



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

ON THE FOLLOWING MEASURE:

S.B. NO. 294, RELATING TO PROPERTY FORFEITURE.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY

DATE: Tuesday, February 02, 2021 **TIME:** 9:30 a.m.

LOCATION: State Capitol, Via Videoconference

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

Chair Rhoads and Members of the Committee:

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

This bill proposes changes to the asset forfeiture program by requiring a felony conviction prior to the forfeiture of any property and changing the distribution of property and money from state and local governments to the state general fund. The bill, however, keeps intact the Department's responsibilities for receiving forfeited property, selling or destroying the forfeited property, compromising or paying valid claims, and making other dispositions authorized by law.

The bill's introduction references a finding in a 2018 State Auditor's report that twenty-six per cent of the asset forfeiture cases that were closed in 2015 were without corresponding criminal charges. The Department notes that the report is not clear on whether the corresponding charges include instances where the property owner was not charged, as in the case of a father who continuously allowed his offspring to borrow his car to transact drug deals, or where cases were resolved by mutual agreement prior to formal charges being filed, or charges that were subsequently dismissed due to lost witnesses or the suppression of evidence. The Department further notes that, as of November 2020, the State Auditor reported all but one of its recommendations have been implemented by the Department. The remaining

recommendation requires that twenty per cent of the forfeiture funds be used for drug education, prevention, and rehabilitation, and that has not yet been fully achieved because of remaining issues related to legal requirements and implementation.

Section 2 of the bill, at page 4, line 13, through page 5, line 7, would amend section 712A-5(2)(b), Hawaii Revised Statutes (HRS). It would amend paragraph (b)(i) to prevent the forfeiture of property unless the owner has been convicted of a felony. It would amend paragraph (b)(ii) to provide alternatively that no property shall be forfeited by any act or omission established to have been committed or omitted without the owner's consent. The interaction of paragraph (b)(i) with paragraph (b)(ii) creates an ambiguity because the former requires a conviction or plea, while the latter is based only on acts, omissions, or knowledge.

The requirement of the owner's felony conviction can also be problematic because a statutory forfeiture is a civil proceeding *in rem* and not a proceeding against any person. State v. Tuipuapua, 83 Hawai'i. 141, 147, 925 P.2d 311, 317 (1996). There are instances where the "owner" is not the "defendant" in a criminal case. For example, it is hard to arrest the owner of gambling machines seized because the owner is often absent at the gambling parlors where the arrest and seizure occur.

Additionally, the bill does not repeal other laws that allow for forfeiture in cases where the covered offense is not a felony. See, e.g., section 712-1230, HRS, (forfeiture of property used in gambling); section 710-1001, HRS, (forfeiture of bribery money or devices used in offenses against public administration or the obstruction of government operations); and section 329C-3, HRS, (forfeiture of imitation controlled substances that are used in the illegal manufacturing, distributing or possessing of these substances). Also many Department of Land and Natural Resources forfeitures are based on the commission of non-felony offenses. The amendments in the bill, therefore, would create inconsistencies with other sections in the statutes which could create conflict in our laws resulting in the need for clarifying legislation and/or judicial review.

We recommend that this measure be held. Thank you for the opportunity to testify.

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 Judiciary**

February 2, 2021

S.B. No. 294: RELATING TO PROPERTY FORFEITURE

Chair Rhoads, Vice Chair Keokalole, and Members of the Committee:

The Office of the Public Defender respectfully supports S.B. No. 294, which seeks to prohibit civil asset forfeiture unless the covered offense is a felony for which the property owner has been convicted.

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.

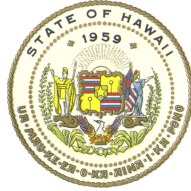
What is appalling is that, according to the State Auditor report on civil forfeiture published in June 2018, in 26% of the asset forfeiture cases, the property was forfeited without a corresponding criminal charge. *See* State of Hawai‘i, Office of the Auditor, Audit of the Department of the Attorney 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. 294.

DAVID Y. IGE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committee on
JUDICIARY**

**Tuesday, February 2, 2021
9:30 AM
State Capitol, Via Video Conference**

**In consideration of
SENATE BILL 294
RELATING TO PROPERTY FORFEITURE**

Senate Bill 294 proposes to restrict civil asset forfeiture to cases involving the commission of a felony offense for which the property owner has been convicted, and directs any forfeiture proceeds to the general fund. **The Department of Land and Natural Resources (Department) opposes this measure.**

Asset forfeiture is an essential enforcement tool that has been used by the Department to effectively deter and halt criminal activity. The majority of the rules that the Department's Division of Conservation and Resources Enforcement (DOCARE) enforces are misdemeanor or petty misdemeanor offenses. Restricting civil asset forfeiture to felony offenses will effectually eliminate this critical tool from DOCARE's enforcement toolbox. The deterrent effect of civil forfeiture in promoting resource protection will be diminished.

Thank you for the opportunity to comment on this measure.

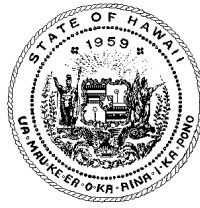
SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

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 294
RELATING TO PROPERTY FORFEITURE.**

By
Max N. Otani, Director

Senate Committee on Judiciary
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair

Tuesday, February 2, 2021; 9:30 a.m.
Via Video Conference

Chair Rhoads, Vice Chair Keohokalole, and Members of the Committees:

The Department of Public Safety (PSD) offers comments on Senate Bill (SB) 294, which would limit the use of civil asset forfeitures; and direct proceeds from civil asset forfeitures to be transferred into the General Fund.

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

SB 294 would restrict civil asset forfeiture to cases in which the property owner has been convicted of an underlying felony offense, however, not all arrests or investigations result in criminal convictions, despite overwhelming evidence. Restricting civil asset forfeitures to property of owners who are criminally convicted does not serve justice or 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 source of funding for future criminal activity.

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.

Maintaining the retention of 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.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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

THOMAS J. BRADY
FIRST DEPUTY
PROSECUTING ATTORNEY



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

February 2, 2021

RE: S.B. 294; RELATING TO PROPERTY FORFEITURE.

Chair Rhoads, Vice-Chair Keohokalole and members of the Senate Committee on Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in opposition to S.B. 294.

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. 294, 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. 294, and asks that the measure be deferred. Thank for you the opportunity to testify on this matter.

SB-294

Submitted on: 1/31/2021 1:12:25 PM

Testimony for JDC on 2/2/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Tracy Ryan	Testifying for The Libertarian Party of Hawaii	Support	No

Comments:

It is high time the legislature addressd this highly abusive system.

SB-294

Submitted on: 1/30/2021 9:08:48 PM

Testimony for JDC on 2/2/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
John Bickel	Testifying for Americans for Democratic Action Hawaii	Support	No

Comments:

Americans for Democratic Action is an organization founded in the 1950s by leading supporters of the New Deal and led by Patsy Mink in the 1970s. We are devoted to the promotion of progressive public policies.

We support SB 294 as it would prohibit civil asset forfeiture unless the covered offense is a felony for which the property owner has been convicted. Seizing assets before a conviction is a violation of basic civil liberties.

Thank you for your favorable consideration.



January 30, 2021

From: YPDA Social Justice Action Committee

To: Hawai'i Senate Committee on Judiciary

RE: Testimony in Support of SB294

Chair Rhoads, Vice Chair Keohokalole and members of the committee,

Young Progressives Demanding Action strongly supports SB294 and asks that you pass this bill out of committee. SB294 restricts civil asset forfeiture to cases involving a felony offense, and where the property owner has been convicted of the underlying felony offense. It also directs forfeiture proceeds to the general fund.

This bill facilitates a very important change in state statute. Under existing law, the police can seize (and the state can forfeit) property that is only tenuously connected to a SUSPECTED crime; and a person's property can be auctioned off by the state even if charges are never brought against anyone for any crime relating to that property. We believe this is violation of due process and civil rights.

Additionally, civil asset forfeiture is often called "policing for profit" because, in Hawai'i and in many other jurisdictions, police and prosecutors get to keep a portion of the proceeds. This creates a perverse incentive for law enforcement to over-police communities, often those that are predominantly communities of color. YPDA firmly believes there is no place for profit motive in the public commons, including within our public safety agencies.

According to the most recent [AG report on forfeitures](#) for Fiscal Year (FY) 2020, county police departments seized a total of \$535,641 during the last fiscal year. That doesn't include the value of other seized property. The total value of seized property, including currency, vehicles, misc. property and real property for this reporting period was \$963,055—almost a million dollars. Of this amount, the vast majority of both cash and property (valued at \$828,609) was ordered forfeited.

Directing proceeds into the general fund instead of giving the police what amounts to a fairly unrestricted cash flow for their departments is a critical reform to mitigate the profit incentive that police have to seize property even where there is not a clear connection to any underlying crime. The requirement of conviction, meanwhile, protects due process and constitutional rights.

If law enforcement hopes to rebuild trust among the community, it must undergo extensive reforms to transform itself from a predatory force within society to instead be a genuine public service. This is a good step in that direction.



Hawai'i

Committee: Committee on Judiciary
Hearing Date/Time: Tuesday, February 2, 2021, 9:30 a.m.
Place: Via Videoconference
Re: Testimony of the ACLU of Hawai'i in Support of S.B. 294, Relating to Property Forfeiture

Dear Chair Rhoads, Vice Chair Keohokalole, and members of the Committee:

The American Civil Liberties Union of Hawai'i ("ACLU of Hawai'i") writes in support of S.B. 294, which would reform Hawaii's civil asset forfeiture law by prohibiting forfeiture except in cases where the property owner has been convicted of a covered felony offense, and by reducing the profit incentive to seize property by directing net forfeiture proceeds to the general fund.

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 Hawaii'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 asset forfeiture cases.**" This means that during this period, in over one quarter of all

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 Rhoads, Vice Chair Keohokalole, and Members of the Committee on Judiciary
February 2, 2021
Page 2 of 2

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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SB-294

Submitted on: 1/31/2021 8:37:18 PM

Testimony for JDC on 2/2/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Golojuch Jr	Testifying for LGBT Caucus of the Democratic Party of Hawaii	Support	No

Comments:

Aloha Senators,

The LGBT Caucus fully supports SB 294.

Mahalo,

Michael Golojuch, Jr.

Chair

LGBT Caucus of the Democratic Party of Hawai'i

COMMUNITY ALLIANCE ON PRISONS

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COMMITTEE ON JUDICIARY

Senator Karl Rhoads, Chair

Senator Jarrett Keohokalole, Vice Chair

Monday, February 1, 2021

1:00 PM

STRONG SUPPORT FOR SB 294 - RE: PROPERTY FORFEITURE

Aloha Chair Rhoads, Vice Chair Keohokalole, 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 felony offense. It 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; **C** for State Law and an overall grade of **D**.
- In 2015, the Institute of Justice graded states on their programs: **Hawaii earned a D-** for its civil forfeiture laws because of 1) **the low bar to forfeit and no conviction required**; 2) **the poor protections for innocent third-party property owners**; and 3) the fact that **100% of forfeiture proceeds go to law enforcement**. This only encourages corruption.

- **In 2020 Hawaii again earns a D-** for its civil forfeiture laws because of Hawai'i's
- **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.

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? This Op-Ed was published on January 17th, the day Queen Lili'uokalani was illegally overthrown by the United States 128 years ago. Eyes wide shut to the history of Hawai'i and the problems of a program from which her office benefits.

Here is what the Auditor's scathing report¹ concluded:

"Hawai'i's asset forfeiture program is controversial, attracting criticism from lawmakers, the public, and the media. The statute gives the Attorney General 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. We found that is not the case..."

To understand more about this issue, John Oliver did a great show looking into civil forfeiture across the U.S. that is worth watching. Here is the link:
<https://www.youtube.com/watch?v=3kEpZWGgJks>.

As trust in law enforcement is plummeting and in the interest of justice, Community Alliance on Prisons implores the committee to honor the oath you have all taken to protect and defend the Constitution. We, therefore, respectfully ask the committee to pass this important measure, affirm the Eighth Amendment, and emphasize that no one is above the law.

Mahalo for this opportunity to share our concerns.

¹ Audit of the Department of the Attorney General's Asset Forfeiture Program, A Report to the Governor and the Legislature of the State of Hawai'i, Report No. 18-09, June 2018.
<https://files.hawaii.gov/auditor/Reports/2018/18-09.pdf>

Statement Before The
SENATE COMMITTEE ON JUDICIARY
Tuesday, February 2, 2021
9:30 AM
Via Videoconference

in consideration of
SB 294
RELATING TO PROPERTY FORFEITURE.

Chair RHOADS, Vice Chair KEOHOKALOLE, and Members of the Senate Judiciary Committee

Common Cause Hawaii supports SB 294, which (1) restricts civil asset forfeiture to cases involving the commission of a felony offense where the property owner has been convicted of an underlying felony offense and (2) directs any forfeiture proceeds to the general fund.

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 294 will permit civil asset forfeiture only after the property owner has been convicted of a felony. This will allow an individual, presumably, a full and fair day in court prior to forfeiture of assets. HB SB 294 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 294. If you have further questions of me, please contact me at sma@commoncause.org.

Very respectfully yours,

Sandy Ma
Executive Director, Common Cause Hawaii

SB-294

Submitted on: 1/30/2021 5:44:58 PM

Testimony for JDC on 2/2/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Julie and Thomas Pasquale	Individual	Support	No

Comments:

We strongly support SB294 because it is inherently unfair to seize assets from citizens without conviction of a crime. Additionally, directing proceeds into the General Fund instead of giving the police fairly unrestricted cash for their departments is a critical reform to mitigate the profit incentive that police have to seize property even where there is not a clear connection to an underlying crime. Thank you for your consideration.

SB-294

Submitted on: 1/31/2021 12:24:51 PM

Testimony for JDC on 2/2/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Cathy Lee	Individual	Support	No

Comments:

Police abuse of civil asset forfeiture laws is fundamentally flawed as a concept as it essentially legitimizes policing for profit. Civil forfeiture allows police to seize — and then keep or sell — any property they allege is involved in a crime. Owners need not ever be arrested or convicted of a crime for their cash, cars, or even real estate to be taken away permanently by the government.

Forfeiture was originally presented as a way to cripple large-scale criminal enterprises by diverting their resources. But today, aided by deeply flawed federal and state laws, many police departments use forfeiture to benefit their bottom lines, making seizures motivated by profit rather than crime-fighting. For people whose property has been seized through civil asset forfeiture, legally regaining such property is notoriously difficult and expensive, with costs sometimes exceeding the value of the property.

It has been proven over the years that civil forfeiture is a process rife with abuse and, as with many of America’s corrupted systems, studies have shown that this practice disproportionately targets people of color. Because the police generally keep the proceeds of forfeitures, there is very little incentive to do the right thing and consider the rights of the individuals.

There is no reason to believe Honolulu Police Department will try to hold themselves accountable in implementing the original spirit of the civil asset forfeiture law without legislation requiring them to do so. The auditor’s report clearly shows a prolonged inability to set internal guidance and appropriate measures to track accountability.

3 states have already set precedent to completely abolish civil forfeiture entirely and an additional 15 states require actual criminal conviction for all forfeiture cases. There is no reason for Hawai’i to fall so behind in reassessing outdated laws that have been proven ineffective and borderline criminal.

SB-294

Submitted on: 1/31/2021 12:47:44 PM

Testimony for JDC on 2/2/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Alani Bagcal	Individual	Support	No

Comments:

Senator Karl Rhoads, Chair

Senator Jarrett Keohokalole, Vice Chair

Senate Committee on Judiciary

Dear Chair Rhoads, Vice-Chair Keohokalole, and esteemed members of the committee:

My name is Alani Bagcal and I am writing today in support for SB294.

This bill is critical reform to mitigate the profit incentive that police have to seize property even where there is not a clear connection to an underlying crime, I believe directing proceeds into a general fund instead of giving the police fairly unrestricted cash for their departments would help our community.

Thank you for the opportunity to testify in support for this bill,

Alani Bagcal

96815

SB-294

Submitted on: 1/31/2021 12:49:30 PM

Testimony for JDC on 2/2/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ryan Santana	Individual	Support	No

Comments:

Senator Karl Rhoads, Chair

Senator Jarrett Keohokalole, Vice Chair

Senate Committee on Judiciary

Dear Chair Rhoads, Vice-Chair Keohokalole, and esteemed members of the committee:

My name is Ryan Santana and I am writing today in support for SB294.

This bill is critical reform to mitigate the profit incentive that police have to seize property even where there is not a clear connection to an underlying crime, I believe directing proceeds into a general fund instead of giving the police fairly unrestricted cash for their departments would help our community.

Thank you for the opportunity to testify in support for this bill,

Ryan Santana

96815

Jacquie Esser
esserjt@gmail.com

S.B. No. 294: RELATING TO PROPERTY FORFEITURE

Written Testimony Supporting the Concept of S.B. No. 294, An Act Restricting Civil Asset Forfeiture to Cases Where the Property Owner Has Been Convicted of an Underlying Felony Offense.

Chair Rhoads, Vice Chair Keokalole, and Members of the Committee:

I am here to testify in support of abolishing civil asset forfeiture in our state and replacing it with criminal forfeiture. Specifically, I wish to offer recommendations for strengthening S.B. No. 294, which is a good first step toward righting injustice.

Liberty and justice for all, includes the right to freedom from baseless searches and the right to due process. Civil asset forfeiture infringes on these rights by providing police with the power to take and keep property from someone who has not been convicted or even charged with a crime. Often, these seizures take place without an arrest or hearing, and they result in innocent people being deprived of their property without due process of law. Under our civil asset forfeiture law, property owners bear the burden and costs of demonstrating their property's "innocence," rather than the government bearing the burden of demonstrating wrongdoing.

In theory, civil asset forfeiture was designed to prevent unlawfully obtained assets from enriching their owners. In practice, civil asset forfeiture incentivizes policing for profit, disproportionality impacts innocent poor and people of color, and frequently violates the Constitution.

In a recent survey of civil asset forfeiture nationwide by the Institute of Justice, Hawai'i earned a D-minus and the dubious distinction of having some of the worst forfeiture laws in the country due to the low standard of proof required for the government to show the property is tied to a crime and the burden being placed on the owner to prove they were not tied to the crime resulting in the forfeiture.

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).

For these reasons, I support banning civil asset forfeiture altogether, in favor of requiring a criminal conviction prior to seizing forfeiture litigation in which the title to property is transferred to the state.

By requiring a conviction prior to asset forfeiture, the criminal forfeiture process holds prosecutors to a higher standard, preserves due process rights, and provides a better chance for innocent people to retain their property.

I support this bill's goal of reforming civil asset forfeiture in Hawai'i, and its current form is a good first step toward achieving that aim. I support the bill's proposal to redirect forfeiture funds into Hawai'i's General Fund, as this mechanism would decrease the potential for misuse, dissuade for-profit policing, and provide more oversight regarding how the government uses forfeiture funds. I strongly believe, however, that this bill should be strengthened to abolish civil asset forfeiture altogether, rather than retaining some civil asset forfeiture mechanisms. I therefore strongly urge the committee to amend this bill to replace references to civil processes with criminal processes. This will ensure that Hawai'i replaces unjust and constitutionally suspect civil asset forfeiture with criminal asset forfeiture. In addition, it will aid judicial efficiency by channeling all forfeiture cases into the same system. Similarly, I encourage the committee to clarify the bill to reflect a clear and convincing evidence standard of proof for seizing property.

I applaud this bill's author and this committee for taking up the critically important issue of asset forfeiture. Abolishing civil asset forfeiture is a commonsense proposal, and it has bipartisan support. The bill in its current form is a good first step toward protecting due process rights, justice, and liberty, but I also urge the committee to consider amending this bill to abolish civil asset forfeiture in our state and replace it with criminal forfeiture.

Thank you for the opportunity to comment on S.B. No. 294.

SB-294

Submitted on: 1/31/2021 5:16:09 PM

Testimony for JDC on 2/2/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Glenn Nagao	Individual	Support	No

Comments:

I writing in support of this bill restricting civil asset forfeiture. Unregulated civil asset forfeiture is policing for profit rather than a pursuit of justice.

Forfeiture should adhere to these guidelines:

1. Forfeiture before conviction is wholly unconstitutional and should not be allowed.
2. The burden of proof lies of the government that an owner was aware or willfully blind to illegal activities.
3. Moreover, the seized proceeds should enter a neutral account, to avoid any conflicts of interest.
4. The seized proceeds should be subject to public accounting and reporting.
5. All proceeds should be returned should a conviction be reversed. Anything else would equal undue punishment.

Please support this bill with your vote.

SB-294

Submitted on: 1/31/2021 5:31:26 PM

Testimony for JDC on 2/2/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Dylan Ramos	Individual	Support	No

Comments:

Aloha,

The standard of proof to justify civil asset forfeiture in Hawai'i is absurdly low, even compared to the already low standards across the United States. While I completely understand the concept behind civil asset forfeiture and can see how it can be useful to hinder criminal enterprises even without conviction, years of evidence show nothing short of abuse and corruption when it comes to the practice. These downsides are due to the institution's very structure and a lack of accountability and proper redress, leading to the worst possible outcome: incentivization for said abuses and corruption.

With the above in mind, we are obligated to make a change. My support for this bill stems mainly from the fact that it is the best offer on the table so far. I would welcome a stronger bill, particularly because this one may still leave room for abuse on behalf of the general fund, but I would also support any measure that improves upon the system we have now. My only caveat is that any improvement must happen soon — should this bill fail, we cannot wait years for another try at improvement. We've seen that before and further abuse followed. Thank you for taking action now.

Sincerely,

Dylan Ramos

96816

SB-294

Submitted on: 1/31/2021 9:16:52 PM

Testimony for JDC on 2/2/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Carrie Ann Shirota	Individual	Support	No

Comments:

Aloha,

I am writing in support of SB 294 that would narrowly restrict Hawai'i's civil forfeiture laws. The Institute for Justice issued a Report entitled Policing for Profit: The Abuse of Civil Asset Forfeiture (2nd Edition). Per that Report, Hawai'i earns a D- for its civil forfeiture laws for the following reasons:

1. Low bar to forfeit and no conviction required
2. Poor protections for innocent third party property owners
3. 100% of forfeiture proceeds go to law enforcement (25% to police, 25% to the Prosecuting attorneys and 50% to the Attorney General).

One of the justifications for our current laws is that it generates revenue that is used to "fight crime." However, study after study shows that we can more effectively reduce crime by ensuring that all community members have their basic needs met - food, housing, clothing, health care and education.

Thank you for the opportunity to submit testimony in support of this measure.

SB-294

Submitted on: 1/31/2021 9:53:41 PM

Testimony for JDC on 2/2/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Feena Bonoan	Individual	Support	No

Comments:

Please pass this bill.

SB-294

Submitted on: 1/31/2021 10:02:18 PM

Testimony for JDC on 2/2/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Diana Bethel	Individual	Support	No

Comments:

Aloha Senator Karl Rhoads, Senator Jarrett Keohokalole, and Members of the Committee.

I am writing in strong support of SB294 which provides that civil asset forfeiture be allowed only in cases where there is a felony conviction. SB294 also stipulates that any proceeds from the sale of the asset be directed to the general fund.

This seems more fair than the current practice and avoids the appearance of outright stealing by the Attorney General's office and law enforcement. SB294 would help restore trust in law enforcement. Please pass SB294.

Mahalo,

Diana Bethel

SB-294

Submitted on: 2/1/2021 6:49:43 AM

Testimony for JDC on 2/2/2021 9:30:00 AM

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

Comments:

Strongly Support

SB-294

Submitted on: 2/1/2021 7:21:13 AM

Testimony for JDC on 2/2/2021 9:30:00 AM

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

Comments:

I doubt that Forfeiture laws constrain criminal behavior, but rather encourage auto theft and other uses of property other than that of the perpetrator, thus increasing crime. It is also subject to capricious use by the police. **But perhaps most importantly, property forfeiture forces people whose property has been confiscated to prove their innocence**, while our country's legal system is based on the assumption that a person is innocent until proven guilty. It is high time to delete these laws altogether, and I encourage amending this bill to do so.

SB-294

Submitted on: 2/1/2021 9:24:35 AM

Testimony for JDC on 2/2/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Tenaiya Brookfield	Individual	Support	No

Comments:

Hawaii's civil asset forfeiture laws rank among the worst in the nation for many of the reasons outlined in this bill. I fully support SB294 and request it be made stronger by eliminating civil forfeiture completely and replacing it with criminal forfeiture.

LATE

SB-294

Submitted on: 2/1/2021 9:37:48 AM

Testimony for JDC on 2/2/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Christine Weger	Individual	Support	No

Comments:

The current forfeiture process is unfair and subject to widespread abuse and corruption. Many states have abandoned civil forfeiture for these reasons. On the national level, we receive very poor grades for criminal justice reforms of all kinds.

People merely suspected of criminal involvement and innocent third parties are subject to civil forfeiture with almost no legal protections. The Legislature had the good sense (of justice) to vote for reform in the last session--this reform is long overdue.

Mahalo,

Christine D. Weger

Diehl & Weger, Attorneys at Law

LATE

SB-294

Submitted on: 2/1/2021 10:19:45 AM

Testimony for JDC on 2/2/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Joseph Brown III	Individual	Support	No

Comments:

I support the Legislature's continued efforts to restrict civil asset forfeiture. It is unfortunate that Gov. Ige opposed past efforts, and I urge the committee to pass out this bill.

Mahalo,

Joey Brown,

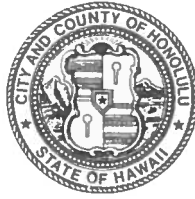
Kailua, HI

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulu.gov

LATE

RICK BLANGIARDI
MAYOR



SUSAN BALLARD
CHIEF

JOHN D. MCCARTHY
AARON TAKASAKI-YOUNG
DEPUTY CHIEFS

OUR REFERENCE

PJ-GK

February 2, 2021

The Honorable Karl Rhoads, Chair
and Members
Committee on Judiciary
State Senate
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Rhoads and Members:

SUBJECT: Senate Bill No. 294, 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. 294, 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. 294, 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

SB-294

Submitted on: 2/1/2021 1:10:36 PM

Testimony for JDC on 2/2/2021 9:30:00 AM

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

Comments:

I strongly support SB294 because it upholds the 8th Amendment which states:
“Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.”

LATE

GRASSROOT INSTITUTE OF HAWAII

February 2, 2021

9:30 a.m.

Via Videoconference

To: Senate Committee on Judiciary

Senator Karl Rhoads, Chair

Senator Jarrett Keohokalole, Vice Chair

From: Grassroot Institute of Hawaii

Joe Kent, Executive Vice President

Re: SB294 — RELATING TO PROPERTY FORFEITURE

Comments Only

Dear Chair and Committee Members:

The Grassroot Institute of Hawaii would like to offer its comments on SB 294, which would significantly reform the practice of asset forfeiture in the state.

Civil asset forfeiture in Hawaii has been the subject of criticism and concern. Thus, we commend the Legislature for continuing to address these problems and pressing for much needed reforms.

In a survey of civil asset forfeiture nationwide by the Institute of Justice, Hawaii earned a D-minus and the dubious distinction of having some of the worst forfeiture laws in the country.¹

Singled out for criticism was the state's low standard of proof for showing how the property is tied to a crime.

In addition, Hawaii places the burden on innocent owners to prove they weren't tied to the crime resulting in the forfeiture.

The result is a state forfeiture program open to abuse.

¹ Dick M. Carpenter II, et al., "Policing for Profit: The Abuse of Civil Asset Forfeiture, 2nd Edition," Institute for Justice, November 2015, <https://ij.org/wp-content/uploads/2015/11/policing-for-profit-2nd-edition.pdf>.

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Grassroot Institute of Hawaii – SB 294 Testimony

As the Hawaii state auditor wrote in a June 2018 report, Hawaii’s asset-forfeiture program lacks clear rules and procedures, inadequately manages funds and is badly in need of greater transparency.²

The result is a system that is able to prey on innocent property owners.

The audit found that in 26% of asset forfeiture cases closed during fiscal year 2015, property was forfeited without a corresponding criminal charge. In another 4% of cases, the property was forfeited even though the charge was dismissed. Of those whose property was forfeited, very few petitioned for remission or mitigation. The state auditor speculated that most people may not know petition is an option because of the lack of transparency surrounding the forfeiture program.

By introducing a higher standard for forfeiture, this bill takes an important step in addressing many of the concerns raised in the audit. It is shocking that citizens can lose their property without being convicted — or even charged with a crime.

This bill also deserves praise for eliminating incentives that can arise from the practice of asset forfeiture. By directing the proceeds from the forfeiture program to the general fund, this bill would prevent any agency or group from having a financial interest in asset forfeiture.

Finally, there is one more reform that could improve the state asset forfeiture program. In order to maintain transparency and boost public confidence, we suggest that the bill include language that would require more detailed reporting on the forfeiture program, especially regarding financial management and case data for specific property dispositions.

Thank you for the opportunity to submit our testimony.

Sincerely,

Joe Kent
Executive Vice President
Grassroot Institute of Hawaii

² “Audit of the Department of the Attorney General’s Asset Forfeiture Program,” Office of the Auditor, State of Hawaii, June 2018, <http://files.hawaii.gov/auditor/Reports/2018/18-09.pdf>.

LATE

SB-294

Submitted on: 2/1/2021 12:07:49 PM

Testimony for JDC on 2/2/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Marion McHenry	Individual	Support	No

Comments:

I support this bill and feel that it should be strengthened. I support banning civil asset forfeiture altogether. Instead our laws should require a criminal conviction prior to seizing property.

I strongly urge the committee to amend this bill to replace references to civil processes with criminal processes.

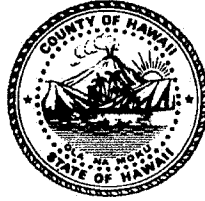
Thank you for your work on this important bill to make Hawaii more just.

Mahalo,

Marion McHenry

Princeville, Kauai

Mitchell D. Roth
Mayor



LATE

Paul K. Ferreira
Police Chief

Kenneth Bugado, Jr.
Deputy Police Chief

County of Hawai`i

POLICE DEPARTMENT

349 Kapi`olani Street • Hilo, Hawai`i 96720-3998
(808) 935-3311 • Fax (808) 961-8865

February 1, 2021

Senator Karl Rhoads
Chairperson and Committee Members
Committee on Judiciary
415 South Beretania Street
Honolulu, Hawai`i 96813

RE: SENATE BILL 294, RELATING TO PROPERTY FORFEITURE
HEARING DATE : FEBRUARY 2, 2021
TIME : 9:30 A.M.

Dear Senator Rhoads:

The Hawai`i Police Department opposes Senate Bill 294, which seeks to restrict civil asset forfeiture to cases involving the commission of a felony offense where the property owner has been convicted of an underlying felony offense; as well as directing any forfeiture proceeds to the general fund.

The forfeiture laws are used to ensure those items used to further criminal activity and/or the ill-gotten gains of such activity become items for seizure in accordance with prescribed civil procedures. Asset forfeiture can immediately remove the tools, equipment, cash flow, profit, and sometimes the product itself from the criminals and the criminal organization, rendering the criminal organization powerless to operate. These prescribed civil procedures are accompanied by attendant ownership rights of appeal.

The changes as proposed by this legislation would significantly compromise law enforcement's ability to combat those who profit from illegal activity through victimization of the community at large. Many of our forfeiture cases are the result of felony drug offenses that cater to those individuals who are involved in fatal traffic collisions, drug overdose deaths, as well as thefts, burglaries, robberies and other crimes in order to afford purchase of illicit narcotics.

It is our position that the current asset forfeiture program in Hawai`i is not being abused and we remain committed to the cause of ensuring that any property forfeited is within the interest of justice. It is for these reasons, we urge this committee to not support this legislation.

Thank you for allowing the Hawai`i Police Department to provide comments relating to Senate Bill 294.

Sincerely,

Handwritten signature of Paul K. Ferreira in black ink.

PAUL K. FERREIRA
POLICE CHIEF

LATE

SB-294

Submitted on: 2/1/2021 3:57:35 PM

Testimony for JDC on 2/2/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Victor K. Ramos	Testifying for Maui Police Department	Oppose	No

Comments:

But did the auditor find any instances of corruption or criminal activity? To my knowledge, it did not.

The following statement, "the legislature finds that there is great incentive for state and county law enforcement agencies to seize property for forfeiture" implies corruption. It implies that said law enforcement agencies forfeit property without probable cause. This is simply not true.

Lastly, using information from what I consider an imbalanced (activist) organization like the "Institute for Justice" makes this bill...unbalanced.

I urge our esteemed legislature to reconsider this proposal. Mahalo