

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**

February 16, 2021

S.B. No. 149: RELATING TO PROPERTY FORFEITURE

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

The Office of the Public Defender respectfully supports S.B. No. 149, which seeks (1) to restrict civil asset forfeiture to only when the property owner has been convicted of an underlying covered criminal misdemeanor or felony offense; (2) changes the standard of proof that the State must meet in order for property to be forfeited from “preponderance of the evidence” to “beyond a reasonable doubt”; and (3) directs any proceeds from a civil forfeiture to the general revenue fund for public education purposes.

Property (or asset) forfeiture may have originally been intended to cripple drug trafficking organizations and organized crime; however, in practice, this is hardly the case. Rather, ordinary people, many with little or no connection to criminal activity, are frequently the targets of asset seizures. Most seizures involve small dollar amounts, not huge sums of cash seized from drug traffickers.

In property forfeiture proceedings, the property owner is presumed to be guilty until the owner proves that they are innocent and that the seized property therefore should not be forfeited. In other words, the owner must prove (1) that they were not involved in criminal activity and (2) that they either had no knowledge that the property was being used to facilitate the commission of a crime or that they took every reasonable step under the circumstances to terminate such use. Moreover, the proceedings are not before a neutral judge or arbitrator; forfeiture of personal property worth less than \$100,000, or forfeiture of any vehicle or conveyance, regardless of value is administratively processed. Finally, most forfeitures are unchallenged. Pragmatic property owners, however innocent, may reason that it is simply too cost prohibitive to challenge the seizure (primarily, due to the high cost of hiring an attorney) or that the cost far surpasses the value of the property.

What is appalling is that, according to the State Auditor report on civil forfeiture published in June 2018, in 26% of the asset forfeiture cases, the property was

forfeited without a corresponding criminal charge. *See* State of Hawai‘i, Office of the Auditor, Audit of the Department of the Attorney General’s Asset Forfeiture Program, Report No. 18-09 (June 2018). In other words, no criminal charges were filed in one-fourth of the property forfeiture cases. SECTION 1 of this measure aptly described the process: “This amounts to government-sponsored theft.”

Prosecuting agencies may assert that this measure would create a time-consuming, expensive and difficult process. However, the process should be difficult when the government is attempting to deprive personal property from its citizens.

Finally, the absurdity of the current state of our asset forfeiture laws in this country, including Hawai‘i’s law, is brilliantly lampooned in a segment on HBO’s Last Week Tonight with John Oliver, which originally aired on October 5, 2014, and which can be viewed at <https://m.youtube.com/watch?v=3kEpZWGgJks> (viewer discretion advised).

Thank you for the opportunity to comment on S.B. No. 149.



STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 02/16/2021

Time: 01:00 PM

Location: Via Videoconference

Committee: Senate Public Safety,
Intergovernmental and Military Affairs

Department: Education

Person Testifying: Dr. Christina M. Kishimoto, Superintendent of Education

Title of Bill: SB 0149 RELATING TO PROPERTY FORFEITURE.

Purpose of Bill: Restricts asset forfeiture to cases involving the commission of a covered criminal misdemeanor or felony offense. Requires seized property to be forfeited only when the property owner has been convicted of an underlying covered criminal misdemeanor or felony offense. Changes the standard of proof that the State must meet in order for property to be forfeited from "preponderance of the evidence" to "beyond a reasonable doubt". Requires the State to prove that owners consented to or possessed knowledge of the crime that led to the seizure of their property. Requires that the agency seizing the property pay for safe and secure storage of the seized property until the completion of the forfeiture proceeding or final disposition of the property. Directs any proceeds from a civil forfeiture to the general revenue fund for public education purposes. Repeals administrative forfeiture proceedings.

Department's Position:

Hawaii State Department of Education (Department) appreciates the Legislature's willingness to explore revenue-generating efforts to secure stability and predictability of K-12 education. The Department does not have a position on the civil forfeiture portions of the bill. For the public education funding portion of the bill, the Department offers the following comments.

The National Conference of State Legislatures list equity, predictability, and stability as critical components for maintaining an effective school finance system. While the

State's existing weighted student formula assures equity, this measure helps with the Department's predictability and stability.

The current reductions contained in the Governor's Executive Biennium Budget Request and Financial Plan are estimated at \$270 million a year:

1. \$100.2 million reduction that was implemented this current fiscal year using one-time adjustments that are not sustainable;
2. \$41 million of Program Review Reductions (down from the original \$164 million); and
3. \$128 million labor savings (estimate based on the original furlough proposal) of undetermined form pending the outcome of negotiations.

Our public schools cannot sustain these dramatic cuts while simultaneously ensuring the delivery of quality K-12 public education system. It is critical that in the weeks and months ahead, a means be found to ensure a vibrant K-12 public education system able to support the fulfillment of educational goals and aspirations.

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

The Hawai'i State Department of Education is committed to delivering on our promises to students, providing an equitable, excellent, and innovative learning environment in every school to engage and elevate our communities. This is achieved through targeted work around three impact strategies: school design, student voice, and teacher collaboration. Detailed information is available at www.hawaiipublicschools.org.



SB149

RELATING TO PROPERTY FORFEITURE

Ke Kōmike ‘Aha Kenekoa o ka Palekana Lehulehu, ka Pilina O Nā Aupuni, a me ke Kuleana Pū‘ali Koa

Pepeluali 16, 2020

1:00 p.m.

Hālāwai Keleka‘a‘ike

The Office of Hawaiian Affairs offers the following **COMMENTS** on SB149, which would, among other things, restrict the use of civil asset forfeiture to cases where the underlying offense is a covered and chargeable felony or misdemeanor and the property owner has actually been convicted of the covered offense. This measure may provide a much needed opportunity to address longstanding issues with the administration of Hawai‘i’s civil asset forfeiture laws, including with regards to their potential impact on the Native Hawaiian community.

OHA beneficiaries may be disproportionately impacted by civil asset forfeiture, especially as it is applied in drug-related cases. In recent years, drug-related offenses have constituted the majority of the covered offenses that have triggered asset forfeiture.¹ Meanwhile, OHA’s 2010 report, *The Disparate Treatment of Native Hawaiians in the Criminal Justice System*, notes that Native Hawaiians are convicted for drug-related offenses at much higher rates even though Native Hawaiian drug use is not higher when compared to other ethnic groups.² Thus, in addition to bearing a disproportionate burden of the state’s overwhelmingly punitive response to drug use, Native Hawaiians may also be exposed to a much higher risk of drug-related asset seizures and forfeitures.

Accordingly, OHA has a keen interest in ensuring that Hawai‘i’s asset forfeiture laws are administered in a fair, transparent, and accountable manner. OHA is especially concerned in light of a 2018 audit of the Attorney General’s asset forfeiture program, which found significant and longstanding deficiencies with regard to transparency and accountability in the administration of the current asset forfeiture laws. Notably, the report noted that “[b]ecause the bar to seize and forfeit property is so low... the program [must be managed] with a heightened degree of transparency and accountability.”³ **Until the state can establish clear mechanisms to ensure fairness, transparency, and accountability in the administration of its asset forfeiture program—especially with regard**

¹ From 2006 to 2015, drug related offenses composed 78 percent of the covered offenses resulting in forfeiture cases. OFFICE OF THE AUDITOR, STATE OF HAWAII, AUDIT OF THE DEPARTMENT OF THE ATTORNEY GENERAL’S ASSET FORFEITURE PROGRAM 14-15 (2018).

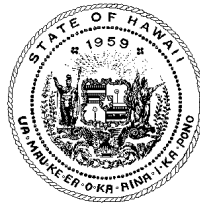
² THE OFFICE OF HAWAIIAN AFFAIRS, *THE DISPARATE TREATMENT OF NATIVE HAWAIIANS IN THE CRIMINAL JUSTICE SYSTEM* 45 (2010), available at http://www.oha.org/wp-content/uploads/2014/12/ir_final_web_rev.pdf.

³ OFFICE OF THE AUDITOR, STATE OF HAWAII, AUDIT OF THE DEPARTMENT OF THE ATTORNEY GENERAL’S ASSET FORFEITURE PROGRAM 2 (2018).

to its impact on the Native Hawaiian community—it may be prudent to limit asset forfeiture to associated cases that are chargeable, and in which the property owner has in fact been convicted of the underlying offense.

Mahalo piha for the opportunity to testify on this measure.

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

MAX N. OTANI
DIRECTOR

Maria C. Cook
Deputy Director
Administration

Tommy Johnson
Deputy Director
Corrections

Jordan Lowe
Deputy Director
Law Enforcement

No. _____

**TESTIMONY ON SENATE BILL 149
RELATING TO PROPERTY FORFEITURE.**

By
Max N. Otani, Director

Senate Committee on Public Safety, Intergovernmental, and Military Affairs
Senator Clarence Nishihara, Chair
Senator J. Kalani English, Vice Chair

Tuesday, February 16, 2021; 1:00 p.m.
Via Video Conference

Chair Nishihara, Vice Chair English, and Members of the Committees:

The Department of Public Safety (PSD) offers comments on Senate Bill (SB) 149, which would limit the use of covered asset forfeitures and direct the proceeds from asset forfeitures to be transferred into the General Fund for educational purposes.

PSD is concerned because asset forfeiture is a tool that serves to reduce criminal activity by denying offenders the profits from their crimes.

SB 149 would restrict covered asset forfeiture to cases in which the property owner has been convicted of the underlying misdemeanor or felony offense, however, not all arrests or investigations result in criminal convictions, despite overwhelming evidence. Restricting asset forfeitures to property of owners who are criminally convicted neither serves justice nor the community. This proposal would only mean that the ill-gotten gains non-convicted narcotic traffickers, sex traffickers, gambling organizations, and other criminal elements will be retained by those property owners and likely be a resource for

future criminal activity. Generally, law enforcement agencies already have internal procedures to secure and safely store seized property. The removal of administrative forfeiture proceedings would cause an undue burden on an already overwhelmed criminal court system.

PSD recognizes the need for additional funding for educational purposes, however, criminal investigations often incur substantial expenses such as, in the use of electronic surveillance equipment, the use of confidential informants, and the purchase of evidence. These investigations are also labor intensive and costly.

Retaining civil asset forfeitures with the investigative agency as enabled by current law will offset some of the costs of investigations, allowing the agency to conduct further criminal investigations that may not be budgeted or that it may be otherwise unable to afford.

Thank you for the opportunity to provide this testimony.



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

ON THE FOLLOWING MEASURE:

S.B. NO. 149, RELATING TO PROPERTY FORFEITURE.

LATE

BEFORE THE:

SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND
MILITARY AFFAIRS

DATE: Tuesday, February 16, 2021 **TIME:** 1:00 p.m.

LOCATION: State Capitol, Via Videoconference

TESTIFIER(S): Clare E. Connors, Attorney General, or
Michael S. Vincent, Steve A. Bumanglag, or Gary K. Senaga

Chair Rhoads and Members of the Committee:

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

The purposes of this bill are to (1) restrict asset forfeiture to cases involving the commission of a covered criminal misdemeanor or felony offense, (2) require a conviction of the owner of property prior to the forfeiture of that property, (3) raise the standard of proof that the State must meet in forfeiture proceedings from “preponderance of the evidence” to “beyond a reasonable doubt,” (4) require the State to prove that the property owner consented to or possessed knowledge of the crime that led to the seizure of the property, (5) require the agency seizing the property to pay for the secure storage of the property, (6) change the distribution of civil forfeiture proceeds from state and local law enforcement agencies to the state general fund for public education purposes, and (7) repeal administrative forfeiture proceedings so that any forfeiture proceeding would have to be brought in court.

These requirements, in particular requiring the conviction of the property owner prior to forfeiture and raising the burden of proof against third party owners who allow an offender to use their property for criminal purposes, would undermine the purposes of chapter 712A, the asset forfeiture law. In 1988, when the forfeiture law was originally passed, the Legislature made it clear that the intent of the law was to take the profit out of crime, deter criminality and protect the community. It expressly did not require that

property owners who knowingly allow their property to be used in criminal activity themselves be the subject of a criminal investigation or ultimately convicted of any crime; the intent was to seize the *property* being used in criminal activity, even if the property owners who *knowingly* consented to the use of their property were not themselves engaged in the commission of crimes.

Civil asset forfeiture greatly assists law enforcement's efforts to combat crime by targeting the property used to further criminal activity. And, appropriate limitations already exist to safeguard the very interests identified in this bill. For example, property can be seized only if it has a "substantial connection" to serious crimes, such as murder, kidnapping, gambling, drug trafficking, prostitution, and sex trafficking offenses. Examples of property substantially connected to crimes include the proceeds of criminal offenses (such as money from drug sales) or property used to facilitate the crimes (such as cash used to buy drugs, cars used to transport drugs, devices used for gambling and residences used as drug houses). Because a civil forfeiture action is brought against property, not individuals, it creates a powerful incentive for owners to use prudence to prevent the illicit use of their property.

The safeguards that already exist in the law include the fact that the initial seizure must be justified by a showing of probable cause that the property was involved in criminal activity. Notice of forfeiture must then be given to all persons known to have an interest in the property. Owners may contest a forfeiture and have their claims decided by a court or administrative official. Additionally, owners can seek remission or mitigation to pardon the property, in whole or in part, due to extenuating circumstances. Also, forfeitures cannot be excessive—the value of the property seized may not be grossly disproportionate to the seriousness of the offense.

The State has the burden to prove, by a preponderance of the evidence, the connection between the property and particular crimes. This standard of proof is used in all civil litigation and requires presentation of competent evidence sufficient to persuade a court that something is more likely than not. As noted above, even if the State meets its burden, owners may ask for remission or mitigation. .

Importantly, the civil forfeiture laws are designed to deter crime, not to fund the State's general operations. The threat of forfeiture takes the profit out of crime and creates a risk calculus for property owners deciding whether to use their property to commit crimes. While forfeiture proceeds typically are not used directly to compensate crime victims—restitution orders normally accomplish this—they are used to train law enforcement agencies, promote the safety of the community and provide a disincentive to criminal activity.

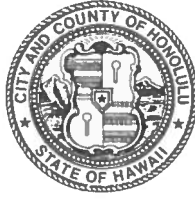
The requirement in section 11, page 30, lines 9-10, for the Department to report “[t]he total amount and type of properties distributed to units of state and local government,” conflicts with the provision at page 27, line 13, that requires all the proceeds from forfeited properties to go to the general fund. By requiring all proceeds to go to the general fund, this bill prevents “units” of state and local government from receiving any forfeited properties.

The Department also notes that transferring the asset forfeiture program back to the courts would place an added burden and expense on the judiciary.

The Department respectfully recommends that the Committee hold this measure. Thank you for the opportunity to testify.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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RICK BLANGIARDI
MAYOR

SUSAN BALLARD
CHIEF

JOHN D. MCCARTHY
AARON TAKASAKI-YOUNG
DEPUTY CHIEFS

OUR REFERENCE PJ-GK

February 16, 2021

The Honorable Clarence K. Nishihara, Chair
and Members
Committee on Public Safety,
Intergovernmental, and Military Affairs
State Senate
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Nishihara and Members:

SUBJECT: Senate Bill No. 149, Relating to Property Forfeiture

I am Major Phillip Johnson of the Narcotics/Vice Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD opposes Senate Bill No. 149, Relating to Property Forfeiture.

While waiting for the outcome of a criminal proceeding, this bill causes undue delays for the public, law enforcement agencies, and the defendant themselves from efficiently and effectively adjudicating the case. Tremendous amounts of resources are expended by law enforcement for these investigations. Delaying or eliminating the local investigating law enforcement agency from the proceeds of the forfeited property resulting from illegal activities would have a direct impact on the services that the HPD provides to the community.

The HPD urges you to oppose Senate Bill No. 149, Relating to Property Forfeiture, and thanks you for the opportunity to testify.

APPROVED:

Handwritten signature of Susan Ballard in black ink.

Susan Ballard
Chief of Police

Sincerely,

Handwritten signature of Phillip Johnson in black ink.

Phillip Johnson, Major
Narcotics/Vice Division

LATE

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
PHONE: (808) 547-7400 • FAX: (808) 547-7515

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 2021
State of Hawai`i

February 16, 2021

RE: S.B. 149; RELATING TO PROPERTY FORFEITURE.

Chair Nishihara, Vice-Chair English 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 submits the following testimony in opposition to S.B. 149.

This measure would prohibit civil asset forfeiture unless the State proves various matters “beyond a reasonable doubt” (a standard of proof often used in criminal law). While the bill appears to have good intentions, it attempts to apply criminal standards of proof to civil proceedings, indicating that people should never be penalized if their culpability is only proven by “preponderance of the evidence.” However, this ignores the fact that “preponderance of the evidence” is in fact the prevailing standard of proof and due process used in civil and administrative legal proceedings throughout Hawaii; this is used every day to decide matters affecting people’s assets, property and livelihoods. For example, the standard used by the Department of Commerce and Consumer Affairs, Commissioner of Securities, Insurance Commissioner, Commissioner of Financial Institutions, and any board or commission attached for administrative purposes to the Department of Commerce and Consumer Affairs with rulemaking, decision making, or adjudicatory powers, is preponderance of the evidence.¹ Also,

¹ See the definition of “Authority,” under Section 16-201-2, Hawaii Administrative Rules (“HAR”). See also HAR §16-201-21(d), which states:

(d) Except as otherwise provided by law, the burden of proof, including the burden of producing the evidence and the burden of persuasion, shall be upon the party initiating the proceeding. Proof of a matter shall be by a preponderance of the evidence.

all adjudication hearings held before the Honolulu Liquor Commission are decided based on preponderance of the evidence.² So too are hearings held before the Land Use Commission,³ the Hawaiian Homes Commission,⁴ and any number of other State bodies and agencies governed by HRS Chapter 91.⁵

Respectfully, the Department urges this Committee to defer S.B. 149, based upon recognition that our legal system includes two different tracks—civil and criminal—with two completely different standards of proof, and those tracks often run parallel to one another. This can be true of a liquor license owner who not only stands to lose their liquor license, but could be subject to criminal prosecution; or the drunk driver who loses their driver’s license administratively, is criminally prosecuted, then held civilly liable by a victim’s family, through entirely separate proceedings, based on entirely separate standards of proof. Each set of parallel proceedings could stem from a single wrongful act, which carries separate repercussions, ordered in separate proceedings, based on separate standards of proof.

While we understand a few other states have taken drastic measures to merge their civil and criminal standards of proof in asset forfeiture proceedings, the Department strongly urges the Legislature not to make such far-reaching and premature steps against Hawaii’s well-conceived program, particularly in light of the State Auditor’s recommendations, published June 2018 (available at files.hawaii.gov/auditor/Reports/2018/18-09.pdf). In that report, the Auditor made specific recommendations for Hawaii’s civil asset forfeiture program, some which have already been, and some of which are in the process of being, implemented by the Department of the Attorney General.

Available online at https://files.hawaii.gov/dcca/oah/forms/oah_oah_hearings_rules.pdf; last accessed February 1, 2021.

² See Section 3-85-91.5(d), Rules of the Liquor Commission, which states:

(d) Except as otherwise provided by law, the burden of proof, including the burden of producing the evidence and the burden of persuasion, shall be upon the party initiating the proceeding. Proof of a matter shall be by a preponderance of the evidence.

Available online at honolulu.gov/rep/site/bfslq/rules/LIQ_Rules_Website_Version_032717.pdf; last accessed February 1, 2021.

³ See HRS §205-4(h) and (i), which state that all land use boundary decisions by the commission, and upon judicial review, shall be found “upon the clear preponderance of the evidence.” Available online at www.hawaii.gov/hrcurrent/Vol04_Ch201-0257/HRS0205/HRS_0205-0004.htm ; last accessed February 1, 2021.

⁴ See *Lui-Dyball v. Hawaiian Homes Commission*, Memorandum Opinion issued May 29, 2015, at page 7, which states in relevant part, “The degree or quantum of proof Section 91-10, HRS, establishes that the burden of proof in matters such as this is ‘by a preponderance of the evidence.’...not ‘beyond a reasonable doubt.’” Available online at www.courts.state.hi.us/docs/opin_ord/ica/2015/May/CAAP-12-0000572mopada.pdf; last accessed February 1, 2021.

⁵ See HRS §91-10(5), which states:

(d) Except as otherwise provided by law, the party initiating the proceeding shall have the burden of proof, including the burden of producing the evidence as well as the burden of persuasion. The degree or quantum of proof shall be by a preponderance of the evidence.

Available online at www.capitol.hawaii.gov/hrcurrent/Vol01_Ch0046-0115/HRS009/HRS_0091-0010.htm; last accessed February 1, 2021.

Forfeiture laws are used to immediately and effectively disrupt the infrastructure of criminal activity and protect the community. This is a civil legal process that operates independently from any related criminal cases, much like civil lawsuits, administrative proceedings, and criminal charges can proceed independently from each other in other circumstances. Concerns about “innocent owners” being deprived of their property or “policing for profit” are unfounded, as Hawaii’s forfeiture laws provide due process for the protection of property owners’ rights, and numerous safeguards are already codified in the statute. If the concern is that the civil asset forfeiture process should be more simple, transparent or accessible for the public or those impacted by its proceedings, that can and should be addressed in other ways.

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu opposes S.B. 149, and asks that the measure be deferred. Thank for you the opportunity to testify on this matter.

COUNTY COUNCIL

Arryl Kaneshiro, Chair
Mason K. Chock, Vice Chair
Bernard P. Carvalho, Jr.
Felicia Cowden
Bill DeCosta
Luke A. Evslin
KipuKai Kualii



OFFICE OF THE COUNTY CLERK

Jade K. Fountain-Tanigawa, County Clerk
Scott K. Sato, Deputy County Clerk

Telephone: (808) 241-4188
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E-mail: cokcouncil@kauai.gov

Council Services Division
4396 Rice Street, Suite 209
Lihu'e, Kaua'i, Hawai'i 96766

February 16, 2021

**TESTIMONY OF FELICIA COWDEN,
COUNCILMEMBER, KAUAI COUNTY COUNCIL
ON
SB 149, RELATING TO PROPERTY FORFEITURE
Senate Committee on Public Safety, Intergovernmental, and Military Affairs
Tuesday, February 16, 2021
1:00 p.m.
Via Videoconference**

Dear Chair Nishihara and Members of the Committee:

Thank you for this opportunity to provide testimony in support of SB 149, Relating to Property Forfeiture. My testimony is submitted in my individual capacity as a Member of the Kaua'i County Council and Committee Chair of the Council's Public Safety & Human Services Committee.

I support SB 149, Relating to Property Forfeiture. It is critically important for police departments to be impeccable in their motivations in pursuing crimes and to shield the public of harsh and unnecessary impacts when a policing mistake occurs.

Restricting asset forfeiture to cases involving the commission of a covered criminal misdemeanor or felony offense and requiring seized property to be forfeited only when the property owner has been convicted of an underlying covered criminal misdemeanor or felony offense helps reduce problematic financial incentive on police actions. When there are mistakes that happen by police departments, the property seizures effectively become a crime against the citizen. If the seized property is of essential use to the life and well-being of the individual, it further reduces their ability to defend themselves, as well as to continue to thrive. The current policy of incentivizing asset forfeiture places predatory pressure on police departments and instills trauma on wrongly affected public.

Thank you again for this opportunity to provide testimony. Should you have any questions, please feel free to contact me or Council Services Staff at (808) 241-4188 or via E-mail to cokcouncil@kauai.gov.

Sincerely,

FELICIA COWDEN
Councilmember, Kaua'i County Council

AMK:lc



Hawai'i

Committee: Committee on Public Safety, Intergovernmental, and Military Affairs
Hearing Date/Time: Tuesday, February 16, 2021, 1:00 p.m.
Place: Via Videoconference
Re: Testimony of the ACLU of Hawai'i in Support of S.B. 149, Relating to Property Forfeiture

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

The American Civil Liberties Union of Hawai'i ("ACLU of Hawai'i") writes in support of S.B. 149, which would implement multiple necessary reforms to Hawai'i's civil asset forfeiture law by prohibiting forfeiture except in cases where the property owner has been convicted of a covered misdemeanor or felony offense, changing the standard of proof for forfeiture from "preponderance of the evidence" to "beyond a reasonable doubt," and eliminating the profit incentive to seize property by directing all forfeiture proceeds to the general fund for public education. This measure is timely in light of the recent State Auditor's report, which found that the State uses the asset forfeiture system to deprive individuals of their property without convicting the property owner of a crime.

Hawaii's current civil asset forfeiture law is based on the legal fiction that property can be guilty.

Civil asset forfeiture is a civil action initiated by the government against a piece of property on the basis that the property was used in the commission of a covered criminal offense. Due to the way that the current law is written, the government can seize (and profit from) property without obtaining a criminal conviction in connection with the property. Although this practice is often justified as a way to incapacitate large-scale criminal operations, it has been used to create revenue for law enforcement with little restriction or accountability. Critics often call this practice "policing for profit," because, under Hawai'i's law, the seizing agency (usually a county police department) keeps 25 percent of the profits from forfeited property; the prosecuting attorney's office keeps another 25 percent, and the remaining 50 percent goes into the criminal forfeiture fund, which finances the asset forfeiture division within the Department of the Attorney General, the agency charged with adjudicating the vast majority of forfeiture cases (rather than the courts). At every step of the process, there exists a clear profit motive to a) seize property, and b) ensure that seized property is successfully forfeited and auctioned by the State.

Hawaii's law enforcement is abusing the current system. The Hawai'i State Auditor conducted a study of civil asset forfeiture in Hawai'i, which was published in June 2018.¹ The report found that in fiscal year 2015, "property was forfeited without a corresponding criminal charge in 26 percent of the

¹ State of Hawai'i, Office of the Auditor, *Audit of the Department of the Attorney General's Asset Forfeiture Program, Report No. 18-09* (June 2018).

American Civil Liberties Union of Hawai'i
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Chair Nishihara and Members of the Committee on Public Safety, Intergovernmental, and Military Affairs

February 16, 2021

Page 2 of 2

asset forfeiture cases.” This means that during this period, in over one quarter of all civil property forfeiture cases, not only was there no conviction, but *there were not even criminal charges filed*.

It comes as no surprise that Hawaii’s civil asset forfeiture law is regarded among the worst in the nation, receiving a grade of D- by the Institute for Justice.² A low standard of proof means that property can be seized when it has only a tenuous connection to the alleged underlying offense, and property may be forfeited even when there have been **no criminal charges filed. This is often a substantial burden on the property owner**, who may lose their job or home because the State seized their means of transportation or money needed to pay rent. While the law contains a provision intended to protect innocent property owners, this provision is inadequate and the burden placed on property owners seeking to challenge a forfeiture makes it nearly impossible in most cases for innocent people to recover their property.

This legislation is necessary to rectify the harms caused by our current system and to prevent its continued abuse. **This bill still allows property to be seized — but not forfeited — prior to conviction, which achieves the purported objective of stopping criminal operations.**

For the above reasons, we urge the Committee to support this measure. 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.

² Institute for Justice, *Policing for Profit: The Abuse of Civil Asset Forfeiture*, 3rd Edition (December 2020) available at <https://ij.org/wp-content/themes/ijorg/images/pfp3/policing-for-profit-3-web.pdf>.

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COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS

Senator Clarence Nishihara, Chair

Senator J. Kalani English, Vice Chair

Tuesday, February 16, 2021

1:00 PM

STRONG SUPPORT FOR SB 149 – RE: PROPERTY FORFEITURE

Aloha Chair Nishihara, Vice Chair English, 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.

Community Alliance on Prisons is in strong support of this measure that upholds the 8th Amendment which states: “*Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.*” This measure restricts civil asset forfeiture to cases involving the commission of a felony offense where the property owner has been convicted of an underlying covered criminal misdemeanor or felony offense. It changes the standard of proof to “beyond a reasonable doubt” then directs any forfeiture proceeds to the general fund.

Hawai`i’s civil asset forfeiture program has a shameful record as reported by the Institute for Justice: In **2010**, Hawai`i received a grade of **D-** for Forfeiture Law; in **2015**, Hawaii earned a **D-** for its civil forfeiture laws; in **2020** Hawaii again earned a **D-** for its civil forfeiture laws because of:

- **Low bar to forfeit:** Prosecutors must prove by preponderance of the evidence that property is connected to a crime.
- **Poor protections for the innocent:** Third-party owners must prove their own innocence to recover seized property.
- **Large profit incentive:** 100% of forfeiture proceeds go to law enforcement (up to a maximum of \$3 million per year, 25% to police, 25% to prosecutors and 50% to the attorney general for law enforcement projects.

A new report, *Does Forfeiture Work?*¹ was released on February 10, 2021. The research question is *“Does Forfeiture work to combat crime?”* This study provides the first multistate analysis of whether forfeiture works to fight crime or is, instead, used primarily to generate revenue. **It uses a newly assembled set of forfeiture data from five states that use forfeiture extensively** – Arizona, **Hawaii**, Iowa, Michigan and Minnesota – as well as detailed state and local crime, drug use and economic data. The study examines forfeitures under state law alone as well as those conducted in concert with the federal government.

This work builds on a 2019 nationwide study² that considered whether the federal government’s equitable sharing forfeiture program was effective in fighting crime. Similarly, that study showed that forfeiture failed to fight crime but is used to raise revenue. Dr. Kelly asserts that the financial incentive has to go. *Most criticism of forfeiture would evaporate if law enforcement couldn’t profit from it.* Here is the link to a 10-minute video with Dr. Kelly: <https://www.youtube.com/watch?v=DBxWCCNcnmI&feature=youtu.be>

Recent evidence of HPD’s low success rate in solving crimes, their secret surveillance teams that we thought were gone after the Kealoha debacle, and their shameful waste of CARES Act funding to buy toys while families were struggling to stay housed and feed their keiki should be the impetus for policymakers to ask REAL questions of the law enforcement coalition. Policymakers must ask proponents for the evidence that forfeiture works. If it does indeed fight crime, why is the success rate so low?

The large profit incentive is the problem: 100% of forfeiture proceeds go to law enforcement (up to a maximum of \$3 million per year, 25% to police, 25% to prosecutors and 50% to the attorney general for law enforcement projects) is an invitation to corruption. Here’s a video from John Oliver that explains forfeiture and its temptations: <https://www.youtube.com/watch?v=3kEpZWGgJks>.

Is it any wonder why the AG wrote an op-ed asserting that Hawai`i’s state auditor examined the asset forfeiture program and found no abusive or unjust practices, when her office enjoys the spoils? (*The report was scathing about the mismanagement by the AG!*) Ironically, this op-ed was published on January 17th, the day 128 years ago that Queen Lili`uokalani was illegally overthrown by the United States; a sad denial of Hawai`i’s history and the problems of a program from which her office benefits.

Dr. Kelly asserts that the most effective reform of forfeiture is to DECOUPLE the profits from the seizing agency. Erase the incentive to illegally seize someone’s property.

Community Alliance on Prisons urges the committee to pass this important measure. Mahalo for this opportunity to testify.

¹ DOES FORFEITURE WORK? Evidence from the States, By Brian D. Kelly, Ph.D., Institute for Justice, February 2021. <https://ij.org/wp-content/uploads/2021/02/does-forfeiture-work-web.pdf>

² Fighting Crime or Raising Revenue? Testing Opposing Views of Forfeiture, By Broan D. Kelly, Ph.D., June 2019. <https://ij.org/report/fighting-crime-or-raising-revenue/>



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

TESTIMONY IN SUPPORT OF SB 149

TO: Chair Nishihara, Vice Chair English & Members of the
Senate Committee on Public Safety, Intergovernmental, and Military Affairs

FROM: Nikos Leverenz
DPFH Board President

DATE: February 16, 2021 (1:00 PM)

Drug Policy Forum of Hawai'i (DPFH) **strongly supports** SB 149, which would reform Hawai'i's civil asset forfeiture law to require a criminal misdemeanor or felony conviction before a person's property is permanently forfeited, among other safeguards.

As evinced by legislative efforts and significant media coverage of this issue in recent years, the need for reform is clear to most everyone but those executive agencies who have effectively operated without meaningful legislative oversight, clear operational parameters, or any meaningful public reporting requirements for over three decades.

A [2018 report by the Hawai'i State Auditor](#) noted that about 85 percent of administrative forfeiture cases went uncontested during FY2006-FY2015. Current state law erects high barriers for an innocent owner to recoup their seized property, including the requirement to post bond. The auditor further noted that transparency and accountability have been lacking:

The Attorney General [has] broad power to take personal property from individuals without judicial oversight based on a relatively low standard of proof. Given the high profile of the program and the power bestowed on the Attorney General to administer it, it is crucial that the department manage the program with the highest degree of transparency and accountability.

Beyond the lack of administrative oversight, Hawai'i law and current practices do not adequately protect the rights of innocent owners to be secure in their property. Institute for Justice (IJ), a national non-profit public interest law firm, [calls Hawai'i's civil forfeiture laws "among the nation's](#)

worst” in assigning it a grade of “D-.” IJ also noted the wide disparity between the standard of proof required of state actors and that required of private individuals:

State law has a low standard of proof, requiring only that the government show by a preponderance of the evidence that property is tied to a crime. Furthermore, innocent owners bear the burden of proving that they had nothing to do with the alleged crime giving rise to the forfeiture. Most troubling, law enforcement has a large financial stake in forfeiture, receiving 100 percent of civil forfeiture proceeds: 25 percent goes to police, 25 percent to prosecuting attorneys and 50 percent to the attorney general.

When I served as an advocate to help reform California’s civil asset forfeiture law in 2015, it was my pleasure to facilitate meetings between Senate Republican members, IJ Staff Attorney Lee McGrath, and Brad Cates, Director of the Justice Department’s Asset Forfeiture Office from 1985 to 1989. Their message and their presence were very well-received, even among those conservative Republicans who were not typically inclined to support reforms to the criminal legal system.

Cates, who spearheaded successful efforts in New Mexico to abolish civil asset forfeiture entirely with a Republican governor and Republican majorities in both houses, [wrote a penetrating opinion editorial in *The Washington Post*](#) with his immediate predecessor John Yoder calling for its national abolition. They noted the how the practice of asset forfeiture turns the law on its head:

In America, it is often said that it is better that nine guilty people go free than one innocent person be wrongly convicted. But our forfeiture laws turn our traditional concept of guilt upside down. Civil forfeiture laws presume someone’s personal property to be tainted, placing the burden of proving it “innocent” on the owner. What of the Fourth Amendment requirement that a warrant to seize or search requires the showing of probable cause of a specific violation?

Defendants should be charged with the crimes they commit. Charge someone with drug dealing if it can be proved, but don’t invent a second offense of “money laundering” to use as a backup or a pretext to seize cash. Valid, time-tested methods exist to allow law enforcement to seize contraband, profits and instrumentalities via legitimate criminal prosecution.

Since 2014, 34 states and the District of Columbia have reformed their civil forfeiture laws. 16 states require a conviction in criminal court to forfeit most or all types of property in civil court, and three states (New Mexico, Nebraska, and North Carolina) have abolished civil forfeiture entirely.

Hawai'i should join them.

Thank you for the opportunity to testify on this critical reform measure.

Hawaii
*Holding Power Accountable*Statement Before The
SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS

Tuesday, February 16, 2021

1:00 PM

Via Videoconference

in consideration of

SB 149**RELATING TO PROPERTY FORFEITURE.**Chair NISHIHARA, Vice Chair ENGLISH, and Members of the
Senate Public Safety, Intergovernmental, and Military Affairs Committee

Common Cause Hawaii supports SB 149, which (1) restricts asset forfeiture to cases involving the commission of a covered criminal misdemeanor or felony offense, (2) requires seized property to be forfeited only when the property owner has been convicted of an underlying covered criminal misdemeanor or felony offense, (3) changes the standard of proof that the State must meet in order for property to be forfeited from "preponderance of the evidence" to "beyond a reasonable doubt", (4) requires the State to prove that owners consented to or possessed knowledge of the crime that led to the seizure of their property, (5) requires that the agency seizing the property pay for safe and secure storage of the seized property until the completion of the forfeiture proceeding or final disposition of the property, (6) directs any proceeds from a civil forfeiture to the general revenue fund for public education purposes, and (7) repeals administrative forfeiture proceedings.

Common Cause Hawaii is a nonprofit, nonpartisan, grassroots organization dedicated to strengthening our democracy. A strong democracy requires protecting everyone's constitutional rights and ensuring equal access to our courts and judicial system. The ability to access our courts and judicial system is one of the foundations of democracy.

SB 149 will repeal administrative forfeiture proceedings. It will restrict civil asset forfeiture to certain cases and will only permit property forfeiture when the property owner has been convicted of the underlying covered criminal misdemeanor or felony offense. SB 149 will hopefully improve the criminal justice system and make it more fair and just and lessen civil asset forfeitures' impacts on persons from minorities and low-income communities.

Thank you for the opportunity to testify in support of SB 149. If you have further questions of me, please contact me at sma@commoncause.org.

Very respectfully yours,

Sandy Ma
Executive Director, Common Cause Hawaii



Young Progressives Demanding Action
P.O. Box 11105
Honolulu, HI 96828

February 13, 2021

TO: SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS
RE: Testimony offering comments on SB149

Dear Senators,

Young Progressives Demanding Action (YPDA) supports the intent of SB149 to put reasonable limits on the ability of law enforcement to confiscate property from those who have not been convicted of a crime.

However, we prefer the language in SB294 SD1 that restricts civil asset forfeiture to cases in which a person is convicted of a felony offense. YPDA does not believe property forfeiture is appropriate in misdemeanor cases. As the Hawai'i Senate has already passed that bill out for crossover to the House, we do not believe this bill is necessary, but we applaud its introduction, nonetheless.

Mahalo for the opportunity to testify,

Will Caron
Board President & Secretary, 2020–2021
action@ypdahawaii.org

SB-149

Submitted on: 2/15/2021 11:57:03 AM

Testimony for PSM on 2/16/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Barbara Polk	Individual	Support	No

Comments:

Chair Nishihara and Vice Chair English,

I strongly support SB149. Asset Forfeiture runs against the basis of the US legal system in two ways. 1. By charging a piece of property, rather than a person, as occurs in asset forfeiture trials, there is no way for the "defendent" to defend itself. 2. **Property forfeiture forces people whose property has been confiscated to prove their innocence**, while our system is based on the assumption that a person is innocent until proven guilty. This is a travesty of justice, and I hope you will vote to end it.

I do have some concerns that this bill would still leave it possible for innocent people to be deprived of their property for prolonged periods of time. I would suggest, if it is not already clear, that the bill be amended to forbid confiscation of the property of any person, even temporarily, unless that individual has been charged with a crime.

It is far from clear that asset forfeiture reduces crime. I suspect it encourages the crime of auto theft and perhaps others, since why would someone committing a crime use their own property?

Please pass SB149 and bring some more justice to Hawaii.

Barbara Polk

SB-149

Submitted on: 2/12/2021 10:13:00 AM

Testimony for PSM on 2/16/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
lynne matusow	Individual	Support	No

Comments:

I am in full support. The current system is full of abuse and innocent people have had their property confiscated. In the past prosecutors and law enforcement have fought reform. They are wrong.

Please pass this bill out of committee.

SB-149

Submitted on: 2/12/2021 10:17:57 AM

Testimony for PSM on 2/16/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Brian Isaacson	Individual	Support	No

Comments:

Civil forfeiture is in dire need of reform. Too many venues use it as a means to raise revenue in dubious circumstances, leaving little recourse for those whose property has been seized without proof of criminal actions.

SB-149

Submitted on: 2/12/2021 2:12:22 PM

Testimony for PSM on 2/16/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Gerard Silva	Individual	Oppose	No

Comments:

This is like steeling land from some one just for the hell of it. The people that want to confiscate the property should be Arrested and charged for FELONEY THEFT of property. If a person comints a crime he will have to pay for the that in jail of fine but you have no right to steel his property no matter what they did. The family still owns the property.

The people of Hawaii are watching an Eligal act is still Eligal no matter who is doing it!!!

SB-149

Submitted on: 2/14/2021 12:47:24 PM

Testimony for PSM on 2/16/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
E. Ileina Funakoshi	Individual	Support	No

Comments:

Alloha,

I support SB 149 because the present forfeiture law is unfair and ;profits the law enforcement community. I strongly support the funds to be directed to the education deparment to help teachers buy supplies for their students instead of using their own funds.

Thank you for your consideration andi humbly ask for your support.

Mahalo and Aloha

e. ileina funakoshi

TO: COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS
FROM: Wendy Gibson-Viviani RN
RE: SB149 Asset Forfeiture (In Support)
Hearing: Tuesday, February 16, 2021 at 1:00 pm (Videoconference)

Aloha, Senator Clarence K. Nishihara, Chair, Senator J. Kalani English, Vice Chair and Honorable Members of the Committee,

Thank you for this opportunity to lend **support to SB149**. My name is Wendy Gibson-Viviani and I believe that we need to reform asset Forfeiture laws in Hawai'i I was pleased when Hawai'i's legislators recognized this in 2019—with the passage of HB748.

I was seriously disappointed in Governor Ige's decision to veto the bill. He was convinced that there had been no past abuse of forfeiture in Hawai'i, although a 2018 Auditor's report revealed that there has never been oversight or rules in place to protect property owners from such abuse.

The Hawai'i State Auditor noted that 26% of persons who had their property seized and forfeited were **never charged with a crime**. Getting property back is so much of a struggle that about 85% of the forfeiture cases are uncontested. When property is seized, bank accounts are also frozen, making it nearly impossible for the accused to hire an attorney to defend his/herself. The consequences can be devastating: innocent people lose their jobs because their only means of transportation was forfeited, or lose their housing because rent money was taken.

Former Hawaii Senator Will Espero said ““Although they say there's no abuse, one can argue that taking a person's property with no conviction is abuse.”

Officials at the Hawai'i Attorney General's Office similarly defend the state's asset forfeiture program, saying it's a strong deterrent for certain types of crime and rarely abused by overzealous police and prosecutors.

This 2021 five-state study from the Institute for Justice, entitled “Forfeiture Doesn't Work to Combat Crime but Is Used to Raise Revenue” provides evidence That “Policing for Profit” does **NOT provide a strong deterrent to crime**.

<https://ij.org/press-release/new-report-forfeiture-doesnt-work-to-combat-crime-but-is-used-to-raise-revenue/>

- More forfeiture proceeds do not help police solve more crimes—and they may, perversely, **make police less effective at solving violent crimes**.

- More forfeiture proceeds **do not lead to less drug use**, even though forfeiture proponents have long cited fighting the illicit drug trade—and the reduction of drug use—as a primary purpose of forfeiture.
- When **local budgets are squeezed**, police respond by increasing their reliance on forfeiture. A one percentage point increase in unemployment—a common measure of economic health—is associated with an 11% to 12% increase in forfeiture activity.

Since 2014, 35 states and the District of Columbia have enacted forfeiture reforms and have not reported increases in certain crimes.

In 2019, the **U.S. Supreme Court** unanimously ruled that state civil forfeiture cases are bound by the Eighth Amendment’s ban on “excessive fines (Timbs v. Indiana).

The American Civil Liberties Union labels asset forfeiture as little more than legalized theft and a violation of the due process principle of innocent until proven guilty. I agree. Please restore sensibility to due process with the passage of SB149 that would require a conviction of a crime before assets can be seized.

Thank you for reviewing my testimony,
Wendy Gibson-Viviani RN/BSN
Kailua

Cited

2018 Auditors Report

<https://files.hawaii.gov/auditor/Reports/2018/18-09.pdf>

Civil Beat 2016-- Civil Asset Forfeiture In Hawaii: Crime Deterrent Or Legalized Theft?

<http://www.civilbeat.com/2016/01/civil-asset-forfeiture-in-hawaii-crime-deterrent-or-legalized-theft/?cbk=568f1d347c5ea>

NM Reports civil forfeiture does not fight crime [https://ij.org/report/policing-for-profit-](https://ij.org/report/policing-for-profit-3/pfp3content/civil-forfeiture-laws-fail-to-protect-property-owners/new-research-eliminating-civil-forfeiture-does-not-fight-crime/)

[3/pfp3content/civil-forfeiture-laws-fail-to-protect-property-owners/new-research-eliminating-civil-forfeiture-does-not-fight-crime/](https://ij.org/report/policing-for-profit-3/pfp3content/civil-forfeiture-laws-fail-to-protect-property-owners/new-research-eliminating-civil-forfeiture-does-not-fight-crime/)

35 States and DC enacted forfeiture reforms

<https://ij.org/activism/legislation/civil-forfeiture-legislative-highlights/>

SB-149

Submitted on: 2/14/2021 2:45:07 PM

Testimony for PSM on 2/16/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
donn viviani	Individual	Support	No

Comments:

TO: COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS

FROM: Donn Viviani

RE: SB149 Asset Forfeiture (In Support)

Hearing: Tuesday, February 16, 2021 at 1:00 pm (Videoconference)

Aloha, Senator Clarence K. Nishihara, Chair, Senator J. Kalani English, Vice Chair and Honorable Members of the Committee,

Thank you for this opportunity to lend support to SB149. My name is Donn Viviani and I believe that we need to reform asset Forfeiture laws in Hawai'i

The 2018 Auditor's report found that 26% of persons who had their property seized and forfeited were never charged with a crime!

One of the most sacred principles in the American criminal justice system, holds that a defendant is innocent until proven guilty. Benjamin Franklin observed: "it is better 100 guilty Persons should escape than that one innocent Person should suffer".

Arguably at least 26 of every hundred Hawaiian citizens who have had assets seized are innocent in the eyes of the law. This is a perversion of justice, i.e., backdoor punishment without due process. This needs to be fixed

Thank you for reviewing my testimony,
Donn Viviani
Kailua

SB-149

Submitted on: 2/14/2021 10:26:47 PM

Testimony for PSM on 2/16/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Thaddeus Pham	Individual	Support	No

Comments:

Aloha PSM Committee,

As a public health professional and concerned citizen, I am writing in **STRONG SUPPORT** of SB149, which would ensure that people who have not been convicted of crime are not unduly penalized. With current conversations on law enforcement overreach, this bill is an important step in rebuilding accountability with our local communities and rebuild trust.

Please pass SB149!

Mahalo,

Thaddeus Pham (he/him)

SB-149

Submitted on: 2/15/2021 10:59:27 AM

Testimony for PSM on 2/16/2021 1:00:00 PM

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

Comments:

Strong support!

TO: Chair Chang, Vice Chair Kanuha, and Members of the Senate Committee on Housing

FROM: Barbara Polk

SUBJECT: SUPPORT FOR SB 1, SD1

I have been following the concept of ALOHA Homes for some time now, and strongly support passage of SB1 SD1. With the amendments, and now the support from the Hawaii Housing Finance and Development Corporation, the plans outlined in this bill appear to be an excellent solution to Hawaii's serious lack of housing for middle and low income people.

We have had enough of housing for multi-millionaires, with many such dwellings standing empty while they serve as investment properties or for 2nd, 3rd, 4th or more homes rather than as residences. As our homeless population continues to grow, and many middle income people are living crowded multifamily homes because they can no longer afford the cost of housing in Hawaii, it is much past time for the legislature to support this viable proposal that would greatly alleviate these problems.

I urge you to support SB 1 SD1, for the sake of Hawaii's future.

Sincerely,

Barbara Polk

SB-149

Submitted on: 2/15/2021 12:35:30 PM

Testimony for PSM on 2/16/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Carolyn Eaton	Individual	Support	No

Comments:

Aloha, my name is Carolyn Eaton. I am an Oahu voter and live in Makiki. I am among Senator Taniguchi's constituents. I strongly support SB 149, and urge its passage.

Hawai'i's existing asset forfeiture law has several aspects which need changing. There are poor protections for the innocent. Because 100% of forfeited property goes to police, prosecutors and the State Attorney General, there is a profit incentive which should not be present. The bar to forfeiture should be raised to a greater legal certainty.

The State needs to use asset forfeiture without any suspicion of improper bias.

Mahalo for your consideration,

Carolyn Eaton, 1310 Heulu St., #602, Honolulu, HI 96822

SB-149

Submitted on: 2/15/2021 1:54:42 PM

Testimony for PSM on 2/16/2021 1:00:00 PM

LATE

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

Comments:

My name is Carla Allison and I strongly support SB149. It is time to bring integrity to asset forfeiture by ensuring protection for the innocent, removing the large profit incentives for law enforcement and stop the current mismanagement of these funds. Please support SB149. Thank you.