



EXECUTIVE CHAMBERS
HONOLULU

February 15, 2022

TO: The Honorable Senator Joy A. San Buenaventura, Chair
Senate Committee on Human Services

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

SUBJECT: **SB 2810 – RELATING TO HOMELESSNESS.**

Hearing: Tuesday, February 15, 2022, 3:10 p.m.
VIA VIDEO CONFERENCE

POSITION: The Governor's Coordinator on Homelessness appreciates the intent of this bill and respectfully offers comments. If this measure proceeds, the Coordinator requests that any appropriation not reduce or replace budget priorities identified in the executive budget.

PURPOSE: The purpose of the bill is to require the Coordinator to collect and maintain a database of private property owners who give prior consent for homeless service providers to enter an owner's private property, for purposes of administering homeless services to a homeless individual located on that private property. The bill also exempts homeless service providers from civil and criminal liability that may result from the administration of homeless services. In addition, the bill requires a report to the Legislature and appropriates funds for outreach related to the collection and maintenance of the database of consenting private property owners.

The Coordinator notes that the bill waives liability for homeless service providers regardless of whether prior consent by a private property owner was obtained. If the waiver is provided regardless of specific consent from the private property owner, the database and collection of consent may be unnecessary.

As currently drafted, the bill provides exemptions from criminal and civil liability in session law for homeless outreach providers on private property. Providing broad exemptions

from criminal liability may have potential unintended consequences. If this measure proceeds, the Coordinator suggests limiting the exemptions from civil liability for trespass or limiting that exemptions be provided only in specific emergencies. Notably, [section 663-1.5, Hawaii Revised Statutes](#), specifies exceptions to civil liability for first responders and good Samaritans. The Legislature may consider amending this section to include specific exceptions from civil liability for homeless service providers entering privately owned properties to deliver homeless services.

Regarding collecting data and maintaining the database, the Coordinator will require at least one additional Full-Time Equivalent (1.0 FTE) staff and resources to collect the required consents, implement the database, and produce the required legislative reports. In addition, time will be required to design and develop the required data collection, consent forms, and database. The development will include necessary consultation with the Department of the Attorney General regarding protecting personal information provided by private property owners. Sufficient time will also be needed to conduct necessary community outreach in advance of data collection and implementation of the database.

Thank you for the opportunity to testify on this measure.

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

GLORIA CHANG
DEPUTY DIRECTOR

**STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE**

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EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEE ON HUMAN SERVICES
ON
SENATE BILL NO. 2810

**February 15, 2022
3:10 p.m.
Room 225 and Videoconference**

RELATING TO HOMELESSNESS

The Department of Budget and Finance (B&F) offers comments on this bill.

Senate Bill No. 2810: 1) requires the Governor's Coordinator on Homelessness (GCH) to maintain a database of private property owners that consent to homeless service providers entering their properties to provide services to homeless individuals located on those properties; 2) sets reporting requirements for the GCH regarding the database; 3) generally exempts homeless service providers who have entered private property to provide services to a homeless individual on the property from civil and criminal liability; and 4) appropriates an unspecified amount of general funds for the Department of Human Services in FY 23 to perform outreach to collect private property owner consent data and to maintain the database.

B&F notes that, with respect to the general fund appropriation in this bill, the federal Coronavirus Response and Relief Supplemental Appropriations Act requires that states receiving Elementary and Secondary School Emergency Relief (ESSER) II funds and Governor's Emergency Education Relief II funds must maintain state support for:

- Elementary and secondary education in FY 22 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

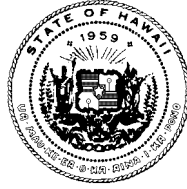
Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- Elementary and secondary education in FY 22 and FY 23 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 and FY 23 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

The U.S. Department of Education has issued rules governing how these maintenance of effort (MOE) requirements are to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with these ESSER MOE requirements.

Thank you for your consideration of our comments.

DAVID Y. IGE
GOVERNOR



CATHY BETTS
DIRECTOR

JOSEPH CAMPOS II
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809-0339

February 14, 2022

TO: The Honorable Senator Joy A. San Buenaventura, Chair
Committee on Human Services

FROM: Cathy Betts, Director

SUBJECT: **SB 2810 – RELATING TO HOMELESSNESS.**

Hearing: Tuesday, February 15, 2022, 3:10 p.m.
Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent of this bill, request clarification, and provides comments.

PURPOSE: The purpose of this measure is to require the governor's coordinator on homelessness to collect and maintain a database of private property owners who give prior consent for homeless service providers to enter an owner's private property, for purposes of administering homeless services to a homeless individual located on the private property. Requires a report to the Legislature. Exempts homeless service providers from civil and criminal liability that may result from the administration of homeless services. Appropriates funds.

The Department respectfully requests clarification; as drafted, it is unclear who are the homeless service providers covered by this measure. For example, does this measure cover government-funded organizations and many community organizations or members of the faith community who do not receive government funding and provide homeless services? The Department respectfully suggests the Legislature define the homeless service providers who the bill covers and the specific activities, such as homeless outreach services, that are covered.

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



Hawai'i Psychological Association

For a Healthy Hawai'i

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COMMITTEE ON HUMAN SERVICES

Senator Joy A. San Buenaventura, Chair

Senator Les Ihara, Jr., Vice Chair

Tuesday, February 15, 2022 - 3:10 p.m. - Conference Room 225 - Via Videoconference

Testimony in Support of SB2810 RELATING TO HOMELESSNESS

The Hawai'i Psychological Association (HPA) supports SB2810, which would allow for property owners to provide consent in advance for service providers to enter private property to do outreach to the homeless. This bill would also exempt homeless service workers from criminal and civil liability for any injury or damage relating to trespass for the purpose of providing their services.

Hawaii's homeless population suffers from disproportionately higher rates of mental illness, addiction, and post-traumatic stress disorder. This bill helps facilitate our homeless population's access to critical mental health services.

There are so many barriers to access to essential social services for this vulnerable population. Without adequate shelter, it is easy for homeless individuals to decompensate. Even if they have a phone and keep a calendar – these items are often stolen or lost. Mental health providers can't expect these individuals go to their office for treatment. Our homeless mentally ill don't have much money, if any, to spend on a bus. It is difficult for them to walk into an office with all their possessions in bags or shopping carts – and risk leaving them behind.

Outreach is best practice. Outreach workers with mental health expertise are doing a great public service. They shouldn't have to worry about being sued for doing difficult, thankless, but necessary work to protect the well-being of our homeless and the communities within which we find them. HPA thus believes we should support them all we can.

Thank you for the opportunity to provide input into this important bill.

Sincerely,

Alex Lichton, Ph.D.

Chair, HPA Legislative Action Committee

TESTIMONY OF EVAN OUE ON BEHALF OF THE HAWAII ASSOCIATION FOR JUSTICE (HAJ) IN OPPOSITION TO SB 2810

Date: Friday February 15, 2022

Time: 3:10 p.m.

My name is Evan Oue and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) in **OPPOSITION** to SB 2810, Relating To Accessibility . HAJ appreciates the intent of the measure, however, we are concerned with the immunity exempting homeless service providers from civil and criminal liability from the administration of their services.

HAJ understands the intent of the measure to ensure that homeless providers are able to administer services in a timely manner. HAJ opposes the overbroad immunity granted to homeless service providers. In particular, Section (c) provides immunity from civil liability for "any injury or damage" arising out of providing services, except for "gross negligence or wanton acts or omissions." Therefore, under this measure, if a service provider is negligent in administering services, then an injured individual will be left no recourse.

The standard of care that should be applied in any given situation is based on the specific circumstance. In other words, negligent acts cannot and should not be overlooked, without recourse for those harmed, especially for the most vulnerable of our residents that will be disproportionately and unfairly impacted by the immunity provided in this bill. Maintaining a safe and reasonable standard of care for homeless service providers would be a beneficial approach rather than providing blanket immunity for any claims.

For these reasons, HAJ opposes this measure and urges the committee to delete Section (c) to remove the immunity provision. The State should seek out alternatives to support homeless service providers rather than reducing the rights of individuals. Mahalo for the opportunity to testify on this measure.