



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTIETH LEGISLATURE, 2019**

LATE

ON THE FOLLOWING MEASURE:

S.B. NO. 1422, RELATING TO LAW ENFORCEMENT.

BEFORE THE:

HOUSE COMMITTEE ON PUBLIC SAFETY, VETERANS, AND MILITARY AFFAIRS

DATE: Wednesday, March 13, 2019 **TIME:** 10:30 a.m.

LOCATION: State Capitol, Room 430

TESTIFIER(S): Clare E. Connors, Attorney General, or
Lance Goto, Deputy Attorney General

Chair Takayama and Members of the Committee:

The Department of the Attorney General (the Department) submits comments on this bill.

The purpose of this bill is to "free up space in police cellblocks, county jails, and courthouse holding cells without jeopardizing public safety" by giving law enforcement officers the discretion to issue citations, in lieu of making an arrest, for non-violent class C felony offenses.

While the Department appreciates the intent of this bill, this bill will largely not achieve its intended purpose. The initial detention and arrest of a suspect will be necessary in most instances to record and confirm the suspect's identity to ensure that the right person will be prosecuted. And even if the suspect is issued a citation at some point in the process, he will still need to be charged and will be subject to a bail determination by the court that could result in the suspect being placed in custody.

A felony charge cannot be initiated simply by an officer issuing a citation. Law enforcement officers must confer with a prosecuting attorney, who decides whether to initiate a felony charge by obtaining a determination of probable cause to charge the defendant. A probable cause determination does not occur when an officer just issues a citation. Instead, it occurs in one of the following ways:

- (1) Filing a complaint and obtaining a probably cause determination by the

- court through a preliminary hearing;
- (2) Filing a complaint and information and obtaining a probable cause determination by the court with the filed information; or
 - (3) Obtaining a probable cause determination through a grand jury indictment.

After a probable cause determination is made in one of these three ways, a defendant is charged and the prosecution is initiated. A defendant's pretrial bail/custody status is determined by the court with the initiation of the charge.

On the issue of citation versus arrest, it should be noted that when a suspect is initially detained by an officer, the suspect will likely be arrested and put through a booking process to record and verify the suspect's identity through photographs and fingerprints. It is important to verify a suspect's identity to confirm identity for prosecution, and to check on prior criminal history. Such information will help law enforcement and the courts determine whether or not a suspect is a flight risk or danger to the public. It will also help to ensure that the wrong person is not prosecuted for the felony offense. If appropriate, a suspect can be released while law enforcement completes its investigation. Once law enforcement has completed its investigation, it can confer with the prosecutor, who can then initiate charges.

The Department appreciates this opportunity to provide comments.

LATE

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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DWIGHT K. NADAMOTO
ACTING PROSECUTING ATTORNEY

FIRST DEPUTY
PROSECUTING ATTORNEY



THE HONORABLE GREGG TAKAYAMA, CHAIR
HOUSE COMMITTEE ON PUBLIC SAFETY, VETERANS, & MILITARY AFFAIRS

Thirtieth State Legislature
Regular Session of 2019
State of Hawai'i

March 13, 2019

RE: S.B. 1422; RELATING TO LAW ENFORCEMENT.

Chair Takayama, Vice-Chair Gates and members of the House Committee on Public Safety, Veterans, and Military Affairs, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony in opposition to S.B. 1422.

The purpose of S.B. 1422 is to examine the current criminal pretrial procedures involving the discretion of law enforcement as it relates to citations for non-violent class C felonies. While the Department appreciates the Committee's good intentions of improving upon current procedures, we agree with the H.C.R. 134 Task Force's recommendation from the informational briefing on January 22, 2019, when it suggested that the prudent next step would be data collection following current changes implemented by various stakeholders, since the conclusion of H.C.R. 134.

The Department expresses strong concerns to the fact that S.B. 1422 creates a broad range of eligible offenses (non-violent Class C felony, any misdemeanor or petty misdemeanor offenses) while limiting excludable offenses to a static list (domestic violence, sexual assault, robbery and offenses contained in chapter 707 of the H.R.S.), thereby failing to take into account the plethora of charges classified as non-violent Class C felony, misdemeanor and petty misdemeanor offenses that are not excluded from being citation eligible. This includes but is not limited to Habitual OVUII (§291E-61.5, H.R.S.), Promoting Pornography for Minors (§712-1215, H.R.S.), and Solicitation of a Minor for Prostitution (§712-1209.1, H.R.S.), Harassment by Stalking (§711-1106.1, H.R.S.), and Violation of an Injunction Against Harassment (§604-10.5,

H.R.S.). In addition, this bill fails to outline a court procedure or mechanism for initiating a case as it relates to individuals who are only issued a citation for a class C felony offense.

Although the Task Force report provided twenty-five various recommendations for pre-trial reform, many recommendations have already been applied without statutory requirements or mandates. Since the completion of the Task Force, it is our understanding that each agency has re-evaluated their policies and procedures and reassessed their approach to the current pretrial issues. As previously noted, we would strongly encourage the Committee to allow time for appropriate data collection and analysis as recommended by the Task Force at the informational briefing on January 22, 2019, before making any further statutory changes.

For all the reasons above, the Department of the Prosecuting Attorney of the City and County of Honolulu opposes the passage of S.B. 1422. Thank you for the opportunity to testify on this matter.



The Judiciary, State of Hawai'i

House Committee on Public Safety, Veterans, and Military Affairs

Representative Gregg Takayama, Chair
Representative Asuega Gates, Vice Chair

Wednesday, March 13, 2019, 10:30 AM
State Capitol, Conference Room 430

WRITTEN TESTIMONY ONLY

By

Shirley M. Kawamura

Deputy Chief Judge, Criminal Administrative Judge, Circuit Court of the First Circuit
Reporter, Criminal Pretrial Task Force

Bill No. and Title: Senate Bill No. 1422, Relating to Law Enforcement.

Purpose: Senate Bill No. 1422 specifies that law enforcement officers have the discretion to issue citations, in lieu of making an arrest, for non-violent class C felonies, misdemeanors, petty misdemeanors, and violations.

Judiciary's Position:

The Judiciary respectfully supports Senate Bill No. 1422, which adopts the recommendation of the Criminal Pretrial Procedures Task Force to allow law enforcement officers broader discretion to issue citations.

Pursuant to House Concurrent Resolution No. 134, H. D. 1 Regular Session of 2017, Chief Justice Mark E. Recktenwald established the Criminal Pretrial Procedures Task Force to examine and recommend legislation to reform Hawai'i's criminal pretrial system. The Task Force embarked on its yearlong journey in August 2017. It began with an in-depth study of the history of bail and the three major generations of American bail reform of the 1960s, 1980s, and the last decade. The Task Force members researched the legal framework underlying current practices, which are firmly rooted in our most basic constitutional principles of presumption of innocence, due process, equal protection, the right to counsel, the right to confrontation and that in America, liberty is the norm and detention is the very limited exception. We invited national experts and delved into the latest research and evidence-based principles and learned from other



Senate Bill No. 1422, Relating to Law Enforcement
House Committee of Public Safety, Veterans, and Military Affairs
Wednesday, March 13, 2019, 10:30 AM
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jurisdictions where pretrial reforms are well underway. We reviewed previous studies conducted in our state, engaged with community experts and heard the views of our local stakeholders. We visited our cellblocks, jails, ISC offices and arraignment courts in an effort to investigate and present an unbridled view of our criminal pretrial process.

The recommendations set forth in the report seek to improve our current practices, with the goal of achieving a more just and fair pretrial release and detention system, maximizing defendants' release, court appearance and protecting community safety. With these goals in mind, the Task Force submitted twenty-five recommendations, to include amending Section 803-6 of the Hawaii Revised Statutes to allow law enforcement officers to issue citations in lieu of arrest for certain offenses, including non-violent Class C felonies. The Judiciary respectfully supports Senate Bill No. 1422 in so far as it adopts the recommendation of the Criminal Pretrial Task Force.

Thank you for the opportunity to submit testimony on this measure.

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
HAWAII PAROLING AUTHORITY
1177 Alakea Street, First Floor
Honolulu, Hawaii 96813

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No. _____

TESTIMONY ON SENATE BILL 1422
A BILL FOR AN ACT RELATING TO LAW ENFORCEMENT
BY
HAWAII PAROLING AUTHORITY
Edmund "Fred" Hyun, Chairman

House Committee on Public Safety, Veterans, and Military Affairs
Representative Gregg Takayama, Chair
Representative Cedric Asuega Gates, Vice Chair

Wednesday, March 13, 2019, 10:30 a.m.
State Capitol, Conference Room 430

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

The Hawaii Paroling Authority (HPA) opposes Senate Bill 1422, which seeks to expand the discretion of law enforcement officers to include issuing citations to appear for non-violent class C felonies in certain circumstances.

While the intent is well meaning, it does not distinguish an ordinary citizen from a convicted felon on probation, parole, or on a federal release program. Issuing a citation to appear in court to an offender for a new felony level offense puts the public at risk of continued victimization. Doing so in the case of parolees is particularly problematic as it increases the likelihood of the parolee absconding. Also, there is no guidance provided on how the supervision agency would be notified of the issuance of a citation.

As written, Senate bill 1422 does not provide any guidance on how the Police Officer would come to a reasonable determination that the person issued the citation would appear in court at the time designated. For these critically important reasons, the HPA opposes this measure.

Thank you for the opportunity to provide testimony on Senate Bill 1422.

SB-1422

Submitted on: 3/8/2019 3:45:41 PM

Testimony for PVM on 3/13/2019 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Victor K. Ramos	Maui Police Department	Oppose	No

Comments:

Felonies should always be processed differently than Misdemeanors, Petty Misdemeanors and Violations.

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Date: March 13, 2019

To: The Honorable Gregg Takayama, Chair
The Honorable Cedric Asuega Gates, Vice Chair
House Committee on Public Safety, Veterans, and Military Affairs

From: Justin Murakami, Manager, Prevention Education and Public Policy
The Sex Abuse Treatment Center
A Program of Kapi'olani Medical Center for Women & Children

RE: Testimony in Opposition to S.B. 1422
Relating to Law Enforcement

Good morning Chair Takayama, Vice Chair Gates, and members of the House Committee on Public Safety, Veterans, and Military Affairs:

The Sex Abuse Treatment Center (SATC) respectfully opposes S.B. 1422, which would allow suspects to receive citations and remain in the community in Class C Felony cases that would otherwise result in arrests.

This would take place without meaningful formal assessment of whether suspects are likely to commit more crimes, be no-shows to court proceedings, or endanger the safety and wellbeing of crime victims, witnesses, or the general community. In addition, the suspects would not be subject to ongoing monitoring or other conditions that are applied for arrested suspects in class C felony cases who are granted pretrial release.

Class C Felonies that would be made citable include stalking, breaking and entering, violation of privacy (peeping toms who record their victims and perpetration of revenge porn), promoting pornography for minors, solicitation of minors for prostitution, theft, criminal property damage, identity theft, and drunk driving crimes.

SATC finds this particularly concerning because many of these crimes are significant, well established red flags for sexual offending and a heightened risk of interpersonal violence.

We appreciate the opportunity to testify on S.B. 1422, and ask that the Committee please defer this measure.



SB1422/SB1423
RELATING TO LAW ENFORCEMENT/RELATING TO PAYMENT OF BAIL
House Committee on Public Safety, Veterans, & Military Affairs

March 13, 2019

10:30 a.m.

Room 430

The Office of Hawaiian Affairs (OHA) **SUPPORTS** SB1422 and SB1423, measures which would effectuate two of the recommendations of the HCR134 Task Force on Pretrial Reform: (1) reinforcing law enforcement authority to cite low-level defendants in lieu of arresting them, and (2) allowing for bail posting on a 24-hour-a-day/7-day-a-week basis. OHA, as a member of the Task Force, has endorsed each of these recommendations.

Unfortunately, our current bail system is overwhelmed, inefficient, ineffective, and has resulted in harmful, unnecessary socioeconomic impacts¹ on low-income individuals and their families, a disproportionate number of whom may be Native Hawaiian. The intended purpose of bail is not to punish the accused, but rather to permit their pretrial release while ensuring their return to court. Presently, our bail system, overwhelmed by a historically increasing volume of arrests, is fraught with delays and frequently does not provide sufficient information to judges and attorneys seeking timely and appropriate pretrial release determinations. Moreover, mounting evidence demonstrates that overreliance on cash-secured bail punishes poor individuals and their families before any trial, much less conviction. In Hawai‘i, indigent defendants must often decide between posting hefty cash bail or bond amounts that impose considerable financial hardship, or pretrial incarceration that threatens their employment and housing. 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,² and further exacerbates the overcrowding in our detention facilities.³

¹ 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/>.

² 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>.

³ 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>.

Criminal justice experts have identified the pressing need for comprehensive reform of our pretrial system to adequately address the inherent and systemic inefficiency, ineffectiveness, and inequity in our bail system. The HCR134 Task Force, composed of experts and representatives from a broad collection of agencies and organizations who interface with the pretrial system, spent one and a half years examining the breadth and depth of Hawai‘i’s bail system and, in its 2018 report, made specific recommendations in many areas marked for improvement. The OHA representative to the HCR134 Task Force endorsed nearly all of these recommendations. In addition, OHA generally supports efforts to reduce the State’s reliance on cash bail, increase resources and reduce inefficiency in administrative operations and judicial proceedings, improve access to robust and relevant information related to pretrial release determinations, and reduce unnecessary pretrial detention and its impacts on families and communities.

Specifically, OHA emphasizes the Task Force recommendation addressed in SB1422, which would **reinforce law enforcement authority and discretion to cite low-level defendants instead of arresting them, to reduce pretrial procedural volume and the pretrial incarcerated population.** OHA further emphasizes the Task Force recommendation addressed in SB1423, which would **expand the timeframe in which defendants may post bail beyond normal business days and hours, to similarly reduce the pretrial procedural volume and incarcerated population resulting from defendants who are unable to post timely cash bail.** OHA supports these and other efforts to reduce the harms arising from the State’s overreliance on cash bail, and to maximize pretrial release.

For the reasons set forth above, OHA respectfully urges the Committee to **PASS** SB1422 and SB1423. Mahalo piha for the opportunity to testify on these important measures.

TESTIMONY IN SUPPORT OF SB 1422

TO: House Committee on Public Safety, Veterans, & Military Affairs

FROM: Nikos Leverenz
Grants, Development & Policy Manager

DATE: March 12, 2019 (1:30 PM)

Chair Takayama, Vice-Chair Gates, and Members of the Committee:

Hawai'i Health & Harm Reduction Center (HHRC) **strongly supports** SB 1422, which would expand the discretion of law enforcement officers to include citations for non-violent Class C felonies. We support the legislative finding that "citation issuance is a viable alternative to arrest for low-risk [individuals] who have not demonstrated a risk of non-appearance in court while still protecting the public from the risk of further crime."

HHRC works with many individuals who are impacted by poverty, housing instability, and other social determinants of health. Many have behavioral health problems related 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.

We commend Senator Nishihara for introducing an important reform that is supported by his active participation on the HCR 85 Task Force on Prison Reform. The Department of Public Safety relayed a critical data point to the Task Force during its work: *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).*

The final report of the HCR 85 Task Force noted the significant consequences of even a short jail stay:

Jail is often the beginning of a long journey through the criminal justice system. A study by the Vera Institute of Justice found that "just a few days in jail can increase the likelihood of a sentence of incarceration and the harshness of that sentence, reduce economic viability, promote future criminal behavior, and worsen the health of those who enter—making jail a gateway to deeper and more lasting involvement in the criminal justice system, at considerable costs to the people involved and to society at large." (["Creating Better Outcomes, Safer Communities: Final Report of the House Concurrent Resolution Task Force on Prison Reform to the Hawai'i Legislature 2019 Regular Session"](#) at xvii. December 2018)

The Task Force specifically notes that "issuing citations for low-level offenses instead of arrest and jail" is one innovative way to help reduce the jail population. (*Id.*)

To the extent that this bill will provide law enforcement officers with the discretion to issue citations in lieu of arrest and jail, this can help Hawai'i to move away from away from an established framework that advances the further stigmatization, criminalization, and maltreatment of those who are best served by a therapeutic model providing low-barrier services and medical care to advance their health and well-being.

Thank you for the opportunity to testify on this measure.



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

Re: SB 1422 Relating to Law Enforcement

Good morning Chairperson Takayama members of the Senate Committee on Public Safety Veterans & Military Affairs. 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 SB 1422 Relating to Law Enforcement. This measure specifies that law enforcement officers have the discretion to issue citations, in lieu of making an arrest, for non-violent class C felonies, misdemeanors, petty misdemeanors, and violations.

This bill essentially gives those who committed a non-violent class C FELONY crime a FREE pass.

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. They consider stealing from our stores their daily job.

It is a losing battle for many retailers where the police may or may not catch and arrest the thieves. When HPD does arrests them and lets them go after being processed, they are right back into the stores stealing again. Then it is the prosecutors who may or may not prosecute them regardless of the number of priors they have. 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.

We urge you to hold this measure. Mahalo again for this opportunity to testify.



Dedicated to safe, responsible, humane and effective drug policies since 1993

TO: House Committee on Public Safety, Veterans & Military Affairs
FROM: Carl Bergquist, Executive Director
HEARING DATE: March 13, 2019, 10:30AM
RE: SB1422, RELATING TO LAW ENFORCEMENT, **SUPPORT**

Dear Chair Takayama, Vice Chair Gates and Committee Members:

The Drug Policy Forum of Hawai'i (DPFHI) **strongly supports** this measure to add non-violent class C felonies to the list of offenses for which a law enforcement officer can issue a citation in lieu of carrying out an arrest. This would free up police resources while allowing the individual to go about their business and have a better chance of preparing their defense. Minimizing incarceration, including being detained pretrial unable to post bail for a class C felony, is healthier for both the person and the community at large.

As the bill's findings indicate, other states are contemplating similar measures. According to the National Conference on State Legislatures, "[f]our states—Alaska, Louisiana, Minnesota, and Oregon—permit citations for some felonies."¹ *Those laws are highlighted after this testimony.* We note that **the Alaska law** in particular, was part of a broader criminal justice package passed in 2016.² Among other measures in that package is **reducing drug possession offenses to misdemeanors**. That policy, **defelonization**, was heard in the Senate on 2/7/19 in the form of [SB1367](#). We humbly submit that this bill and the contents of SB1367 work best in concert. Therefore, **we respectfully request that you incorporate SB1367 into this measure.**

Mahalo for the opportunity to testify.

¹ <http://www.ncsl.org/research/civil-and-criminal-justice/citation-in-lieu-of-arrest.aspx>.

² https://www.pewtrusts.org/~media/assets/2016/12/alaskas_criminal_justice_reforms.pdf.

State & Statute	For What Offenses Can a Citation be Issued?	Exceptions	Presumption of Citation	When is Citation Issued?	Who Issues Citation?
Alaska §12.25.180 (a)	Class C felonies, misdemeanors, municipal ordinances	Offenses involving violence to property or person; when there is probable cause that domestic abuse was involved.	No	Prior to arrest	Peace officers
Louisiana C. Crim. Proc. Art. 211	Misdemeanors; felony theft or illegal possession of stolen items worth \$500-\$1000; writing worthless checks; driving without license in possession	None identified.	No (Yes—driving without license in possession)	Prior to arrest	Peace officers
Minnesota Crim. Proc. R. 6.01, subd. 2	Felonies and gross misdemeanors without warrant	Aggravated DWI. (§ 169A.40)	No	After arrest	Peace officer, officer in charge of police or sheriff station
Oregon §§ 133.055; 133.070	Misdemeanors; felonies authorized by law to be reduced to a misdemeanor; certain ordinances	Domestic disturbance with probable cause to believe that: an assault occurred	No	Not specified	Peace officers

Source: <http://www.ncsl.org/research/civil-and-criminal-justice/citation-in-lieu-of-arrest.aspx>.

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COMMITTEE ON PUBLIC SAFETY, VETERANS, AND MILITARY AFFAIRS

Rep. Gregg Takayama, Chair

Rep. Cedric Gates, Vice Chair

Wednesday, March 13, 2019

10:30 am

Room 430

STRONG SUPPORT - SB 1422

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 5,500 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.

SB 1422 specifies that law enforcement officers have the discretion to issue citations, in lieu of making an arrest, for non-violent class C felonies, misdemeanors, petty misdemeanors, and violations.

Community Alliance on Prisons is in strong support of this measure. This is one of the recommendations of the HCR 134 Pretrial Reform Task Force. This bill would also help We have been the LEAD (Law Enforcement Assisted Diversion) program that has been stymied by the Honolulu prosecutor.

I serve as the Policy Chair of the LEAD Hawai'i Hui and as we were meeting to put together the list of offenses that could be eligible for LEAD participation, the Hui felt strongly that Class C drug felonies should be included, as they are in other jurisdictions.

Law enforcement officers know many of the people in their district and, after working with several LEAD officers, Community Alliance on Prisons trusts that these police officers want what is best for the community and for the individual needing assistance.

I want to give a special shout out to Captain Mike Lambert, who is the LEAD leader! He has shown that the police can truly be PEACE OFFICERS!

Mahalo for this opportunity to testify.

SB-1422

Submitted on: 3/12/2019 3:42:15 PM

Testimony for PVM on 3/13/2019 10:30:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Neil Ishida	ABC Stores	Oppose	No

Comments:

Aloha Chairperson Takayama and members of the Senate Committee on Public Safety Veterans & Military Affairs.

ABC Stores is strongly opposed to SB 1422 Relating to Law Enforcement. This measure specifies that law enforcement officers have the discretion to issue citations, in lieu of making an arrest, for non-violent class C felonies, misdemeanors, and petty misdemeanors. In 2016 the legislature raised the felony theft charge from \$300 to \$750. Since then, we have been facing an alarming increase in theft. While thieves steal right under \$750 many go above and beyond. The thieves come into our stores daily with a list of items they are going to steal. They consider stealing from our stores their daily job. We need tougher theft laws not the leniency this measure proposes. We urge you to hold this measure. Thank you for this opportunity to testify.

SB-1422

Submitted on: 3/10/2019 11:35:22 AM

Testimony for PVM on 3/13/2019 10:30:00 AM

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

Comments:

STRONG SUPPORT

Testimony of Philip H. Lowenthal

Aloha Hon. Committee Chair and Members

Over the past 50 years, as a practicing Hawaii attorney, I have observed steadily increasing pretrial detainees as bail has increased. The only beneficiary has been the bail bond industry. The cost to the State has been enormous. The cost to the detainees is incalculable, as it only takes a few days of detention to lose a job, a home, and a reputation.

The inequities between the rich and the poor are exacerbated contrary to our mantra of "equal justice for all".

In the federal court system there are relatively few pretrial detainees and most arrestees are released on their execution of a signature bond. Bail is generally set in an amount an arrestee can afford. The bail bond industry is not supported by the judiciary. There is no apparent problem with "no-shows" and no public outcry.

I urge you to support the bail reform bills.

SB-1422

Submitted on: 3/11/2019 10:34:58 AM

Testimony for PVM on 3/13/2019 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Carla Allison	Individual	Support	No

Comments:

I strongly support SB1422 because it gives our police force the discretion to divert non-violent low-level lawbreakers. This bill adopts the recommendation of the HCR 134 Pre-Trial Task Force to allow law enforcement officers broader discretion to issue citations. It reinforces law enforcement authority and discretion to cite low-level defendants instead of arresting them. It will reduce pretrial procedural volume and the pretrial incarcerated population.

Please move this bill forward.

ROBERT K. MERCE
2467 Aha Aina Place
Honolulu, Hawaii 96821

Telephone: (808) 732-7430
mercer001@hawaii.rr.com

March 11, 2019

TO: Committee on Public Safety, Veterans, & Military Affairs
RE: SB 1422
HEARING DATE: Wednesday, March 13, 2019
TIME: 10:30 AM
CONF. ROOM: 430
POSITION: **SUPPORT**

Dear Chair Takayama, Vice Chair Gates, and Members of the Committee:

I am a retired lawyer and recently served as Vice Chair of the HCR 85 Task Force on prison reform.

I support SB 1422 would give police officers discretion to issue citations in lieu of making an arrest without a warrant for non-violent class C felonies, misdemeanors, petty misdemeanors, and violations under certain conditions, including that the offense does not involve domestic violence, sexual assault, robbery, or any other offenses under chapter 707, Hawaii Revised Statutes.

In 2017 the HCR 85 Task Force urged lawmakers to consider ways to reduce the state's jail population, including the use of citations for relatively low level offenses.¹ This bill is consistent with the Task Force's recommendations and would help reduce the jail population which in turn would reduce the number of beds needed at the new jail to replace OCCC, and that would save a considerable amount of money.

Thank you for allowing me to testify on this measure.

¹ See "Interim Report of the HCR 85 Task Force (On Effective Incarceration Policies and Improving Hawaii's Correctional System) to the Legislature for the Regular Session 2017", p. 24. See also "Creating Better Outcomes, Safer Communities, Final Report of the HCR 85 Task Force to the 2019 Legislature," pp. xvii, 68.

SB-1422

Submitted on: 3/11/2019 2:01:25 PM

Testimony for PVM on 3/13/2019 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Diana Bethel	Individual	Support	No

Comments:

SB 1422 recommends that the nationally very successful LEAD program be adopted to allow law enforcement officers on the ground to exercise discretion in issuing citations.

The LEAD program was recommended by the HCR 134 Pr-Trial Task Force.

The LEAD program would help divert individuals into appropriate programs rather than arrest them and continue to bloat our incarceration facilities with people who do not need to be there.

The LEAD program has been successfully implemented in Alaska, Louisiana, Minnesota, and Oregon.

Hawaii would benefit from learning from effective programs in other states.

March 12, 2019

Support for SB1422 Citations

TO: Chair Greg Takayama, Vice Chair Cedric Gates and Members of the Committee

FROM: Barbara Polk

I **strongly support SB1422** to add the police option of issuing a citation rather than arresting a person for a nonviolent Class C felony under certain conditions.

Somehow, our society has moved from "innocent until found guilty" to "guilty until found innocent" and punishment begins upon arrest, by jailing the person and establishing an arrest record that will follow them from then on, whether innocent or guilty.

We need to avoid establishing an arrest record on a person who has not been found guilty unless there is a threat to public safety. Allowing police to issue a citation instead of arrest keeps a person's record clean and eliminates the stigma now attached to arrest--even when the person arrested is later found innocent.

I do have a concern about the many homeless people who already have arrest records due to the tightening county and state laws restricting where they can sleep. This bill will change nothing for them, even for those who do not pose any risk to society. And they will continue to clog our jails and courts and continue to cost unnecessary amounts of public money. If there is a way to amend this bill to cover them, I encourage it.

Please pass SB1422

PVMtestimony

From: Candi McCann <candimccann@yahoo.com>
Sent: Tuesday, March 12, 2019 12:05 PM
To: PVMtestimony
Subject: Support for SB1422

Dear Chair Takayama, Vice Chair Gates and Committee Members:

I strongly support this measure to add non-violent class C felonies to the list of offenses for which a law enforcement officer can issue a citation in lieu of carrying out an arrest. This would free up police resources while allowing the individual to go about their business and have a better chance of preparing their defense. Minimizing incarceration, including being detained pretrial unable to post bail for a class C felony, is healthier for both the person and the community at large.

Mahalo for the opportunity to testify.

PVMtestimony

From: Landon Li <landonli@hawaii.edu>
Sent: Tuesday, March 12, 2019 12:04 PM
To: PVMtestimony
Subject: Support for SB1422

Dear Chair Takayama, Vice Chair Gates and Committee Members:

I strongly supports this measure to add non-violent class C felonies to the list of offenses for which a law enforcement officer can issue a citation in lieu of carrying out an arrest. This would free up police resources while allowing the individual to go about their business and have a better chance of preparing their defense. Minimizing incarceration, including being detained pretrial unable to post bail for a class C felony, is healthier for both the person and the community at large.

Mahalo for the opportunity to testify.

PVMtestimony

From: Astra Druker-Michaels <astraelizabeth.nz@gmail.com>
Sent: Tuesday, March 12, 2019 12:17 PM
To: PVMtestimony
Subject: Support for SB1422

Dear Chair Takayama, Vice Chair Gates and Committee Members:

I strongly supports this measure to add non-violent class C felonies to the list of offenses for which a law enforcement officer can issue a citation in lieu of carrying out an arrest. This would free up police resources while allowing the individual to go about their business and have a better chance of preparing their defense. Minimizing incarceration, including being detained pretrial unable to post bail for a class C felony, is healthier for both the person and the community at large.

Mahalo for the opportunity to testify.

PVMtestimony

From: Waioni Dickison <waionidickison@gmail.com>
Sent: Tuesday, March 12, 2019 12:21 PM
To: PVMtestimony
Subject: Support for SB1422

Dear Chair Takayama, Vice Chair Gates and Committee Members:

I strongly supports this measure to add non-violent class C felonies to the list of offenses for which a law enforcement officer can issue a citation in lieu of carrying out an arrest. This would free up police resources while allowing the individual to go about their business and have a better chance of preparing their defense. Minimizing incarceration, including being detained pretrial unable to post bail for a class C felony, is healthier for both the person and the community at large.

Mahalo for the opportunity to testify.

PVMtestimony

From: Danny Owen <dowen76@earthlink.net>
Sent: Tuesday, March 12, 2019 1:45 PM
To: PVMtestimony
Subject: Support for SB1422

Dear Chair Takayama, Vice Chair Gates and Committee Members:

I strongly supports this measure to add non-violent class C felonies to the list of offenses for which a law enforcement officer can issue a citation in lieu of carrying out an arrest. This would free up police resources while allowing the individual to go about their business and have a better chance of preparing their defense. Minimizing incarceration, including being detained pretrial unable to post bail for a class C felony, is healthier for both the person and the community at large.

Mahalo for the opportunity to testify.

Best,

Danny Owen | Production & Tour Management
E Mail – dowen76@earthlink.net
Cell – 917.653.1065

PVMtestimony

From: Elizabeth <ewinrus@gmail.com>
Sent: Tuesday, March 12, 2019 1:07 PM
To: PVMtestimony
Subject: Support for SB1422

Dear Chair Takayama, Vice Chair Gates and Committee Members:

I strongly supports this measure to add non-violent class C felonies to the list of offenses for which a law enforcement officer can issue a citation in lieu of carrying out an arrest. This would free up police resources while allowing the individual to go about their business and have a better chance of preparing their defense. Minimizing incarceration, including being detained pretrial unable to post bail for a class C felony, is healthier for both the person and the community at large.

Mahalo for the opportunity to testify.

Elizabeth

PVMtestimony

From: dthomas31415@yahoo.com
Sent: Tuesday, March 12, 2019 3:39 PM
To: PVMtestimony
Subject: Support for SB1422



Dear Chair Takayama, Vice Chair Gates and Committee Members:

I strongly supports this measure to add non-violent class C felonies to the list of offenses for which a law enforcement officer can issue a citation in lieu of carrying out an arrest. This would free up police resources while allowing the individual to go about their business and have a better chance of preparing their defense. Minimizing incarceration, including being detained pretrial unable to post bail for a class C felony, is healthier for both the person and the community at large.

Mahalo for the opportunity to testify.

[Sent from Yahoo Mail on Android](#)

PVMtestimony

From: Dave Kisor <panther_dave@yahoo.com>
Sent: Tuesday, March 12, 2019 8:23 PM
To: PVMtestimony
Subject: Support for SB1422



Dear Chair Takayama, Vice Chair Gates and Committee Members:

I strongly supports this measure to add non-violent class C felonies to the list of offenses for which a law enforcement officer can issue a citation in lieu of carrying out an arrest. This would free up police resources while allowing the individual to go about their business and have a better chance of preparing their defense. Minimizing incarceration, including being detained pretrial unable to post bail for a class C felony, is healthier for both the person and the community at large.

Mahalo for the opportunity to testify.

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Cats & computers. Bring them into your home and your life is no longer your own.
Don't get upset when things don't work, but rather be amazed when they do!
Life is an exercise in how well you handle disappointment!

PVMtestimony

From: Glen Krzyska <gbkrzyska99@icloud.com>
Sent: Tuesday, March 12, 2019 7:12 PM
To: PVMtestimony
Subject: Support for SB1422



LATE

Dear Chair Takayama, Vice Chair Gates and Committee Members:

I strongly supports this measure to add non-violent class C felonies to the list of offenses for which a law enforcement officer can issue a citation in lieu of carrying out an arrest. This would free up police resources while allowing the individual to go about their business and have a better chance of preparing their defense. Minimizing incarceration, including being detained pretrial unable to post bail for a class C felony, is healthier for both the person and the community at large.

Mahalo for the opportunity to testify.

PVMtestimony

From: Jack Faessler <freedom.prevails@yahoo.com>
Sent: Wednesday, March 13, 2019 7:07 AM
To: PVMtestimony
Subject: Support for SB1422



Dear Chair Takayama, Vice Chair Gates and Committee Members:

I strongly support this measure to add non-violent class C felonies to the list of offenses for which a law enforcement officer can issue a citation in lieu of carrying out an arrest. This would free up police resources while allowing the individual to go about their business and have a better chance of preparing their defense. Minimizing incarceration, including being detained pretrial unable to post bail for a class C felony, is healthier for both the person and the community at large.

Mahalo for the opportunity to testify.

JACK . . . from Hale FAESSLER
> Freedom is my religion.

PVMtestimony

From: Tatiana Labore <pakalolosoap@gmail.com>
Sent: Tuesday, March 12, 2019 3:26 PM
To: PVMtestimony
Subject: Support for SB1422



Dear Chair Takayama, Vice Chair Gates and Committee Members: I strongly supports this measure to add non-violent class C felonies to the list of offenses for which a law enforcement officer can issue a citation in lieu of carrying out an arrest. This would free up police resources while allowing the individual to go about their business and have a better chance of preparing their defense. Minimizing incarceration, including being detained pretrial unable to post bail for a class C felony, is healthier for both the person and the community at large. Mahalo for the opportunity to testify.