

# COMMUNITY ALLIANCE ON PRISONS

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## COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, & MILITARY AFFAIRS

Senator Clarence Nishihara, Chair

Senator Lynn DeCoite, Vice Chair

Thursday, March 17, 2022

1:00 PM

### **STRONG SUPPORT - HB 2344 ~~HD2~~ - REFORMING PROBATION**

Aloha Chair Nishihara, Vice Chair DeCoite 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 HD1 of the more than 4,008 Hawai'i individuals living behind bars<sup>1</sup> under the "care and custody" of the Department of Public Safety on any given day. We are always mindful that 1,110 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.

Community Alliance on Prisons is grateful for the opportunity to share our thoughts and research. We strongly support the original version of HB 2344 that prevents people on probation from facing immediate incarceration when accused of certain misdemeanors (specifically, those not involving weapons, offenses against the person, or domestic violence); requires that conditions of probation be reasonably related to the crime of conviction and tailored to an individual's circumstances and abilities. It also prohibits restrictions on association - this is important for people who have gone through treatment together, especially for women who form bonds and need that support outside. And, importantly, the bill creates a good time credit system for persons on probation. It is so important that people have something to work toward, instead of endless surveillance.

Sadly, the HD1 strips out the incentives by deleting the 'good time' provision, limiting the proposed limitations on conditions of probation, deleting all references to technical violations - a cost driver of mass incarceration AND justification for building a humongous new jail to warehouse Hawai'i's challenges, and made other changes and disincentives.

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<sup>1</sup> Department of Public Safety, Weekly Population Report, March 7, 2022.

<https://dps.hawaii.gov/wp-content/uploads/2022/03/Pop-Reports-Weekly-2022-03-97.pdf>

In 2020, Pew Charitable Trusts<sup>2</sup> has shown:

- *The growth and size of this population have overloaded local and state agencies and stretched their resources thin, weakening their ability to provide the best return on taxpayers' public safety investments, support rehabilitation, and ensure a measure of accountability.*
- *One key factor driving the size of the probation population is how long individuals remain on supervision.*

The first Key finding in this report...

**Nationwide, the average probation term is just under two years, with substantial variation across states. Average terms range from nine months in Kansas to **five years (59 months) in Hawaii.****

A report from Prison Policy Initiative<sup>3</sup>, Mass Incarceration: The Whole Pie 2022 talks about technical violations of probation (and parole) from a national perspective:

*Community supervision, which includes probation, parole, and pretrial supervision, is often seen as a “lenient” punishment or as an ideal “alternative” to incarceration. But while remaining in the community is certainly preferable to being locked up, the conditions imposed on those under supervision are often so restrictive that they set people up to fail. The long supervision terms, numerous and burdensome requirements, and constant surveillance (especially with electronic monitoring) result in frequent “failures,” often for minor infractions like breaking curfew or failing to pay unaffordable supervision fees.*

*In 2019, at least 153,000 people were incarcerated for non-criminal violations of probation or parole, often called “technical violations.” Probation, in particular, leads to unnecessary incarceration; until it is reformed to support and reward success rather than detect mistakes, it is not a reliable “alternative.”*

*The most recent data show that nationally, almost 1 in 5 (18%) people in jail are there for a violation of probation or parole, though in some places these violations or detainers account for over one-third of the jail population. This problem is not limited to local jails, either; in 2019, the Council of State Governments found that nearly 1 in 4 people in state prisons are incarcerated as a result of supervision violations. During the first year of the pandemic, that number dropped only slightly, to 1 in 5 people in state prisons.*

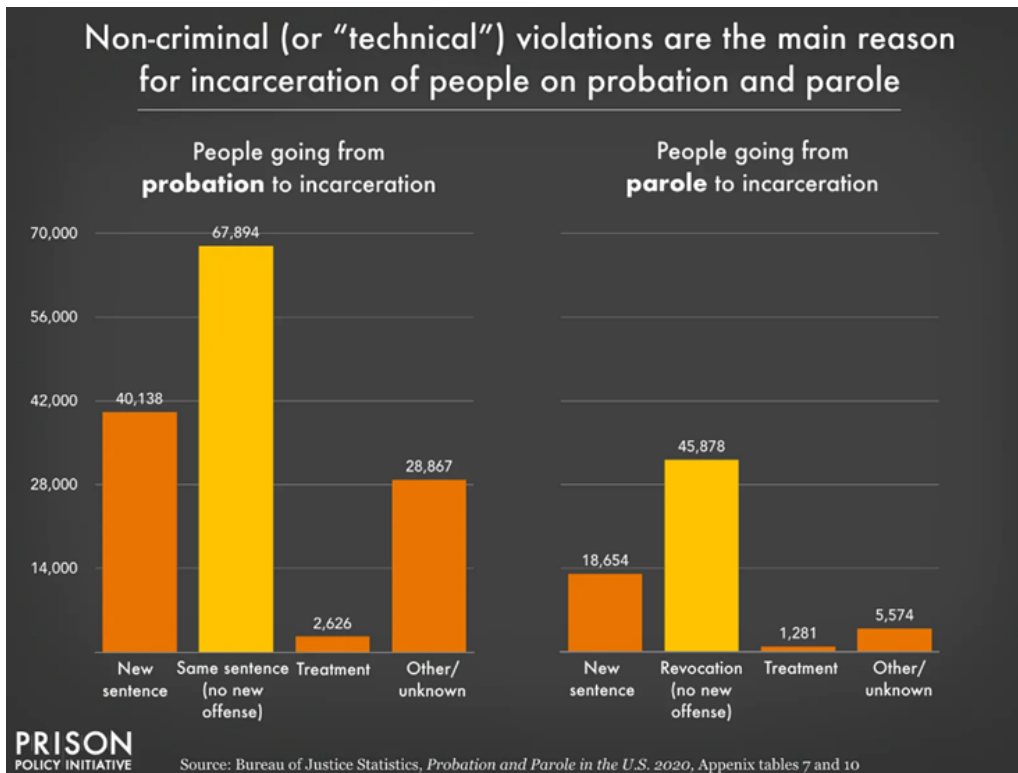
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<sup>2</sup> States Can Shorten Probation and Protect Public Safety, REPORT December 3, 2020, Updated: April 15, 2021.

<https://www.pewtrusts.org/en/research-and-analysis/reports/2020/12/states-can-shorten-probation-and-protect-public-safety>

<sup>3</sup> Mass Incarceration: The Whole Pie 2022, By Wendy Sawyer and Peter Wagner, March 14, 2022.

<https://www.prisonpolicy.org/reports/pie2022.html>



In comparison, 22% of Hawai‘i’s incarcerated population are parole or probation violators. We understand that this bill is only about probation, however, when you add up probation and parole violators along with pretrial detainees, that is 45% (1,807 persons) of Hawai‘i’s statewide incarcerated population!

Community supervision has turned into surveillance instead of helping people realize their goals and the benefits of living their lives as contributing community members. The March 7<sup>th</sup> Department of Public Safety population report shows that 10% of the total statewide incarcerated population (4,008) are probation violators (406). The economic cost is \$88,914 a day, \$622,398 a week, \$2,489,592 a month, and \$29,875,104 a year; the human cost is much greater.

Probation is now the most common criminal sentence in the United States, the specter of probation detention hangs over the nearly four million adults living under probation supervision.<sup>4</sup> In the United States, “liberty is the norm” – unless you are on probation or any other form of community supervision.<sup>5</sup>

Reforming probation so the state doesn’t incarcerate so many people for violating technical conditions and encouraging ‘good time’ credits for compliance are strategies that work. The former head of Probation who was on the HCR 85 Task Force spoke about the efficacy of incentivizing people to encourage change. This is a more effective and humane approach.

<sup>4</sup> Fiona Doherty, *Obey All Laws and Be Good: Probation and the Meaning of Recidivism*, 104 GEO. L.J. 291, 292, 354 (2016).

<sup>5</sup> *United States v. Salerno*, 481 U.S. 739, 755 (1987).

*Misdemeanor charges may sound trivial, but they carry serious financial, personal, and social costs, especially for defendants but also for broader society, which finances the processing of these court cases and all of the unnecessary incarceration that comes with them. And then there are the moral costs: People charged with misdemeanors are often not appointed counsel and are pressured to plead guilty and accept a probation sentence to avoid jail time. This means that innocent people routinely plead guilty and are then burdened with the many collateral consequences that come with a criminal record, as well as the heightened risk of future incarceration for probation violations. A misdemeanor system that pressures innocent defendants to plead guilty seriously undermines American principles of justice.* <sup>6</sup>

A graph on page 4 from the latest Interagency Council on Intermediate Sanctions report<sup>7</sup> shows the recidivism rate of Hawai`i probationers, parolees, and those who serve their maximum sentences. It also examines the time-period recidivism rates for probationers, parolees, and maximum term released prisoners.

From the supervision start date:

- 859 (39.9%) offenders recidivated within the first 12 months of supervision,
- 272 (12.7%) recidivated between 12 through 24 months (52.6% cumulative recidivism rate),
- 26 (1.2%) offenders recidivated between 24 through 36 months (53.8% cumulative recidivism rate) from the follow-up start date.

This shows that there needs to be a concentration of services in the first 12 months as we see the decline in recidivism the 2<sup>nd</sup> year, and a very small number in the 3<sup>rd</sup> year.

Hawai`i needs to implement alternatives to help people who don't comply with the conditions of probation, which should be reasonable and address the underlying offense that led to probation. There needs to a clear path to freedom so that people can plan for success.

Research has been proven that incarceration only enhances criminality. Why would we send someone to criminal college when there are other ways to address wrongdoing?

Incentivizing people is a proven path to introduce new ways of living to someone. Offering good time for compliance with conditions is a great incentive that offers hope and a way forward.

Hawai`i needs to abandon punishment a way to change behavior. Certainly we have ample evidence to prove that incarceration does not necessarily protect the community. Instead, it takes people who commit minor offenses (that used to be addressed with citations) and schools them in the dark arts.

Equitable and humane treatment would go a long way toward demonstrating the behavior we want to see in our communities. Passing this measure would be a great step in addressing and, hopefully, reducing some of the problems with our criminal legal system.

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<sup>6</sup> See FN 2

<sup>7</sup> Interagency Council on Intermediate Sanctions, March 2021.

<https://icis.hawaii.gov/wp-content/uploads/2021/05/2019-Hawaii-Recidivism-Update.pdf>



*The Judiciary, State of Hawaii*

**Testimony to the Thirty-First State Legislature, 2022 Regular Session**

**Senate Committee on Public Safety, Intergovernmental, and Military Affairs**

Senator Clarence K. Nishihara, Chair

Senator Lynn DeCoite, Vice Chair

Thursday, March 17, 2022 at 1:00 p.m.  
Conference Room 229 & Videoconference

by

Brook M. Mamizuka  
Probation Administrator  
First Circuit Court

Craig S. Hirayasu  
Probation Administrator  
Second Circuit Court

Dean T. Hiraki  
Probation Administrator  
Third Circuit Court

Rennette S. Garma  
Probation Administrator  
Fifth Circuit Court

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**Bill No. and Title:** House Bill No. 2344, House Draft 2, Relating to Probation.

**Purpose:** Requires the probation officer to conduct a formal review of the defendant's progress halfway through the defendant's period of probation and provide the defendant information on how to file a motion with the court for early termination of probation, if the defendant so chooses. Gives a probation or law enforcement officer who has probable cause to believe a defendant has failed to comply with a discretionary condition of probation under section 706-624(2), Hawai'i Revised Statutes, the discretion to issue the defendant a written notice of a court hearing that states the defendant's alleged violation and the date, time, location, and purpose of the hearing. Effective 7/1/3000. (HD2)



House Bill No. 2344, H.D. 2, Relating to Probation  
Senate Committee on Public Safety, Intergovernmental, and Military Affairs  
March 17, 2022 at 1:00 p.m.  
Page 2

## **Judiciary's Position:**

The Judiciary supports criminal justice reform, and supports House Bill No. 2344, House Draft 2 with amendments to early termination. The mission of the Judiciary's Adult Client Services is to facilitate defendants' compliance with the orders of the Court and to enhance the safety of the community through efficient crime reduction and prevention services and activities that assist and guide offenders in their rehabilitation. The Adult Client Services is responsible to victims of crimes and must provide them with proper notification and the ability to respond to the disposition of case.

It is recommended that review and early termination be conducted on probation cases with the exception of cases involving Habitually Operating Vehicle Under the Influence, Possession of Firearm (Chapter 134); Domestic Violence (Violation of Temporary Restraining Order and Abuse of Household Member) 586-4, 586-11, and 709-906; Crimes Against Person Chapter 707 (Sexual Assault and violence involving minors). These types of cases involve deceased victims and their families and/or victims that suffered physical and/or psychological trauma. In crimes of sexual nature, plea agreement often indicate that early termination cannot be given.

We do not oppose the discretion to issue a written notice of a court hearing for violations.

Thank you for the opportunity to testify on House Bill No. 2344, H.D. 2

STATE OF HAWAI‘I  
**OFFICE OF THE PUBLIC DEFENDER**

**Testimony of the Office of the Public Defender,  
State of Hawai‘i to the Senate Committee  
on Public Safety, Intergovernmental, and Military Affairs**

March 17, 2022

H.B. No. 2344, HD 2: RELATING TO PROBATION

Chair Nishihara, Vice Chair DeCoite, and Members of the Committee:

The Office of the Public Defender supports the intent of H.B. No. 2334, HD 2. This measure (1) requires a probation officer to conduct a formal review of the defendant’s progress at the halfway point in their probation; (2) requires the probation officer to provide the defendant with information on how to file a motion for early termination of probation; and (3) allows for a probation officer or law enforcement officer who believes that the defendant has failed to comply with a discretionary condition of probation to issue a written notice to the defendant, informing him/her of a court hearing, the alleged violation, and the date, time, location, and purpose of the hearing.

While this measure is well-intentioned and a good start, H.B. No. 2334, HD 2, unfortunately, falls short of what is necessary to genuinely yield successful probationers and reduce jail and prison populations. This measure will have little to no effect on the various issues it seeks to address.

**Formal progress review of defendant**

The original version of H.B. No. 2334 provided a “good time credit system” by which a defendant could shorten his/her probationary period. The very prospect of “getting off probation early” would motivate, even inspire, a good number of defendants to perform well on probation. Unfortunately, the current measure fails in providing actual tangible benefits to the defendant for “good behavior” or satisfactory performance on probation. This measure does nothing more than require that a formal review be conducted by the probation officer. Following this formal review, the probation officer, however, has no obligation or expectation to do anything, aside from explaining how to file a motion for early termination of probation.

If this measure is to make a real difference, it should require the probation officer to submit a report after the formal review of the defendant to the presiding/sentencing judge, and the probation officer should be required to justify why the defendant continues to need supervision on probation. If the defendant does not need to continue to be on probation, the probation officer should also have the authority, with the judge's approval and signature, to file an order terminating the defendant's probation. This would streamline the early termination process and obviate the need to seek the assistance of an attorney.

### **Technical violations**

The original version of H.B. No. 2334 provided that a court shall not impose incarceration upon a defendant whose probation violation was only a "technical violation." The original measure correctly and appropriately placed recidivism, or a return to crime, as the top priority of probation. The current measure, however, has turned away from "technical violation" and has settled on the less-clear "failure to comply with a discretionary condition."

Rather than abandon "technical violation" altogether, work could be done to define and clarify the term "technical violation" as it is used in the context of acceptable grounds for revoking a defendant's probation. Between the standard (or mandatory) terms and conditions and the discretionary (or special) terms and conditions of probation, work should be done to specify which terms and conditions are deemed "technical" and which are deemed worthy of grounds for revocation of probation. But, to be clear, it is wholly appropriate that a defendant's probation should not be revoked because of a minor "technical violation."

### **Written notice rather than a bench warrant and arrest**

The current measure allows for a probation officer or law enforcement officer, in their discretion, to issue a written notice of a court hearing (rather than a bench warrant and arrest) if there exists probable cause that a violation of a discretionary condition has occurred. While this part of the measure is well-intentioned, it does not go far enough as to *require* that there only be a written notice, and not a bench warrant and arrest, when there is probable cause that a minor technical violation has occurred.

Rather than issuing a bench warrant on a minor technical violation to be served on a defendant which, often times, results in law enforcement officers pulling the defendant out of his/her life, humiliating the defendant at home or at work, and



sometimes causing the defendant to lose his/her livelihood and possibly their home and their family, a written notice that directs the defendant to appear before a judge is a more fair and humane practice. It is truly heart-wrenching to see these individuals get arrested on a probation revocation bench warrant because they were guilty solely of a technical violation of probation.

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

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

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1060 RICHARDS STREET • HONOLULU, HAWAII 96813  
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STEVEN S. ALM  
PROSECUTING ATTORNEY

THOMAS J. BRADY  
FIRST DEPUTY  
PROSECUTING ATTORNEY



**THE HONORABLE CLARENCE K. NISHIHARA, CHAIR**  
**SENATE COMMITTEE ON PUBLIC SAFETY,**  
**INTERGOVERNMENTAL AND MILITARY AFFAIRS**  
**Thirty-first State Legislature**  
**Regular Session of 2022**  
**State of Hawai'i**

March 17, 2022

**RE: H.B. 2344, H.D. 2; RELATING TO PROBATION.**

Chair Nishihara, Vice-Chair DeCoite and members of the Senate Committee on Public Safety, Intergovernmental and Military Affairs, the Department of the Prosecuting Attorney of the City and County of Honolulu (“Department”) submits the following **comments** regarding H.B. 2344, H.D. 2.

If enacted, H.B. 2344, H.D. 2, would require probation officers to review someone’s progress halfway through their period of probation, and ensure the probationer knows how to file for early termination of probation, if they so choose.

The Department appreciates the amendments made by the House Committee on Corrections, Military, and Veterans, and believes that requiring probation officers to conduct a formal review of the individual’s progress halfway through their probation period, and specifically assess his or her potential for early termination, is a prudent and beneficial change. In addition, the removal of all “technical violation” provisions helps to ensure that all of the specialty courts maintained by the Judiciary, which utilize treatment and social services as part of their rehabilitative process, will remain effective.

The Department strongly believes in the rehabilitative opportunity provided by probation, and further believes that all of the treatments, services, mandates and restrictions that probationers are required to follow—as specifically crafted by the court for each offender—are part of that rehabilitative process. Treatment, in particular, is one of the most important conditions of probation, and provides offenders the best possible chance of overcoming substance abuse, mental health, domestic violence, and many other issues that may have contributed to the underlying offense, and would potentially lead to further offenses while the defendant is on probation, or thereafter, if left untreated. Thank for you the opportunity to testify on this matter.

## TESTIMONY IN SUPPORT OF HB 2344, HD2

TO: Chair Nishihara, Vice Chair DeCoite, & Committee Members

FROM: Nikos Leverenz, Grants & Advancement Manager

DATE: March 17, 2022 (1:00 PM)

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Hawai'i Health & Harm Reduction Center (HHHC) **supports** HB 2344, HD 2, which requires probation officers to conduct formal reviews of a defendant's progress halfway through the defendant's period of probation and provide information on how to file a motion for early termination of probation. We request that this bill be amended to align with the more robust reform provisions of SB 2514.

The continued absence of substantive probation reform, sentencing reform, and bail reform creates a framework for perennially overcrowded jails. The Department of Public Safety relayed a critical data point to the [HCR 85 Prison Reform Task Force, which published its final report in January 2019](#): **only 26% of the combined jail and prison population is incarcerated for class A or B felony, while the remaining 74% are incarcerated for a class C felony or lower (misdemeanor, petty misdemeanor, technical offense, or violation)**. The continued criminalization of persons who use drugs contributes to overcrowding and perpetuates lasting social, medical, and legal stigma. Over-incarceration is exacerbated by [Hawai'i having the longest average term of probation in the nation](#) (59 months).

The continued criminalization of personal drug use and possession also helps drive the overcrowding of carceral facilities and subjects persons from under-resourced communities to prolonged periods of criminal legal supervision. [The enforcement of drug laws pertaining to personal use and possession of drugs has disproportionately impacted Native Hawaiians](#). In this regard, the criminal legal system's enforcement of punitive drug laws embodies the kind of structural racism that this Legislature declared a public health crisis in HCR 112.

HHHC is strongly opposed to the continued criminalization of behavioral health problems and [supports the decriminalization of personal drug use and possession](#). Many of those we work with have behavioral health problems, including those related to substance use and mental health conditions. HHHC's mission is to reduce harm, promote health, create wellness, and fight stigma in Hawai'i and the Pacific. We work with many individuals impacted by poverty, housing instability, and other social determinants of health. Many of our program clients and participants have also been deeply impacted by trauma, including histories of physical, sexual, and psychological abuse. Criminalization compounds their suffering and further jeopardizes their health and well-being.

Thank you for the opportunity to testify on this measure.

**HB-2344-HD-2**

Submitted on: 3/15/2022 3:38:31 PM

Testimony for PSM on 3/17/2022 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Lorenn Walker	Testifying for Hawai'i Friends of Restorative Justice	Support	Written Testimony Only

Comments:

We strongly support HB2344, under the condition that the ACLU's amendments are included. We need to end incarceration as punishment for people who make technical probation violations , e.g., drug use, curfew, associate with the wrong people, etc. Our prisons are overcrowded with people who need social and educational services, not punishment by the criminal legal system. Please vote in favor of this bill.

Mahalo for your public service.

Please contact Lorenn Walker, JD, MPH [lorenn@hawaiifriends.org](mailto:lorenn@hawaiifriends.org) with any questions about our support of this bill.



**LATE**

Committee: Public Safety, Intergovernmental and Military Affairs  
Hearing Date/Time: Thursday, March 17, 2022 at 1:00pm  
Place: Via Videoconference

### **Testimony of the ACLU of Hawai'i in Support of HB 2169, HD1 With Amendments**

Dear Chair Nishihara, Vice Chair Decoite and members of the Committee:

The American Civil Liberties Union of Hawai'i ("ACLU of Hawai'i") strongly supports HB2344, HD2 **contingent** upon incorporation of amendments in the companion bill, SB 2514 SD1.<sup>1</sup>

The ACLU of Hawai'i is committed to transforming Hawaii's criminal legal system and building a new vision of safety and justice. First and foremost, we advocate for decarceration strategies to reduce the number of people in our jails and prisons, the majority of whom are Native Hawaiians, Pacific Islanders and people of color. Simultaneously, we advocate for **conditions of community supervision grounded in evidence-based practices**, humane conditions of confinement, meaningful rehabilitation opportunities, and comprehensive re-entry support services that starts from the first day of incarceration.

The **original version** of this bill eliminates incarceration as a sanction for technical violations of probation, creates a good time credit system for reduction of probation terms, and prohibits the imposition of certain unreasonable probation conditions.

The **current version** of this bill significantly waters down the substantive reform provisions based and instead requires probation officers halfway through the defendant's period of probation to conduct a formal review of the defendant's progress and provide information on how to file a motion with the court for early termination of probation, if the defendant chooses. **While the ACLU does not oppose requiring Probation Officers from conducting this halfway review that could result in shorter probation supervision terms, it is not a substitute for taking a systems approach to reduce incarceration for revocation and provide an earned time credit system for compliance with conditions of probation supervision.** Indeed, we recommend using multiple strategies to reduce the length of probation, reduce the caseloads of probation officers and reduce revocation rates that result in incarceration for technical violations of community supervision.

### **There is Room for Improvement in Hawaii's Probation System**

Probation is a part of the criminal legal system in Hawai'i. **As the national and local data below illustrates, Hawai'i has an opportunity for probation reform - to reduce the length of probation, to reduce rates of technical revocations and recidivism, and to reduce racial disparities.**

In 2020, the Pew Trust issued a report titled "States Can Shorten Probation and Protect Public Safety," highlighting concerns about the growth and size of the probation population.

"At its best, probation—court-ordered correctional supervision in the community—gives people the opportunity to remain with their families, maintain employment, and access services that can reduce their likelihood of reoffending while serving their sentences. But, as previous research by The Pew Charitable Trusts has shown, the growth and size of this population have overloaded local and state agencies and stretched their resources thin, weakening their ability to provide the best return on taxpayers' public safety investments, support rehabilitation, and ensure a measure of accountability. One key factor driving the size of the probation population is how long individuals remain on supervision."<sup>1</sup>

Nationwide, on any given day, there are more people on probation than prisons and jails and on parole combined.<sup>2</sup> This is also true in Hawai'i as illustrated by Prison Policy Initiative's pie chart.<sup>3</sup> In December 2018, Hawai'i had 20,000 under probation supervision, and 8,000 in federal or state prison, youth confinement commitment and parole supervision.<sup>5</sup> As of December 2019, Hawai'i had a **combined community supervision population of 21,285 people**.<sup>4</sup> Of this number, 19,619 individuals were serving probation sentences.<sup>7</sup>

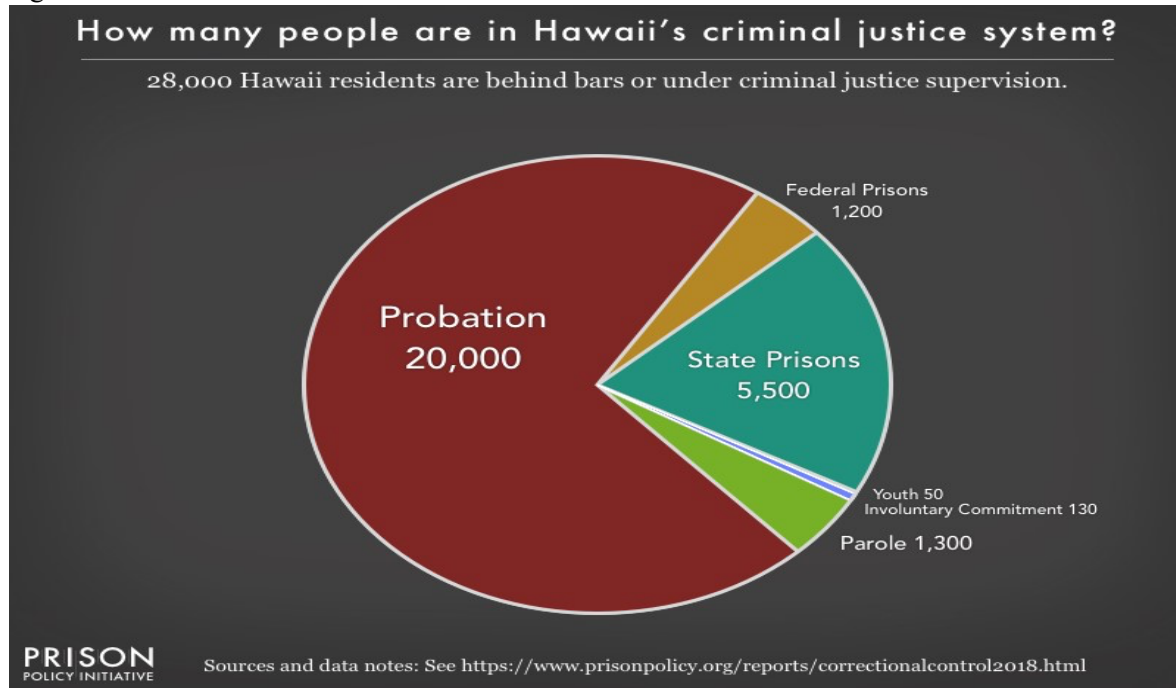
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<sup>1</sup> [https://www.pewtrusts.org//media/assets/2020/12/shorten\\_probation\\_and\\_public\\_safety\\_report.pdf](https://www.pewtrusts.org//media/assets/2020/12/shorten_probation_and_public_safety_report.pdf)

<sup>2</sup> [https://www.pewtrusts.org//media/assets/2020/12/shorten\\_probation\\_and\\_public\\_safety\\_report.pdf](https://www.pewtrusts.org//media/assets/2020/12/shorten_probation_and_public_safety_report.pdf)

<sup>3</sup> [https://www.prisonpolicy.org/graphs/correctional\\_control2018/HI\\_correctional\\_control\\_2018.html](https://www.prisonpolicy.org/graphs/correctional_control2018/HI_correctional_control_2018.html) <sup>5</sup>  
<https://nicic.gov/state-statistics/2019/hawaii-2019>.

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



**Hawai'i Ranks First as having the Longest Average Probation Length Nationwide**

The Pew Report noted that Hawai'i has the highest average length of probation supervision within the United States, at 59 months.

**Pew Report Probation lengths across the U.S. (2020)<sup>8</sup>**

National average (2018) = 22.4 months

Rank (1 = longest)	State	Average probation term in months, 2018
1	Hawaii	59 months
2	New Jersey	52 months
3	Rhode Island	44 months
4	Oklahoma	42 months
5	Arkansas	41 months
46	Indiana	15 months
47	Delaware	15 months
48	West Virginia	15 months
49	Massachusetts	10 months
50	Kansas	9 months

Additionally, the Pew Report highlighted the following data points for Hawai'i:

- **Hawaii's probation rate for adults in 2018 was 1 in 55**

- From **2000-2018, Hawaii’s average probation term length increased by 92%**
- In a 50-state survey of 2017 statutes, Alaska, Hawaii, and Texas had the longest felony probation maximum term at 10 years.

### **Recidivism Rates for Probation Remain High**

Recidivism rates for persons on probation in Hawai’i remain high. According to the **Attorney General’s Interagency Council on Intermediate Sanctions Recidivism Update Report in 2019**, the State of Hawai’i, fiscal year 2016 Cohort, had a recidivism rate<sup>5</sup> of nearly 54%. In other words, 1 out of 2 persons on probation recidivate during their probation term.

<b>Recidivism Rates</b>	<b>(FY 2016 Cohort)</b>	<b>Baseline 1999</b>	<b>Difference</b>
Probation	54.6%	53.7 %	+0.9 increase
Parole	50.1%	72.9 %	-22.8 decrease
Max Term Release	57.1%	76.1%	-19 decrease

**Total Statewide Average Recidivism Rate: 53.8%**

### **Racial Disparities Exist within Hawaii’s Probation System**

For decades, numerous reports have highlighted racial and ethnic disparities in Hawaii’s criminal legal system. According to *The Disparate Treatment of Native Hawaiians in the Criminal Justice System, Office of Hawaiian Affairs Report (2010)*, **Native Hawaiians continue to be disparately represented at every stage of the criminal legal system, including probation<sup>6</sup>:**

- In 2008 – of the 1,826 charges filed that resulted in probation, 486 or 27% were filed against Native Hawaiians.
- **In 2009, 40% of the people sent to prison for a probation violation were Native Hawaiian.** All other racial and ethnic groups except for Hispanics, receive shorter probation sentences than Native Hawaiians.

<sup>5</sup> The Attorney General’s Interagency Council on Intermediate Sanctions defines recidivism as a felony, misdemeanor, petty misdemeanor arrest, or **probation or parole revocation** to record the recidivism event. <https://icis.hawaii.gov/wp-content/uploads/2021/05/2019-Hawaii-Recidivism-Update.pdf>

<sup>6</sup> <https://19of32x2yl33s8o4xza0gf14-wpengine.netdna-ssl.com/wp-content/uploads/2015/01/nativehawaiians-criminal-justice-system.pdf>



**Reincarcerating People for Technical Violations Destabilizes Individuals, Families and Communities and Contributes to Overcrowding in our Jails and Prisons**

Under our current probation system, people may be incarcerated for community supervision infractions – even if they are not arrested or convicted of a new crime. Imposing incarceration on people for technical violations—things like a missed appointment, being late for curfew because of work, associating with someone with a criminal record, relapse, or failing to report a change of address—contributes heavily to overcrowding in our jails and prisons.

As of January 24, 2022, 1,016 out of 4099 people, were in Hawai'i's jails and prisons due to probation and parole revocations. **On average, approximately one-fourth of jail and prison population in Hawai'i are the result of parole and probation infractions.**<sup>7</sup>

This system feeds mass incarceration, costs the state exorbitant amounts of money better spent on re-entry programs, and disproportionately impacts Native Hawaiians, Pacific Islanders, Black people, and low-income communities.

**Critically, there is no evidence that incarcerating people for non-criminal probation infractions improves public safety.** Instead, it destabilizes individuals on probation by erasing their progress made in the community. Upon release from incarceration, people must start over again—thrust back into a cycle of struggling to obtain stable housing, maintain employment, and support their families. This result is much more likely to lead to *more* crimes of poverty, not fewer.

**Incarceration for Technical Violations of Probation is Costly**

Probation reform that results in less incarceration will save the State taxpayer dollars. **It costs \$219 a day or approximately \$80,000 a year to incarcerate an adult.**

The Judiciary's Adult Client Intake Services Branch highlighted the following data in their written testimony relating this bill and its companion bill HB2344:

FY2020-2021:	18,505 statewide probation offices managed these offenders
<b>PROB REVOC:</b>	<b>495 technical violations</b>
New CONV:	160 returned to court for new convictions
	3.54% of offenders revoked over the fiscal year

Based on Adult Client Intake Services data, 495 people had their probation revoked for technical violations, not new convictions, in the fiscal year 2020-2021. This

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<sup>7</sup> E.g., Department of Public Safety, Weekly Population Report, January 24, 2022.

impacted 495 individuals and their families, and had a ripple effect on impacted communities.

**PROB REVOC: 495 people in Fiscal year 2020-2021**

**Cost: \$219 x 495 people = \$108,405 per day or \$39,567,825 per year**

The stark reality is that the public foots the bill for incarceration in response to technical violations even though there is no evidence that reincarcerating people for technical violations improves public safety compared to other non-carceral alternatives. Cost-savings from less incarceration should be invested into health care, treatment and services that are more effective at helping people transform their lives and enhancing community safety.

**Earned Time Credit Policies Encourage Compliance with Probation Conditions and Can Contribute to Reducing the Probation Supervision Population and Probation Officer Caseloads**

To ensure compliance with technical probation conditions, **the bill offers good time credits to individuals who successfully follow conditions, thus shifting the system from a punitive to an incentive-based one.** This system also encourages people to seek assistance when necessary—like when dealing with a substance abuse disorder or struggling to find a job—instead of being afraid they will be returned to prison if they report these challenges.

According to a recent Pew Report, **“Many people on supervision serve longer terms than are necessary for public safety.”** For example, data from Oregon and South Carolina showed that “among people who were on probation for a year without being arrested, more than 90% could have spent less time on supervision without an impact on recidivism (as measured by re-arrests).”<sup>8</sup>

Moreover, the Pew Report concludes that **“Cutting the length of supervision can play an important role in shrinking probation populations.** And reducing the number of people on

supervision can allow **agencies to direct resources where they** can have the biggest impact on public safety. For example, **research has shown that when officers have smaller caseloads and implement evidence-based practices, it can reduce recidivism.”**<sup>9</sup>

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<sup>8</sup> <https://www.pewtrusts.org/en/research-and-analysis/reports/2020/12/states-can-shorten-probationand-protect-public-safety>

<sup>9</sup> *Id.*

Research also shows that offering people “the opportunity to reduce their sentences via earned time credits encourages compliance and **increases successful outcomes without compromising public safety, especially if the incentive is perceived as significant, such as receiving 15 to 30 days off a sentence for each month of compliance.**”<sup>10</sup>

Currently, 16 states have statutes that allow for earned time credits on probation supervision. In addition, states such as **Alaska, Arkansas, Delaware, Missouri, and Utah** have “**30 for 30**” policies, in which the person on probation gets 30 days of credit for 30 days of compliance with probation conditions.<sup>15</sup>

### **Earned Time Credits May be Forfeited as an Intermediate Sanction To Technical Violations**

At a prior hearing on this measure, **Adult Client Intake Services raised concerns about not having the option of threatening incarceration or incarceration in response to technical violations.** Rather than resorting to the most punitive sanction of incarceration for technical violations, **the proposed measure allows for the loss of accrued time credits if people violate the terms of their supervision to a sufficient degree.** For example, the proposed bill states: “Credit may be forfeited, but only for failure to comply with a condition of a sentence of probation, and only in proportion to the severity of the defendant’s failure to comply with the condition.” Page 5, lines 9-12.

### **Proposed Amendments to HB2344 HD2**

In closing, we respectfully request that this Committee pass HB2344, HD2 by incorporating the amendments in SB 2514, SD1 and the **following amendment:**

- 1) page 5, lines 5-8 from SB2514, SD1. (2) A defendant shall earn a credit that is worth a reduction of 30 days from the defendant’s sentence for every 30 days the defendant is in compliance with the conditions of a sentence of probation.**

This proposed measure and amendment reflects data driven strategies to improve the probation system in Hawai‘i. Projected outcomes include reducing the number of people who are incarcerated for technical violations, and shortening probation lengths through earned time credits. In turn, this will save taxpayer dollars and promote community safety.

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<sup>10</sup> <https://ciceroinstitute.org/research/employment-based-earned-time-credits-in-adult-supervision/>); <sup>15</sup> <https://www.pewtrusts.org/en/research-and-analysis/reports/2020/12/states-can-shorten-probationand-protect-public-safety>

March 17, 2022

Page 8 of 8

Please enact meaningful probation reforms and insert the amendments from SB2514 SD1 into HB2344 HD2, with the additional amendment of permitting individuals the opportunity to earn 30 days of a reduction in their probation system for every 30 days of compliance with the conditions of probation.

Sincerely,

***Carrie Ann Shirota***

Carrie Ann Shirota

Policy Director ACLU of Hawai'i

[cshirota@acluhawaii.org](mailto:cshirota@acluhawaii.org)

*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.*

**HB-2344-HD-2**

Submitted on: 3/15/2022 10:31:41 AM

Testimony for PSM on 3/17/2022 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Diana Bethel	Individual	Support	Written Testimony Only

Comments:

HB2344 HD2 Description:

Requires probation officers to conduct formal reviews of a defendant's progress halfway through the defendant's period of probation and provide information on how to file a motion for early termination of probation. Gives probation or law enforcement officers who have probable cause to believe a defendant has failed to comply with a discretionary condition of probation the discretion to issue the defendant a written notice of a court hearing.

The longer a person has to comply with the onerous conditions of probation (too many years), there is more opportunity for slippage and lowered morale. If a person remains law abiding and hasn't reoffended, why reincarcerate them for something trivial such as being late for an appointment, etc.? It seems way out of proportion in response to an inane trivial misstep. Reincarceration only prevents the person from progressing toward becoming a productive member of society, increases the strain on the already massively overburdened probation system, and costs taxpayers unnecessary millions of dollars. It doesn't make sense.

**HB-2344-HD-2**

Submitted on: 3/15/2022 3:06:53 PM

Testimony for PSM on 3/17/2022 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
John A. H. Tomoso	Individual	Support	Written Testimony Only

Comments:

03-15-22

RE: [HB2344](#) HD2

Chair Nishihara Vice Chair DeCoite, Aloha.

*I am testifyilng in strong support of HB2344, inclusive of the amendments proposed by the ACLU, of which I am an individual member. Currently, people in Hawai'i on probation can be reincarcerated for making simple mistakes like missing a probation appointment, struggling to get a job, or relapsing. Reincarcerating people for technical violations hurts public safety by destabilizing individuals on probation, their families, and loved ones. I am especially concerned about Native Hawaiians and Pacific Islanders. In my experience as a Social Worker and Episcopal Priest, most people released from prison struggle to obtain stable housing, find and maintain employment, and further their education because of systemic inefficiencies and injustices, community disinvestment, and the stigma and discrimination associated with "having a record". This also leaves many on probation even more vulnerable to houselessness and unemployment, increasing the likelihood that they will be rearrested for crimes of poverty. And, taxpayers will foot the bill for incarcerating people instead of investing in rehabilitative alternatives like earned good time credits and community based support services.*

Please incorporate the ACLU's proposed amendments and vote yes on HB2344 to assist our incarcerated friends and families to become contributing members of our community.

Mahalo for your consideration,

**John A. H. Tomoso +, MSW, ACSW**

**51 Ku'ula Street, Kahului, Maui, HI 96732-2906**

**808-280-1749, john.a.h.tomoso@gmail.com**

**cc: Maui Reentry Hui**

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**Benjamin Duke**

Kailua-Kona

March 13, 2022

Re: HB2344

Senator Clarence K. Nishihara, Chair

Senator Lynn DeCoite, Vice Chair

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

My name is Benjamin Duke and I am testifying in strong support of HB2344, under the condition that amendments proposed by the ACLU are included.

Currently, people in Hawai'i on probation can be reincarcerated for making simple mistakes like missing a probation appointment, struggling to get a job, or relapsing. Reincarcerating people for technical violations hurts public safety by destabilizing individuals on probation, their families, and loved ones; namely Native Hawaiians, Pacific Islanders, and Black communities. Most people released from prison struggle to obtain stable housing, find and maintain employment, and further their education because of systemic injustices, community disinvestment, and the stigma and discrimination associated with a record. This also leaves many on probation even more vulnerable to houselessness and unemployment, increasing the likelihood that they will be rearrested for crimes of poverty. And, taxpayers will foot the bill for incarcerating people instead of investing in alternatives like earned good time credits and community based support services.

Please incorporate the ACLU's proposed amendments and vote yes on HB2344 to keep our loved ones together.

Mahalo for your consideration,

Benjamin Duke

**HB-2344-HD-2**

Submitted on: 3/15/2022 12:10:30 PM

Testimony for PSM on 3/17/2022 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Peter Koulogeorge	Individual	Support	Remotely Via Zoom

Comments:

Dear Chair Nishihara and Vice Chair DeCoite,

I am writing to you today in order to voice my support for HB2344 under the condition that the bill is amended to include a good time credit system and to largely end incarceration for technical violations, as proposed by the ACLU of Hawaii.

The matter of probation reform is of great public interest because it has huge consequences for at-risk individuals, people who are attempting to secure long term stability in the community after experiencing the hardships of incarceration, and as it relates to the state's budget. Currently, a substantial proportion of incarcerated folks are locked up due to technical violations of probation, which is a disproportionate response to non-criminal offenses. Folks should not be re-incarcerated for simply failing a drug test or spending time with friends and neighbors who have criminal records. Re-entering society after incarceration is an incredibly difficult task, and we need to do everything we can to set them up for success rather than beating these people down when they make mistakes. Applying alternative strategies to work with individuals on probation is not only ethical, but it will save the treasury a considerable amount of money going forward. Additionally, by adding a good time credit system we can encourage folks to follow the terms of probation so that they can return to their daily lives and the state can expend resources in areas that improve our society.

Although your counterparts in the house chose to remove the most valuable aspects of this bill, it is within your power to decide what is just and good for our state. And, I urge you to consider the analysis provided by Carrie Ann Shirota of the ACLU, who is a very well researched advocate for effective and efficient governing.

Please pass HB2344 with amendemnds proposed by the ACLU so that we may focus our attention on the root causes of crime and stop investing in punative strategies that accomplish little for public safety and the general welfare.

Thank you for considering my testimony,

Peter Koulogeorge





**HB-2344-HD-2**

Submitted on: 3/15/2022 8:47:05 PM

Testimony for PSM on 3/17/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Lee Curran	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Nishihara, Vice Chair De Coite and PSM Committee Members,

My name is Lee Curran and I am testifying as an individual who is a co-facilitator of the Transformative Justice Task Force which is part of Faith Action for Community Equity, (FACE) I am testifying in **STRONG SUPPORT with the proposed amendments of the ACLU** of HB2344 HD2 relating to probation reform.

Although my primary focus is cash bail reform this legislative session, I feel deeply moved to testify due to the intersectionality of the myriad of criminal legal injustices. Our nation is addicted to mass incarceration. This started prior to the founding of the United States as a nation and has progressively escalated to the point of an addiction that is a public health and well-being crisis. Policing, surveillance and the carceral system, which includes parole, have always been grounded in classism, racism and a lack of human decency. In this system, minor probation violations lead to re-incarceration.

According to a just published report from the Prison Policy Initiative, <https://www.prisonpolicy.org/reports/pie2022.html>, often overlooked in discussions about mass incarceration are the various “holds” that keep people behind bars for administrative reasons. A common example is when people on probation or parole are jailed for violating their supervision, either for a new crime or a non-criminal (or “technical”) violation. If a parole or probation officer suspects that someone has violated supervision conditions, they can file a “detainer” (or “hold”), rendering that person ineligible for release on bail. For people struggling to rebuild their lives after conviction or incarceration, returning to jail for a minor infraction can be profoundly destabilizing. The most recent data show that [nationally](#), almost 1 in 5 (18%) people in jail are there for a violation of probation or parole, though [in some places](#) these violations or detainers account for over one-third of the jail population. This problem is not limited to local jails, either; in 2019, the Council of State Governments found that nearly [1 in 4 people in state prisons](#) are incarcerated as a result of supervision violations.

There is a lot of interest in light of the actions of former legislators English and Cullen about not only what you do in the legislature but the standard at which you do it. Please take this opportunity to consider this probation bill that holds both you and our communities to a higher standard. We are currently on a hamster wheel of dysfunction doing the same old things over and over without success. Let’s try something different!

Notice that Probation, Parole and Prison are all grounded in Punitive actions and start with the letter "P". Let's evolve to a new letter.... "R".... Reimagine, Refocus, Reform, Rehabilitate. Legislation that reflects this evolution is needed to allow people to safely REMAIN with their families in their communities as they READJUST to life outside of incarceration. **Please vote YES on HB2344 HD2 with the proposed amendments of the ACLU and keep our loved ones together.**

Aloha,

Lee Curran, Makaha

**HB-2344-HD-2**

Submitted on: 3/15/2022 1:16:52 PM

Testimony for PSM on 3/17/2022 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Tadia Rice	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Nishihara & Vice Chair DeCoite,

My name is Tadia Rice and I am testifying in strong support of HB2344, under the condition that amendments proposed by the ACLU are included.

Currently, people in Hawai'i on probation can be reincarcerated for making simple mistakes like missing a probation appointment, struggling to get a job, or relapsing. Reincarcerating people for technical violations hurts public safety by destabilizing individuals on probation, their families, and loved ones; namely Native Hawaiians, Pacific Islanders, and Black communities. Most people released from prison struggle to obtain stable housing, find and maintain employment, and further their education because of systemic injustices, community disinvestment, and the stigma and discrimination associated with a record. This also leaves many on probation even more vulnerable to houselessness and unemployment, increasing the likelihood that they will be rearrested for crimes of poverty. And, taxpayers will foot the bill for incarcerating people instead of investing in alternatives like earned good time credits and community based support services.

Please incorporate the ACLU's proposed amendments and vote yes on HB2344 to keep our loved ones together.

Mahalo for your consideration,

Tadia Rice

**HB-2344-HD-2**

Submitted on: 3/15/2022 2:59:45 PM

Testimony for PSM on 3/17/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jasmine Slovak	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Nishihara & Vice-Chair DeCoite,

My name is Jasmine Slovak and I am testifying in strong support of HB2344, **under the condition that amendments proposed by the ACLU are included.**

Currently, people in Hawai'i on probation can be reincarcerated for making simple mistakes like missing a probation appointment, struggling to get a job, or relapsing.

Most people released from prison struggle to obtain stable housing, find and maintain employment, and further their education because of systemic injustices, community disinvestment, and the stigma and discrimination associated with a record. This also leaves many on probation even more vulnerable to houselessness and unemployment, increasing the likelihood that they will be rearrested for crimes of poverty.

**Please incorporate the ACLU's proposed amendments and vote yes on HB2344 to keep our loved ones together.**

Mahalo for your consideration,

Jasmine Slovak

**HB-2344-HD-2**

Submitted on: 3/12/2022 3:08:21 PM

Testimony for PSM on 3/17/2022 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Gerard Silva	Individual	Oppose	Written Testimony Only

Comments:

NOT FAIR TO THE PUBLIC!!

**HB-2344-HD-2**

Submitted on: 3/15/2022 3:04:48 PM

Testimony for PSM on 3/17/2022 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Carla Allison	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Nishihara, Vice Chair DeCoite and Committee Members,

My name is Carla Allison and I am testifying in strong support of HB2344 HD2 relating to probation under the condition that amendments proposed by the ACLU are included.

Currently, people in Hawai'i on probation or parole can be reincarcerated for making simple mistakes like missing a probation appointment or struggling to get a job. These conditions hurt public safety by destabilizing individuals on parole, their families, loved ones, and their communities; namely Native Hawaiians, Pacific Islanders, and Black people.

Most people released from prison struggle to obtain stable housing, find and maintain employment, and further their education because of systemic injustices, community disinvestment, and the stigma and discrimination associated with a felony record. This also leaves many on parole even more vulnerable to homelessness and unemployment, increasing the likelihood that they will be rearrested for crimes of poverty.

This bill will help address Hawaii's prison overcrowding conditions and will help ensure those on parole or probation have a better chance at success. HB2344 allows people to safely remain with their families in their communities as they readjust to life outside of incarceration.

A big plus of this bill is that it shifts parole from a punitive system to an incentive-based system, encouraging people to follow the rules and seek assistance when necessary.

Please incorporate the ACLU's proposed amendments and vote yes on HB2344 HD2 and keep our loved ones together, our jails less crowded and give offenders a higher probability of success as they transition back in to our communities.

Mahalo for your consideration,

Carla Allison

**HB-2344-HD-2**

Submitted on: 3/15/2022 5:16:24 PM

Testimony for PSM on 3/17/2022 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Greg Puppione	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Nishihara & Vice Chair DeCoite,

My name is Greg and I am testifying in strong support of HB2344, under the condition that amendments proposed by the ACLU are included.

Currently, people in Hawai'i on probation can be reincarcerated for making simple mistakes like missing a probation appointment, struggling to get a job, or relapsing. Reincarcerating people for technical violations hurts public safety by destabilizing individuals on probation, their families, and loved ones; namely Native Hawaiians, Pacific Islanders, and Black communities. Most people released from prison struggle to obtain stable housing, find and maintain employment, and further their education because of systemic injustices, community disinvestment, and the stigma and discrimination associated with a record. This also leaves many on probation even more vulnerable to houselessness and unemployment, increasing the likelihood that they will be rearrested for crimes of poverty. And, taxpayers will foot the bill for incarcerating people instead of investing in alternatives like earned good time credits and community based support services.

Please incorporate the ACLU's proposed amendments and vote yes on HB2344 to keep our loved ones together.

Mahalo for your consideration



**HB-2344-HD-2**

Submitted on: 3/13/2022 7:06:44 PM

Testimony for PSM on 3/17/2022 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Thaddeus Pham	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Nishihara, Vice Chair DeCoite, and PSM Committee Members,

As a public health professional and concerned community member, I am testifying in **strong support of HB2344 HD2** relating to probation.

Currently, people in Hawai'i on probation can be reincarcerated for making simple mistakes like missing a probation appointment or struggling to get a job. These conditions hurt public safety by destabilizing individuals on probation, their families, loved ones, and their communities; namely Native Hawaiians, Pacific Islanders, and Black people.

Most people released from prison struggle to obtain stable housing, find and maintain employment, and further their education because of systemic injustices, community disinvestment, and the stigma and discrimination associated with a record. This also leaves many on probation even more vulnerable to homelessness and unemployment, increasing the likelihood that they will be rearrested for crimes of poverty.

Not surprisingly, such instability increases poor health, safety, and economic outcomes for both individuals and the State.

Please support this important bill.

With gratitude,

Thaddeus Pham (he/him)

**HB-2344-HD-2**

Submitted on: 3/12/2022 12:02:22 PM

Testimony for PSM on 3/17/2022 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Christy MacPherson	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Nishihara, Vice Chair DeCoite and members of the Senate Committee on Public Safety, Intergovernmental, and Military Affairs,

I am in strong support of HB2344, HD2. This would aid the prevention of defendants being in the system for longer periods of time than is warranted or necessary.

Mahalo for your consideration.

**HB-2344-HD-2**

Submitted on: 3/15/2022 8:42:54 PM

Testimony for PSM on 3/17/2022 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Inge Detlefsen	Individual	Support	Written Testimony Only

Comments:

**My name is Inge Detlefsen and I am testifying in strong support of HB2344, under the condition that amendments proposed by the ACLU are included.**

**Currently, people in Hawai‘i on probation can be reincarcerated for making simple mistakes like missing a probation appointment, struggling to get a job, or relapsing. Reincarcerating people for technical violations hurts public safety by destabilizing individuals on probation, their families, and loved ones; namely Native Hawaiians, Pacific Islanders, and Black communities. Most people released from prison struggle to obtain stable housing, find and maintain employment, and further their education because of systemic injustices, community disinvestment, and the stigma and discrimination associated with a record. This also leaves many on probation even more vulnerable to houselessness and unemployment, increasing the likelihood that they will be rearrested for crimes of poverty. And, taxpayers will foot the bill for incarcerating people instead of investing in alternatives like earned good time credits and community based support services.**

**Please incorporate the ACLU’s proposed amendments and vote yes on HB2344 to keep our loved ones together.**

**Mahalo for your consideration,**

**Inge Detlefsen**

**HB-2344-HD-2**

Submitted on: 3/12/2022 12:45:09 AM

Testimony for PSM on 3/17/2022 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Jennifer Azuma Chrupalyk	Individual	Oppose	Written Testimony Only

Comments:

Your system needs to find a healthy way to support the successful reintegration back into society and having a lot of time-costing requirements is not going to cut it. How are they supposed to keep a job when they often have to deal with familial pressure to make up for lost time with family/home responsibilities, a demanding appointment schedule, and now new appointments added to it? I understand that the State might feel like more monitoring is needed, but I think that if the state wants to provide that much monitoring, that they should turn the probation program into a paid internship that invests in the human development of former nonviolent offenders. A corrected process would include stage 1 as a Furlow Program, stage 2 as an internship/human development program, and stage 3 as actual employment - you know, when the client can actually work a functional job schedule.

**HB-2344-HD-2**

Submitted on: 3/16/2022 8:18:35 AM

Testimony for PSM on 3/17/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Anne Leake	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Nishihara & Vice Chair DeCoite,

My name is Anne Leake and I am testifying in **strong support of HB2344, under the condition that amendments proposed by the ACLU are included.**

I am a nurse practitioner serving homeless people on the Windward coast of Oahu. I see first hand every day how much our current probation system contributes to chronic homelessness. Currently, people in Hawai'i on probation can be reincarcerated for making simple mistakes like missing a probation appointment, struggling to get a job, or relapsing. Reincarcerating people for technical violations hurts public safety by destabilizing individuals on probation, their families, and loved ones; namely Native Hawaiians, Pacific Islanders, and Black communities. Most people released from prison struggle to obtain stable housing, find and maintain employment, and further their education because of systemic injustices, community disinvestment, and the stigma and discrimination associated with a record. This also leaves many on probation even more vulnerable to houselessness and unemployment, increasing the likelihood that they will be rearrested for crimes of poverty. And, taxpayers will foot the bill for incarcerating people instead of investing in alternatives like earned good time credits and community based support services.

**Please incorporate the ACLU's proposed amendments and vote yes on HB2344 to keep our loved ones together.**

Mahalo for your consideration,

Dr. Anne Leake

**HB-2344-HD-2**

Submitted on: 3/16/2022 8:07:01 AM

Testimony for PSM on 3/17/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Colleen Rost-Banik	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Nishihara & Vice Chair DeCoite,

My name is Colleen Rost-Banik. I am a resident of Honolulu and a lecturer within the University of Hawaii. I am testifying in **strong support of HB2344, under the condition that amendments proposed by the ACLU are included.**

As a lecturer, I have the opportunity to teach sociology classes at the Women's Community Correctional Center. A recent report revealed that close to 1/3 of the women in the Women's Community Correctional Center are imprisoned because of parole or probation violations. This has happened to a number of my students. What doesn't always get uncovered is that many people struggle to meet the requirements of their parole because they are simply trying to make ends meet. Unable to afford housing, they may be homeless and sleeping in a place that puts them in jeopardy of violating their parole. Additionally, they may be late for an appointment with their parole officer as they try to figure out where to shower so that they can appear presentable. These conditions shouldn't be a cause for reincarceration. Instead, it's a signal that we need to put more resources into reentry programs.

And, we need ways for people on probation to advocate for an early termination of their probation. Additionally, probation or law enforcement with probable cause that a defendant has violated probation should be required to provide a written notice to the defendant with all the details of the alleged offense as well as the court date.

Currently, people in Hawai'i on probation can be reincarcerated for making simple mistakes like missing a probation appointment, struggling to get a job, or relapsing. Reincarcerating people for technical violations hurts public safety by destabilizing individuals on probation, their families, and loved ones; namely Native Hawaiians, Pacific Islanders, and Black communities. Most people released from prison struggle to obtain stable housing, find and maintain employment, and further their education because of systemic injustices, community disinvestment, and the stigma and discrimination associated with a record. This also leaves many on probation even more vulnerable to houselessness and unemployment, increasing the likelihood that they will be rearrested for crimes of poverty. And, taxpayers will foot the bill for incarcerating people instead of investing in alternatives like earned good time credits and community based support services.

**Please incorporate the ACLU's proposed amendments and vote yes on HB2344** to keep our loved ones together.

Mahalo for your consideration,  
Colleen Rost-Banik

**HB-2344-HD-2**

Submitted on: 3/16/2022 10:10:30 AM

Testimony for PSM on 3/17/2022 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Erica Yamauchi	Individual	Support	Written Testimony Only

Comments:

I am writing in support.

Erica Yamauchi, Kaimukī/Wilhelmina Rise