education, rehabilitation and resolutions needed for all whom are currently incarcerated that don't pose threat to public and/or flight risk.

Mahalo Piha,
Jacque K. Sinenci
Concerned Parent of Maui County
PO Box 11403
Lāhaina, Hawai'i 96761

sanbuenaventura2 - Kevin

From: Jacque Sinenci <kaleialoha2017@gmail.com>
Sent: Wednesday, February 13, 2019 12:16 PM
To: JUDtestimony
Subject: Please Pass HB175 Relating to Bail

I strongly support 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. 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.

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sanbuenaventura2 - Kevin

From: Pono Hicks <ponoponohicks@gmail.com>
Sent: Wednesday, February 13, 2019 6:25 AM
To: JUDtestimony
Subject: Strongly Support HB175 Relating to Bail

I strongly support HB175 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 HB175 out of your committee.

-Pono Hicks

sanbuenaventura2 - Kevin

From: Raelene <raelenehampton@yahoo.com>
Sent: Tuesday, February 12, 2019 11:40 PM
To: JUDtestimony
Subject: Strongly Support HB175 Relating to Bail

I strongly support HB175 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 HB175 out of your committee.

Sent from my iPhone

sanbuenaventura2 - Kevin

From: Carly Hicks <hellocarly@gmail.com>
Sent: Tuesday, February 12, 2019 9:26 PM
To: JUDtestimony
Subject: Strongly Support HB175 Relating to Bail

I strongly support HB175 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 HB175 out of your committee.

Sent from my iPhone

sanbuenaventura2 - Kevin

From: Daniel Kekuewa <danielkekuewa@gmail.com>
Sent: Tuesday, February 12, 2019 8:58 PM
To: JUDtestimony
Subject: Strongly Support HB175 Relating to Bail

I strongly support HB175 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 HB175 out of your committee.

This makes common sense to support such an initiative. If this bill successfully passes it would allow a working adult with a family continue to provide support which is critical to the health and safety of their children.

As stated above, a judge would be the one to look at each case and decide which defendant to approve an unsecure bail.

This is just the beginning of what the state of Hawaii legislature needs to do to improve many areas that are not working within the justice system and our prisons. In my opinion, our prison should be reserved for any individual that poses serious harm on others including the public, anything less we should allow this bill to incorporate its benefits for both the state taxpayer and the individual involved.

Should you have any questions call me at 808-861-7405

Daniel Kekuewa

sanbuenaventura2 - Kevin

From: Kathleen Papalimu <kikpapalimu@yahoo.com>
Sent: Tuesday, February 12, 2019 6:27 PM
To: JUDtestimony
Subject: Strongly Support HB175 Relating to Bail

I strongly support HB175 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 HB175 out of your committee.

From: Wendy Hudson <wendyHUDSONlaw@gmail.com>
Sent: Tuesday, February 12, 2019 1:58 PM
To: JUDtestimony
Subject: Strongly Support HB175 Relating to Bail

I strongly support 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.

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.

- Wendy Hudson, Esq.

sanbuenaventura2 - Kevin

From: Jayna Weatherwax <jlweatherwax808@gmail.com>
Sent: Tuesday, February 12, 2019 1:43 PM
To: JUDtestimony
Subject: Strongly Support HB175 Relating to Bail

I strongly support HB175 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 HB175 out of your committee.

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Sent from Gmail Mobile

sanbuenaventura2 - Kevin

From: Jo-neyla McGuffie <alohak@hawaii.edu>
Sent: Tuesday, February 12, 2019 1:05 PM
To: JUDtestimony
Subject: Strongly Support HB175 Relating to Bail

I strongly support HB175 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 HB175 out of your committee.

sanbuenaventura2 - Kevin

From: Noah Hicks <noah.hicks@gmail.com>
Sent: Tuesday, February 12, 2019 12:49 PM
To: JUDtestimony
Subject: Strongly Support HB175 Relating to Bail

I strongly support HB175 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 HB175 out of your committee.

sanbuenaventura2 - Kevin

From: micah hicks <micahmh@live.com>
Sent: Tuesday, February 12, 2019 12:46 PM
To: JUDtestimony
Subject: Strongly Support HB175 Relating to Bail

I strongly support HB175 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 HB175 out of your committee.

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sanbuenaventura2 - Kevin

From: Annie Au Hoon <annieauhoon48@gmail.com>
Sent: Tuesday, February 12, 2019 12:33 PM
To: JUDtestimony
Subject: Strongly Support HB175 Relating to Bail

Aloha no,

I strongly support HB175 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 HB175 out of your committee.

Mahalo nui Loa
Annie Au Hoon

sanbuenaventura2 - Kevin

From: Erica Scott <tika_bean@hotmail.com>
Sent: Tuesday, February 12, 2019 12:03 PM
To: JUDtestimony
Subject: Strongly Support HB175 Relating to Bail

I strongly support HB175 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 HB175 out of your committee.