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**Testimony in SUPPORT of HB573 SD1  
RELATING TO FENTANYL TEST STRIPS**

SENATOR. KARL RHODES, CHAIR  
SENATE COMMITTEE ON JUDICIARY

Hearing Date: March 30, 2023

Room Number: 016

1 **Fiscal Implications:** Undetermined

2 **Department Testimony:** The Department of Health supports this measure and defers to the  
3 Department of Law Enforcement on its implementation.

4 This measure amends §329-1, Hawaii Revised Statute by exempting certain testing products,  
5 including but not limited to fentanyl test strips (FTS), from the current definition of drug  
6 paraphernalia.

7 The Centers for Disease Control and Prevention and the Substance Abuse and Mental Health  
8 Services Administration encourages the use of federal funds to purchase FTS to curb the  
9 dramatic spike in in drug overdose deaths from the use of synthetic opioids which include  
10 illicitly manufactured fentanyl. There were 74 fatal opioid poisonings in Hawaii in 2021, 50 of  
11 which came from synthetic opioids including fentanyl. FTS may be useful to find out if drugs  
12 were mixed with fentanyl, thus giving communities information on illicit drug supply and what  
13 steps we should take to prevent and reduce overdoses.

14 Thank you for the opportunity to testify.

15 **Offered Amendments:** None

# COMMUNITY ALLIANCE ON PRISONS

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## COMMITTEE ON JUDICIARY

Sen. Karl Rhoads, Chair

Sen. Mike Gabbard, Vice Chair

Thursday March 30, 2023

Room 016 & VIDEOCONFERENCE

DECISIONMAKING

9:35 AM

## **STRONG SUPPORT FOR HB 573 SD1 - FENTANYL TEST STRIPS**

Aloha Chair Rhoads, Vice Chair Gabbard 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 4,036 Hawai'i individuals living behind bars<sup>1</sup> and under the "care and custody" of the Department of Public Safety/Corrections and Rehabilitation on any given day. We are always mindful that 914 - 26.4% of the male imprisoned population<sup>2</sup> - 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 appreciates this opportunity to testify in strong support of HB 573 SD1 - truly a life-saving bill. The SD1 clarifies that the definition of "drug paraphernalia" does not include testing products utilized in determining whether a controlled substance contains chemicals, toxic substances, or hazardous compounds in quantities that can cause physical harm or death, including but not limited to fentanyl test strips. This important measure is effective upon approval.

An article published in The Hill on March 26, 2023 reported that

*Teen overdose deaths have doubled in three years, an alarming trend amid a historic decline in drug and alcohol use among high school students.*

*The main reason is fentanyl. Teens consume the powerful opioid unwittingly, packaged in counterfeit pills tailored to resemble less potent prescription medications. Drug traffickers lace pills*

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<sup>1</sup> Department of Public Safety, Weekly Population Report, March 20, 2023.

[https://dps.hawaii.gov/wp-content/uploads/2023/03/Pop-Reports-Weekly-2023-03-20\\_George-King.pdf](https://dps.hawaii.gov/wp-content/uploads/2023/03/Pop-Reports-Weekly-2023-03-20_George-King.pdf)

<sup>2</sup> Why are 26.4% of Hawai'i's male prison population sent thousands of miles from home when the following prisons in Hawai'i have room here: Halawa is at 77%; Halawa Special Needs Facility is at 58%; Kulani is at 44%; Waiawa is at 51% of operational capacity.

*with fentanyl to boost the black-market high. Dangerously addictive, fentanyl can be lethal, especially to children experimenting with drugs.*

*“Fentanyl, it’s just a different beast,” said Dr. Hoover Adger Jr., professor of pediatrics at the Johns Hopkins University School of Medicine. “And it’s so deadly. You have a milligram of fentanyl being equivalent to 50 milligrams of heroin, being equivalent to 100 milligrams of morphine. And right now, fentanyl is creeping into everything.”*

*Deaths from drug and alcohol rose from 788 in 2018 to 1755 in 2021 among children ages 15 to 19, according to data from the Centers for Disease Control and Prevention, tabulated by The Hill.*

*Many sources point to fentanyl as the leading cause of teen overdose death. Between 2010 and 2021, the number of adolescent deaths from black-market fentanyl and related synthetics rose more than twenty-fold, from 38 to 884, according to a 2022 study in the Journal of the American Medical Association.*

*The second leading cause of adolescent overdose death, the class of depressants known as benzodiazepines, claimed 152 lives in 2021, less than one-fifth of fentanyl’s toll.*

*“If you magically removed fentanyl from the drug supply, these deaths would absolutely plummet,” said Dr. Michael Toce, instructor of pediatrics at Harvard Medical School.*

*Fentanyl, a synthetic opioid, has proliferated on the underground market of counterfeit pills for the past several years. Inexpensive, easily manufactured and powerfully addictive, fentanyl has emerged as the narcotic of choice for drug traffickers and dealers.*

*“If you are buying an illicit opioid right now on the open market,” Toce said, “it should be presumed that it will contain fentanyl.”*

*Because of its potency, fentanyl can trigger a fatal overdose in much smaller quantities than less potent drugs. Largely because of fentanyl, the number of U.S. drug overdose deaths doubled in six years, from 52,404 in 2015 to 106,699 in 2021.*

*Adolescents are well-versed on the opioid epidemic and well-aware of the danger of opioid addiction, addiction experts say. Most teens don’t want to abuse opioids and have little access to prescription medications such as oxycodone.*

*The problem with black-market fentanyl is that, in many cases, teenage customers don’t know they are buying it.*

*“Fentanyl has crept into so many things,” Adger said. “I have patients who think they’re taking marijuana, but it’s marijuana laced with fentanyl. I have patients who think they’re taking medicine. It’s in pill form, they’re pressed, they look just like regulated medications. Kids think what they’re getting is safe.”*

*The fentanyl deaths mirror a larger crisis in child mortality that has startled the public health community.*

*Death rates among children rose by nearly 20 percent between 2019 and 2021, reversing a decades-long trend of declining mortality among the young, according to a recent paper in the Journal of the American Medical Association.*

*Child mortality is rising at a rate not seen in at least half a century, an era that had seen steady progress in preventing deaths from automobile accidents, firearms and disease. The study's authors ascribed the increase to "manmade pathogens," especially guns and drugs.*

*More teens are dying of drug overdoses at a time when, paradoxically, teen drug and alcohol use is in decline.*

*Between 2002 and 2022, the share of 12th-grade students who used illicit drugs dropped from 21 percent to 8 percent, according to the national Monitoring the Future study. The figure excludes marijuana, a prevalent drug among teens. But marijuana use is declining, too.*

*The share of 12th-grade students drinking alcohol dwindled from 72 percent in 2002 to 52 percent in 2022. The cigarette-smoking population plummeted from 57 percent in 2002 to 17 percent in 2022.*

*Researchers credit the national anti-smoking campaign with tamping down teen drug use. The "Truth" initiative, launched in 1998, seeded a dramatic decline in teen smoking. Drug use declined apace.*

*"If you ask me, it's one of the biggest health successes of the century," said Richard Miech, a University of Michigan sociologist who works on Monitoring the Future. "Once you start smoking, you're more likely to move on to other drugs."*

*The successful anti-drug campaign extends to prescription opioids. Miech says their use among teens has fallen "about fivefold" in the past decade.*

*Teens have much less access to prescription opioids today than 10 or 20 years ago, thanks to a national push to limit the number of pills prescribed and to secure the tablets in blister packs, a method of storage that makes it easier for a parent to notice if one is missing.*

*Only 66 adolescents died of prescription opioid overdose in 2021, fewer than half the number who died in 2010, according to the 2022 Journal of the American Medical Association report.*

*The dramatic rise in overdose deaths in an era of declining drug use illustrates the lethal potency of fentanyl, addiction experts say.*

*"The number of kids who are experimenting with illicit opioids is going down," Toce said. "But it's such a high risk that even though fewer people are doing it, more people are dying."*

*Fentanyl is far more dangerous to thrill-seeking adolescents than to habitual adult users. One reason is that teens are generally smaller and weigh less. Another is that the typical teen who experiments with counterfeit pills is not a chronic user. Adults with opioid dependency can tolerate much higher amounts of fentanyl than a high school student dabbling in pills.*

*Teens often buy counterfeit pills online, through social media channels. They might think they are getting Adderall, a prescription stimulant that treats ADHD, or Xanax, an anti-anxiety drug, or MDMA, a party drug variously known as ecstasy or molly.*

*“They aren’t looking for fentanyl,” said Linda Richter, vice president of prevention research and analysis at the nonprofit Partnership to End Addiction.*

*“These kids aren’t trying to kill themselves. It’s in ecstasy, molly, these party drugs. Stimulants. Depressants. ... It’s in all kinds of pills, and most people don’t know it. The traffickers have done a really good job at making it look like the pills the kids want.”*

*The good news, Richter and others say, is that teens respond well to fact-based messages about emerging perils in the drug market. Teens largely rejected prescription opioids after learning of the overdose risk, just as they had broadly abandoned smoking in response to the “Truth” campaign.*

*Public health advocates hope the rising toll of overdose deaths will prompt educators and parents to do a better job of alerting teens to the dangers of fentanyl.*

*“When we start to lose kids,” Adger said, “then parents and people who care about kids start to wake up.”<sup>3</sup>*

Fentanyl test strips save lives. Instead of demonizing people who use drugs, Hawai`i should be treating drug use as a public health issue instead of a criminal legal system issue. We will never end the War on Drugs – one of the biggest drivers of mass incarceration – if we continue to stigmatize people struggling with drug addiction.

We must address the poverty and mental health issues in our communities to tackle the many social issues that drive people to unhealthy behaviors.

We salute Hawai`i Health and Harm Reduction Center for their incredible outreach workers who reach deeply into the community to help people addicted to drugs and to Dr. Kimo Alameda on Hawai`i Island for leading the charge to address this community issue that is impacting our communities across Hawai`i nei.

Harm reduction is an important strategy to save lives and fentanyl test strips are vital to this effort. Community Alliance on Prisons urges the committee to pass this important legislation that will save lives.

Mahalo nui for caring about all of Hawai`i’s people!

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<sup>3</sup> Teen overdose deaths have doubled in three years. Blame fentanyl, by DANIEL DE VISÉ, 03/26/23.  
<https://thehill.com/policy/healthcare/3917058-teen-overdose-deaths-have-doubled-in-three-years-blame-fentanyl/>



Committee: Senate Judiciary  
Hearing Date/Time: Thursday, March 30, 2023, 9:35 A.M.  
Place: Conference Room 016 & Videoconference  
Re: **H.B. 573, S.D. 1 Relating to Fentanyl Test Strips -  
SUPPORT**

Aloha Chair Rhoads, Vice Chair Gabbard and Committee Members:

The ACLU of Hawai'i strongly supports **H.B. 573, S.D. 1 Relating to Fentanyl Test Strips, which excludes fentanyl test strips from the Controlled Substances Act's definition of drug paraphernalia.**

The ACLU of Hawai'i supports decriminalizing the use and possession for personal use of all drugs, and increasing access to voluntary, affordable, and evidence-based treatment for drug dependence and other medical and social services outside the court and prison system.

***While we support repealing Hawaii's drug paraphernalia statute in its entirety as proposed in H.B. 431<sup>1</sup>, HB 573, S.D. 1 is an incremental and important step to decriminalize the use of fentanyl test strips – a harm reduction tool that has the potential to prevent overdoses and literally saves lives.***

On any given day, too many people in Hawai'i are behind bars for drug related offenses, including convictions for drug paraphernalia. Even more people are cycling through our severely overcrowded jails and prisons, living in inhumane conditions of confinement and separated from loved ones, here in Hawai'i and in private for-profit prisons thousands of miles away.

Beyond that, a conviction for drug possession and drug paraphernalia subjects individuals to a lifetime of stigma and collateral consequences – such as discrimination by potential landlords, employers, and peers.

***Our current drug paraphernalia laws neither advances individual nor public health. Rather, it reinforces racial disparities within our criminal legal system.***

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<sup>1</sup> [https://www.capitol.hawaii.gov/session/measure\\_indiv.aspx?billtype=HB&billnumber=431&year=2023](https://www.capitol.hawaii.gov/session/measure_indiv.aspx?billtype=HB&billnumber=431&year=2023)

Research shows that enforcement of drug laws and policy discriminates against Native Hawaiians and other communities of color. In 2010, the Office of Hawaiian Affairs, released the study “The Disparate Treatment of Native Hawaiians in the Criminal Justice System” which highlighted that overrepresentation of Native Hawaiians in the criminal justice system accumulates at every stage.<sup>2</sup> **Significantly, the report concluded that Native Hawaiians do not use drugs at drastically different rates from other races or ethnicities, yet are sentenced to prison for drug offenses more often than people of other races or ethnicities.**

In closing, we urge this Committee to pass **H.B. 573 S.D.1**, and remove fentanyl test strips from the definition of drug paraphernalia under the state’s Controlled Substances Act. We also urge this the Hawai’i Legislature to increase stronger investments in public health, and voluntary, affordable treatment and other social services in the community outside of the courts and criminal legal system to improve countless lives, as well as the health and liberty of our community.

Sincerely,

*Carrie Ann Shirota*

Carrie Ann Shirota

Policy Director

ACLU of Hawai’i

[cshirota@acluhawaii.org](mailto:cshirota@acluhawaii.org)

*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.*

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<sup>2</sup> The Disparate Treatment of Native Hawaiians in the Criminal Justice System, Office of Hawaiian Affairs (2010). [https://www.oha.org/wp-content/uploads/2014/12/ir\\_final\\_web\\_rev.pdf](https://www.oha.org/wp-content/uploads/2014/12/ir_final_web_rev.pdf) “According to the 2004 Hawai’i State Treatment Needs Assessment Program dataset, Native Hawaiians do not use drugs at widely dissimilar rates to other races or ethnicities, although there is some variation. Irrespective of the variation in drug use rates, the percent of Native Hawaiians that report drug use does not match the proportion of the total number of people admitted to prison or jail for drug offenses.”

## TESTIMONY IN SUPPORT OF HB 573, SD 1

TO: Chair Roads, Vice Chair Gabbard, & Committee Members

FROM: Nikos Leverenz  
Grants & Advancement Manager

DATE: March 30, 2023 (9:35 AM)

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Hawaii Health & Harm Reduction Center (HHRC) **strongly supports** HB 573, SD 1, which excludes fentanyl test strips and other drug checking equipment and supplies from the definition of drug paraphernalia under the state's Controlled Substances Act.

HHRC operates Hawaii's statewide syringe exchange program, [\*which has effectively kept HIV rates among persons who inject drugs and their intimate partners low for over three decades\*](#), in every county. We first obtained fentanyl test strips using private grant funding from the Comer Family Foundation in 2019. Fentanyl test strips and other drug checking tools are critical in helping to prevent accidental and fatal overdoses. Broader access to drug checking tools, including portable spectrometers, is a policy reality elsewhere and can help inform health responses to [emerging drug threats like xylazine](#).

Due consideration should also be given to repealing Hawaii's drug paraphernalia statute entirely, [as currently proposed in HB 431](#). Paraphernalia laws [do not advance individual or public health](#). Instead, they serve as a gateway to protracted criminal legal system involvement for those with behavioral health problems, including those who are unhoused or are from under-resourced communities. The baseline penalty provided by [HRS Section 712-1243](#) for possession of non-cannabis Schedule I & II drugs for personal use, including unusable traces and residue, [is among the nation's most draconian](#).

HHRC's mission is to reduce harm, promote health, create wellness, and fight stigma in Hawaii and the Pacific. We work with many individuals impacted by poverty, housing instability, and other social determinants of health. Many have behavioral health problems, including those related to substance use and mental health conditions, and have been deeply impacted by trauma, including histories of physical, sexual, and psychological abuse.

Thank you for the opportunity to testify on this measure.



**HB-573-SD-1**

Submitted on: 3/28/2023 8:50:47 PM

Testimony for JDC on 3/30/2023 9:35:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Wendy Gibson-Viviani	Individual	Support	Written Testimony Only

Comments:

Dear Chair Rhoads, Vice Chair Gabbard, and Members of the Committee,

My name is Wendy Gibson-Viviani. I am an RN who has been working to help shape drug policy in Hawaii for 8 of the 30 years I have lived here. I strongly support HB573.

I believe that Fentanyl test strips are harm reduction tools that have the potential to help tens of thousands of people avoid accidental Fentanyl poisonings and opiate overdose deaths.

Please remove them from the list of drug paraphernalia.

Thank you for the opportunity to provide testimony.

Wendy Gibson-Viviani RN/BSN

Kailua

(808) 321-4503

**HB-573-SD-1**

Submitted on: 3/28/2023 9:57:44 PM

Testimony for JDC on 3/30/2023 9:35:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Thaddeus Pham	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Rhoads, Vice Chair Gabbard, and JDC Committee Members,

As a public health professional and concerned citizen, I write in strong support of HB573 SD1, which would exclude fentanyl test strips from the definition of drug paraphernalia in the controlled substances act.

As the opioid overdose crisis continues to impact local communities, we need all the public health tools available in order to ensure that people in Hawai'i do not die from preventable deaths. Fentanyl test strips are a proven intervention to help people reduce the risk from overdose, thereby improving community health and social cohesion. For more info on the public health importance of these tools, go to: <https://www.cdc.gov/stopoverdose/fentanyl/fentanyl-test-strips.html>.

Please pass this necessary and important bill.

With thanks,

Thaddeus Pham (he/him)

**HB-573-SD-1**

Submitted on: 3/29/2023 9:01:49 AM

Testimony for JDC on 3/30/2023 9:35:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Will Caron	Individual	Support	Written Testimony Only

Comments:

Fentanyl test strips (FTS) are a low-cost method of helping prevent drug overdoses and reducing harm. FTS are small strips of paper that can detect the presence of fentanyl in all different kinds of drugs (cocaine, methamphetamine, heroin, etc.) and drug forms (pills, powder, and injectables). FTS provide people who use drugs and communities with important information about fentanyl in the illicit drug supply so they can take steps to reduce risk of overdose. Decriminalizing FTS in Hawai'i will save lives, period. Please pass HB573 SD1.

**HB-573-SD-1**

Submitted on: 3/29/2023 10:47:42 AM

Testimony for JDC on 3/30/2023 9:35:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Diana Bethel	Individual	Support	Written Testimony Only

Comments:

Aloha,

I am a concerned citizen writing in strong support of HB573 SD1. Please remove fentanyl test strips (FTS) from the category of drug paraphernalia. Drug overdose deaths have been on the rise with the increasing inclusion of fentanyl in illicit drugs. FTS are an inexpensive public health measure that will help avoid accidental poisoning and overdose deaths for those who use drugs. It will also lower the cost burden on our health system of treating overdoses and poisonings.

More effort should be devoted to treatment, rather than merely criminalization and punishment, for the public health issue of drug use. HB573 is one positive step in that direction.

Please pass HB573 SD1.

Mahalo.

**HB-573-SD-1**

Submitted on: 3/29/2023 4:39:20 PM

Testimony for JDC on 3/30/2023 9:35:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Marilyn Mick	Individual	Support	Written Testimony Only

Comments:

*Aloha,*

*Fentanyl test strips (FTS) are a low-cost method of helping prevent drug overdoses and reducing harm. FTS are small strips of paper that can detect the presence of fentanyl in all different kinds of drugs (cocaine, methamphetamine, heroin, etc.) and drug forms (pills, powder, and injectables). FTS provide people who use drugs and communities with important information about fentanyl in the illicit drug supply so they can take steps to reduce risk of overdose. Decriminalizing test strips, including FTS, will save lives, period.*

*Please pass HB573 SD1.*

*Mahalo, Marilyn Mick, Honolulu*