



**STATE OF HAWAII**  
**DEPARTMENT OF HEALTH**  
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**Testimony COMMENTING on SB0671**  
**RELATING TO HEALTH**

SENATOR JOY A. SAN BUENAVENTURA, CHAIR  
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

Hearing Date: February 6, 2023

Room Number: 225

1 **Fiscal Implications:** Undetermined

2 **Department Testimony:** The Department of Health (DOH) supports the intent of this measure  
3 but prefers the definition offered in a House companion measure, HB0573.

4 This measure seeks to exempt fentanyl test strips (FTS) from the current paraphernalia definition  
5 by amending HRS 329-1. The Department defers to the Department of Law Enforcement (DLE)  
6 in its implementation. Therefore, the FTS definition and amendment offered in the companion  
7 measure HB0573 are preferred.

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

15 Thank you for the opportunity to testify.

16 **Offered Amendments:** None

17

Rebecca V. Like  
Prosecuting Attorney



Keola Siu  
First Deputy  
Prosecuting Attorney

**OFFICE OF THE PROSECUTING ATTORNEY**

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February 4, 2023

**RE: S.B. 671; RELATING TO FENTANYL TEST STRIPS**

Chair Buenaventura, Vice-Chair Aquino and members of the Senate Committee on Health and Human Services, the Office of the Prosecuting Attorney for the County of Kaua'i submits the following testimony in **support** of S.B. 671.

Overdose deaths are a public health crisis. We cannot prosecute our way out of this crisis. Legalization of the use of fentanyl test strips is an important step in treating substance use disorder as the public health issue it is, rather than as a crime. Nationwide, the Centers for Disease Control and Prevention reported that more than 107,000 people died from drug overdoses in 2021 (the last available year) with synthetic opioids responsible for 71,000 of those deaths.<sup>1</sup>

According to the Hawaii State Department of Health, for the 10-year period of 2012-2021, there were 107 fatal drug overdoses among either residents of Kauai (101), or residents of other places who died on Kaua'i (6). Most (77%, or 82) of the deaths were coded as unintentional, 20 as suicides, and intent could not be determined for the remaining 5 deaths, The annual number of deaths generally increased (or quadrupled) from less than 5 from 2012-2014, to 11 in each of 2018 and 2019, 14 in 2020 and 18 in 2021. This increasing trend was apparent only among the unintentional death.

Ninety-nine of the overdoses occurred on Kaua'i, making this the 10<sup>th</sup> leading cause of mortality in the County over this 10-year period (see table). Besides suicides from other mechanisms, drug overdoses were the next leading cause of fatal injuries, surpassing deaths from drowning, motor vehicle crashes, and falls. This data of course does not include the multitude of overdoses that did not result in death.

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<sup>1</sup> Ahmad FB, Cisewski JA, Rossen LM, Sutton P. Provisional drug overdose death counts. National Center for Health Statistics. 2023.

## **Leading Causes of Mortality on Kauai County, 2012-2021**

	Column 2	N Rows	% of Total
1	Malignant neoplasm	1250	23.02%
2	Diseases of heart	1206	22.21%
3	Cerebrovascular diseases	339	6.24%
4	Alzheimer's disease	226	4.16%
5	Chronic lower resp. diseases	177	3.26%
6	Diabetes mellitus	168	3.09%
7	Influenza and pneumonia	148	2.73%
8	suicide, not by overdose	119	2.19%
9	Nephritis, nephrotic syndrome	101	1.86%
10	drug poisoning	99	1.82%
11	drowning	83	1.53%
12	Hypertension and hypertensive renal disease	72	1.33%
13	Parkinson's disease	70	1.29%
14	Chronic liver disease and cirrhosis	67	1.23%
15	Other diseases of respiratory system	62	1.14%
16	motor vehicle traffic crashes	55	1.01%
17	Other diseases of circulatory system	54	0.99%
18	falls	52	0.96%
19	Pneumonitis due to solids and liquids	45	0.83%
20	Septicemia	39	0.72%

Decriminalizing fentanyl test strips (FTS) is one simple step we can take to prevent overdose and death. FTS should be considered one tool in the toolbox of effective drug overdose prevention strategies. FTS work by dissolving a small amount of the drug supply in water, dipping the test strip into the liquid for 15 seconds, and setting the test strip on a flat surface until the results appear (typically within 5 minutes). One line indicates fentanyl is present in the sample; two lines indicate a negative result. The test strips are highly sensitive requiring only a minimal amount of drug residue to obtain a result.

Although it is unlikely our Office would pursue charges for possession of FTS, legalizing their use and removing the classification as “drug paraphernalia” would allow us to actively distribute them through our Office’s prevention program “Life’s Choices.” Use of FTS along with things like Naloxone would be instrumental in saving lives.

This legislation is crucial, as decriminalizing fentanyl test strips will allow Hawaii government and nonprofit organizations to pursue federal funding which is currently prohibited from being used to “purchase or distribute drug paraphernalia.” Decriminalization leads to harm reduction and preventing accidental overdoses amongst individuals in recovery. The 2018 study “Fentanyl Overdose REduction Checking Analysis Study (FORECAST)” revealed

that 70% of 356 respondents reported that knowing their drugs contained fentanyl would cause them to modify their behavior.<sup>2</sup> Further, a Brown University study in 2019, demonstrated that a positive result from a fentanyl test strip motivated them to engage in harm reduction practices, having naloxone nearby, or choosing not to use drugs at all.<sup>3</sup>

For the above reasons, the Office of the Prosecuting Attorney for the County of Kaua‘i **strongly supports** passage of S.B. 671. Thank you for the opportunity to testify on this matter.

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<sup>2</sup> Sherman, S.g., Park, J.N., Glick, J., McKenzie, M. Morales, K., Christensen, T., Green, T.C. (2018). *FORECAST Study Summary Report*. Johns Hopkins University Bloomberg School of Public Health.

<sup>3</sup> Goldman, J.E., Wayne, K.M., Periera, K.A., Krieger, M.S., Yedinak, J.L., Marshall, B.D.L. (2019). *Perspectives on rapid fentanyl test strips as a harm reduction practice among young adults who use drugs: a qualitative study*. Harm Reduction Journal.

**SB-671**

Submitted on: 2/4/2023 5:11:24 PM

Testimony for HHS on 2/6/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Nikos Leverenz	Testifying for Drug Policy Forum of Hawaii	Support	Remotely Via Zoom

Comments:

Chair San Buenaventura, Vice Chair Aquino, & Committee Members:

**Drug Policy Forum of Hawai'i (DPFH) strongly supports SB 671**, which specifies 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.

Ideally, Hawai'i's drug paraphernalia statute should be repealed entirely, [as currently proposed in HB 431](#). This statute, enforced by local law enforcement and county prosecutors, serves a functional gateway for the continued over-criminalization of substance use and substance use disorder.

State laws pertaining to possession for personal use are also far too severe, and Hawai'i should join those states that have decriminalized personal possession of substances. Alternatively, [other states have re-classified personal drug possession as misdemeanors](#).

Mahalo for the opportunity to provide testimony.

## TESTIMONY IN SUPPORT OF SB 671

TO: Chair San Buenaventura, Vice Chair Aquino, & HHS Committee Members

FROM: Nikos Leverenz  
Grants & Advancement Manager

DATE: February 8, 2023 (1:05 PM)

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Hawaii Health & Harm Reduction Center (HHRC) **strongly supports** SB 671, which specifies 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.

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 in other jurisdictions.

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 who are impacted by poverty, housing instability, and other social determinants of health. Many have behavioral health problems, including those relating to substance use and underlying mental health conditions, and have been deeply impacted by trauma that include histories of physical, sexual, and psychological abuse.

Thank you for the opportunity to testify on this important measure.

**LATE**

**SB-671**

Submitted on: 2/5/2023 7:24:15 PM

Testimony for HHS on 2/6/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
C. Kimo Alameda, PhD	Testifying for Hawaii Island Fentanyl Task Force	Support	Written Testimony Only

Comments:

**Aloha Senate Members,**

Much thanks to Sen. Joy San Buenaventura for introducing legislation to legalize fentanyl test strips. On the Big Island, one person dies every 11 days from a fentanyl overdose, according to data from the U.S. Centers for Disease Control and Prevention.

These strips don't promote addiction and do not promote drug use, but literally prevent overdoses and saves lives.

Harm reduction tools like Narcan and fentanyl test strips play a significant role in preventing drug-related deaths and offering access to health care, social services, and treatment while the individual is working to become drug or alcohol free. Not everybody can quit cold-turkey, and for certain addictions, it's dangerous and possibly fatal to just stop without appropriate detoxification.

We have over 60 members participating on our Task Force and they all agree that this is good legislation. For example, Capt. Thomas Shopay of the Hawaii Police Department was quoted saying in the local paper "...Because of the prevalence of fentanyl within a lot of substances, having an informed knowledge of what you may be using — especially because of deadly consequences — is the idea behind making (the test strips) potentially legal."

The nonprofit Hawaii Health and Harm Reduction Center Executive Director Heather Lusk is also a member of our Task Force and she was quoted to the media "...Hawaii has seen the highest rates of fentanyl overdose in 2022 that we have ever seen, and we need every tool possible to save lives."

The Civil Beat also documented a great article in support of this legislation - <https://www.civilbeat.org/2023/01/fentanyl-test-strips-save-lives-why-are-they-illegal-in-hawaii/>.

I have not seen any opposition so far. Members of the Fentanyl Task Force continue to stress that test strips can help with recovery and save lives.

Sincerely,

CKA



# CARES

## COMMUNITY ADVOCACY RESEARCH EDUCATION SERVICES

**SB 671**

Fentanyl Test Strips

Aloha Chair, Vice Chair & the HHS Committee,

CARES testifies in strong support of SB 671.

to.

the Senate  
Committee  
AEN

The Hawaii State  
Legislature

According to Civil Beat, “Under state law, fentanyl test strips are classified as drug paraphernalia. Anyone possessing a single strip could be subject to a fine of up to \$500. And any adult who provides a fentanyl test strip to a minor can be charged with a class B felony. Fentanyl test strips cost about a dollar each and work similar to a Covid test. The user dissolves some of the drug they plan to take in water. After the drug is dissolved, the person dips the test strip into the solution for 15 seconds, places it on a flat surface and waits about two minutes. If a single line appears, no fentanyl is detected. Double lines indicate the presence of fentanyl. The strips don’t measure the amount of fentanyl in the drug.”

from

Zhizi Xiong  
(Angela  
Melody  
Young)

Creator

The purpose of this act is to amend the definition of “drug paraphernalia” to not include fentanyl test strips. It is imperative to pass this measure because Fentanyl test kits can save lives.

Blessings,



ANGELA MELODY YOUNG

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# CARES

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## Works cited

1. Dobbyn, Paula. "Fentanyl Test Strips Save Lives. Why Are They Illegal in Hawaii?" Honolulu Civil Beat, 3 Feb. 2023, <https://www.civilbeat.org/2023/01/fentanyl-test-strips-save-lives-why-are-they-illegal-in-hawaii/>.



**SB-671**

Submitted on: 2/5/2023 7:43:13 AM

Testimony for HHS on 2/6/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Graham Chelius	Individual	Support	Written Testimony Only

Comments:

I am an active physician on Kauai, I treat people with substance use disorders (SUD) in the community and in jail at KCCC. I strongly support the decriminalization of Fentanyl test strips (FTS).

It is important to recognize that a SUD is a brain disorder. Often it results in behavior that is not rational, and it doesn't make sense to others, the reality is that people with this disorder know that the drug is causing negative consequences but will use it anyway. They can't control it.

I explain it to patients this way: Some people have a brain disorder where they hear voices. They can't just decide to not hear voices, whether they like it or not, they will hear voices. People with SUDs will think about, or crave a substance every day, all day, and they can not turn it off. It can be treated but SUD is a chronic relapsing brain disorder that can take time to get under control and relapses are common.

Sometimes SUDs are associated with criminal acts, however programs and actions that reduce the risk of death and severe disease complications have been conflated with criminal activity. The use of FTS is one example of this.

FTS are used to reduce the risk of overdose and their possession should not be criminalized. It would be like making owning condoms illegal. People are just trying to stay safe until they can get this disease under control.

**LATE**

**SB-671**

Submitted on: 2/5/2023 1:42:38 PM

Testimony for HHS on 2/6/2023 1:00:00 PM

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

Comments:

I support SB671.

**LATE**

**SB-671**

Submitted on: 2/5/2023 10:53:55 PM

Testimony for HHS on 2/6/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Randy Gonce	Individual	Support	Written Testimony Only

Comments:

Strong Support.

**SB-671**

Submitted on: 2/6/2023 11:50:57 AM

Testimony for HHS on 2/6/2023 1:00:00 PM

**LATE**

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Patti Cook	Individual	Support	Written Testimony Only

Comments:

Strongly support this proposed legislation to save lives. Thank you. Patti Cook

**LATE**

**SB-671**

Submitted on: 2/6/2023 1:50:01 PM

Testimony for HHS on 2/6/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Paul Strauss	Individual	Support	Written Testimony Only

Comments:

It is imperative that we allow the easy access to life saving measures, such as Fentynal test strips. This means making such resources readily available to the general public with as few of barriers as possible. It is one of the way to save lives that we can and must do.

**SB-671**

Submitted on: 2/6/2023 5:42:24 PM

Testimony for HHS on 2/6/2023 1:00:00 PM



<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Linda Vandervoort	Individual	Support	Written Testimony Only

Comments:

I am in support of SB671. I currently work with the unsheltered community in many capacities. One of these is harm reduction. I distribute Zarcan. I also distribute fentanyl test strips so users can be aware of dangerous drugs that they can unintentionally use and die from. Please make it legal for people to be able to test they drugs so they can survive and hopefully one day get help for their drug use. If someone consumes a fatal dose of fentanyl, there is no longer any hope for a chance a better life.