

SB-1342

Submitted on: 2/11/2021 3:17:51 PM

Testimony for JDC on 2/16/2021 9:16:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ellen Godbey Carson	Individual	Support	No

Comments:

This bill should be passed, to create greater penalties for those who repeatedly engage in, and are convicted of illegal gambling. The civil forfeiture for property involved is a reasonable penalty to repeat offenders, and perhaps a more effective way to protect our community.

Thank you for your consideration

Ellen Godbey Carson

SB-1342

Submitted on: 2/11/2021 9:26:06 PM

Testimony for JDC on 2/16/2021 9:16:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Carmen Guzman	Individual	Support	No

Comments:

I support this bill, but why the 3 strikes your out rule?! They know it's illegal, you break the law first offense you do not pass go or collect two hundred go straight to jail! One too many chances!



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

LATE

ON THE FOLLOWING MEASURE:

S.B. NO. 1342, RELATING TO ILLEGAL GAMBLING.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY

DATE: Tuesday, February 16, 2021 **TIME:** 9:16 a.m.

LOCATION: State Capitol, Via Videoconference

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**

(For more information, contact Gary K. Senaga,
Deputy Attorneys General, at 586-1100)

Chair Rhoads and Members of the Committee:

The Department of the Attorney General (Department) provides the following comments.

The bill would: (1) add a new section to part III of chapter 712, Hawaii Revised Statutes (HRS), that would require real property to be ordered forfeited to the State if the real property was used by the same person to promote gambling in the first degree in at least three separate incidents and the person was convicted of promoting gambling in the first degree for at least three of those incidents, subject to the requirements of chapter 712A, HRS; and (2) amend section 712-1221(1), HRS, to include “[h]osting activities that advance gambling activity on real property” within the offense of promoting gambling in the first degree.

The Department supports the use of asset forfeiture to deter property owners from allowing their property to be used in furtherance of criminal activity. The bill applies only when an individual uses a particular property to host gambling activity at least three times, and is convicted of such an offense at least three times. Its scope is thus limited to instances where a recidivist engages in repeated criminal activity not deterred by criminal sanctions alone. The Department notes that any forfeiture of *real* property is further limited by section 712A-5.5, HRS, which prohibits any forfeiture where the value of the property forfeited is grossly disproportionate to the nature and severity of the owner’s conduct.

Thank you for the opportunity to testify.

LATE

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THE HONORABLE KARL RHOADS, CHAIR
SENATE COMMITTEE ON JUDICIARY
Thirty-first State Legislature
Regular Session of 2021
State of Hawai`i

February 16, 2021

RE: S.B. 1342 RELATING TO ILLEGAL GAMBLING.

Chair Rhoads, Vice Chair Keohokalole, members of the Senate Committee on Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu (“Department”) submits the following testimony in support of S.B. 1342, with general recommendations.

Section 1 of the bill requires that real property be subject to civil asset forfeiture under Chapter 712A, Hawaii Revised Statutes (“HRS”), if it is used in the commission of promoting gambling the first degree, and thereafter results in three or more convictions—either of the same person or different people— for promoting gambling in the first degree, in three or more separate incidents. Section 2 of the bill adds a new subsection to HRS §712-1221, Promoting gambling in the first degree, which elevates “hosting activities that advance gambling activity on real property” to a class C felony.

The Department agrees that illegal gambling presents a serious risk to public safety and welfare—particularly those establishments that chronically house illegal gambling activity—and supports the use of effective mechanisms, such as civil asset forfeiture, to disrupt and potentially displace such activity. Moreover, real property owners, managers, or others who would knowingly “host” gambling activity on real property under their authority or control, should be subject to heightened penalties, and potentially be subject to losing the use or ownership of that property, under the asset forfeiture process.

In light of the above, we recommend that Section 1 of S.B. 1342 be deleted, as it may actually make it more difficult to pursue forfeiture of so-called “gambling houses,” inasmuch as it requires three prior convictions (of anyone) for promoting gambling in the first degree, where current asset forfeiture procedures do not require any prior criminal convictions. Instead of creating a standalone statute, it may be simpler to add “promoting gambling” to the list of civil

asset forfeiture’s covered offenses, under HRS §712A-4. We note that “gambling” is already listed as a covered offense—and as such, charges of promoting gambling in the first degree are already included—but this could simply provide further clarification.

In terms of creating a new felony offense for “hosting” gambling activities on real property, we greatly appreciate the intent, but **recommend that the Committee clarify the proposed subsection** (S.B. 1342, page 2, line 12) as the word “hosting” is quite broad, potentially confusing, and difficult to prove. In addition, it is unclear how that would differ from the general definition of “advance gambling activity” (HRS §712-1220), which applies to Promoting gambling in both the first and second degrees. In relevant part, that definition states:

A person advances gambling activity if, having substantial proprietary control or other authoritative control over premises being used with his knowledge for purposes of gambling activity, he permits that activity to occur or continue or makes no effort to prevent its occurrence or continuation.

Depending on the Committee’s intent, there may be multiple ways of approaching amendments to this or other sections of the gambling laws, and our Department welcomes the opportunity to discuss this matter further with proponents of the bill and other stakeholders. Given the serious negative effects that illegal gambling has on our community, the Department greatly appreciates all efforts to make enforcement of Hawaii’s gambling laws more effective and lasting.

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu supports the passage of S.B. 1342, with general recommendations. Thank you for the opportunity to testify on this matter.