

DAVID Y. IGE  
GOVERNOR



EXECUTIVE CHAMBERS  
HONOLULU

February 9, 2021

TO: The Honorable Representative Ryan I. Yamane, Chair  
House Committee on Health, Human Services, and Homelessness

FROM: Scott Morishige, MSW, Governor's Coordinator on Homelessness

SUBJECT: **HB 202 – RELATING TO EXPUNGEMENT**

Hearing: Tuesday, February 9, 2021, 9:30 a.m.  
VIA VIDEO CONFERENCE  
Conference Room 329, State Capitol

**POSITION:** The Governor's Coordinator on Homelessness supports the intent of this measure. The Coordinator defers to the Judiciary's testimony in companion measure SB391 regarding its preference to seal records to implement the process, and agrees with needing further discussion of the qualifying offenses as the Judiciary and the Department of Attorney General both raised the concern that as written the language is too broad.

**PURPOSE:** The purpose of the bill is to authorize a court to expunge the records of a person for certain offenses if they are substantially related to the person's homeless status.

The intent of this measure aligns with the goals of the Hawaii Interagency Council on Homelessness (HICH) ten-year strategic plan, which includes disseminating "best practices on helping people with histories of homelessness and barriers to employment enter the workforce," and advancing "health and stability for people experiencing homelessness who have frequent contact with hospitals and the criminal justice system." In addition, the HICH voted in December 2020 to adopt the expungement of "non-violent criminal offenses that adversely impact individuals experiencing homelessness" as a legislative priority for 2021.

This measure begins the path to establish a process to address to expunge or seal appropriate criminal offenses for homeless individuals. A history of criminal convictions is a barrier for homeless individuals seeking employment or housing. In many cases, an individual's

criminal history includes multiple convictions for non-violent offenses, such as park closure, violation of sit-lie ordinances, or sidewalk obstruction.

This measure will complement current efforts of the Community Outreach Court on Oahu, which aims to address outstanding warrants for similar non-violent offenses. Eligible offenses for Community Outreach Court include violations for park closure, criminal trespass or simple trespass, theft, driving without a license, sit-lie ordinance, and camping without a permit. Between July 2017 and September 2019, the Community Outreach Court served 201 persons, and cleared 2,321 cases. While the Community Outreach Court is effective, it cannot address convictions, and this measure will address this gap for persons experiencing homelessness.

This measure also complements efforts of Law Enforcement Assisted Diversion (LEAD), which aims to divert individuals who have committed minor offenses away from the criminal justice system. According to the [LEAD Year Two Evaluation Report](#), the Kauai prosecutor's office is providing referrals to the Kauai LEAD pilot for three different charges, including theft and possession of 3 grams or less of marijuana. Similar to Community Outreach Court, LEAD addresses individuals who are charged, but does not address convictions.

If this measure proceeds, the Coordinator suggests that consideration be given to base offenses eligible for expungement or seal in alignment with offenses currently addressed by the Community Outreach Court and programs such as LEAD.

Thank you for the opportunity to testify on this bill.



*The Judiciary, State of Hawai'i*

**Testimony to the Thirty-First State Legislature, 2021 Session**

**House Committee on Health, Human Services, & Homelessness**

Representative Ryan I. Yamane, Chair  
Representative Adrian K. Tam, Vice Chair

Tuesday, February 9, 2021, 9:30 a.m.  
State Capitol, Conference Room 329  
VIA VIDEOCONFERENCE

by:

Mark M. Santoki  
Acting Deputy Chief Court Administrator  
First Circuit

**WRITTEN TESTIMONY ONLY**

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**Bill No. and Title:** House Bill No. 202, Relating to Expungement.

**Purpose:** Authorizes a court to expunge the records of a person for certain offenses if they are substantially related to the person's homeless status.

**Judiciary's Position:**

The Judiciary takes NO POSITION on this measure, providing the following comments.

Expungement would require the court to completely delete any data from the system making any retrieval impossible. Mistakes in identity can occur and an expungement that was mistakenly executed may in some cases be virtually impossible to reverse. All criminal court records are stored electronically.

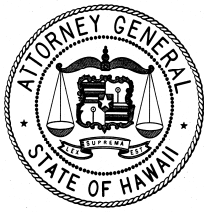
Therefore, the Judiciary requests that instead of the term expungement, that the term "seal or sealing" be used. The process of sealing a court record provides that all information regarding the defendant's case is not viewable to the public, but remains as part of the internal court record. In addition, sealing a court record – rather than deleting it completely -- promotes transparency because the request to seal the record and the processing of such a request are

documented and can be reviewed internally if necessary.

The Judiciary also notes that the description of qualifying offenses is broad and could authorize the expungement of records of serious offenses. As drafted, the bill would appear to include certain violations of temporary restraining orders, burglary, trespass into a dwelling, unauthorized entry or control of a propelled vehicle, criminal property damage, theft, and drug offenses, as such charges may not necessarily involve bodily harm or the threat of bodily harm but be substantially related to the defendant's homeless status. To avoid unintended consequences, the Judiciary suggests that the bill may provide greater clarity in this area.

The Judiciary would welcome the opportunity to explore whether the process of sealing these records on O'ahu could be incorporated into its Community Outreach Court (COC). With the assistance of the Department of the Prosecuting Attorney and the Office of the Public Defender, COC would be able to determine a defendant's eligibility and to determine those offenses that are appropriate for sealing. Community Outreach Court currently operates in the First Circuit (O'ahu) only.

Thank you for the opportunity to testify on this measure.



**WRITTEN TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
THIRTY-FIRST LEGISLATURE, 2021**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 202, RELATING TO EXPUNGEMENT.

**BEFORE THE:**

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES, AND HOMELESSNESS

**DATE:** Tuesday, February 9, 2021                      **TIME:** 9:30 a.m.

**LOCATION:** State Capitol, Via Videoconference

**TESTIFIER(S):**    **WRITTEN TESTIMONY ONLY.**  
(For more information, contact Lance Goto,  
Deputy Attorney General, at 586-1160)

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Chair Yamane and Members of the Committee:

The Department of the Attorney General (Department) opposes this bill.

The purpose of this bill is to authorize a court to order the expungement of the records of a person for certain offenses if they are substantially related to the person's homeless status.

The Department opposes this bill for the following reasons.

Page 1 of the bill, at lines 10-14, provides that a person may apply for expungement ". . . for any and all offenses described under section 708-814.7, 711-1105, and any statute, ordinance, or rule not involving bodily harm or the threat of bodily harm, where the person's conduct or alleged conduct underlying each offense was substantially related to the person's homeless status." This is too broad. It would allow for the expungement of any offenses, as long as they do not involve bodily harm or the threat thereof, and as long as the offenses are "substantially related to the person's homeless status." The list of offenses that could be expunged under this bill is extensive. Offenses such as theft, car theft, burglary, criminal property damage, criminal trespass, criminal tampering with public utilities, identity theft, forgery, arson, or cruelty to animals could be included.

The condition that the offenses are "substantially related to the person's homeless status" is vague and will be difficult to apply. First, it may be difficult to address a person's assertion that the person was "homeless" at the time of the offense. And second, it will be difficult to determine whether or not an offense was substantially related to a person's homeless status.

This bill does not define "expungement", nor does it set out a clear process for expungement, as is provided in section 831-3.2, Hawaii Revised Statutes (HRS). It provides that a person could apply to the court for expungement, and that the court shall order the expungement if the court determines that the person has met certain general requirements. The bill is silent as to what criteria would be required or what the court could consider to make the determination, and there is no clear process after the court makes the determination. Under section 831-3.2, a person may apply to the Attorney General for expungement under the provisions of that section. But under this bill, the process is unclear.

Page 2 of the bill, at lines 11-15, provides that the effect of the expungement order shall be to restore persons to their status before the criminal case. That means a person may be able to continue committing the same crimes repeatedly and be treated like a first-time offender each time. Persons therefore will not be held responsible for their prior convictions.

The following are just a few examples of situations in which this expungement law might apply:

- (1) A homeless person occupies a property illegally and ends up burning down or otherwise destroying property, and is convicted of trespass, property damage, and arson;
- (2) A homeless person chronically steals tents, tarps, lamps, generators, and electricity, and is convicted of theft or tampering with public utilities; and
- (3) A homeless person breaks into an unoccupied home, stays there, uses and takes things, and damages property, and is convicted of burglary, theft, and criminal property damage.

The Department also notes that chapter 706, HRS, is not the appropriate place for the expungement provisions in the bill. Chapter 706 of the Penal Code relates to sentencing in criminal cases. While chapter 706 has a few provisions regarding expungement, they are tied to specific types of sentencing. But the expungement provisions in this bill are not related to sentencing. Instead, the bill proposes to allow a special class of individuals to get their convictions expunged. The provisions might fit better under chapter 831, HRS, related to the status of convicted offenders, and which includes the expungement law in section 831-3.2, HRS.

For the foregoing reasons, the Department respectfully requests the Committee hold this measure.

**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 Health, Human Services &  
Homelessness**

February 9, 2021

H.B. No. 202: RELATING TO EXPUNGEMENT.

Chair Yamane, Vice Chair Tam, and Members of the Committee:

The Office of the Public Defender supports H.B. No. 202.

While homeless or houseless individuals struggle to find safe shelter, they also face a myriad of extreme hardships directly related to the lack of safe and secure shelter. This includes limited access to food, hygiene stations, and medical care, as well as the mental and emotional burden that results from living on the streets, in the parks, in encampments, or on the beach. The devastation caused by homelessness is only compounded when the unsheltered are cited for offenses that are substantially related to the individual’s housing status. Citing individuals over and over again for minor offenses will not improve that individual’s chances of obtaining housing or regaining independent living.

Indeed, these citations operate as more of a barrier for an individual trying to escape houselessness. When trying to find housing or employment, these individuals find barriers to permanent housing because of court citations and/or law violations that accumulated. In addition to the stigmatization of a criminal record, these individuals are burdened by the physical and mental health challenges that a criminal citation entails. Thanks to disruptive and relentless homeless camp “sweeps” that cause the loss of property and belongings, it can be a struggle to keep court paperwork and identification documents safe. Compounding this difficulty is the challenge of keeping a schedule when living outdoors and keeping a working phone activated and in their possession. This frequently results in individuals receiving bench warrants and being arrested before they are ever able to communicate with legal counsel and service providers. This measure will remove a barrier for houseless individuals who are trying to find permanent housing and regain their independent living status. It will assist these individuals to lift themselves up and out of a legal quagmire that holds them back without providing any tangible benefit to our State.

Thank you for the opportunity to comment on this measure.



LATE

**HB-202**

Submitted on: 2/8/2021 3:36:11 PM

Testimony for HHH on 2/9/2021 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Khara Jabola-Carolus	Hawai'i State Commission on the Status of Women	Support	No

Comments:

The Hawai'i State Commission on the Status of Women supports HB202 and an end to poverty offenses. Most women are incarcerated for offenses rooted in poverty and gender-based trauma.

Sincerely,

Khara Jabola-Carolus

**Justin F. Kollar**  
Prosecuting Attorney



**Rebecca Vogt Like**  
Second Deputy

**Jennifer S. Winn**  
First Deputy

**Diana Gausepohl-White**  
Victim/Witness Program Director

**OFFICE OF THE PROSECUTING ATTORNEY**

**County of Kaua'i, State of Hawai'i**

3990 Ka'ana Street, Suite 210, Līhu'e, Hawai'i 96766  
808-241-1888 ~ FAX 808-241-1758  
Victim/Witness Program 808-241-1898 or 800-668-5734

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**THE HONORABLE RYAN I. YAMANE, CHAIR**  
**THE HONORABLE ADRIAN K. TAM, VICE CHAIR**  
**HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES & HOMELESSNESS**  
**Thirty-First State Legislature**  
**Regular Session of 2021**  
**State of Hawai'i**

February 5, 2021

**RE: H.B. 202 – RELATING TO EXPUNGEMENT**

Chair Yamane, Vice Chair Tam, and members of the House Committee on Health, Human Services, and Homelessness, the Office of the Prosecuting Attorney of the County of Kaua'i submits the following testimony in support of H.B. 202.

The purpose of this Bill is to provide a path to expungement of records of conviction for persons whose status as homeless was substantially related to the offenses of which they were convicted. The offenses will be limited in scope to those that do not involve bodily harm or the threat of bodily harm.

A criminal conviction can possibly preclude a rehabilitated offender from attaining housing and employment once their interaction with the criminal justice system is complete. Once a defendant has satisfied all non-financial obligations to the court, they should have less obstruction on the path to seeking housing, employment, and being productive members of society. Removing the obstacle of stigma associated with a criminal conviction related to their socioeconomic status will remove obstacles for defendants convicted of certain lesser offenses so that they may lead a more positive and productive life in society following their involvement with the criminal justice system. Inducing a commitment to mental health treatment and financial counseling will also reduce the barriers to a positive life post-conviction for those whose offenses were substantially related to homelessness.

For these reasons, the Office of the Prosecuting Attorney supports the passage of H.B. 202. Thank you for this opportunity to testify.

DEPARTMENT OF THE PROSECUTING ATTORNEY  
**CITY AND COUNTY OF HONOLULU**

ALII PLACE  
1060 RICHARDS STREET • HONOLULU, HAWAII 96813  
PHONE: (808) 768-7400 • FAX: (808) 768-7515

STEVEN S. ALM  
PROSECUTING ATTORNEY



THOMAS J. BRADY  
FIRST DEPUTY  
PROSECUTING ATTORNEY

**THE HONORABLE RYAN I. YAMANE, CHAIR**  
**HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES, AND HOMELESSNESS**  
**Thirty-First State Legislature**  
**Regular Session of 2021**  
**State of Hawai'i**

February 9, 2021

**RE: H.B. 202; RELATING TO EXPUNGEMENT.**

Chair Yamane, Vice Chair Tam, and members of the House Committee on Health, Human Services, and Homelessness, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony in opposition to H.B. 202.

The purpose of H.B. 202 is to allow the courts to expunge the records for certain offenses that are substantially related to the individual's homeless status. Although this bill has good intentions, it lacks the specificity and procedural details needed to properly implement.

First, it is unclear which offenses the new section would be applicable to. Currently, the bill includes "any and all offenses described under section 708-814.7, 711-1105 and any statute, ordinance, or rule not involving bodily harm or the threat of bodily harm." Under this definition, it is possible that the following offenses would be among those expunged anytime a defendant submits a written application under the new section:

- Burglary in the 1<sup>st</sup> and 2<sup>nd</sup> degree (HRS §708-810 and §708-811)
- Unauthorized entry in a dwelling in the 1<sup>st</sup> and 2<sup>nd</sup> degree (HRS §708-812.55 and §708-812.6)
- Violation of temporary restraining order (HRS §586-4 or §604-10.5)
- Theft in the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> degree (HRS §708-830.5, §708-831, §708-832 and §708-833)
- Criminal property damage in the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> degree (HRS §708-820, §708-821, §708-822 and §708-823)
- Unauthorized possession of confidential personal information (HRS §708-839.55)
- Identity theft 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> (HRS §708-839.6, §708-839.7 and §708-839.8)
- Sex trafficking (HRS §712-1202)
- Harassment by stalking (HRS §711-1100)
- Sexual assault in the 3<sup>rd</sup> and 4<sup>th</sup> degree (HRS §707-732 and §707-733)

Although this bill incorporates language which attempts to disqualify a number of the above listed offenses, use of the term “bodily harm” which is not currently defined in the Hawaii Revised Statutes is problematic. For example, sexual assault in the fourth degree involves an offense that causes bodily harm and should be excluded, however proving “bodily harm” or bodily injury is not a required element of the offense and a defendant may not be disqualified from an expungement. Further, this bill fails to sufficiently define what factors are used in determining that an offense is “substantially related to the person’s homeless status” creating a vague set of circumstances resulting in limitless unintended consequences. The Department is deeply concerned that these types of cases—and perhaps others not yet contemplated—could be removed completely from a person’s record, because a defendant is arguably able to show that the offense is “substantially related to the person’s homeless status”.

Additionally, the Department believes, that if one of the underlying purposes for this bill is to address homeless driven offenses, only requiring a “willingness to seek financial or mental health counseling” fails to address this goal. The lack of limitations on the use of this proposed expungement process would allow a defendant the opportunity to commit repeated criminal offenses such as theft without ensuring that social services aimed at addressing the defendant’s homelessness are received.

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu opposes the passage of H.B. 202. Thank you for the opportunity to testify on this matter.

# PARTNERS IN CARE

Oahu's Continuum of Care

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*Our mission is to eliminate homelessness through open and inclusive participation and the coordination of integrated responses.*

Testimony in Support of HB202/SB391: Relating to Expungement

TO: Chair Representative Yamane and Members of the Committee on Health, Human Services and Homelessness

FROM: Partners in Care (PIC), Oahu's Continuum of Care

HEARING: Tuesday, February 9<sup>th</sup>, 2021

Dear Chair Yamane,

Thank you for the opportunity to provide testimony on HB202/SB391, which establishes a process by which criminal records for non-violent “quality of life” crimes may be expunged. Partners in Care (PIC), a coalition of more than 60 organizations working to address homelessness, **strongly supports this bill.**

In contrast to existing expungement statutes, HB202/SB391 would not be limited to a first conviction or offenses committed by young people; instead, OHA-3 would be similar to non-conviction arrest expungement by allowing *multiple* “quality of life” offenses to be expunged at the same time. HB202/SB391 would also provide for a waiver of any fines or fees associated with the “quality of life” offense(s) being expunged; other expungement statutes require the full payment of any fines and fees associated with probation or ordered by the court.

This measure's significance cannot be underestimated because allowing individuals to clear their records related to homelessness will reduce their barriers to self-sufficiency and mitigate the long-lasting collateral consequences of the criminalization of homelessness. Criminal records can follow people indefinitely into their future and create barriers that may prevent or discourage them from taking the necessary steps to become self-sufficient and escape poverty and homelessness cycles. Therefore, HB202/SB391 can help reduce the long-term collateral impacts of the criminalization of homelessness on the lives of the most vulnerable, as well as on our homelessness crisis.

**We urge you to support HB202/SB391.** Thank you for focusing on alleviating the collateral consequences of the criminalization of homelessness. If you have any questions, please contact our Advocacy Chair, Connie Mitchell, at [conniem@ihshawaii.org](mailto:conniem@ihshawaii.org),



## HB202 RELATING TO EXPUNGEMENT

Ke Kōmike Hale o ke Olakino, ka Lawelawe Kānaka, a me ka Pilikia Ho‘okuewa

Pepeluali 9, 2021

9:30 a.m.

Lumi 329

The Office of Hawaiian Affairs (OHA) **STRONGLY SUPPORTS** HB202, a measure in OHA’s 2021 Legislative Package. This bill seeks to alleviate the long-lasting impacts of the criminalization of houselessness, by establishing a process to expunge records of certain offenses if they are substantially related to a person’s houseless status. **Such a process will help to remove the significant barriers houseless individuals may face in seeking employment, securing rental housing, and taking other steps necessary for them to build stability and navigate a path off the streets.**

**A criminal record exacerbates the barriers people experiencing houselessness face in finding housing and employment.**<sup>1</sup> Records for “quality of life” crimes<sup>2</sup>—offenses that target or are enforced largely against those experiencing houselessness—can create a vicious and counterproductive cycle that only inhibits houseless individuals from taking the steps necessary to improve their circumstances. Arrests, citations, and convictions for these types of offenses can result in fines that individuals cannot afford to pay, and even result in short periods of incarceration.<sup>3</sup> While these punishments are disruptive enough for houseless individuals, they also result in a criminal record that can hamper their efforts to obtain housing, employment, and certain public benefits.<sup>4</sup> Without the ability to find shelter, affordable housing, or even work, houseless people will inevitably remain on the streets where they are subject to further criminalization once again.<sup>5</sup>

**By broadening the class of offenses eligible for expungement, HB202 can provide an invaluable second chance for people who have struggled, or continue to struggle, to**

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<sup>1</sup> See NATIONAL LAW CENTER ON HOMELESSNESS AND POVERTY, NO SAFE PLACE: THE CRIMINALIZATION OF HOUSELESSNESS IN U.S. CITIES 9 (2014).

<sup>2</sup> E.g., laws that prohibit sitting, lying down, or sleeping in public spaces.

<sup>3</sup> See NATIONAL LAW CENTER ON HOMELESSNESS AND POVERTY, NO SAFE PLACE: THE CRIMINALIZATION OF HOUSELESSNESS IN U.S. CITIES 18 (2014).

<sup>4</sup> For example, nearly nine in 10 employers, four in five landlords, and three in five colleges use background checks to screen for applicants’ criminal records, and one study found that more than 45,000 federal and state statutes and regulations impose disqualifications or disadvantages on individuals with a conviction. Center for American Progress, Expunging and Sealing Criminal Records, How Jurisdictions Can Expand Access to Second Chances, <https://www.americanprogress.org/issues/criminal-justice/reports/2020/04/15/483264/expunging-clearing-criminal-records/> (last accessed Dec. 2, 2020).

<sup>5</sup> See NATIONAL LAW CENTER ON HOMELESSNESS AND POVERTY, NO SAFE PLACE: THE CRIMINALIZATION OF HOUSELESSNESS IN U.S. CITIES 7 (2014).

**find financial and housing stability due to the criminalization of homelessness.** This, in turn, may enable such individuals to better support themselves and their families, allow them to better contribute to their communities as well as the state's economy, and encourage stability in their lives.

**As a final note, OHA emphasizes that this bill is narrowly tailored to address a very specific set of circumstances, namely to assist those who seek to better their circumstances but are unfairly disadvantaged due to the criminalization of homelessness.** HB202 does not prevent any laws from being enforced against homeless individuals; it merely provides a process for the expungement of records related to non-violent "quality of life" crimes. Furthermore, petitioners for expungement must demonstrate that they have completed and satisfied any requirements ordered by a court or administrative body relating to the offense or offenses described in the person's application for expungement, provided that any outstanding judicial or administrative fines or fees may be waived.

Therefore, OHA respectfully urges the Committee to **PASS** HB202. Mahalo piha for the opportunity to testify on this critical measure.





COMMITTEE ON HEALTH, HUMAN SERVICES, & HOMELESSNESS

Rep. Ryan I. Yamane, Chair

Rep. Adrian K. Tam, Vice Chair

Date: Tuesday, February 9, 2021      Time: 9:30 AM      Place: Room 329

**Testimony of Kūpuna for the Mo'opuna**

HB 202 – RELATING TO EXPUNGEMENT.    **STRONG SUPPORT**

Aloha Chair Yamane, Vice Chair Tam, and Members of the Committee:

We, Kūpuna for the Mo'opuna, a group of kūpuna Hawaiian homestead farmers committed to the well-being of Hawai'i for the next generations to come, **are in strong support of HB 202.**

HB 202 seeks to authorize a court to expunge the records of a person for certain offenses if they are substantially related to the person's homeless status. HB 202 is narrowly tailored to assist those who seek to better their circumstances but are unfairly disadvantaged due to the criminalization of houselessness. This bill is a humanitarian way of providing a second chance at a better life for those who may be targets of unfortunate houselessness-related circumstances. Mahalo to the Office of Hawaiian Affairs for this thoughtful measure.

**We urge this Committee to PASS HB 202.** Mahalo.

*Ua mau ke ea o ka 'āina i ka pono!*

**Testimony of IHS IN SUPPORT OF HB202**  
**To the House Committee on Health, Human Services & Homelessness**  
**Hearing Date: February 9, 2021, 9:30am, Conf Room 329**

IHS, The Institute for Human Services, is in strong support of HB202. IHS has been serving Hawaii's homeless individuals and families and those at risk for homelessness for over 40 years. Our spectrum of services include street outreach, emergency shelter, triage and assessment, case management, health services, emergency meals, housing and employment support. Our services are vital components of our community safety net, and allow us to observe firsthand the barriers that individuals and families face in recovering from homelessness. These barriers often include inadvertently and overtly discriminating policies and attitudes toward homeless people.

IHS supports HB202's proposal to expunge records of low level, non-violent convictions that prevent many homeless persons in recovery from advancing in their lives. Obtaining employment can be very difficult after having any record of arrest or convictions, no matter how small and non-violent the offense. Hawai'i law, HRS 378-2, prohibits discrimination in employment against individuals based on arrest or court record. The sad reality, however, is that unscrupulous employers can easily find public records of these events and discriminate covertly against these individuals, thus evading the public policy against discrimination based on such events.

HB202 wisely sets 4 conditions for expungement:

- The offense must be only minor, non-violent infractions under specified statutes;
- The conduct leading to the court record must be substantially related to the person's homeless status;
- The person must have satisfied all requirements of any judgment relating to the offense, other than payment of outstanding fines and fees; and
- The person must express a willingness to seek financial or mental health counseling, if financial or mental health challenges may contribute to their becoming or remaining homeless.

The harm of unexpunged records is particularly great when the individual's arrest or conviction was substantially related to the person's homelessness. The entire community loses when this occurs. These individuals with unexpunged records are hindered from obtaining employment that could sustain them and their families over their lifetime. The community loses vital members of the workforce and instead suffers the burden of financially supporting persons who cannot find gainful employment. The trauma to the individual from this situation spreads to the family and to those trying to support the individual, causing a cascade of inter-generational harm.

Native Hawaiians are over-represented both in regard to criminal records and homelessness. They need and deserve more enlightened approaches of support and rehabilitation, to help turn around generational trauma suffered by so many young people.

We therefore request passage of HB202.

Respectfully submitted,

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Connie Mitchell, Executive Director  
February 2, 2021

# 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 HEALTH, HUMAN SERVICES, & HOMELESSNESS

Rep. Ryan Yamane, Chair

Rep. Adrian Tam, Vice Chair

Tuesday, February 9, 2021

9:30 AM

### **STRONG SUPPORT FOR HB 202 - EXPUNGEMENT**

Aloha Chair Yamane, Vice Chair Tam, 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 more than 4,100 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 1,000 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.

This bill looks authorizes a court to expunge the records of a person for certain offenses if they are substantially related to their homeless status.

Community Alliance is in strong support of expungement. It acknowledges that a person has settled their debt to society and this bill would help lots of people who live unsheltered, some of whom were formerly incarcerated.

The legislature has taken a particular interest in reentry, as have many states on the U.S. continent. This has been a particular interest of Community Alliance on Prisons as we have worked with analysts and researchers from around the world exploring the best strategies to help our people successfully return home.

Looking through the research, I found this empirical study on expungements from the University of Michigan Law School.<sup>1</sup> The study used Michigan data from their State Police because it is a large, diverse state with criminal justice challenges typical of the United States today. They found that Michigan's expungement uptake rate is discouragingly low; their best estimate is that only 6.5% of all eligible

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<sup>1</sup> Expungement of Criminal Convictions: An Empirical Study, by J.J. Prescott; Sonja B. Starr, 2020.  
<https://repository.law.umich.edu/articles/2165>

individuals receive an expungement within five years of the date at which they first qualify for one.

The researchers also found very low rates of recidivism: just 7.1% of all expungement recipients are rearrested within five years of receiving their expungement (and only 2.6% are rearrested for violent offenses), while reconviction rates are even lower: 4.2% for any crime and only 0.6% for a violent crime. Indeed, expungement recipients' recidivism rates compare favorably with those of the Michigan population as a whole.

The researchers also examined the employment consequences of criminal record expungement. After accounting for an individual's prior employment and wage history, as well as broader changes in the economy, they found that expungement recipients experience considerable gains shortly after receipt. Within one year, on average, an individual's odds of being employed (earning any wages at all) increase by a factor of 1.13; their odds of earning at least \$100/week (a slightly more demanding employment measure) increase by a factor of 1.23; and their reported quarterly wages increase by a factor of 1.23 (and are sustained in subsequent years). These results suggest that those with expunged records gain access to more and better-paying jobs. To be sure, one has to be cautious about drawing causal inferences here; it is very possible that some of the gains come about because people choose to seek expungement at a time that they are especially motivated to seek improvements in their economic situation. Nonetheless, our data and other supporting evidence give us some confidence that at least a large fraction of the improvement that we observe stems from the clean record itself.

Many states have recently adopted, or are presently considering, new expungement laws or expansions to existing ones.

**New Mexico**, for the first time, passed a law in 2019 to make a petition-based expungement process available. In 2018,

In 2018, **Pennsylvania** became the first state to adopt a sweeping program of automatic expungement of adult criminal convictions – specifically, nonviolent misdemeanors after ten crime-free years.

In 2019, **Utah**, **New Jersey**, and **California** also enacted automatic expungement laws, which are more ambitious in some ways. (For example, Utah has only a five-year waiting period in some instances, and California's recent legislation has even shorter waiting periods (none in some cases) and encompasses minor felonies as well as misdemeanors, although the law only operates prospectively. The New Jersey law extends automatic expungement to some felonies as well as misdemeanors, without limits as to the number of convictions expunged, after a ten-year period with no subsequent convictions.)

From the Conclusion of this research:

“Taken together, our findings **strongly support increasing the availability of expungement – and particularly efforts to make expungements automatic, or at least procedurally easy to obtain.** Those whose records are expunged experience large gains in employment rates and wages – and while some of these gains may have their source in other factors such as underlying motivation, expungements very likely cause a substantial portion of these improvements. The expungement effects we uncover imply that record clearing compares favorably as a strategy to other policy interventions that seek to improve employment outcomes. Take, for example, job training – a common public investment. A meta-analysis of thirty-one studies covering fifteen different publicly funded job-training programs finds average unweighted gains in annual wages of \$832 for women and \$471 for men. Like expungement recipients in Michigan, participants in these programs were self-selected; they pursued the programs because they thought they would benefit from them. And they did benefit – but not nearly as much as expungement recipients do (annualized, the wage gains for our sample come to \$4594 for women and \$4295 for men). Meanwhile, the average cost of these job training programs to the government was \$6600 per person. Expungement, in contrast, has comparatively minimal costs (running a background check, holding a court hearing, processing the paperwork), and these could very likely be reduced much further if the process were simplified or automated. As an employment intervention, therefore, expungement appears superior to job training in terms of both its effectiveness and its price tag.

The arguments of expungement opponents do not typically focus on program expenditures, of course, but rather on public safety. Fortunately, **our findings on the crime front are equally encouraging. Subsequent offending rates after expungement are extremely low. Ninety-nine percent of those who receive expungements in Michigan are not convicted of a felony anytime in the next five years; 99.4% are not convicted of any violent crime; and 95.8% are not convicted of any crime at all, even a petty misdemeanor. In fact, expungement recipients appear to be lower risk than the general public.** To be sure, recidivism rates would not be as low if states made expungement available immediately following the completion of a sentence, removed judicial discretion, or extended it to a generally riskier pool, such as people with more extensive criminal records. But even in those scenarios, there is still no evidence to suggest that access to expungement would increase the recidivism risk of those groups; if anything, due to the benefits we find in terms of employment outcomes (and possible benefits in other areas), one should probably expect their recidivism rates to decline.

The discouraging element of our findings is that, despite the apparent benefits of expungement, very few people – even among those who are eligible – actually obtain them. Our best estimate is that 6.5% of people who meet the legal requirements for expungement in Michigan obtain one within five years – a small fraction of what

is already a small fraction of all those living with records, given the tight eligibility requirements. This low uptake rate is troubling, but not shocking, given the procedural hurdles and expenses involved, the lack of legal counsel, the dearth of public information, and the fact that most people with records have limited resources for overcoming these challenges. Unfortunately, all but a handful of states with expungement laws require individuals to apply for relief and give judges the discretion to deny them, so the situation is unlikely to be better in other states.”

There have been many stories in the news about the police citing the unsheltered community. One man in Honolulu received 100 citations and several others had multiple citations in the same day. This only drives the most vulnerable people in our communities further down the debt spiral. Many are already suffering from public health and social challenges they contend with daily just to survive, making their lives even more burdensome.

When people are struggling just to survive, they need a pathway out of their situations. Instead of piling on more problems, helping people find the resources they need to improve their lives and the lives of their families is a more productive and effective strategy instead of a criminal record.

Community Alliance on Prisons respectfully asks the committee to pass this important legislation.

Mahalo for this opportunity to testify.

*“We are caught in an inescapable network of mutuality,  
tied in a single garment of destiny.  
Whatever affects one directly, affects all indirectly.”*

*Dr. Martin Luther King Jr.*



Testimony of  
Sultan White,  
CEO of Civil Impact LLC

before the  
HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES & HOMELESSNESS  
Tuesday, February 9, 2021  
9:30 AM

In SUPPORT of  
HB202--RELATING TO EXPUNGEMENT

Aloha Chair Ryan Yamane, Vice Chair Adrian Tam, and Members of the Committee:

Civil Impact LLC is in **SUPPORT** of HB202, which will help remove barriers to employment, housing, and stability created by the criminalization of houselessness. This measure would create a way for people to clear their non-violent “quality of life” offenses arising from their houseless status from their criminal record. Currently, people with houseless related convictions have virtually no way to remove their related criminal records, despite having paid their debt to society. These criminal records act as a major barrier to housing and employment due to the stigma associated with all types of criminal records. Allowing the clearance of “quality of life” records, would provide people and families who once experienced houselessness an opportunity to turn their lives around by having greater access to employment and housing. I respectfully urge you to pass HB202.

Sincerely,  
Sultan White  
CEO, Civil Impact LLC





# HAWAII APPLESEED

## CENTER FOR LAW & ECONOMIC JUSTICE

Testimony of the Hawai'i Appleseed Center for Law & Economic Justice  
In Support of HB 202 – Clearing the Path Home for People Experiencing Houselessness/ Relating  
to Expungement  
House Committee on Health, Human Services, & Homelessness  
Tuesday, February 9, 2021, 9:30 AM, Via Videoconference

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Dear Chair Yamane, Vice Chair Tam, and members of the Committee:

Thank you for the opportunity to provide testimony in **SUPPORT** of **HB 202**.

Hawai'i Appleseed Center for Law & Economic Justice works to address systematic injustice and inequality that inhibits Hawai'i residents from achieving economic security and fulfilling their potential. A symptom of inequality is the persistently high prevalence of houselessness in Hawai'i.

The National Alliance to End Homelessness found that in 2019, Hawai'i had the 4<sup>th</sup> highest rate of houselessness amongst states and territories. For every 10,000 residents, 45 residents in Hawai'i were houseless, which is nearly 2.5 times higher than the average national rate of 17 people. As Hawai'i has adopted policy changes that increase criminalization of houselessness, the percentage of Hawai'i's residents struggling with houselessness increased by 6% from 2007 to 2019, and those who were without shelter increased by 8%.

We can anticipate that without intervention houselessness will dramatically climb post-pandemic. The Census's most recent Pandemic Household Pulse Survey (see week 22) found that of 122,230 Hawai'i residents surveyed, 54.6% of them are living in households not current on rent or mortgage where eviction or foreclosure is somewhat to very likely in the next two months. A housing cliff is approaching, and we must do all we can to address systematic issues now.

We support HB 202 because it targets a major impediment for houseless individuals to achieve social and economic security that will help them secure long-term housing. By expunging arrest and conviction records for certain state laws that are typically enforced against those experiencing houselessness and for any other non-violent offenses shown to have arisen from an individual's houseless status, the measure would alleviate the burden of criminal records on their ability to receive services, employment, and housing.

Houselessness is merely a symptom of an economic crisis affecting us all. Our state struggled to reduce houselessness pre-pandemic. We need to work together to find new solutions to mitigate the economic burden ahead. We urge the committee to **PASS HB 202**.

We appreciate your consideration of this testimony

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*The Hawai'i Appleseed Center for Law and Economic Justice is committed to a more socially just Hawai'i, where everyone has genuine opportunities to achieve economic security and fulfill their potential. We change systems that perpetuate inequality and injustice through policy development, advocacy, and coalition building.*



Committee: Committee on Health, Human Services, & Homelessness  
Hearing Date/Time: Tuesday, February 9, 2021, 9:30 a.m.  
Place: Via videoconference  
Re: Testimony of the ACLU of Hawai'i in Support of H.B. 202, Relating to Expungement

Dear Chair Yamane, Vice Chair Tam, and Members of the Committee:

The American Civil Liberties Union of Hawai'i ("ACLU of Hawai'i") writes **in support of, with one proposed amendment to, H.B. 202**, which allows for the expungement of records for certain offenses that are substantially related to a person's status of being houseless. **We ask that the measure be amended to provide for automatic expungement of records relating to a person's houseless status.**

The City & County of Honolulu has been steadfast in its effort to criminalize and/or civilly penalize the status of being poor through the enforcement of myriad anti-homeless laws, such as sit-lie bans, stored property ordinances, and sidewalk nuisance ordinances.<sup>1</sup> Additionally, citations issued pursuant to the Governor's and Mayor of Honolulu's emergency proclamations on COVID-19 under Haw. Rev. Stat. § 127A-25 were disproportionately enforced against people experiencing houselessness.<sup>2</sup> The City's

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<sup>1</sup> See, e.g., Revised Ordinances of Honolulu ("ROH") §§ 29-15.1, 29-15A.2, 29-15B.2 (sit-lie bans); ROH §§ 10-1.1, 10-1.2(a)(12), 10-1.2(a)(13), 10-1.2(a)(15), 10-1.3(a)(2) (park closure rules); ROH §§ 40-24A.1 – 40-24A.4 (urination and defecation bans); ROH §§ 29-16.1 to 29-6.3 & 29-10.1 to 29-19.8 (stored property and sidewalk nuisance ordinances); ROH §§ 29-8.1 to 29-8.11 (sidewalk structures ordinance). On June 18, 2020, Mayor Caldwell signed Bill 13 (2020), which further expands the sit-lie bans to Iwilei. See City Ordinance 20-15, Relating to Public Sidewalks, <http://www4.honolulu.gov/docushare/dsweb/Get/Document-264857/ORD20-015.pdf>. The City also passed Bills 51 and 52 in 2018, which criminalize "obstruction" of sidewalks and "lodging" in public places. See City Ordinance 18-34 Relating to Obstructions on Public Sidewalks, [http://www4.honolulu.gov/docushare/dsweb/Get/Document210691/DOC%20\(9\).PDF](http://www4.honolulu.gov/docushare/dsweb/Get/Document210691/DOC%20(9).PDF); Ordinance 18-35, Relating to Illegal Lodging, <http://www4.honolulu.gov/docushare/dsweb/Get/Document-210692/DOC001.PDF>.

<sup>2</sup> Christina Jedra & Yoohyun Jung, *Easy Targets? Some Oahu Homeless Have Been Ticketed Dozens of Times During the Pandemic*, Honolulu Civil Beat (November 2020) (finding that HPD's pandemic enforcement shows homeless people account for nearly a quarter of pandemic violations, despite comprising less than one percent of the population), available at <https://www.civilbeat.org/2020/11/easy-targets-some-oahu-homeless-have-been-ticketed-dozens-of-times-during-the-pandemic/>.

American Civil Liberties Union of Hawai'i  
P.O. Box 3410  
Honolulu, Hawai'i 96801  
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F: 808.522-5909  
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[www.acluhawaii.org](http://www.acluhawaii.org)

ordinances, as well as state laws such as Haw. Rev. Stat. §§ 708-814.7 and 711-1105, unfairly target innocent conduct that is a “universal and unavoidable consequence of being human.”<sup>3</sup>

The state and its counties must take immediate steps to end the criminalization of poverty. The enforcement of criminal laws prohibiting people from camping, sitting, lying, or engaging in other innocent conduct on public property violates the Eighth Amendment’s violation on cruel and unusual punishment as applied to people who are houseless and have no option to sleep indoors.<sup>4</sup> Further, saddling a person experiencing houselessness with fines and a criminal record is counterproductive to the goal of helping them lift themselves out of poverty. The collateral consequences of criminal records on a person’s ability to secure employment, housing, and services is well-documented.<sup>5</sup> While H.B. 202 does not substantively change existing laws prohibiting conduct that is related to a person’s status of being houseless, this bill is a significant step forward in providing a fresh start.

To maximize effectiveness, ACLU of Hawai‘i respectfully requests that this measure be amended to provide for the *automatic* expungement of records relating to offenses known to disproportionately target people experiencing houselessness. The petition process could create barriers to those who are making daily survival decisions and for whom filing a petition with the court is infeasible. Should the Committee be inclined to include this recommendation, the ACLU of Hawai‘i is happy to assist in identifying relevant laws and offense categories that could be made eligible for automatic expungement.

Thank you for the opportunity to testify.

Sincerely,

Mandy Fernandes  
Policy Director  
ACLU of Hawai‘i

*The mission of the ACLU of Hawai‘i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai‘i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai‘i is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawai‘i has been serving Hawai‘i for over 50 years.*

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<sup>3</sup> See, *Martin v. Boise*, 920 F.3d 584, 615-18 (9th Cir. 2019) at 616-17 (quoting *Jones v. City of L.A.*, 444 F.3d 1118, 1131-37 (9th Cir. 2006) at 1136.

<sup>4</sup> *Id.*

<sup>5</sup> Jaboa Lake, *Criminal Records Create Cycles of Multigenerational Poverty*, Center for American Progress (April 15, 2020), available at <https://www.americanprogress.org/issues/poverty/news/2020/04/15/483248/criminal-records-create-cycles-multigenerational-poverty/>.



LATE

**TESTIMONY OF TINA YAMAKI, PRESIDENT  
RETAIL MERCHANTS OF HAWAII  
February 9, 2021  
Re: HB 202 Relating to Expungement**

Good morning Chair Yamane and members of the House Committee on Health Human Services and Homelessness. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii was founded in 1901, RMH is a statewide, not for profit trade organization committed to the growth and development of the retail industry in Hawaii. Our membership includes small mom & pop stores, large box stores, resellers, luxury retail, department stores, shopping malls, local, national, and international retailers, chains, and everyone in between.

While we understand the intent, we are **STRONGLY OPPOSED** to HB 202 Relating to Expungement. This measure authorizes a court to expunge the records of a person for certain offenses if they are substantially related to the person's homeless status.

We are overly concerned as this bill essentially gives those who have been arrested for a non-violent crime like shoplifting, breaking into someone home, distribution of illegal drugs, prostitution, gambling, fraud, harassment, disorderly conduct to name a few will have their record erased because they are homeless. Labor laws already state how many years we can look back at a person's criminal record. We want to be sure that when we hire someone that they are not a risk to our fellow employees or our customers.

**This type of legislation is a big win for the offenders especially career criminals and an even bigger loss for anyone in the community who is a victim of a crime including our co-workers, family, friends, and neighbors.**

Retailers have major concerns on this measure.

- **Many thieves know the exact value of what they are stealing and makes sure that what they are taking is valued right under the minimum threshold.** Retailers have been facing an upward increase in theft – from designer clothing to handbags to sunglasses to electronics to spam to cosmetics to liquor to tobacco to name a few.
- **Because the criminal's records are expunged or essentially erased by the courts, offenders get a free pass.** This bill highlights that there is no real consequence to those offenders of non-violent crimes including career criminals. Jails are filled and with the pandemic and social distancing, many of these nonviolent offenders know that they will spend little to no jail time – they just have to claim to be homeless.
- **For organized retail criminals, they consider stealing from our stores their daily job.** The thieves are part of organized retail crime and come into the stores daily with a list of items, like your grocery list, of things that they are going to steal: Designer handbags, jewelry, electronics, tools to name a few.
- **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, the thieves 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 do not prosecute, 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. **Bills like this give criminals the green light to do nonviolent illegal activities as there are no real consequences for their actions only a slap on the wrist.**

- **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 must 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 or close our doors for good.**

We ask that you hold this measure.

Mahalo again for this opportunity to testify.

LATE

**HB-202**

Submitted on: 2/8/2021 11:30:51 AM  
Testimony for HHH on 2/9/2021 9:30:00 AM

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

Comments:

Good morning Chair Yamane and members of the House Committee on Health Human Services and Homelessness. I am Neil Ishida, Director of Government Affairs at ABC Stores. I appreciate this opportunity to testify.

While we understand the intent, we are STRONGLY OPPOSED to HB 202 Relating to Expungement. This measure authorizes a court to expunge the records of a person for certain offenses if they are substantially related to the person's homeless status.

We are overly concerned as this bill essentially gives those who have been arrested for a non-violent crime like shoplifting, breaking into someone home, distribution of illegal drugs, prostitution, gambling, fraud, harassment, disorderly conduct to name a few will have their record erased because they are homeless. Labor laws already state how many years we can look back at a person's criminal record. We want to be sure that when we hire someone that they are not a risk to our fellow employees or our customers.

This type of legislation is a big win for the offenders, especially career criminals.

ABC Stores have major concerns on this measure.

- Many thieves know the exact value of what they are stealing and makes sure that what they are taking is valued right under the minimum threshold. We have been facing an upward increase in theft.
- Because the criminal's records are expunged or essentially erased by the courts, offenders get a free pass. This bill highlights that there is no real consequence to those offenders of non-violent crimes including career criminals. Jails are filled and with the pandemic and social distancing, many of these nonviolent offenders know that they will spend little to no jail time – they just have to claim to be homeless.
- For organized retail criminals, they consider stealing from our stores their daily job. The thieves are part of organized retail crime and come into the stores daily with a list of items, like your grocery list, of things that they are going to steal.
- It is a losing battle for 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, the thieves are right back into our stores stealing again.

Thank you again for the opportunity to submit testimony.

LATE

**HB-202**

Submitted on: 2/8/2021 2:45:41 PM

Testimony for HHH on 2/9/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kaikea K. Blakemore	Neighborhood Place of Puna	Support	No

Comments:

Saddling a person experiencing houselessness with fines and a criminal record is counterproductive to the goal of helping them lift themselves out of poverty, and with more people facing eviction in light of the pandemic's economic downturn, it's beyond time that the state takes immediate steps to end the criminalization of poverty. That's why we support expungement bill HB 202 with one proposed ammendment.

HB 202 allows for the expungement of records for certain offenses that are substantially related to a person's status of being houseless. **We ask that the measure be amended to provide for *automatic expungement of records***, considering what we know about collateral consequences: a criminal record for sleeping on the sidewalk could be the deciding factor between a secure job and being perpetually discriminated against at every turn.

Thank you for your time.

Kaikea K. Blakemore

Community Development Specialist

Neighborhood Place of Puna;

Community Alliance Partners

Awareness Chair



LATE



# Kamehameha Schools®

House Committee on Health, Human Services, & Homelessness

Time: 9:30 a.m.

Date: February 9, 2021

Where: Via Videoconference

## TESTIMONY

By Kau'i Burgess

Director of Community & Government Relations

RE: HB202 Relating to Expungement

E ka Luna Ho'omalū Yamane, ka Hope Luna Ho'omalū Tam, a me nā Lālā o kēia Kōmike,  
aloha!

We are writing in **support of HB202**, which authorizes a court to expunge the records of a person for certain offenses if they are substantially related to the person's homeless status.

Kamehameha Schools believes that the environment in which our keiki live directly impacts their ability to find success in education and life. Unfortunately, the cost of living in Hawai'i and other pressing community issues have forced too many of our keiki and their families to experience homelessness. These trying situations often result in negative interactions with the criminal justice system, which hinder individuals' ability to obtain employment, housing, and access to other opportunities. Kamehameha Schools believes that we must empower the homeless and formerly homeless to advance themselves. Removing barriers to such advancement, including expunging criminal records for certain non-violent offenses related to homelessness, is necessary.

For these reasons, we humbly ask that you pass HB202. We also recognize the insightful comments of other testifiers suggesting possible amendments to improve this measure, while advancing the intended outcome.

Founded in 1887, Kamehameha Schools is an organization striving to advance a thriving Lāhui where all Native Hawaiians are successful, grounded in traditional values, and leading in the local and global communities. We believe that community success is individual success, Hawaiian culture-based education leads to academic success and local leadership drives global leadership.



LATE \*Testimony submitted late may not be considered by the Committee for decision making purposes.

Inspiring Hope, Changing Lives

Visit us on the web: www.hopeserviceshawaii.org

Connect via email: info@hopeserviceshawaii.org

HOPE Help Line: 808-935-3050

TESTIMONY IN SUPPORT OF HB 202: RELATING TO EXPUNGEMENT

TO: Committee Chair, Vice-Chair and Committee Members
FROM: Brandee Menino, CEO, Hope Services Hawaii, Inc.
Hearing: Tuesday, 2/9/21; 9:30 am; Room 329

Thank you for the opportunity to provide testimony in support of HB 202, authorizing a court to expunge the records of a person for certain offenses if they are substantially related to the person's homeless status. We strongly support this measure and suggest an amendment to make the expungement automatic.

Criminal records and the stigma associated with those who carry them often stand in the way of moving our houseless 'ohana into permanent housing. We often find landlords less willing to rent to a tenant with a criminal record, regardless of the severity of the crime.

Branding our participants with a permanent label also costs more. When a participant is unable to find permanent housing, they are likely to stay with us longer, or worse, fall back into homelessness.

It's also important to note that the criminalization of homelessness, and the racially biased enforcement of homelessness-related crimes (including COVID-19 violations) disproportionately affects already marginalized communities.

All our neighbors deserve a safe place to rest their head, whether they have experienced homelessness or not. Today, I urge you to take a concrete step toward that future by supporting automatic expungement of homelessness-related crimes, by supporting HB 202 with amendments.

Mahalo nui for your consideration.

Sincerely,

Handwritten signature of Brandee Menino
Brandee Menino,
Chief Executive Officer

JOIN OUR COMMUNITY



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ADMINISTRATIVE OFFICE
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WEST HAWAII EMERGENCY
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Chief Executive Officer
Brandee Menino

**HB-202**

Submitted on: 2/5/2021 4:11:35 PM

Testimony for HHH on 2/9/2021 9:30:00 AM

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

Comments:

Please pass HB202, which will help remove barriers to employment, housing, and stability created by the criminalization of houselessness. This measure would create a way for people to clear their non-violent “quality of life” offenses arising from their houseless status from their criminal record.

Currently, people with houseless related convictions have virtually no way to remove their related criminal records, despite having paid their debt to society. These criminal records act as a major barrier to housing employment due to the stigma associated with all types of criminal records. Allowing the clearance of “quality of life” records, would provide people and families who once experienced houseless an opportunity to turn their life around by having greater access to employment and housing.

I respectfully urge you to pass HB202!

**HB-202**

Submitted on: 2/5/2021 4:36:29 PM

Testimony for HHH on 2/9/2021 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kimberly U'ilani Chow-Rule	Individual	Support	No

Comments:

Please pass HB202, which will help remove barriers to employment, housing, and stability created by the criminalization of houselessness. This measure would create a way for people to clear their non-violent "quality of life" offenses arising from their houseless status from their criminal record.

As a nurse, I am too familiar with how the social determinants connect to health. As a Kanaka Maoli, too many of us are struggling to remain in our homelands and in our houses. Clearly, the way forward would be to remove barriers for those who have experienced hardship in the form of houselessness to build a life where they may find a job and a house without a criminal record.

I respectfully urge you to pass HB202!

K. U'ilani Chow-Rule

**HB-202**

Submitted on: 2/5/2021 4:47:51 PM

Testimony for HHH on 2/9/2021 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
B.A. McClintock	Individual	Support	No

Comments:

Please pass HB202, which will help remove barriers to employment, housing, and stability created by the criminalization of houselessness. This measure would create a way for people to clear their non-violent “quality of life” offenses arising from their houseless status from their criminal record.

Currently, people with houseless related convictions have virtually no way to remove their related criminal records, despite having paid their debt to society. These criminal records act as a major barrier to housing employment due to the stigma associated with all types of criminal records. Allowing the clearance of “quality of life” records, would provide people and families who once experienced houseless an opportunity to turn their life around by having greater access to employment and housing.

I respectfully urge you to pass HB202!

**HB-202**

Submitted on: 2/5/2021 4:54:22 PM

Testimony for HHH on 2/9/2021 9:30:00 AM

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

Comments:

I strongly support this bill.

**HB-202**

Submitted on: 2/5/2021 5:12:06 PM

Testimony for HHH on 2/9/2021 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Elizabeth Ann K Poire	Individual	Support	No

Comments:

Please pass HB202, which will help remove barriers to employment, housing, and stability created by the criminalization of houselessness. This measure would create a way for people to clear their non-violent “quality of life” offenses arising from their houseless status from their criminal record.

Currently, people with houseless related convictions have virtually no way to remove their related criminal records, despite having paid their debt to society. These criminal records act as a major barrier to housing employment due to the stigma associated with all types of criminal records. Allowing the clearance of “quality of life” records, would provide people and families who once experienced houseless an opportunity to turn their life around by having greater access to employment and housing.

I respectfully urge you to pass HB202!

**HB-202**

Submitted on: 2/5/2021 5:21:40 PM

Testimony for HHH on 2/9/2021 9:30:00 AM

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

## Comments:

I support the intent of this bill, which is to not penalize houseless people for their living situation. houseless people are particularly vulnerable to the unjust use of criminal offenses to deny people access to public services and support to help them rise above their situation in life, This bil at least helps them expunge their record for offenses directly related to being houseless. We are better off as a society when people have suitable housing and can access needed services nad support. Let's not petty criminal offenses get in the way of that. Please support this bill.



**HB-202**

Submitted on: 2/5/2021 5:21:45 PM

Testimony for HHH on 2/9/2021 9:30:00 AM

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

Comments:

Please pass HB202, which will help remove barriers to employment, housing, and stability created by the criminalization of houselessness. This measure would create a way for people to clear their non-violent “quality of life” offenses arising from their houseless status from their criminal record.

Currently, people with houseless related convictions have virtually no way to remove their related criminal records, despite having paid their debt to society. These criminal records act as a major barrier to housing employment due to the stigma associated with all types of criminal records. Allowing the clearance of “quality of life” records, would provide people and families who once experienced houseless an opportunity to turn their life around by having greater access to employment and housing.

I respectfully urge you to pass HB202!

**HB-202**

Submitted on: 2/5/2021 5:22:27 PM

Testimony for HHH on 2/9/2021 9:30:00 AM

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

Comments:

Please pass HB202, which will help remove barriers to employment, housing, and stability created by the criminalization of houselessness. This measure would create a way for people to clear their non-violent “quality of life” offenses arising from their houseless status from their criminal record.

Currently, people with houseless related convictions have virtually no way to remove their related criminal records, despite having paid their debt to society. These criminal records act as a major barrier to housing employment due to the stigma associated with all types of criminal records. Allowing the clearance of “quality of life” records, would provide people and families who once experienced houseless an opportunity to turn their life around by having greater access to employment and housing.

I respectfully urge you to pass HB202!

**HB-202**

Submitted on: 2/5/2021 6:08:43 PM

Testimony for HHH on 2/9/2021 9:30:00 AM

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

**Comments:**

Please pass HB202, which will help remove barriers to employment, housing, and stability created by the criminalization of homelessness. This measure would create a way for people to clear their non-violent “quality of life” offenses arising from their homeless status from their criminal record.

Currently, people with homeless related convictions have virtually no way to remove their related criminal records, despite having paid their debt to society. These criminal records act as a major barrier to housing employment due to the stigma associated with all types of criminal records. Allowing the clearance of “quality of life” records, would provide people and families who once experienced homeless an opportunity to turn their life around by having greater access to employment and housing.

I respectfully urge you to pass HB202!

Lehua Kaulukukui,

Puakalehua Consortium & Kuamoo Foundation

**HB-202**

Submitted on: 2/5/2021 6:16:06 PM

Testimony for HHH on 2/9/2021 9:30:00 AM

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

Comments:

Please pass HB202, which will help remove barriers to employment, housing, and stability created by the criminalization of houselessness. This measure would create a way for people to clear their non-violent “quality of life” offenses arising from their houseless status from their criminal record.

Currently, people with houseless related convictions have virtually no way to remove their related criminal records, despite having paid their debt to society. These criminal records act as a major barrier to housing employment due to the stigma associated with all types of criminal records. Allowing the clearance of “quality of life” records, would provide people and families who once experienced houseless an opportunity to turn their life around by having greater access to employment and housing.

I respectfully urge you to pass HB202

**HB-202**

Submitted on: 2/5/2021 11:00:42 PM

Testimony for HHH on 2/9/2021 9:30:00 AM

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

Comments:

Please pass HB202, which will help remove barriers to employment, housing, and stability created by the criminalization of houselessness. This measure would create a way for people to clear their non-violent “quality of life” offenses arising from their houseless status from their criminal record.

Currently, people with houseless related convictions have virtually no way to remove their related criminal records, despite having paid their debt to society. These criminal records act as a major barrier to housing employment due to the stigma associated with all types of criminal records. Allowing the clearance of “quality of life” records, would provide people and families who once experienced houseless an opportunity to turn their life around by having greater access to employment and housing.

I respectfully urge you to pass HB202!

**HB-202**

Submitted on: 2/6/2021 7:04:47 AM

Testimony for HHH on 2/9/2021 9:30:00 AM

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

Comments:

Please pass HB202, which will help remove barriers to employment, housing, and stability created by the criminalization of houselessness. This measure would create a way for people to clear their non-violent “quality of life” offenses arising from their houseless status from their criminal record.

Currently, people with houseless related convictions have virtually no way to remove their related criminal records, despite having paid their debt to society. These criminal records act as a major barrier to housing employment due to the stigma associated with all types of criminal records. Allowing the clearance of “quality of life” records, would provide people and families who once experienced houseless an opportunity to turn their life around by having greater access to employment and housing.

I respectfully urge you to pass HB202!

**HB-202**

Submitted on: 2/6/2021 7:49:21 AM

Testimony for HHH on 2/9/2021 9:30:00 AM

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

Comments:

I support HB202 - the extent of this system's brutality and lack of empathy is exhausting for a feeling person like myself. Imagine how exhausting it must be, then, for the unsheltered who are essentially just harassed by police and the courts. Respectfully, do better, lawmakers.

**HB-202**

Submitted on: 2/6/2021 8:25:22 AM

Testimony for HHH on 2/9/2021 9:30:00 AM

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

Comments:

Strong support.



**HB-202**

Submitted on: 2/6/2021 9:01:34 AM

Testimony for HHH on 2/9/2021 9:30:00 AM

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

Comments:

Dear Chair Yamane and Vice Chair Tam,

I write in strong support of HB 202, which would make it easier for people to expunge from their criminal record certain offenses related to their housing insecurity.

As someone who has represented and advocated for people experiencing homelessness, I submit this bill is important for three reasons.

First, criminalizing people for their poverty and inability to pay for housing is plain wrong; particularly in one of the states where housing is out of the reach of so many people. While this bill would not prevent the everyday harassment and criminalization of people for being poor in public, it would make the consequences of such criminalization less permanent and harmful.

Second and relatedly, having a criminal record makes it nearly impossible for someone to escape homelessness and poverty, because getting housing or a job with a long rap sheet of mostly minor, poverty-related offenses is an insurmountable barrier to most.

Third, it is time Hawai'i makes it easier for people to expunge criminal offenses from the record. Under current law, expungement is only allowed for less than a handful of offenses. With over 400 collateral consequences of convictions in Hawai'i (<https://niccc.nationalreentryresourcecenter.org/consequences>), and a criminal legal system that is not designed for rehabilitation, it is about time we begin giving people a meaningful second chance.

For these reasons, I respectfully urge your Committee to pass HB 202.

Sincerely,

Mateo Caballero

**HB-202**

Submitted on: 2/6/2021 9:12:10 AM

Testimony for HHH on 2/9/2021 9:30:00 AM

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

Comments:

Tuesday, February 9, 2021 Conference Room 329 - 9:30am

Aloha Chair Yamane, Vice-Chair Tam, and Honorable Members,

I **support** HB202 because there is currently no way for a person who has experienced houselessness to expunge their conviction record. This means a person's challenging time in their life will forever prohibit them from opportunities like employment and housing due to the stigma associated with criminal records.

Please **pass** HB202.

Mahalo,

Jen Jenkins

**Testimony of Ellen Godbey Carson in Support of HB202  
To the House Committee on Health, Human Services & Homelessness  
Hearing Date: February 9, 2021, 9:30am, Conf Room 329**

I write in support of HB202. I care deeply about making our community more just and humane for persons who experience homelessness. While I am testifying on my own behalf, I have served as president of IHS (Institute for Human Services), Hale Kipa (Youth Services), Hawaii State Bar Association and Hawaii Women Lawyers.

I support HB202's proposal to expunge records of low level, non-violent convictions that prevent many homeless persons in recovery from advancing in their lives. HB 202 can help those who have been homeless and have minor criminal records, become more productive and self-supporting. Obtaining employment can be very difficult after having any record of arrest or convictions, no matter how small and non-violent the offense. HRS 378-2 prohibits discrimination in employment against individuals based on arrest or court record. The sad reality, however, is that unscrupulous employers can easily find public records of these events and discriminate covertly against these individuals, thus evading our public policy against discrimination based on such events.

HB202 wisely sets 4 conditions for expungement:

- The offense must be only minor, non-violent infractions under specified statutes;
- The conduct leading to the court record must be substantially related to the person's homeless status;
- The person must have satisfied all requirements of any judgment relating to the offense, other than payment of outstanding fines and fees; and
- The person must express a willingness to seek financial or mental health counseling, if financial or mental health challenges may contribute to their becoming or remaining homeless.

The harm of unexpunged records is particularly great when the individual's arrest or conviction was substantially related to the person's homelessness. The entire community loses when this occurs. These individuals with unexpunged records are hindered from obtaining employment that could sustain them and their families over their lifetime. The community loses vital members of the workforce and instead suffers the burden of financially supporting persons who cannot find gainful employment. The trauma to the individual from this situation spreads to the family and to those trying to support the individual, causing a cascade of inter-generational harm.

Native Hawaiians are over-represented both in regard to criminal records and homelessness. They need and deserve more enlightened approaches of support and rehabilitation, to help turn around generational trauma suffered by so many young people. I therefore request passage of HB202.

Ellen Godbey Carson

Honolulu, Hawaii February 6, 2021



**HB-202**

Submitted on: 2/6/2021 9:46:11 AM

Testimony for HHH on 2/9/2021 9:30:00 AM

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

Comments:

I support this bill to be approved by the House of Representatives. Mahalo

**HB-202**

Submitted on: 2/6/2021 11:45:00 AM

Testimony for HHH on 2/9/2021 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Carrie Ann Shirota	Individual	Support	No

Comments:

Aloha Chair Yamane, Vice Chair Tam and Committee Members:

My name is Carrie Ann Shirota, and I am writing in support of HB 202 Relating to Expungement. This bill authorizes a court to expunge the records of a person for certain offenses if they are substantially related to the person's homeless state .

As background, I am an attorney and have experience working to enforce our fair employment, housing and public accommodation laws. I have also worked as Director for MEO's Reintegration Program on Maui, as a Public Defender, and as a UH Maui College Counselor working with students with criminal justice histories. On a personal note, I have loved ones with past criminal records. All of these experiences provide a lens for policies in support of Restorative Justice - where we hold individuals accountable for past harm, while also providing opportunities to do good and become contributing members of our community.

Sadly, many policies over the past few decades have resulted in the criminalization of poverty and homelessness. The good news is that more policy makers recognize that there are most cost- effective and humane ways to address homelessness and its disproportionate impact on Native Hawaiians than arresting and incarcerating people.

This bill would provide an expungement pathway for people to move forward in their lives and not continue to face the collateral consequences of a criminal record years later.

Please do what is humane and just and pass HB202.

Mahalo for your consideration.

Carrie Ann Shirota

**HB-202**

Submitted on: 2/6/2021 12:16:06 PM

Testimony for HHH on 2/9/2021 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Robert B Huber	Individual	Support	No

Comments:

The pandemic has created more violence , and crime due to unemployment . I believe that the mishandling of the Unemployment Office has led to a mistrust from its people leading to more petty crimes for ones survival , to no fault of their own due to pandemic . The homeless should be given a chance to esponge and previous misdeeds or actions with proper explanation to the court. I am in support of this bill .

**HB-202**

Submitted on: 2/6/2021 5:06:34 PM

Testimony for HHH on 2/9/2021 9:30:00 AM

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

Comments:

Aloha House Committee on Health, Human Services and Homelessness and thank you for the opportunity to testify.

I request that you pass HB202 in the hopes that it will help those many disenfranchised and displaced persons. Due to the influx of mainlanders “working from home” now in Hawaii, increased domestic violence, evictions, and the state’s inability to help support affordable housing, it is extremely important to meet the needs of those unable to access the resources that are being taken away.

I feel that it is also important to state that mental illness are sometimes correlated, but the assumption that the former causes the latter, as indicated in HB202 Section 1e, is dangerous. While many are subject to houselessness because of underlying medical conditions, it is also worthwhile to mention the impacts of the pandemic and systematic racism on Hawaiian, Black, Latinx, and Asian women and children and their ability to find a safe home.

Thank you for taking this important step toward decriminalizing houslessness.



**HB-202**

Submitted on: 2/6/2021 5:08:15 PM

Testimony for HHH on 2/9/2021 9:30:00 AM

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

Comments:

Aloha!!!

The houseless of Hawaii have it hard enough as is. Especially those houseless kama'ainas with mental disabilities. That is why I am in support of HB 202, as long as the person in question is not charged with a severe or violent criminal offense.

Mahalo

**HB-202**

Submitted on: 2/7/2021 10:04:51 AM

Testimony for HHH on 2/9/2021 9:30:00 AM

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

Comments:

I think this is a beautiful measure that, if implemented well, could drastically change people's lives for the better. The ACLU has proposed that the expungement be automatic (not quite sure what this would look like), but I think their proposal could protect against the frustration of state legal proceedings and their long wait times, which could deter many already stressed out people from utilizing this potentially great bill. This is a highly necessary bill as Hawaii residents are trying to re build their lives after the tumult that was COVID-19.

**HB-202**

Submitted on: 2/7/2021 10:06:47 AM

Testimony for HHH on 2/9/2021 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Michal Fentin Stover	Individual	Support	No

## Comments:

I support HB202 but ask that it be amended to provide for automatic expungement of records. Houselessness should not be a crime. A criminal record for sleeping on the sidewalk or any similar offense may mean the difference between a person's obtaining employment or perpetually be kept down. Thank you.

**HB-202**

Submitted on: 2/7/2021 10:07:18 AM

Testimony for HHH on 2/9/2021 9:30:00 AM

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

Comments:

Aloha,

I strongly support HB202 to expunge records which are related to homelessness. The homeless do not need criminal records for being homeless as they try to move out of homelessness.

Mahalo.

**HB-202**

Submitted on: 2/7/2021 10:33:18 AM

Testimony for HHH on 2/9/2021 9:30:00 AM

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

Comments:

End Criminal homelessness!

Mahalo,

Don

**HB-202**

Submitted on: 2/7/2021 10:38:03 AM

Testimony for HHH on 2/9/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Nathan Leo Braulick	Individual	Support	No

Comments:

To the members of the committee:

**I am writing in support of HB 202.**

Saddling a person experiencing houselessness with fines and a criminal record is counterproductive to the goal of helping them lift themselves out of poverty. With more people facing eviction in light of the pandemic's economic downturn, **it's beyond time that the state takes immediate steps to end the criminalization of poverty.**

HB 202 allows for the expungement of records for certain offenses that are substantially related to a person's status of being houseless. **I support the amendment of the measure to provide for *automatic expungement of records***, considering what we know about collateral consequences: a criminal record for sleeping on the sidewalk could be the deciding factor between a secure job and being perpetually discriminated against at every turn.

**We need to end the unjust barriers to safe and stable housing for all.** HB 202 is a significant step forward in providing a fresh start and changing the status quo of criminalizing poverty at every level.

**#SupportNotShame**

Nathan Leo Braulick

2333 Kapiolanli Blvd., #1604

Honolulu, HI 96826

**HB-202**

Submitted on: 2/7/2021 10:52:29 AM

Testimony for HHH on 2/9/2021 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
janice palma-glennie	Individual	Support	No

Comments:

Aloha,

This bill would allow for the expungement of records for certain offenses that are substantially related to a person's status of being houseless. I agree with the ACLU that it should be amended to provide automatic expngement of records so that a homeless person can start a new life -- not be anchored to their bad luck with no chance to have a better life.

mahalo for voting "yes" and for amended HB202.

sincerely,

Janice Palma-Glennie

kailua-kona

**HB-202**

Submitted on: 2/7/2021 10:55:10 AM

Testimony for HHH on 2/9/2021 9:30:00 AM

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

Comments:

My name is Keisa Liu and I live in Maui County and an EA for Maui County Councilmember Gabe Johnson. I would like to express my strong **support** for HB202.

At no point should we ever criminalize someone for not having a home. In our current system, once someone has a felony, their prospects for employment and housing are severely negatively affected. What sense does it make to criminalize someone for not having a home and then put them into a system that makes it difficult for them to get one?

If our work as public servants is to protect basic human rights, then it is our duty to preserve and protect basic human rights to housing access regardless of their status in our society. This bill is a step in the right direction to actually do this.



**HB-202**

Submitted on: 2/7/2021 11:21:40 AM

Testimony for HHH on 2/9/2021 9:30:00 AM

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

Comments:

Good morning,

Please vote yes and pass HB202. Houselessness should not be criminalized especially not at this time.

**HB-202**

Submitted on: 2/7/2021 11:24:10 AM

Testimony for HHH on 2/9/2021 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
JoAnn Bishop Freed	Individual	Support	No

Comments:

Aloha

I am submitting this testimony to share my strong support of HB 202. I am an advocate for family support measures, and I have found the state's approach to the challenge of homelessness wanting, particularly the approach of criminalizing this social problem, particularly in the time of CoVid-19. As HB 202 allows for the expungement of records for certain offenses that are substantially related to a person's status of being houseless. **I believe that the measure should be passed with an amendment to provide for *automatic expungement of records***, considering what we know about collateral consequences: a criminal record for sleeping on the sidewalk could be the deciding factor between a secure job and being perpetually discriminated against at every turn. It is really long overdue that our state helps to create healthy families and a healthy environment, and this is one movement forward on that path.

Thank you.

JoAnn Bishop Freed

**HB-202**

Submitted on: 2/7/2021 12:13:19 PM

Testimony for HHH on 2/9/2021 9:30:00 AM

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

Comments:

Aloha, my name is Carolyn Eaton and I strongly support HB 202.

We are a community and this sort of persisting stigma divides us unnecessarily. Please end the current practice.

**HB-202**

Submitted on: 2/7/2021 12:48:44 PM

Testimony for HHH on 2/9/2021 9:30:00 AM

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

Comments:

A friend had a Masters in Aeronautical Engineering and designed the outboard wing of the B-2 bomber. He ended up divorced, which snowballed into his losing his job, which put him on the street. Someone helped him get off of the street and helped him find a job in an auto parts shop.

Another friend inherited a house in which the mortgage had been paid off at least three times over. That mortgage outfit was unconscionable, as she was eventually kicked out of the house. For what was originally supposed to have been a few weeks, she parked her van and the three cats, who didn't get along with my cat, in my covered parking space for several months. She and her three cats ended up leaving the country. When the last lava flow came through, it didn't hit the house, but not by much.

I'm not sure of the rest of the world, but in this questionably managed country, houselessness is an epidemic, if not a pandemic that shouldn't be treated as a crime. I came close to being houselessness once and it scared the hell out of me. You are looked down upon if you do not have a car or a house. I spent three years in a fairly hostile city on the continent without a car, but had a bicycle, while looking for a job.

On two separate occasions I was attacked by gangs of 4 teenage boys while carrying things in bags on my handlebars. They presumed I was homeless, which made it alright for them to beat me up, but I out paced them. One of them invariably yelled, "hey you, come back here!" , as if they believed I would. Had I been forced to defend myself, they would have claimed I attacked them and my Veteran status would have dragged over the coals, as many who have never served believe we're all trained killers. A polygraph exam would have proven otherwise, but when you're at the bottom of the economic food chain, you don't matter and you know it.

**HB-202**

Submitted on: 2/7/2021 1:21:08 PM

Testimony for HHH on 2/9/2021 9:30:00 AM

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

Comments:

Please pass HB202, which will help remove barriers to employment, housing, and stability created by the criminalization of houselessness. This measure would create a way for people to clear their non-violent “quality of life” offenses arising from their houseless status from their criminal record.

Currently, people with houseless related convictions have virtually no way to remove their related criminal records, despite having paid their debt to society. These criminal records act as a major barrier to housing employment due to the stigma associated with all types of criminal records. Allowing the clearance of “quality of life” records, would provide people and families who once experienced houseless an opportunity to turn their life around by having greater access to employment and housing.

I respectfully urge you to pass HB202!

**HB-202**

Submitted on: 2/7/2021 1:35:42 PM

Testimony for HHH on 2/9/2021 9:30:00 AM

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

Comments:

Saddling a person experiencing houselessness with fines and a criminal record is counterproductive to the goal of helping them lift themselves out of poverty, and with more people facing eviction in light of the pandemic's economic downturn, it's beyond time that the state takes immediate steps to end the criminalization of poverty. Please support this bill.

**HB-202**

Submitted on: 2/7/2021 1:40:52 PM

Testimony for HHH on 2/9/2021 9:30:00 AM

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

Comments:

Mahalo for considering this important bill that moves towards the decriminalization of poverty.

**HB-202**

Submitted on: 2/7/2021 1:50:38 PM

Testimony for HHH on 2/9/2021 9:30:00 AM

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

Comments:

I live in Chinatown / Arts District and I live across from the Smith-Beretania park where there are many houseless people. Sometimes at night, there are police vehicles that announce on a loudspeaker, "park's closed." While the park is, in fact, closed, I find that the manner in which law enforcement goes about this very delicate situation of telling people (who very clearly do not have a residence to go to) is rather inappropriate and insensitive. I am telling you this because I believe the state's criminalization of poor people is equally inappropriate and insensitive. Criminalizing the status of being poor through sit-lie bans and sidewalk nuisance orders not only hinders the ability of the offender to make progress on finding a residence but also communicates a disregard for the human dignity of the offender. I strongly support HB 202 as it addresses the systemic marginalization of the poor.



**HB-202**

Submitted on: 2/7/2021 2:50:16 PM

Testimony for HHH on 2/9/2021 9:30:00 AM

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

Comments:

Chair Ryan Yamane, Vice Chair Adrian Tam

House Committee on Health, Human Services, and Homelessness,

Jenta Russell, 276 Kealakapu Rd Kula HI 96790, ph (808)280-4285

Tuesday February 9, 2021 at 9:30am

Support for expungement bill HB 202, and ask the measure be amended to provide for automatic expuengment of records.

As a life long resident of Hawaii, I am testifying in strong support of expungement bill HB 202. Our houseless community members need to be supported, not penalized for their poverty. Allowing for the expungement of records for certain offenses substantially related to poverty, as this bill HB 202 calls for, you are providing support to those most in need. I also ask that this measure be amended to provide for automatic expungement of records.

Mahalo nui loa,

Jenta Russell

COMMITTEE ON HEALTH, HUMAN SERVICES AND HOMELESSNESS  
TUESDAY, 2/9/21, 9:30 am, Room No. 329

HB202, RELATING TO EXPUNGEMENT  
**Beppie Shapiro**, testifying as an individual

Chair YAMANE, Vice-Chair TAM, and Committee Members:

**I support this bill, which authorizes a court to expunge the record of a person for certain offenses if they are substantially related to the person's homeless status, and waives payment of fees and costs related to charges brought for those offenses. I also suggest an amendment to this measure.**

In recent years legal offenses have been defined which basically criminalize homelessness, such as sit/lie bans etc., in jurisdictions in Hawaii. Once convicted of such offenses, a homeless individual is burdened by a criminal record which will prevent many types of employment, applications for rental housing, etc. Thus a homeless person is less likely to be able to escape homelessness and become a productive or functioning part of society.

HB202 allows the expungement of such criminal records for non-violent offenses substantially related to the individual's homelessness. This bill will enhance the possibility of a homeless person returning to housed status and employment.

Importantly, HB202 also waives the payment of fines and fees. It goes almost without saying that homeless individuals are very often impoverished. Such financial costs can impose a completely impossible burden on them, leading to their experiencing further legal jeopardy through non-payment. This part of HB202 is an important improvement in the administration of justice.

After reading the form to be completed by an applicant for relief under HB202, I suggest another amendment. Why not automatically expunge those criminal records? This would substantially reduce administrative costs, and obviate a requirement for literacy and ability to follow a bureaucratic process with is well beyond the capacities of many homeless individuals.

Thank you for the opportunity to submit testimony.

**HB-202**

Submitted on: 2/7/2021 10:28:24 PM

Testimony for HHH on 2/9/2021 9:30:00 AM

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

Comments:

Aloha. Any criminal record can affect a person's ability to obtain employment & government benefits. Being poor should not cause these harms. It's time to put more effort into helping people out of homelessness & less into punishing them. Thank you.

**HB-202**

Submitted on: 2/8/2021 7:05:45 AM

Testimony for HHH on 2/9/2021 9:30:00 AM

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

Comments:

Please amend to make this measure enact a automatic expungement of records, criminal records negatively affect a individuals ability to get a job, get housing, and serves as legal discrimination.

LATE

**HB-202**

Submitted on: 2/8/2021 10:53:26 AM

Testimony for HHH on 2/9/2021 9:30:00 AM

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

Comments:

Criminalization is not a tool to solve homelessness; it is a weapon. Until we stop enforcing punitive policies that only cause more harm and fail to address the root causes of homelessness, I support HB202 which will help people experiencing houselessness clear their convictions based on that status which will aid in securing critical documentation, services, employment and housing.

Thank you for the opportunity to provide testimony on this matter.

LATE

**HB-202**

Submitted on: 2/8/2021 11:20:41 AM

Testimony for HHH on 2/9/2021 9:30:00 AM

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

Comments:

Since criminalizing homelessness is essentially criminalizing poverty, to further the impact of HB202, the measure should be amended to provide for automatic expungement of arrest records.

Thank you.

LATE

Testimony in Support of House Bill 202  
A Bill for an Act Regarding the Expungement of Records Regarding Homelessness  
Submitted by Malia Packer  
1918a Houghtailing St.  
Honolulu HI 96817

Greetings,

My name is Malia Packer, I am a resident of Honolulu Hawaii, and an outreach worker and case manager for a non-profit that works with homeless youth. I have personally seen how criminal records regarding offenses related to homelessness have impacted the youth I serve; keeping them from being able to make progress with their goals. Charges and fines especially for trespassing in closed parks after hours, sit and lie laws and sidewalk nuisance laws pile up on those who are experiencing homelessness, creating even more barriers to the pursuit of a life off the streets. When a client of mine receives a ticket, they often have no way to pay fines, no source of transportation to court, and no way to stay in contact with any sort of follow up or updates regarding their case. When enough tickets are received and court dates are missed, they then are punished with a bench warrant, and a criminal record that could damage their opportunities at housing or employment begins to build. All this, for the simple fact that every human needs to sleep at night, and some of those humans do not have a house to do so in.

I receive a list of the shelters across the island and their vacancies every morning, and it is obvious to anyone who views it that there is not enough room for every homeless individual to have space to stay. Even if there were, many individuals do not feel comfortable moving into a shelter that is not on the side of the island they call home, nor do they feel safe in a shelter where they may be preyed on or contract COVID. While we as service providers are in the process of helping connect our clients to permanent housing, many of them feel safer on the streets where they can keep to themselves until it is time to move into housing.

Individuals experiencing homelessness have also been targeted for offenses during COVID, as is evidenced by an analysis completed by Civil Beat journalists Christina Jedra and Yoohyun Jung. With mandatory regulations regarding social distancing and mask wearing, even more tickets have been disproportionately given to those living on the streets. Please examine the charts on the next page, which demonstrate how cases regarding homeless individuals have increased drastically during the past year, and how many of them have been targeted as an easy way to fulfill citation requirements. This is also something I have seen personally. While conducting outreach at Waikiki Beach, I have seen police officers walk straight past large groups of tourists disregarding mask laws, head towards homeless individuals, and ticket them instead.

In conclusion, I urge you to support House Bill 202, so that we can support our houseless neighbors on their journey to the lives they dream of. Fines, tickets and charges that criminalize poverty only make it more difficult for them to make any sort of progress, and heap shame and discouragement upon their shoulders.

**Sources:** Jedra, Christina; Jung, Yoohyun. (2020). *Easy Targets? Some Oahu Homeless Have Been Ticketed Dozens Of Times During The Pandemic*. Civil Beat.  
<https://www.civilbeat.org/2020/11/easy-targets-some-oahu-homeless-have-been-ticketed-dozens-of-times-during-the-pandemic/>

### Homelessness-related Cases on Oahu 2018-2020

The number of homelessness-related cases was drastically higher in 2020 during the COVID-19 pandemic than previous years, especially during May and June.

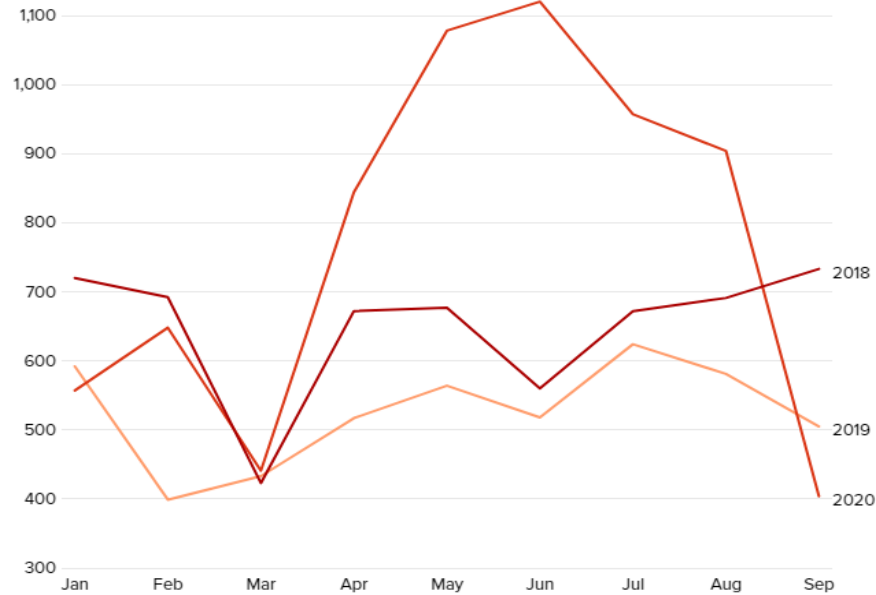
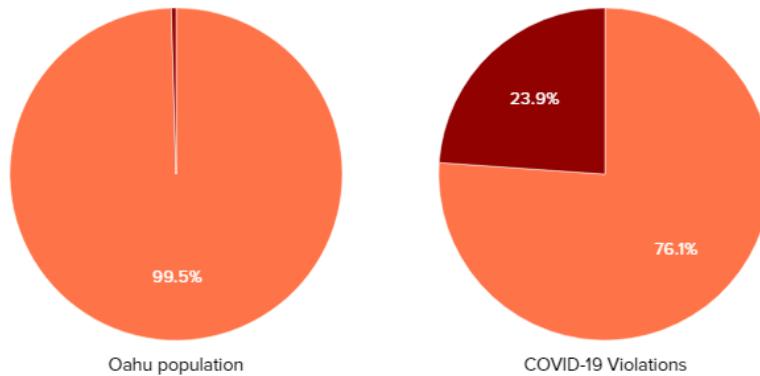


Chart: Yoohyun Jung/Civil Beat • Source: Hawaii State Judiciary

### Homeless People Disproportionately Cited

People with a recent history of being cited under statutes related to homelessness (including violations of sit-lie bans, sidewalk nuisance laws, or pushing a shopping car in a park) were much more likely than the general population to be ticketed for violations of pandemic rules.

Not homeless (light orange) Homeless people (dark red)



Note: We counted as homeless anyone who was ticketed for a vagrancy-related violation in the past three years. We excluded 2020 violations for being in a closed park because the police may have given those to non-homeless people during the pandemic when parks were closed.

Chart: Christina Jedra/Civil Beat • Source: General Population source: Census; Homeless Population: Annual PIT Count; Ticket data: Hawaii State Judiciary



LATE

**HB-202**

Submitted on: 2/8/2021 12:04:27 PM

Testimony for HHH on 2/9/2021 9:30:00 AM

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

Comments:

Strongly support expungement!

LATE

**HB-202**

Submitted on: 2/8/2021 12:07:51 PM

Testimony for HHH on 2/9/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Elizabeth Murph	Individual	Support	No

Comments:

I support HB 202 and **ask that the measure be amended to provide for *automatic expungement of records***, considering what we know about collateral consequences: a criminal record for sleeping on the sidewalk could be the deciding factor between a secure job and being perpetually discriminated against at every turn. The criminalization of homelessness and poverty must end.

Thank you,  
Elizabeth Murph  
Hilo, HI

LATE

**HB-202**

Submitted on: 2/8/2021 4:59:16 PM

Testimony for HHH on 2/9/2021 9:30:00 AM

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

Comments:

Saddling a person experiencing houselessness with fines and a criminal record is counterproductive to the goal of helping them lift themselves out of poverty, and with more people facing eviction in light of the pandemic's economic downturn, it's beyond time that the state takes immediate steps to end the criminalization of poverty.

LATE

**HB-202**

Submitted on: 2/8/2021 6:45:20 PM

Testimony for HHH on 2/9/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Courtney Mrowczynski	Individual	Support	No

Comments:

I strongly **support** HB202. This bill allows for the expungement of records for certain offenses that are substantially related to a person's status of being houseless. **I ask that the measure be amended to provide for *automatic expungement of records***, considering what we know about collateral consequences: a criminal record for sleeping on the sidewalk could be the deciding factor between a secure job and being perpetually discriminated against at every turn. This bill is a significant step forward in providing a fresh start and changing the status quo of criminalizing poverty at every level.

LATE

**HB-202**

Submitted on: 2/8/2021 10:30:08 PM

Testimony for HHH on 2/9/2021 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Marcella Alohalani Boido	Individual	Support	No

Comments:

Thank you for hearing this bill.

My only quibble with this bill is that it does not go far enough. I would like to add automatic expungement for those who qualify.

In fact, I would like to see automatic expungement offered for a greater range of people and cases. As a Hawaii Judiciary Certified Spanish Court Interpreter, Tier 4, I am very aware that the expungement process is not easily accomplished by our Limited-English Proficient (LEP) people. My guess is that most of those who qualify for it do not pursue it.

For both the houseless and the LEP population, expungement is a complicated and difficult procedure to carry out. It is very difficult for many people, houseless, LEP, or experiencing other situations, to go through and successfully complete the process.

We need more compassion and understanding in Hawaii.

Please amend this bill and pass it out.

Thank you.

LATE

**HB-202**

Submitted on: 2/8/2021 10:40:34 PM

Testimony for HHH on 2/9/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Pablo Wegesend	Individual	Support	No

Comments:

Saddling a person experiencing houselessness with fines and a criminal record is counterproductive to the goal of helping them lift themselves out of poverty, and with more people facing eviction in light of the pandemic’s economic downturn, it’s beyond time that the state takes immediate steps to end the criminalization of poverty. **We ask that the measure be amended to provide for automatic expungement of records**, considering what we know about collateral consequences: a criminal record for sleeping on the sidewalk could be the deciding factor between a secure job and being perpetually discriminated against at every turn.

Let's focus on helping the homeless secure housing, employment and other assistance they need to live off the streets.

LATE

**HB-202**

Submitted on: 2/8/2021 11:33:33 PM

Testimony for HHH on 2/9/2021 9:30:00 AM

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

Comments:

Aloha Chair Nishihara, Vice Chair English, and Members of the Committee,

I am writing in strong opposition to SB 664 which authorizes the development of a new Oahu Community Correctional Center, delegates this responsibility to the Department of Public Safety, and prohibits the transfer of operations to a corporation.

The primary reason for opposing this bill is that there has been nothing in the actions of the Department of Public Safety thus far that has indicated that it is competent and capable of planning or overseeing the development of a new correctional facility.

The Department has proven itself incapable of assessing current and future prison population needs, of collaborating with and drawing upon the wisdom of community members, of learning from successful evidence-based programs of other states, and of identifying knowledgeable experts who can educate them on best practices and trends in correctional facility design and function.

Given these shortcomings, it would be a shocking lack of due diligence and an enormous waste of taxpayer money to delegate this critical responsibility to the Department of Public Safety. Please oppose SB 664.

Mahalo for your consideration,

Diana Bethel, Honolulu

LATE

**HB-202**

Submitted on: 2/9/2021 6:51:27 AM

Testimony for HHH on 2/9/2021 9:30:00 AM

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

Comments:

The issue of houselessness is in need of attention. those who are are arrested need to have their records expunged unless the crimes are heinous or violent.



**HB-202**

Submitted on: 2/9/2021 12:38:29 PM

Testimony for HHH on 2/9/2021 9:30:00 AM

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

Comments:

I strongly support this bill.

**HB-202**

Submitted on: 2/9/2021 5:27:24 PM

Testimony for HHH on 2/9/2021 9:30:00 AM

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

Comments:

Yes to the bill.

Yes to an amendment to provide automatic expungement of records.

**HB-202**

Submitted on: 2/9/2021 10:37:00 PM

Testimony for HHH on 2/9/2021 9:30:00 AM

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

Comments:

I strongly support SB391/HB202 which would decriminalize houselessness in Hawai'i by authorizing the expungement of criminal records related to houseless status. This is an important one for me because at least three of my closest friends, all of whom are KĀ• naka Maoli, have experienced or been directly impacted by houselessness. When Native Hawaiians are priced out of housing in their own homelands, and then criminalized for being houseless, they are placed into an impossible situation. For many there is no way to regain standing and a cycle develops. I see this as a classic example of systemic racism against Indigenous and dark-skinned people. Decriminalizing houselessness in Hawai'i is one small step in the right direction toward a truly equitable reality. Mahalo nui for your time and attention on this matter.