



HB364 SD1
RELATING TO TRESPASS
Senate Committee on Judiciary

March 24, 2023

9:40 AM

Room 016

The Office of Hawaiian Affairs (OHA) on **COMMENTS** on **HB364 SD1**, which would clarify that all state and county law enforcement officers may enforce trespass laws on trespass involving public lands and ensures that Native Hawaiian rights, privileges, and practices will not be diminished, altered, or amended by this measure. **OHA appreciates the Legislature's modifications to the bill within the SD1 that will ensure that officer discretion is preserved to allow for nuanced approaches to the enforcement of trespass laws on state and county public lands that will not require arrest or citation in every instance, and the protection of Native Hawaiian Traditional and Customary Practices.**

OHA has noted that individuals experiencing homelessness are often camped upon state and county public lands, and the blanket, mandatory enforcement of trespass laws would result in the mass criminalization of homelessness. By clarifying that all state and county law enforcement have the authority to enforce trespass laws but allowing officers to use their own personal discretion in the enforcement of trespass laws, this will allow officers to approach the enforcement of trespass on public lands with regards to individuals experiencing homelessness in a more compassionate and nuanced approach than mandating arrest or citation.

For Native Hawaiian practitioners exercising their constitutionally protected traditional and customary practices, including gathering rights, these rights are often exercised on public lands. As a result of the enforcement of trespass laws in the past, Native Hawaiians practicing their traditional and customary practices have been unfairly criminalized. OHA especially appreciates the Legislature's inclusion of language into this bill that further clarifies that the enforcement of trespass laws shall not infringe upon Native Hawaiian rights protected in the Hawaii State Constitution.

OHA appreciates the opportunity to provide **COMMENTS** on **HB364 SD1**. Mahalo nui loa.

HB-364-SD-1

Submitted on: 3/23/2023 7:44:05 AM

Testimony for JDC on 3/24/2023 9:40:00 AM

Submitted By	Organization	Testifier Position	Testify
Dayle K. Turner	Individual	Support	Written Testimony Only

Comments:

Enforcing trespassing laws on public land is like enforcing traffic laws on public roads. Just as traffic laws apply to everyone who uses public roads, trespassing laws apply to everyone who uses public land. If there is confusion about which law enforcement officers can enforce these laws, it would be like having confusion about which police officers can enforce traffic laws on public roads. This confusion can lead to dangerous situations, just as confusion about who can enforce trespassing laws can lead to damage to public land and harm to those who use it. Therefore, it's important to clarify that all law enforcement officers, from the state and county, can enforce trespassing laws on public land, regardless of who owns the land. The new law, with its amended wording to allow police officers to choose to enforce the laws and protections for Native Hawaiians, will ensure that everyone can enjoy public land safely and without confusion. I stand in strong support, and thank you for the opportunity to share my thoughts. Aloha.