

Hawai'i Arts Alliance



*Affiliated with the
Wolf Trap Institute for Early
Childhood Arts Integration*

*State Captain –
Americans for the Arts*

*Member of State Arts
Advocacy Network*

February 14, 2021

Rep. Gates, Chair
House Committee on Culture, Art, and International Affairs

Re: Support for HB1083 RELATING TO THE LAW OF THE SPLINTERED PADDLE

Dear Chair Gates and members of the committee,

Thank you for the opportunity to submit testimony on HB1083. The Hawaii Arts Alliance supports HB1083. It is the foundation of Hawaiian Kingdom laws that are still relevant to us as a State and society in Hawai'i and even more important during this pandemic and economic recession.

The law of the splintered paddle should be carried further. The State and any level of government has the responsibility of protecting the people. This should extend to compassionate understanding, social justice and access to social services especially for those who are houseless, homeless, and may have mental health needs.

The Hawai'i Arts Alliance is located in the Downtown Arts Center on the corner of Hotel and Nu'u'anu. Numerous times as I drive in to work, I have seen the temporary shelters and belongings in A'ala Park loaded into a dump truck. It is a heartbreaking sight to witness someone's possessions being disposed of. The economic situation in Hawai'i has worsened leaving more people on the street. Social services are difficult to access when there are no pay phones and the recorded messages are not helpful.

The Ali'i of the Hawaiian Kingdom demonstrated compassion and social justice for the citizens by building institutions that continue to support us to this day, such as, Queens Hospital, Lunalilo Homes, and the Lili'uokalani Children's Trust. As a State and County, we should have a moral obligation to continue such care and consideration of those in need.

Mahalo for the opportunity to submit testimony,

Teri Skillman
Executive Director

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Committee: Committee on Culture, Arts, & International Affairs
Hearing Date/Time: Wednesday, February 17, 2021, 10:00 a.m.
Place: Via videoconference
Re: Testimony of the ACLU of Hawai'i in Support of H.B. 1083, Relating to the Law of the Splintered Paddle

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

The American Civil Liberties Union of Hawai'i ("ACLU of Hawai'i") writes **in support of H.B. 1083**, which seeks to further codify and uphold Kānāwai Māmalahoe, or the Law of the Splintered Paddle, by prohibiting counties from enacting ordinances such as sit-lie bans that punish people who sleep by the roadside, including sidewalks.

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.¹ 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.² The City's 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."³

¹ 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). The City also passed Bills 51 and 52 in 2018, which criminalize "obstruction" of sidewalks and "lodging" in public places. City Ordinance 18-34, [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, <http://www4.honolulu.gov/docushare/dsweb/Get/Document-210692/DOC001.PDF>.

² 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/>.

³ See *Martin v. Boise*, 920 F.3d 584, 616-17 (9th Cir. 2019) (quoting *Jones v. City of L.A.*, 444 F.3d 1118, 1136-38 (9th Cir. 2006)).

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The State and its counties must take immediate steps to end the criminalization of poverty. Sit-lie bans and other anti-homeless laws expressly violate the Law of the Splintered Paddle, enacted by King Kamehameha I and further enshrined the Article IX, Section 10 of the Hawai'i State Constitution. Enforcement of criminal laws prohibiting people from camping, sitting, lying, or engaging in other innocent conduct on public property also violates the prohibition on cruel and unusual punishment under the Eighth Amendment of the U.S. Constitution and Article I, Section 12 of the Hawai'i State Constitution as applied to people who are houseless and have no option to sleep indoors.⁴ 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 and would violate the Eighth Amendment and Section 12 prohibitions on excessive fines.⁵ The collateral consequences of criminal records on a person's ability to secure employment, housing, and services is well-documented.⁶ H.B. 1083 will help put an end to these harmful laws and allow counties to reinvest resources previously reserved for enforcement into effective social services and housing.

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.

⁴ *Id.*

⁵ See *Blake v. City of Grants Pass*, No. 1:18-CV-01823-CL, 2020 WL 4209227, at *10 (D. Or. July 22, 2020) (holding enforcement of anti-homeless ordinances “violates the Excessive Fines Clause”).

⁶ 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/>.

HB-1083

Submitted on: 2/15/2021 5:04:55 PM

Testimony for CAI on 2/17/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Laulani Teale	Ho'opae Pono Peace Project	Support	No

Comments:

Aloha,

Ho'opae Peace Project is in very strong support of this measure.
Human rights must be the basis for all other laws.

Mahalo nui,

Laulani Teale, Coordinator

Ho'opae Pono Peace Project

HB-1083

Submitted on: 2/16/2021 12:04:52 PM

Testimony for CAI on 2/17/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
David Mulinix	Individual	Support	No

Comments:

On behalf of Our Revolution Hawaii's 7,000 members and supporters statewide, we are in STRONG SUPPORT of HB1083.

Passage of this bill is essential to protecting the Civil and Human Rights of Hawaii's houseless communities.

Mahalo for your kind attention,

Dave Mulinix

Statewide Community Organizer

Our Revolution Hawaii

HB-1083

Submitted on: 2/16/2021 12:55:20 PM

Testimony for CAI on 2/17/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kat Brady	Community Alliance on Prisons	Support	No

Comments:

Aloha Chair Asuega, Vice Chair LoPresti, and Members of the Committee:

Community Alliance on Prisons is in strong support of this measure. This Kingdom law resonates today as we witness the damaging effects of the Sit Lie law (brought to us by Tulsi Gabbard) and weaponized by former Mayor Caldwell.

It is crucial that law enforcement understand the history of Hawai`i and connect their arrests and citations of Kanaka Maoli to the sad history that endures today.

Please pass this measure,

Mahalo for this opportunity to testify.

Kat Brady for Community Alliance on Prisons

HB-1083

Submitted on: 2/13/2021 9:43:55 PM

Testimony for CAI on 2/17/2021 10:00:00 AM

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

Comments:

Strong support!

HB-1083

Submitted on: 2/13/2021 10:18:54 PM

Testimony for CAI on 2/17/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jennifer Noelani Ahia	Individual	Support	No

Comments:

I strongly support this bill. Law of the splintered paddle is fundamental to the humanity of Hawai'i and must be upheld.

HB-1083

Submitted on: 2/14/2021 7:13:14 AM

Testimony for CAI on 2/17/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
kevin landers	Individual	Support	No

Comments:

It turns my stomach that we have to advocate for government to encode such common decency as leaving people alone who we have failed. It's not enough for society to fail individuals, but we then mete out violence and punishment on top of it. The compassion deficit this government employs will be it's undoing. This bill is literally the least we can do, soni enthusiastically support.

HB-1083

Submitted on: 2/15/2021 11:21:05 AM

Testimony for CAI on 2/17/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Dana Keawe	Individual	Oppose	No

Comments:

Please oppose HB1083.

HB-1083

Submitted on: 2/15/2021 1:51:42 PM

Testimony for CAI on 2/17/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Clarence Ching	Individual	Oppose	No

Comments:

I am Clarence ku Ching. And I'm submitting testimony in support of HB1083.

It is unfortunate that the counties have formerly passed ordinances that are Un-Constitutional in that they have failed to recognize, and in fact, have violated the Hawai'i State Constitution that not only recognizes the so-called the "Law of the Splintered Paddle" - but has elevated it to the level and status of Constitutional import. Such non-recognition for the "Law of the Splintered Paddle" is contemptuous and simply unlawful!

If anything - the "Law of the Splintered Paddle" reflects International Humanitarian Law (in which it should be a part of) and is Kamehameha I's gift to his people, the world and all humanity.

This proposed legislation is indeed "sacred" and it would be equally contemptuous if this legislative body would fail to pass it.

I whole-heartedly support passage of this bill.

HB-1083

Submitted on: 2/15/2021 2:01:41 PM

Testimony for CAI on 2/17/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
cindy freitas	Individual	Support	No

Comments:

Aloha

I'am in support of bill HB 1083

Mahalo Cindy Freitas

HB-1083

Submitted on: 2/16/2021 12:34:38 AM

Testimony for CAI on 2/17/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jun Shin	Individual	Support	No

Comments:

This modern addition to the Law of the Splinter Paddle is very much needed given the continuous sit-lie bans that have criminalized our houseless community members. We need to refocus our resources and actions to getting to the roots of the issues surrounding houselessness. Raise the minimum wage, address mental health issues, addressing the housing crisis, the need to deescalate in interactions (that means not sending police officers) through the usage of social workers and other professionals. We need more compassion.

HB-1083

Submitted on: 2/16/2021 5:36:19 AM

Testimony for CAI on 2/17/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Terina Faagau	Individual	Support	No

Comments:

Thank you for the opportunity to testify on HB1083. My name is Terina Faagau and I support this measure.

HB-1083

Submitted on: 2/16/2021 10:06:02 AM

Testimony for CAI on 2/17/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Makana Reeves	Individual	Support	No

Comments:

Aloha, I am a composer, singer and Hawaiian music practitioner. I composed the following lyrics to educate on the history and premise of the Law of the Splintered Paddle. The opening verses recount Kamehameha's first person experience, which led him to enact the law. The lyrics include the original language of the law in 'Ā• Ielo maoli. The final verse addresses our current situation of wrongly criminalizing the unhoused. We MUST place individual human well being over collective public access, businesses and all other for-profit endeavors. I support this bill.

Makana aka HI MAKZ

KĀ• nĀ• wai MĀ• malahoe

HI MAKZ

KĀ• nĀ• -wai MĀ• mala-hoe

KĀ• nĀ• -wai MĀ• mala-hoa

Law of da splintered paddle

KĀ• nĀ• -wai MĀ• mala-hoe

KĀ• nĀ• -wai MĀ• mala-hoa

Law of da splintered paddle

We was down

Puna side

Looking for a

Sacrifice

When my wa'a

Hit da sand

Da lawai'a

Up and ran

Tru da hala

To da fields

Of pÄ• hoehoe

It conceal'd

All da puka

In da rock

I got stuck

Now I'm #?!'d

The stranger has fallen

He's stuck in da lava

And waving his arms like a pai'ea crab!

Go back wit your paddle and

Strike him right after you

Tangle him jus like a fish in a net

Kaleleiki hit um hard

Kaleleiki struck him down

Right to da ground

Kaleleiki hit um fast

Kaleleiki made a blast

Right to his head

I was bloody

I was dazed

But dis koa

Wasn't phased

Den my kahu

Found me here

Now he's wounded

Wit a spear

Trow your spears!

You can't hit me

I'm a supernatural

Ali'i

Now you running

Now I'm free

But dis battle

Went change me

The prophecy of Holo'ae

And his daughter

A paddle and noni tree shattered I bleed

The people are innocent

They deserve better

It's time for a law that protects those in need

KÄ• nÄ• -wai MÄ• mala-hoe

KÄ• nÄ• -wai MÄ• mala-hoa

Law of da splintered paddle

KÄ• nÄ• -wai MÄ• mala-hoe

KÄ• nÄ• -wai MÄ• mala-hoa

Law of da splintered paddle

E kÄ• naka

E mÄ• lama

'Oukou

I ke Akua

Ke kanaka nui

Me kanaka iki

E hele kÄ• kou

A moe i ke ala

A'ohe mea nā• na

E ho'opilikia!

Hewa nā• , make!

Hewa nā• , make!

Honor thy God and

Respect every right of all people

Both humble and great

Freedom to lay in the road

Without harm as your king

I forever mandate

Kā• nā• -wai Mā• mala-hoe

Kā• nā• -wai Mā• mala-hoa

Law of da splintered paddle

Kā• nā• -wai Mā• mala-hoe

Kā• nā• -wai Mā• mala-hoa

Law of da splintered paddle

Dey lay down

Onna sidewalk

Cause dey got no

Place for go

Politicians

Wanna fine um

Trow um in a jail

But NO

It's a war

On the poor

Cause dey homeless

Cause dey broke

And we breaking the law

That Kamehameha wrote

Huli da system

Dis capitalism is punishing

Innocent lives

Too many 'ohana stay

Broken apart

After working for all a der lives

KÄ• nÄ• -wai MÄ• mala-hoe

KÄ• nÄ• -wai MÄ• mala-hoa

Law of da splintered paddle

KÄ• nÄ• -wai MÄ• mala-hoe

KÄ• nÄ• -wai MÄ• mala-hoa

Law of da splintered paddle



HB-1083

Submitted on: 2/16/2021 12:54:30 PM

Testimony for CAI on 2/17/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
sharon willeford	Individual	Support	No

Comments:

Please be compassionate ðŸ'œ

HB-1083

Submitted on: 2/16/2021 2:50:18 PM

Testimony for CAI on 2/17/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Shannon Rudolph	Individual	Support	No

Comments:

Strongly support