



## 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

#### H.B.175: RELATING TO BAIL

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

The Office of the Public Defender strongly supports H.B. 175

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 sign a promissory note, 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 H.B. 175 out of your committee.



*The Judiciary, State of Hawai‘i*

**Testimony to the House Committee on Public Safety, Veterans,  
and Military Affairs**

Representative Gregg Takayama, Chair  
Representative Cedric Asuega Gates, Vice Chair

Wednesday, February 6, 2019, 10:00 AM  
State Capitol, Conference Room 430

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**

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**Bill No. and Title:** House Bill No. 175, 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, Relating to Bail  
House Committee on Public Safety, Veterans, and Military Affairs  
Wednesday, February 6, 2019, 10:00 AM  
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.



**HB175  
RELATING TO BAIL**

House Committee on Public Safety, Veterans, & Military Affairs

February 6, 2019

10:00 a.m.

Room 430

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

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

HB175'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 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 is a tailored and targeted approach to mitigate the harsh and disproportionate consequences of cash bail on poor defendants and their families. **Notably, HB175 does not limit judicial discretion in setting bail amounts or even granting bail; if a defendant poses a flight risk or threat to public safety, judges may still deny bail altogether.**

In other jurisdictions and in the federal system, unsecured bail has proven to successfully relieve the burden of cash bail on the poor, while reducing the overcrowding of detention facilities, with studies further showing no effect on trial appearance rates. For example, the Federal District of Hawai‘i uses unsecured bail along with recognizance and conditional and supervised releases to execute 98 percent of its pretrial releases, without any cash, property, or other security.<sup>iv</sup> Notably, the Federal District also reports that zero percent of their released defendants fail to appear for trial.<sup>v</sup> Studies from other jurisdictions also show that unsecured bail is **just as effective** at ensuring defendants’ court appearance and maintaining public safety as cash-secured bail, while being **far more efficient** than cash bail at freeing up jail space.<sup>vi</sup> Thus, **HB175’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’s proposed unsecured bail system does not conflict with the recommendations of the HCR134 Task Force on pretrial reform. In fact, HB175’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’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. Mahalo piha for the opportunity to testify on this important measure.

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

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

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<sup>iii</sup> All four of the state-operated jail facilities—where pretrial defendants are detained—are assigned populations between 166-250% of the capacities for which they were designed and hold populations amounting to 127-171% of their modified operational capacities. STATE OF 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>.

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

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

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

**HB-175**

Submitted on: 2/2/2019 6:31:42 PM

Testimony for PVM on 2/6/2019 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
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](mailto:kat.caphi@gmail.com)



## COMMITTEE ON PUBLIC SAFETY, VETERANS & MILITARY AFFAIRS

Rep. Gregg Takayama, Chair

Rep. Cedric Asuega Gates, Vice Chair

Wednesday, February 6, 2019

10 am

Room 430

### SUPPORT HB 175 - UNSECURED BAIL

Aloha Chair Takayama, Vice Chair Gates and Members of the Committee!

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





## HB 175, RELATING TO BAIL

FEBRUARY 6, 2019 · HOUSE PUBLIC SAFETY,  
VETERANS, AND MILITARY AFFAIRS COMMITTEE ·  
CHAIR REP. GREGG TAKAYAMA

**POSITION:** Support.

**RATIONALE:** IMUAlliance supports HB 175, 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.

**HB-175**

Submitted on: 2/4/2019 11:02:00 PM

Testimony for PVM on 2/6/2019 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
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.

**LATE**



## **O`ahu County Committee on Legislative Priorities**

### COMMITTEE ON PUBLIC SAFETY, VETERANS & MILITARY AFFAIRS

Rep. Gregg Takayama, Chair  
Rep. Cedric Asuega Gates, Vice Chair

DATE: Wednesday, February 6, 2019

TIME: 10:00 a.m.

PLACE: Conference Room 430, State Capitol

### HB 175 RELATING TO BAIL

To the Honorable Gregg Takayama, Chair; the Honorable Cedric Asuega Gates, Vice Chair; and Members of the Committee on Public Safety, Veterans & Military Affairs:

The O`ahu County Committee on Legislative Priorities (OCCLP) of the Democratic Party of Hawai`i (DPH) hereby submits its testimony in **SUPPORT of HB 175 relating to Bail.**

HB 175 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 HB 175 and urges its passage out of the Committee on Public Safety, Veterans & Military Affairs.

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](mailto:legislativepriorities@gmail.com)



**LATE**

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

COMMITTEE ON PUBLIC SAFETY, VETERANS & MILITARY AFFAIRS  
WEDNESDAY, February 6, 2019, 10:00 a.m., Room 430

HB 175 RELATING TO BAIL  
**TESTIMONY**

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

Chair Takayama, Vice-Chair Gates and Committee Members:

**The League of Women Voters Supports HB 175, 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.



49 South Hotel Street, Room 314 | Honolulu, HI 96813  
[www.lwv-hawaii.com](http://www.lwv-hawaii.com) | 808.531.7448 | [voters@lwv-hawaii.com](mailto:voters@lwv-hawaii.com)

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 may pressure 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.

## PVMtestimony

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**LATE**

**From:** Randy Gonce <rgonce@my.hpu.edu>  
**Sent:** Tuesday, February 5, 2019 3:47 PM  
**To:** PVMtestimony  
**Subject:** Testimony in SUPPORT of HB175

Chair Takayama, Vice Chair Gates, 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  
Drug Policy Forum of Hawaii





**LATE**

Board of Directors:

**House Committee on Public Safety, Veterans & Military Affairs**

Gary L. Hooser  
*President*

**Hawai'i Alliance for Progressive Action Supports HB 175**

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

Aloha Chair Takayama, Vice Chair Gates & 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 HB 175. 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

HB175 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.

Karen Shishido

Leslie Malulani Shizue Miki

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.

Thank you for your consideration! We strongly urge you to support HB 175.

Respectfully,

A handwritten signature in black ink, appearing to read "Anne Frederick". The signature is fluid and cursive, with a long horizontal stroke at the end.

Anne Frederick,  
Executive Director

COUNTY COUNCIL  
Arryl Kaneshiro, Chair  
Ross Kagawa, Vice Chair  
Arthur Brun  
Mason K. Chock  
Felicia Cowden  
Luke A. Evslin  
KipuKai Kualii



OFFICE OF THE COUNTY CLERK

Jade K. Fountain-Tanigawa, County Clerk  
Scott K. Sato, Deputy County Clerk

Telephone: (808) 241-4188  
Facsimile: (808) 241-6349  
E-mail: cokcouncil@kauai.gov

Council Services Division  
4396 Rice Street, Suite 209  
Lihu'e, Kaua'i, Hawai'i 96766

February 5, 2019

TESTIMONY OF KIPUKAI KUALII  
COUNCILMEMBER, KAUAI COUNTY COUNCIL  
ON  
HB 175, RELATING TO BAIL  
House Committee on Public Safety, Veterans, & Military Affairs  
Wednesday, February 6, 2019  
10:00 a.m.  
Conference Room 430

Dear Chair Takayama and Members of the Committee:

Thank you for this opportunity to provide testimony in support of HB 175, Relating to Bail. My testimony is submitted in my individual capacity as a Member of the Kaua'i County Council.

HB 175 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, it often punishes the poor who cannot afford to post bail.

HB 175 would allow judges the discretion to offer poor defendants the option of unsecured bail—signing a promissory note, with a commitment to attend their trial, and be released on bail without having to pay cash up front. 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.

Thank you again for this opportunity to provide testimony in support of HB 175. Should you have any questions, please feel free to contact me or Council Services Staff at (808) 241-4188.

Sincerely,

KIPUKAI KUALII  
Councilmember, Kaua'i County Council

AMK:aa

**ROBERT K. MERCE**

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February 5, 2019

House Committee on Public Safety, Veterans, & Military Affairs

RE: HB 175

HEARING DATE: February 6, 2019

TIME: 10:00 AM

ROOM: 430

POSITION: **SUPPORT**

Chair Takayama, Vice Chair Gates, and members of the committee:

HB 175 which 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 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 measure to improve the current system if no major reforms are enacted in this session of the legislature. Either way, HB 175 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.

**HB-175**

Submitted on: 2/4/2019 10:36:33 AM

Testimony for PVM on 2/6/2019 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Catherine Susan Graham	Individual	Support	No

Comments:

**HB-175**

Submitted on: 2/4/2019 5:14:05 PM

Testimony for PVM on 2/6/2019 10:00:00 AM

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

Comments:

I STRONGLY SUPPORT 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**

Submitted on: 2/4/2019 9:07:06 PM

Testimony for PVM on 2/6/2019 10:00:00 AM

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

Comments:

I strongly support 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**

Submitted on: 2/4/2019 10:16:18 PM

Testimony for PVM on 2/6/2019 10:00:00 AM

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

Comments:

I strongly support HB175. 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.



**HB-175**

Submitted on: 2/5/2019 3:50:53 AM

Testimony for PVM on 2/6/2019 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jennifer Noelani Goodyear-Kaopua	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 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/SB192 out of your committee.

**HB-175**

Submitted on: 2/5/2019 6:33:18 AM

Testimony for PVM on 2/6/2019 10:00:00 AM

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

## Comments:

I strongly support 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**

Submitted on: 2/5/2019 7:20:51 AM

Testimony for PVM on 2/6/2019 10:00:00 AM

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

## Comments:

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.

**SHERRY P. BRODER**  
**Law Offices of Sherry P. Broder**

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

Phone: 808-531-1411

Email: [sherrybroder@sherrybroder.com](mailto:sherrybroder@sherrybroder.com)

February 5, 2019

Chairman Takeyama and Committee Members  
Committee on Public Safety, Veterans, & Military Affairs

Re: HB 175, Relating to Bail

Dear Chairman Takeyama and Committee Members,

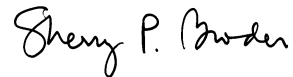
This letter is submitted in strong support of HB 175, Relating to Bail. I am submitting this letter in my individual capacity.

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.

**HB-175**

Submitted on: 2/5/2019 8:21:32 AM

Testimony for PVM on 2/6/2019 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
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.

**HB-175**

Submitted on: 2/5/2019 8:43:03 AM

Testimony for PVM on 2/6/2019 10:00:00 AM

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

Comments:

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. 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/SB192 out of your committee.

**HB-175**

Submitted on: 2/5/2019 8:44:41 AM

Testimony for PVM on 2/6/2019 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Brent Keliokamalu Nakihei	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**

Submitted on: 2/5/2019 9:09:34 AM

Testimony for PVM on 2/6/2019 10:00:00 AM

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

Comments:

HB 175 is necessary to prevent overly burdensome costs from determining whether or not a person can be released prior to trial.

Cash or secured bail should not be used to detain poor people prior to trial.

Other states have implemented a court reminder system successfully. Hawaii should too. Let's enter the 21st century.

Pretrial risk assessment tools are not completely fair and can be skewed to discriminate against certain groups. To make these risk assessment tools more accurate and effective, there should be requirements that mitigate any biases.



**HB-175**

Submitted on: 2/5/2019 8:53:41 AM

Testimony for PVM on 2/6/2019 10:00:00 AM

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

Comments:

Support

**HB-175**

Submitted on: 2/5/2019 9:23:03 AM

Testimony for PVM on 2/6/2019 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
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 be an important step toward providing an alternate path for setting bail to begin to address the disproportionate impact of the existing social justice system on Native Hawaiians which contributes to high incarceration rates for Native Hawaiians. Mahalo

**HB-175**

Submitted on: 2/5/2019 9:27:43 AM

Testimony for PVM on 2/6/2019 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Raelyn Reyno Yeomans	Individual	Support	No

Comments:

Support!

**HB-175**

Submitted on: 2/5/2019 9:37:52 AM

Testimony for PVM on 2/6/2019 10:00:00 AM

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

Comments:

The present bail system unfairly targets Hawaiians, and my experience is on Molokai. It removes them from their family, whether innocent or guilty, by taking them off island and filling up the Maui Correctional Facility to overcapacity which is inhumane in and of itself, and no one talks about this. If you attend court on Molokai every Tuesday, you can see a disproportionate amount of Hawaiians there. They have little if any legal representation as the Public Defender tells them to plead 'no contest' because legal counsel is overworked and doesn't have enough time to review the cases. They can't even afford to pay the fine! The bail and fine system are money makers, and its intended to prevent individuals from jumping bail. The clear majority have nowhere to go; they are keiki o ka aina and this is their home. They won't run off to the mainland. The bail payment affects their ability to make ends meet, buy food, and take care of their children. It doesn't help the situation; it hurts the situation for these individuals whether guilty or innocent. For the innocent, this is money that will never be recouped and no one will reimbursement them. Something is wrong with the system, and it lacks compassion. We need changes now.

**HB-175**

Submitted on: 2/5/2019 10:14:47 AM

Testimony for PVM on 2/6/2019 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
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.

## **PVMtestimony**

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**From:** Banner Fanene <banner.fanene@gmail.com>  
**Sent:** Monday, February 4, 2019 8:51 PM  
**To:** PVMtestimony  
**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.

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.

## **PVMtestimony**

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**From:** Korynn Grenert <korynng@hawaii.edu>  
**Sent:** Tuesday, February 5, 2019 10:51 AM  
**To:** PVMtestimony  
**Subject:** Testimony in SUPPORT of HB175

Chair Takayama, Vice Chair Gates, 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

## **PVMtestimony**

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**From:** Nate Hix <nate.hix@gmail.com>  
**Sent:** Tuesday, February 5, 2019 8:57 AM  
**To:** PVMtestimony  
**Subject:** Testimony in SUPPORT of HB175

Chair Takayama, Vice Chair Gates, members,

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

Mahalo,

Nate



## **PVMtestimony**

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**From:** Randy Ching <makikirandy@yahoo.com>  
**Sent:** Tuesday, February 5, 2019 6:04 AM  
**To:** PVMtestimony  
**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.

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.

Randy Ching  
Honolulu (makikirandy@yahoo.com)

## **PVMtestimony**

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**From:** Will Caron <willcaronforhawaii@gmail.com>  
**Sent:** Tuesday, February 5, 2019 10:46 AM  
**To:** PVMtestimony  
**Subject:** Testimony in SUPPORT of HB175

Chair Takayama, Vice Chair Gates, 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,

## PVMtestimony

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**From:** Eric Schrager <peschrager@gmail.com>  
**Sent:** Tuesday, February 5, 2019 11:14 AM  
**To:** PVMtestimony  
**Subject:** Testimony in SUPPORT of HB175

Chair Takayama, Vice Chair Gates, 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](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/> [yadahawaii.org/criminal-justice-reform](http://yadahawaii.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

**LATE**

**HB-175**

Submitted on: 2/5/2019 3:27:58 PM  
Testimony for PVM on 2/6/2019 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Donna K Santos	Individual	Support	No

Comments:

## PVMtestimony

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**LATE**

**From:** Marilyn Mick <marilynmick@pobox.com>  
**Sent:** Tuesday, February 5, 2019 2:45 PM  
**To:** PVMtestimony  
**Subject:** Testimony in SUPPORT of HB175

Chair Takayama, Vice Chair Gates, 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

**From:** Wendy Hudson <wendyHUDSONlaw@gmail.com>  
**Sent:** Tuesday, February 5, 2019 11:56 AM  
**To:** PVMtestimony  
**Subject:** Please Support HB175/SB192 Relating to Bail Reform

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



**LATE**

**HB-175**

Submitted on: 2/5/2019 7:36:57 PM  
Testimony for PVM on 2/6/2019 10:00:00 AM

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

Comments:

Mahalo nui for the opportunity to testify in STRONG SUPPORT of HB175.

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

**HB-175**

Submitted on: 2/5/2019 8:29:25 PM

Testimony for PVM on 2/6/2019 10:00:00 AM

**LATE**

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

Comments:

**LATE**

**HB-175**

Submitted on: 2/6/2019 7:45:40 AM

Testimony for PVM on 2/6/2019 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Judy Goo	Individual	Oppose	No

Comments:

You will be letting people out on low bail or no bail to commit further crimes on the citizens of Hawaii. Will you be responsible for what happens after they are released awaiting trial?

We oppose this bill.

**HB-175**

Submitted on: 2/6/2019 7:52:07 AM

Testimony for PVM on 2/6/2019 10:00:00 AM



<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dan Goo	Individual	Oppose	No

Comments:

We want our communities safe and we do not understand how this will keep our community safe. Petty Misdemeanors and Misdemeanors offenses commonly become Felonies. With our overloaded police department, we don't need repeat offenders out on our streets.

Please oppose this bill

Dan Goo - Retired HPD

Judy Goo

Sean Goo

Mariah Goo

Katherine Goo

**LATE**

**HB-175**

Submitted on: 2/6/2019 8:27:32 AM  
Testimony for PVM on 2/6/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kaumaka	Individual	Support	Yes

Comments:

**Committee on Public Safety,  
Veterans, and Military Affairs**

**HB 175**

**02/06/19**

**10:00 am House Room 430**

**Aloha Committee Members,  
My name is Kaumakaonalani Medeiros, and I am a 17 years old senior at Wai'anae High School. I am testifying in support of HB 175 related to Unsecured Bail. The reason I support this bill is because I believe it gives all people a fair chance to be released from jail while they await trial. How our current system is set up, a defendant who doesn't have enough money to bail themselves is to forced stay in jail or find another way to bail themselves out. The defendant who cannot afford bail faces the possibilities of losing their job, not having money to pay their bills, and may not be able to support their families. If they are a single parent, the children may possibly end up in the system. However, the defendant who has money to pay the bail doesn't need to worry about losing their job and not being able to support their family because they can continue to live their life while they await trial. For this reason, I support bill HB 175 because I believe all people should be given a fair chance, not just those who can afford it.**

**Mahalo Committee for taking the time to listen to my testimony.**

**Sincerely with aloha,**

**Kaumakaonalani Medeiros**

**kaumakaonalani.medeiros@seariders.k12.hi.us**

**LATE**

**HB-175**

Submitted on: 2/6/2019 9:14:55 AM

Testimony for PVM on 2/6/2019 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Robbie-Lynn Pohano-Chong	Individual	Support	Yes

Comments:

Committee on Public Safety,

Veterans, and Military Affairs

HB 175

02/06/19

10:00 am House Room 430

Aloha Committee Members,

My name is Robbie-Lynn Pohano-Chong, I am a 17 year old senior from Wai'anae High School. I am testifying in support of HB 175 related to Unsecured Bail. The way our current Cash bail system is set up allows for an accused person to bail themselves out while they await trial. However, this cash bail benefits those who are wealthier and leaves those who are less wealthy at a disadvantage. I come from Wai'anae where unfortunately many live in poverty and tend to fall short sometimes with the law. Many people from the Leeward Community have no choice but to wait in jail until their trial because they cannot afford bail. Sometimes trials can be as long as a year, maybe even two. Bail is set making certain people unable to pay off while the more wealthy can easily pay off their bail and be able to be there for their families and out free until trial. What about people like me? Do our lives and families not matter too? HB 175 being set into law will help our people who cannot afford bail and give us options too.

Mahalo,

Robbie-Lynn Pohano-Chong

robbielynn.pohanochong@seariders.k12.hi.us



**LATE**

**HB-175**

Submitted on: 2/6/2019 9:20:15 AM  
Testimony for PVM on 2/6/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
BaileyMcAloon	Individual	Support	Yes

Comments:

Committee on Public Safety,  
veterans, and military Affairs

HB 175

02/06/19

10:00 a.m, House Room 430

Aloha Committee Members,

My name is Bailey Scott McAloon and I am a 18 year old senior at Wai’anae High School. I am testifying in Support of HB 175 related to Unsecured Bail because this will have a equal chance for defendants to support their families, keep their jobs, and to get another chance to correct their mistakes. People with more money will have a higher chance of paying their bail, what this bill does, is give those with less money a chance to pay bail without not supporting their families. This doesn't mean that they will change their ways, but it will depend on how they recognize the chance they are receiving. Therefore I am in support of the HB 175 Related to the unsecured Bail bill.

Mahalo nui loa, committee members for taking the time to listen to my testimony.

**LATE**

**HB-175**

Submitted on: 2/6/2019 10:31:34 AM

Testimony for PVM on 2/6/2019 10:00:00 AM

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

Comments:

**HB-175**

Submitted on: 2/6/2019 11:18:43 AM

Testimony for PVM on 2/6/2019 10:00:00 AM

**LATE**

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

Comments:

I strongly support HB175, which gives judges another tool to offer unsecured bail during the trial process.

HB175 has the potential to remedy overcrowding in jail by poor, indigent defendants that are not able to afford bail.

HB175 allows for judges to continue to deny bail for public safety.

I humbly ask that you pass out this bill to your committees.

~Shannon Oberle