



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTIETH LEGISLATURE, 2020**

ON THE FOLLOWING MEASURE:
H.B. NO. 2571, RELATING TO THEFT.

BEFORE THE:
HOUSE COMMITTEE ON JUDICIARY

DATE: Wednesday, February 12, 2020 **TIME:** 3:00 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Clare E. Connors, Attorney General, or
Kory W. Young, Deputy Attorney General

Chair Lee and Members of the Committee:

The Department of the Attorney General provides the following comments.

H.B. No. 2571 seeks to protect bicycle owners from theft by creating a new class C felony offense of theft of a bicycle.

It would help to clarify the parameters of the bill, if a definition was provided for the term “toy bicycle” on page 3, line 4. At the most obvious end of the spectrum, it is easy to see how plastic bicycles for toddlers, not meant for road riding would be deemed toy bicycles. However, it is unclear whether this term would apply to bicycles intended for relatively young children, but capable of being ridden on sidewalks and streets. Guidance on how to differentiate between “toy bicycles” and standard bicycles would assist prosecutors in properly charging these cases, and would make it easier for the courts to instruct juries on what constitutes a “toy bicycle.”

With the potential penalties for theft of a bicycle imposed by the bill, it would be helpful if the bill provided guidance for property owners on how bicycles that either appear to have been abandoned on their property, or that are parked in a manner that trespasses onto a property owner’s premises, should be addressed.

Thank you for the opportunity to provide comments on the bill.

STATE OF HAWAI‘I
OFFICE OF THE PUBLIC DEFENDER

**Testimony of the Office of the Public Defender,
State of Hawai‘i to the House Committee on Judiciary**

February 12, 2020



H.B. No. 2571: RELATING TO THEFT

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

The Office of the Public Defender respectfully opposes H.B. No. 2571, which would create the separate felony offense of theft of bicycle.

Current theft statutes adequately cover all forms of theft of personal property including bicycles. The penalties for the theft offenses are dependent upon the value of the items stolen. We believe this is the appropriate and proper method for the classification of property crimes. Bicycles, similar to many other types of personal property, vary greatly in value. For instance, a child’s bike may have a value of less than \$50, whereas a triathlete’s specialty bike may be valued in the thousands of dollars. The current structure of the theft statutes would account for such differences.

The proponents of this legislation note in Section 1 at page 2, line 12, that a prime consideration for this legislation is “in order to deter theft of all bicycles”. This legislation would not be a deterrence. Offenders do not stop to consider the judicial consequences of a crime before committing it. If the death penalty was not a deterrence to murder – and countless studies over the years established that it wasn’t – changing the classification of a crime is not going to be a deterrence to those set on committing it.

Rather than deter the commission of bicycle theft, this bill will result in making what is currently misdemeanor conduct – for bicycles valued under \$750.00 – a felony offense. This will result in higher numbers of pre-trial detainees and a greater burden on our criminal justice system, in the courts and in the probation offices tasked with monitoring convicted felons. Are additional resources going to be financed to deal with this increase?

Finally, we are concerned about the effect of this legislation on juvenile offenders. Bicycle theft is not an uncommon offense for a juvenile. The process through the Family Court and the effect of such a conviction on a juvenile record is far more complicated with a more punitive effect when it is a felony, rather than a misdemeanor offense. This should be taken into consideration.

Thank you for the opportunity to comment on this measure.



POLICE DEPARTMENT

COUNTY OF MAUI



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TIVOLI S. FAAUMU
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DEPUTY CHIEF OF POLICE

OUR REFERENCE
YOUR REFERENCE

February 11, 2020

The Honorable Chris Lee, Chair
The Honorable Joy A. San Buenaventura, Vice Chair
and Members of the Committee on Judiciary

LATE

House of Representatives
Hawaii State Capitol
Honolulu, Hawaii 96813

RE: House Bill No. 2571 – Relating To Theft

Dear Chair Lee and Members of the Committee:

The Maui Police Department SUPPORTS the passage of H.B. No. 2571.

Hawaii's high cost of living makes it more appealing to residents and visitors wishing to reduce the cost of transportation and at the same time take advantage of our year-round tropical climate by opting for an alternative mode of transportation on a bicycle.

This alternative method of transportation for some may be their only means to commute to and from school, work, shopping, and leisure. Bicycle theft is a continuous problem statewide, especially for those individuals who use their bicycles as a source of income or commute to work to earn their livelihood.

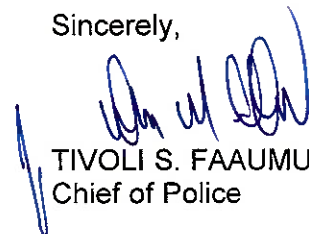
Many victims of bicycle theft do not report their incident to law enforcement unless their property is of a higher value as they often feel that there will be no consequences if the perpetrator is caught or it is unlikely that their bicycle will ever be recovered.

A bill to increase the level of offense to a felony may become a deterrent for those offenders contemplating to steal a bicycle and risk being caught and facing a harsher penalty, especially those with a lengthy criminal record. At the same time, victims may be more willing to report the theft knowing that their stolen bicycle carries more weight in the judicial system.

The Maui Police Department asks that you SUPPORT the passage of H.B. No. 2571.

Thank you for the opportunity to testify.

Sincerely,



TIVOLI S. FAAUMU
Chief of Police

HB-2571

Submitted on: 2/11/2020 2:45:16 PM

Testimony for JUD on 2/12/2020 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Chad Taniguchi	Hawaii Bicycling League Daniel Alexander Chad Taniguchi	Support	Yes

Comments:

The Hawaii Bicycling League supports this bill. Bike theft occurs much too frequently, and for many it is their primary means of transportation. The fear of bike theft discourages people who otherwise want to bike for health, fitness, transportation, saving money, and contributing to a better world through less congestion and doing their part to fight climate change.

In addition to passing this bill and creating awareness that this is a serious crime, we would also suggest that in committee be formed to consider current barriers to prevent theft and encourage recovery of stolen bikes. These issues include 1) the lack of a timely and accurate database to identify stolen bikes, 2) the inability of police to enter an area or a place where there may be probable cause to believe that stolen bikes are being worked on, and 3) arresting, prosecuting, and penalizing bike thieves so they will be deterred from doing so in the future. Members of the committee would include the police, prosecutors, county bike registration agencies, judiciary, and the Hawaii Bicycling League. The committee could report back next session, and continue meeting until there is a viable system in place to prevent bike thefts, prosecute thieves, and assist with recovery of stolen bikes.

Mahalo for your consideration.