



The Judiciary, State of Hawai‘i

**Testimony to the Thirty-First Legislature
Regular Session of 2022**

Senate Committee on Public Safety, Intergovernmental, and Military Affairs

Senator Clarence K. Nishihara, Chair

Senator Lynn DeCoite, Vice Chair

Tuesday, February 8, 2022, 1:00 PM

State Capitol

VIA VIDEOCONFERENCE

WRITTEN TESTIMONY ONLY

by:

Shellie Park-Hoapili

Staff Attorney, Hawai‘i Supreme Court

Bill No. and Title: Senate Bill No. 3085, Relating to the Hawaii Code of Military Justice.

Purpose: To update the Hawaii Code of Military Justice, by repealing chapter 124A, Hawaii Revised Statutes, and adding a new chapter to promote order and discipline in the State Military Forces by fostering an independent military justice system and updating nonjudicial punishment and courts-martial procedures.

Judiciary’s Position:

The Judiciary offers the following comment.

Under § -107(e), “[a]n appeal under this section shall be forwarded to the court prescribed in section -113. In ruling on an appeal under this section, the appeals court may act only with respect to matters of law.” Section -113 governs review by state appellate authority

and provides for an appeal “in the manner provided for civil appeals from the circuit courts, and within the time provided by rules of court.”

As currently drafted, § -107(e) appears to restrict the appellate courts’ inherent judicial powers to completely review matters that come properly before the courts. The Judiciary respectfully requests that the last sentence of § -107(e) -- “In ruling on an appeal under this section, the appeals court may act only with respect to matters of law.” -- be deleted.

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



NO ONE DOES MORE FOR VETERANS.

Department of Hawaii

438 Hobron Lane, Suite 407

Honolulu, Hawaii 96815

Testimony in Support of SB 3085

**Senate Committee On Public Safety, Intergovernmental, & Military Affairs Hearing
on Tuesday, February 8, 2022, 1:00 P.M. via Videoconference**

Senator Nishihara, Chair, Senator DeCoite, Vice Chair, and Committee Members,

The Department of Hawaii, Veterans of Foreign Wars of the United States (VFW Hawaii), represents 4,300+ members in 20 Posts located throughout the State of Hawaii. VFW is a federally chartered national association of soldiers, sailors, marines, and airmen who have served the United States of America in wars, campaigns, and expeditions on foreign soil or in hostile waters.

SB 3085 updates the Hawaii Code of Military Justice by repealing chapter 124A, Hawaii Revised Statutes, and adding a new chapter to promote order and discipline in the State Military Forces by fostering an independent military justice system and updating nonjudicial punishment and courts-martial procedures.

The current Hawaii Code of Military Justice (H.R.S. Chapter 124A) was enacted in 1982 and contained 11 parts and 172 sections that provide for the order and discipline of state military forces. VFW Hawaii endorses the SB3085 proposed update, including 11 parts, but has 244 sections (37 reserved). VFW Hawaii acknowledges that SB3085 is based on amendments to the Uniform Code of Military Justice applicable to military forces in active federal service and incorporates provisions in the Model State Code of Military Justice proposed by the American Bar Association in 2005. VFW Hawaii concurs that SB3085 includes modified and additional sections to ensure more effective and efficient good order and discipline in the state military forces.

All VFW Hawaii members join me in supporting this bill.

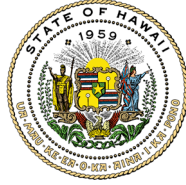
Thank you for this opportunity to testify in support of SB 3085.

Lawrence M.G. Enomoto

Lawrence M.G. Enomoto

VFW Hawaii State Legislative Liaison

DAVID Y. IGE
GOVERNOR



KENNETH S. HARA
MAJOR GENERAL
ADJUTANT GENERAL

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TESTIMONY ON SENATE BILL, SB3085
RELATING TO THE HAWAII CODE OF MILITARY JUSTICE

PRESENTATION TO
THE COMMITTEE ON
PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS

BY

MAJOR GENERAL KENNETH S. HARA
ADJUTANT GENERAL
DIRECTOR OF THE HAWAII EMERGENCY MANAGEMENT AGENCY
AND HOMELAND SECURITY ADVISOR

FEBRUARY 08, 2022

Chair Nishihara, Vice Chair DeCoite, and Members of the Committee on Public Safety, Intergovernmental and Military Affairs.

I am Major General Kenneth Hara, Adjutant General, Director of the Hawaii Emergency Management Agency and Homeland Security Advisor.

The Department of Defense (DOD) provides written testimony in **SUPPORT** of SB3085.

The Hawaii Code of Military Justice (HCMJ) was originally enacted in 1982. This measure if passed will update the HCMJ into the 21st Century. This update is needed to give commanders the tools they need to maintain good order and discipline within the State Military Forces while simultaneously protecting the due process rights of the accused. These changes were based on a model provided by the National Guard Bureau, and also brings non-judicial punishment and court-martial procedures further in line with the Uniform Code of Military Justice as contained in title 10 United States Code. In addition, this update was coordinated with the Judiciary. Finally, this revision will further develop confidence in an independent military justice system.

Thank you for this opportunity to provide testimony in support of HB 601, HD1.

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