

**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 11, 2020

H.B. No. 2607: RELATING TO PUBLIC ORDER

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

The Office of the Public Defender respectfully opposes H.B. No. 2607

This is simply another attempt to criminalize poverty and homelessness. Public restrooms are few and far between in most communities. Legislators may have funds to step into a store and spend a few dollars as an excuse to use the toilet. But if you are a homeless person who is forced to live on the streets, you cannot afford to pay a business establishment in order to use their facilities to urinate or to defecate. While a well-dressed person may be able to step into a store and use the toilet with fewer questions asked, it is likely that the homeless will have more difficulty accessing the toilet. Indeed, it is almost a guarantee that a sign that reads, “restrooms are for customers only” will be enforced.

Most of the individuals targeted by this measure are not homeless by choice. They simply have nowhere else to go, especially since many of the parks and beaches are closed to the public at night. Many are unemployed, suffering from alcohol or drug abuse, or mentally ill. Some are employed but cannot afford to pay rent given the current housing prices. These are problems which our community must come to terms with. Before we criminalize urinating and defecating in public, we as a society must provide alternative housing for these individuals or at least provide public restroom facilities.

Just as it is unconstitutional to criminalize the act of sleeping outside if there is a greater number of homeless individuals in a jurisdiction than the number of available beds, *see* Martin v. City of Boise, 902 F.3d 1031 (9th Cir. 2018), it may be unconstitutional to criminalize the act of urinating and defecating in public if there is an insufficient number of public restrooms available in the area.

Finally, although this measure classifies the offense of urinating or defecating in public as a violation punishable by up to forty hours of community service or a \$200 fine, many of the targeted individuals will not appear in court. This will result in an increased number of bench warrants, an increased number of arrests for not appearing in court, an increase of individuals spending at least one night in the police cellblock, and an increase of defendants appearing in court; all are added burdens on the criminal justice system which is already in need of more resources that budgetary constraints can’t supply. For these reasons, we oppose this bill.

Thank you for the opportunity to comment on this measure..

**HB-2607**

Submitted on: 2/12/2020 3:25:53 PM

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

**LATE**

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Rainbow	Rainbow Family 808	Oppose	Yes

Comments:

Rainbow Family 808 OPPOSES HB 2607 that would establish the offense for urinating or defecating in public is a barbaric measure to descriminate against the poor, the homeless population.

Europe is a much more civilized society in that they offer "WC" Water Closets for the public in order to give their population dignity when they need to care for a necessary bodily function. Hawaii needs to provide for their citizens and tourists. Everyone needs to eliminate in a safe and hygeinic manner.

Europe provides clean safe Water Closets. A nominal fee is charged which supports the operation. This law gives the business district preferencial treatment at the cost of all citizens. The general public is forced to puirchase an item, wanted or not wanted in order to use eliminating services.

Rainbow Family 808 stands up for families by opposing this diabolical measure as stated in HB2607. We ask that you act with Aloha on this issue of importance.

Thank you for your consideration.

**HB-2607**

Submitted on: 2/10/2020 3:34:36 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Victor K. Ramos	Individual	Comments	No

Comments:

We know that human waste can contribute to major health and safety issues to people. Human waste can also be weaponized.

**HB-2607**

Submitted on: 2/10/2020 5:46:27 PM

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

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

Comments:

I support this bill. As someone who's had the misfortune of having seen someone walking down the street and going #2; people can't wait for the restroom at clubs and watering the trees/bushes; etc. I'd also like to ask that instead of just business districts that it be also in residential areas, as it seems to be a growing problem/issue...