



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
KA 'OIHANA O KA LOIO KUHINA  
THIRTY-SECOND LEGISLATURE, 2024**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 1601, RELATING TO CRIMINAL JUSTICE REFORM.

**BEFORE THE:**

HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

**DATE:** Thursday, February 22, 2024      **TIME:** 2:00 p.m.

**LOCATION:** State Capitol, Room 325 or via Videoconference

**TESTIFIER(S):** Anne E. Lopez, Attorney General, or  
Mark S. Tom, Deputy Attorney General, or  
Tricia M. Nakamatsu, Deputy Attorney General

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Chair Tarnas and Members of the Committee:

The Department of the Attorney General (Department) opposes this bill.

The purpose of this bill is to reduce the number of arrests made in criminal cases by amending section 803-6, Hawaii Revised Statutes (HRS), to require the issuance of citations in lieu of a warrantless arrest for a misdemeanor, petty misdemeanor, or violation.

The Department is concerned that this bill will remove any discretion for law enforcement officers at the scene of an offense by requiring the issuance of a citation and precluding the arrest of an offender when arrest may be more appropriate under the circumstances. The Department believes that criminal justice reform efforts should take into careful consideration public safety, the potential for ongoing harm to victims or bystanders, the safety and well-being of suspected offenders, and the ability of law enforcement officers to properly identify the suspected offender, determine whether the suspected offender has outstanding warrants, and ensure that the suspected offender will appear for court proceedings. These are some of the key concerns addressed by section 803-6(b)(1)-(3), HRS, which would be repealed by this bill, on page 3, lines 1-7.

Retaining law enforcement officers' discretion and ability to make warrantless arrests for petty misdemeanor or misdemeanor offenses is indispensable in ensuring public safety because there are many different reasons why arrest may be appropriate

or necessary under certain circumstances. In the broadest sense, the Department is concerned that officers would be required to issue a "ticket" (citation) for some particularly troubling misdemeanor and petty misdemeanor offenses. These include but are not limited to:

- Abuse of family or household member (§709-906, HRS);
- Violation of order for protection (§586-11, HRS);
- Violation of temporary restraining order (§586-4(e), HRS);
- Violation of an injunction against harassment (§604-10.5(i), HRS);
- Sex assault in the fourth degree (§707-733, HRS);
- Harassment by stalking (§711-1106.1, HRS);
- Negligent homicide in the third degree (§707-704, HRS);
- Operating a vehicle under the influence of an intoxicant (§291E-61, HRS);
- Cruelty to animals in the second degree (§711-1109, HRS);
- Assault in the third degree (§707-712, HRS);
- Assault against a law enforcement officer in the second degree (§707-712.6, HRS);
- Reckless endangering in the second degree (§707-714, HRS);
- Terroristic threatening in the second degree (§707-717, HRS);
- Disorderly conduct (§711-1101, HRS);
- Aggravated criminal property damage (§708-823.5, HRS);
- Tampering with a witness (§710-1072, HRS);
- Extortion in the third degree (§707-767, HRS);
- Unauthorized entry into a motor vehicle in the second degree (§708-836.6, HRS);
- Forgery in the third degree (§708-853, HRS);
- Arson in the fourth degree (§708-8254, HRS);
- Custodial interference in the second degree (§707-727, HRS);
- Indecent electronic display to a child (§707-759, HRS);
- Endangering the welfare of a minor in the second degree (§709-904, HRS);
- Violation of privacy in the second degree (§711-1111, HRS);

- Promoting minor-produced sexual images in the first and second degrees (§§712-1215.5 and 712-1215.6, HRS).

There may be cases when issuing a citation and leaving the suspected offender at the scene of the offense presents a risk to public safety and/or the safety of the suspected offender. For example, situations involving Abuse of Family or Household Member (section 709-906, HRS), Violation of Order of Protection (section 586-11, HRS), Violation of a Temporary Restraining Order (section 586-4(e), HRS), Operating a Vehicle Under the Influence of an Intoxicant (section 291E-61, HRS), Negligent Homicide in the Third Degree (section 707-704, HRS), and Harassment by Stalking (section 711-1106.1, HRS) may be highly volatile or unsafe, and may involve a suspected offender and/or victim who are intoxicated, under emotional distress, or have mental health concerns.

Sometimes a suspected offender has no identification, and there is no way for a law enforcement officer to properly identify the suspected offender. A citation cannot be issued in that case, so the suspected offender must be arrested and identified through the booking and fingerprinting process.

In addition to all the foregoing concerns, the Department is also concerned that prohibiting law enforcement officers from arresting suspected offenders for petty misdemeanor or misdemeanor offenses would have a severely negative impact on the Hawaii Criminal Justice Data Center's (HCJDC) ability to provide current and relevant data for a defendant's criminal history and background checks. The HCJDC, among other things, houses a repository for criminal arrests and convictions, as well as fingerprints that are collected upon arrest or conviction. This data is used not only for prosecutors, defense attorneys, and courts, but also used by other state and county agencies and private entities to conduct background checks for certain purposes.

Currently, when an individual is arrested and processed, records of the arrest and fingerprints are instantly added to HCJDC's records. Within hours, these records can be accessed by courts and various intake service centers (i.e. agencies that prepare bail reports for the courts) for purposes of assessing an individual's dangerousness, likelihood to appear for hearings, and other such important

considerations. Notably, if an individual is merely issued a citation, HCJDC is not notified, and criminal history records are not updated with the new charge. Even if there is ultimately a conviction (in a case initiated by citation), the addition of that record could happen months or years after the incident occurred, or it may never happen because this requires the defendant to report in-person for identification and booking.

If this bill is enacted, many background checks will be incomplete, as they will not show that an individual has any pending cases, or even convictions, for any of the troubling offenses listed above (or any other misdemeanor or petty misdemeanor offenses).

Lastly, the Department is concerned that removal of section 803-6(b)(2), HRS (page 3, lines 2-4), could hinder law enforcement officers' efforts to identify and arrest an offender for an outstanding bench warrant. This could affect their ability to enforce court orders, undermine the court's authority, and further jeopardize public safety.

For all the foregoing reasons, the Department opposes the passage of House Bill No. 1601 and respectfully requests that it be held. Thank you for the opportunity to testify on this matter.

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STATE PUBLIC DEFENDER

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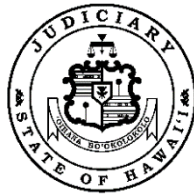
H.B. No. 1601: RELATING TO CRIMINAL JUSTICE REFORM

Chair David Tarnas  
Vice Chair Gregg Takayama  
Honorable Committee Members

The Office of the Public Defender **supports** this bill.

The criminal legal system is sharply divided between those who are out of custody prior to trial or sentencing and those who are often too poor to post bail and live in jail. Pretrial detention removes people from their homes, separates families, and is antisocial. Even a few days in jail from the arrest to initial appearance before a judge can cause people to lose their jobs, leave bills unpaid, or jeopardize the safety of their children and dependents. It should be avoided as much as possible.

A citation in lieu of an arrest reduces mass incarceration and moves us closer to a more just legal system. It allows indigent defendants to remain out of custody and continue working, living, and being part of their community. Even if exceptions need to be carved out, the bill should not be deferred.



## *The Judiciary, State of Hawai'i*

### Testimony to the Thirty-Second State Legislature, 2024 Regular Session

#### House Committee on Judiciary & Hawaiian Affairs

Representative David A. Tarnas, Chair

Representative Gregg Takayama, Vice-Chair

Thursday, February 22, 2024 at 2:00 p.m.

Conference Room 325 and Via Videoconference

by

Ronald G. Johnson

Deputy Chief Judge, Criminal Administrative Judge

Circuit Court of the First Circuit

Melanie M. May

Deputy Chief Judge

District Court of the First Circuit

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**Bill No. and Title:** House Bill No. 1601, Relating to Criminal Justice Reform.

**Purpose:** Requires law enforcement officers to issue citations in lieu of arrest for certain offenses.

#### **Judiciary's Position:**

The Judiciary is not able to support this measure for the following reasons. Removing law enforcement officers' discretion when encountering individuals alleged to have committed, or in the process of committing a crime or violation, in an attempt to "reduce the number of unnecessary arrests made in criminal cases," does so at the risk of public safety.

This measure prohibits a law enforcement officer from arresting an individual for **any** misdemeanor offense, petty misdemeanor offense, or violation unless they have a warrant. This includes not only offenses for which the law enforcement officer has been called to the scene for assistance, but also all such offenses that occur directly in their presence. Rather than having the discretion to arrest or issue a citation, the officer must issue a citation and permit the person to leave, regardless of the circumstances.

To illustrate the gravity of the offenses involved, offenses for which officers would not be permitted to make arrests include:

- Abuse of Family or Household Member
- Assault in the Third Degree
- Assault Against a Law Enforcement Officer in the Second Degree
- Sexual Assault in the Fourth Degree
- Indecent Exposure
- Terroristic Threatening in the Second Degree
- Unlawful Imprisonment in the Second Degree
- Operating a Vehicle Under the Influence of an Intoxicant
- Driving While License Suspended or Revoked
- Driving Without a License
- Criminal Property Damage in the Third and Fourth Degree
- Criminal Trespass in the First Degree (entry into a dwelling, apartment building, or hotel)
- Criminal Trespass in the Second Degree (entry into commercial premises and other designated areas)
- Theft in the Third and Fourth Degree
- Unauthorized Entry into a Motor Vehicle in the Second Degree
- Forgery in the Third Degree

Prohibiting a law enforcement officer from arresting an individual -- regardless of the circumstances -- and requiring the issuance of a citation instead fails to take into consideration public safety concerns to individual victims and the community at large. By way of example, the bill prohibits law enforcement officers from arresting persons suspected of misdemeanor domestic abuse; instead, such persons would be given citations and could immediately return home or to other locations where the alleged abuse occurred. Likewise, the bill prohibits law enforcement officers from arresting persons suspected of driving under the influence of alcohol

or drugs; instead, such persons would be given citations, permitted to get back into their vehicles and resume driving. Similarly, the bill prohibits law enforcement officers from arresting persons suspected of shoplifting merchandise valued at less than \$750 and/or criminally damaging property valued at less than \$500; instead, citations would be issued in lieu of arrest. Determination of whether an arrest is necessary in a particular situation is better left to the discretion of the officers encountering the individual after evaluating the standards already contained in the current statutory provisions of Section 803-6(b) of the Hawai‘i Revised Statutes.

A further, and perhaps unintended, consequence of this measure will be the complete inability to require an individual to appear to answer charges of misdemeanor or petty misdemeanor offenses should that individual refuse a lawful order from a law enforcement officer to provide their identification or name and address. In those instances, law enforcement officer would be prohibited from arresting the individual and would be required to simply issue a citation to “Doe Defendant.” Should that defendant fail to appear at the date and time noted in the citation, there would be no way to determine who “Doe Defendant” is, nor could the court issue a bench warrant for their failure to appear as there would be no information for the warrant. In addition, there are several statutory sentencing schemes, and several bills pending this session, that require proof of a prior offense in order to trigger an enhanced penalty. For those defendants receiving a “Doe” citation for a prior offense or those defendants who would not be required to submit print impressions and “mug shots” there would be little proof available to find them eligible for any such enhancements.

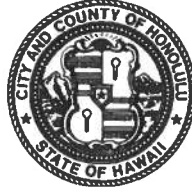
Thank you for the opportunity to testify on this measure.



POLICE DEPARTMENT  
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HOPE LUNA NUI MĀKA'I

OUR REFERENCE **BL-BL**

February 22, 2024

The Honorable David A. Tarnas, Chair  
and Members  
Committee on Judiciary and  
Hawaiian Affairs  
House of Representatives  
415 South Beretania Street, Room 325  
Honolulu, Hawai'i 96813

Dear Chair Tarnas and Members:

**SUBJECT: House Bill No. 1601, Relating to Criminal Justice Reform**

I am Brian Lynch, Major of District 7 (East Honolulu) of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD opposes the passage of House Bill No. 1601, Relating to Criminal Justice Reform. This bill requires changes to Hawai'i Revised Statutes Section 803-6. Currently, an officer has discretion to either arrest or issue a citation for misdemeanor and petty misdemeanor offenses. This discretion allows an officer to evaluate every situation on its merits and make a decision that is best for the individuals involved and the community. Furthermore, the current law has requirements that should be met before one is considered for a citation in lieu of an arrest.

To give citations to individuals who have demonstrated that they have no interest in acknowledging the laws and processes in place in society only emboldens those individuals to continue to be defiant. To remove this discretion and criteria and make it mandatory to issue citations instead of making arrests regardless of the totality of the circumstances is not in the best interests of the community and the victims. As an example, Abuse of a Family Household Member can be a misdemeanor. Giving a citation in lieu of effecting an arrest in this circumstance puts the victim in a domestic violence situation at a huge disadvantage. In another example, a shoplifting suspect

The Honorable David A. Tarnas, Chair  
and Members  
February 22, 2024  
Page 2

cited versus arrested is left only with a citation and the opportunity to immediately return to stealing items until caught again.

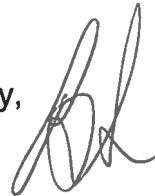
Another problem would be the identification of the suspect. If a suspect has no legitimate identification, they could provide false information to the officer issuing the citation, which would render the citation useless. Whereas, when arrested, the suspect is fingerprinted and photographed to document their identity, making future attempts to mislead law enforcement harder to do.

Additionally, the new law cites "certain exceptions" to the new rule without stating what those exceptions are. Any factors that may warrant consideration but are not included as exceptions in the law will be contrary to the mandatory application of the proposed changes to the law. Any provided exceptions could not possibly cover the gambit of situations that could arise in the field. Allowing officer discretion alleviates the need to make an exception for every single possible situation that could arise.

The HPD urges you to oppose the passage of House Bill No. 1601, Relating to Criminal Justice Reform.

Thank you for the opportunity to testify.

Sincerely,



Brian Lynch, Major  
District 7

APPROVED:



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Arthur J. Logan  
Chief of Police

**DEPARTMENT OF THE PROSECUTING ATTORNEY  
KA 'OIHANA O KA LOIO HO'OPI'I  
CITY AND COUNTY OF HONOLULU**

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**THE HONORABLE DAVID A. TARNAS, CHAIR  
HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS  
Thirty-Second State Legislature  
Regular Session of 2024  
State of Hawai'i**

February 22, 2024

**RE: H.B. 1601; RELATING TO CRIMINAL JUSTICE REFORM.**

Chair Tarnas, Vice-Chair Takayama, and members of the House Committee on Judiciary and Hawaiian Affairs, the Department of the Prosecuting Attorney of the City and County of Honolulu (“Department”) submits the following testimony in **strong opposition** to H.B. 1601.

The intent of H.B. 1601 is to reduce the number of arrests by mandating law enforcement officers issue citations in lieu of making arrests in cases in which it is lawful for a law enforcement officer to make an arrest for a misdemeanor, petty misdemeanor, or violation.

The Department is deeply concerned that H.B. 1601 would increase the risk of danger to the public. People who commit misdemeanor Abuse of a Family or Household Member, Assault in the Third Degree (misdemeanor), Assault Against a Law Enforcement Officer in the Second Degree (misdemeanor), Sexual Assault in the Fourth Degree (misdemeanor), Violation of a Temporary Restraining Order (misdemeanor) and Operating a Vehicle Under the Influence of an Intoxicant (petty misdemeanor) would be issued a citation rather than arrested.

Victims of domestic abuse would be at an increased risk of danger should their abuser be given a citation rather than be arrested. Domestic violence is already difficult to prosecute, in part, because many victims do not believe that they will be safe if they cooperate with the prosecution. Should the bill pass, it will be far more difficult to prosecute when victims see that their abuser is still at the scene as the police drive off after writing a citation.

The same is true of a violation of a protective order. In those misdemeanor cases, it would be detrimental to a victim’s welfare if the person who is already willing to violate a court-

mandated order is left at the scene with a citation in hand. In short, an arrest not only ensures that a suspect will appear in court, it also immediately protects victims from further danger.

While the Department appreciates the concerns the bill's sponsors have on the impact arrests have on suspects, we ask that the Legislature also consider the physical and emotional impact that not arresting suspects of domestic abuse will have on victims.

Liberty is not absolute. The United States Constitution and our State Constitution strikes a balance between an individual's liberty and the right of the people to be free and secure. Indeed, article 9, section 10 of the Hawai'i State Constitution mandates that the State "shall have the power to provide for the safety of the people from crimes against persons and property." That is why the standard by which an officer may arrest for any offense is probable cause: whether an officer knows of facts and circumstances based on reasonably trustworthy information sufficient to warrant a person of reasonable caution to believe that a crime has been committed or is being committed. This standard strikes the proper balance between a suspect's rights and the immediate need for public safety.

Importantly, arrests are not the end all be all of a person's liberty interest. In misdemeanor or petty misdemeanor cases, bail is set by the Honolulu Police Department after arrest. Many people bail out at that point. If the arrestee is not able to bail at that point, then at the arraignment hearing, a defendant may request release on their own recognizance. At that point, courts determine on a case-by-case basis whether release is warranted based on, in part, the nature of the offense and the offender's criminal history, including past non-appearances in court.

Currently, not all misdemeanor, petty misdemeanors, or violations result in an arrest. In those cases officers have discretion to issue citations in lieu of arrests. This Committee should keep that discretion intact as it allows officers to issue citations where appropriate. The considerations that officers take into account when issuing a citation are: "1) whether the suspect will appear in court; 2) has no outstanding arrest warrants which would justify the person's detention or give indication that the person might fail to appear in court; and 3) that the offense is of such nature that there will be no further police contact on or about the date in question, or in the immediate future." HRS §803-6(b)(1) – (3).

The bill, as is, would remove such discretion and require officers to not arrest even if a suspect's continued criminal conduct would endanger the public. For instance, a drunk driver (petty misdemeanor) who is pulled over and would otherwise be subject to arrest would be given a citation and released to drive off – if only to be stopped again and issued another citation. The same goes for suspects who continually shoplift (petty misdemeanor) from one store to the next, or assault civilians (misdemeanor) or police officers (misdemeanor).

Lastly, this bill presents a problem when a court issues a bench warrant for a defendant following their non-appearance in court. The basis for such a warrant is Criminal Contempt of Court – a misdemeanor level offense. This bill would require law enforcement to issue a citation

to a defendant to appear in court for failure to appear in court. The clear absurdity of this situation would leave the State helpless in enforcing the law.

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu **strongly opposes** the passage of H.B. 1601. Thank you for the opportunity to testify on this matter.

**KELDEN B.A. WALTJEN**  
PROSECUTING ATTORNEY

**STEPHEN L. FRYE**  
FIRST DEPUTY  
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**OFFICE OF THE PROSECUTING ATTORNEY**

**TESTIMONY IN OPPOSITION OF HOUSE BILL 1601**

A BILL FOR AN ACT  
RELATING TO CRIMINAL JUSTICE REFORM

COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Representative David A. Tarnas, Chair  
Representative Gregg Takayama, Vice Chair

Wednesday, February 22, 2024 at 2:00 p.m.  
Via Videoconference  
State Capitol Conference Room 325  
415 South Beretania Street

Honorable Chair Tarnas, Vice-Chair Takayama and Members of the Committee on Judiciary and Hawaiian Affairs. The County of Hawai'i, Office of the Prosecuting Attorney submits the following testimony in opposition with comments of House Bill No. 1601.

This bill was drafted with the intent to require law enforcement officers to issue citations in lieu of arrest for certain offenses.

Although our Office appreciates the intent of the Legislature and acknowledges the need to address overcrowding concerns at our prisons and jails, we disagree that the imposition of a presumption of release mandate that jeopardizes the safety of our community is an appropriate means to address overcrowding at our outdated and undersized correctional facilities. We believe that a defendant's pretrial release status, should continue to be evaluated on a case-by-case basis by a presiding Judge in order to appropriately assess a defendant and determine any public safety concerns.

Of particular concern is that House Bill No. 1601 is overbroad and provides for a presumption of release and mandates the issuance of a "citation without arrest" for a wide-range of offenses, including but not limited to the following Abuse of family or household member (§709-906, HRS); Violation of order for protection (§586-11, HRS); Violation of temporary restraining order (§586-4, HRS); Violation of an injunction against harassment (§604-10.5, HRS); and Sex assault in the fourth degree (§707-733, HRS).

While efforts to reduce unnecessary arrests and address their associated hardships are important, victim and public safety considerations should remain paramount. While it's acknowledged that unnecessary arrests should be avoided, there is a risk that issuing citations instead of making arrests could allow individuals who pose a danger to society to reoffend and jeopardize public safety.

For the foregoing reasons, the County of Hawai'i, Office of the Prosecuting Attorney opposes the passage of House Bill No. 1601. Thank you for the opportunity to testify on this matter.

**Rebecca V. Like**  
Prosecuting Attorney



**Keola Siu**  
First Deputy  
Prosecuting Attorney

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**County of Kaua'i, State of Hawai'i**

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The Honorable David A. Tarnas, Chair  
House Committee on Judiciary & Hawaiian Affairs  
Thirty-third State Legislature  
Regular session of 2024  
State of Hawai'i  
Hearing date: February 22, 2024

**RE: HB 1601, Relating to Criminal Justice Reform**

Dear Chair Tarnas:

I write to oppose this bill. My experience of reviewing thousands of Kaua'i Police Department patrol officers' police reports instructs that public safety is promoted when officers have the authority to arrest for misdemeanor, petty misdemeanor, and violations.

Officers often respond to family abuse incidents as they are occurring or immediately after they occur. The family members are scared, very upset, and often injured. It is imperative that an abuser is removed from the home for at least 48 hours, for a "cooling off" period. I also feel it is important that children see that there are immediate consequences (arrest and mandatory 48-hour stay away order) when a person abuses a family or household member.

In addition, a lot of petty theft (value stolen is under \$750) is committed in our state, often against retailers. Very often, those who commit petty theft do so repeatedly. It is important that the police have authority to arrest for these offenses, to immediately stop the criminal behavior. If they cannot immediately arrest for the underlying theft or the subsequent trespass violation (those who commit theft are often ordered by the retailer to stay away from the premises for a year), then the retailers and their employees, many of whom work night shifts, may be repeatedly subjected to multiple theft incidents, in a very short time frame. I am also concerned that if the police cannot arrest for theft or violation of a trespass warning notice, retailers will take matters into their own hands, increasing the potential for violence.



Another crime of concern is OVUII (formerly, DUI). If police cannot arrest for OVUII, then a new law will be needed to prevent the driver-suspect from going into his or her car and simply driving away from the scene of the traffic stop, intoxicated, after issuance of the citation.

Therefore, I respectfully urge this committee to *reject* HB 1601. I feel passage of this bill will substantially jeopardize public safety.

Thank you for the opportunity to comment on this bill.

/s/ Rebecca V. Like  
Prosecuting Attorney  
County of Kaua'i

**RICHARD T. BISSEN, JR.**  
Mayor

**ANDREW H. MARTIN**  
Prosecuting Attorney

**SHELLY C. MIYASHIRO**  
First Deputy Prosecuting Attorney



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TESTIMONY  
ON H.B. 1601 RELATING TO  
CRIMINAL JUSTICE REFORM

TO: Honorable Mark M. Nakashima, Chair  
Honorable Jackson D. Sayama, Vice Chair  
House Committee on Judiciary and Hawaiian Affairs

FROM: Department of the Prosecuting Attorney, County of Maui

DATE: February 21, 2024

SUBJECT: **OPPOSITION TO HB 1601, CRIMINAL JUSTICE REFORM**

Thank you for the opportunity to testify in **OPPOSITION** to HB 1601 and request that it be deferred. This measure would require police to issue citations for all misdemeanor, petty misdemeanor and violation offenses instead of allowing lawful warrantless arrests. Although we appreciate the legislature's efforts to conserve limited law enforcement resources, this measure will substantially reduce public safety because it prevents the police from making timely arrests in scenarios where an arrest is not only appropriate, but in the public interest. For offenses such as Assault in the Third Degree and Abuse of a Family or Household Member, an arrest often prevents a violent misdemeanor offense from escalating into a violent felony offense like Assault in the First Degree or Murder in the Second Degree. For offenses such as Criminal Trespass in the First or Second Degree where a person refuses to leave a location despite multiple requests to do so, an arrest (or even the mere threat of arrest) is often the only way to get the person to leave the area. Finally, for offenses such as Sexual Assault in the Fourth Degree or Harassment by Stalking, requiring the police to issue a citation sends the dangerous message that these crimes just aren't serious enough to warrant an immediate arrest.

For these reasons, the Department of the Prosecuting Attorney, County of Maui opposes the passage of HB 1601 and requests that it be deferred. Please feel free to contact our office at (808) 270-7777 if you have any questions or inquiries.

Thank you very much for the opportunity to provide testimony on this bill.

**Mitchell D. Roth**  
Mayor



**Benjamin T. Moszkowicz**  
Police Chief

**Reed K. Mahuna**  
Deputy Police Chief

## County of Hawai'i

### POLICE DEPARTMENT

349 Kapi'olani Street • Hilo, Hawai'i 96720-3998  
(808) 935-3311 • Fax (808) 961-2389

February 22, 2024

Representative David A. Tarnas  
Chairperson and Committee Members  
House Committee on Judiciary and Hawaiian Affairs  
Hawai'i State Capitol, Room 325  
415 South Beretania Street  
Honolulu, Hawai'i 96813

Dear Representative Tarnas:

RE: HOUSE BILL 1601; RELATING TO CRIMINAL JUSTICE REFORM  
HEARING DATE: FEBRUARY 22, 2024  
TIME: 2:00 P.M.


The Hawai'i Police Department **STRONGLY OPPOSES** House Bill 1601, which would require law enforcement officers to issue citations in lieu of arrest for all misdemeanors, petty misdemeanors, or violations.

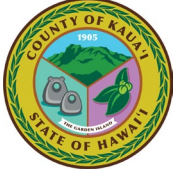
Hawai'i Revised Statutes 803-6, Arrest, how made, Section b, indicates that law enforcement officers may issue a citation in lieu of an arrest, provided certain detailed conditions are met, and law enforcement officers should be able to retain that discretionary ability. Misdemeanors, petty misdemeanors, and violations, may be construed to include classes of offenses that appear harmless or non-violent, however, depending on the severity, certain offenses that typically have an associated violent course of conduct, include Abuse of a Family/Household Member, Assault, Terroristic Threatening, Violation of an Order for Protection, and Ownership (Firearm) Prohibited.

Should law enforcement officers be required to issue citations for all misdemeanors, petty misdemeanors, and violations, our community members would be negatively impacted and victims will feel as if they are being re-victimized. Offenders who commit violent acts that don't rise to the felony level will be left free to continue committing those same acts, or worse. In addition, the passage of this bill would severely hamper our law enforcement officers' efforts to fulfill their fundamental duties to protect and serve.

It is for these reasons, that we urge this committee **not to approve** this legislation. Thank you for allowing the Hawai'i Police Department to provide comments relating to House Bill 1601.

Sincerely,

  
BENJAMIN T. MOSZKOWICZ  
POLICE CHIEF



DEREK S.K. KAWAKAMI, MAYOR  
REIKO MATSUYAMA, MANAGING DIRECTOR

# POLICE DEPARTMENT COUNTY OF KAUAI



TODD G. RAYBUCK, CHIEF OF POLICE

The Honorable David A. Tarnas, Chair  
House Committee on Judiciary & Hawaiian Affairs  
Thirty-third State Legislature  
Regular session of 2024  
State of Hawai'i  
Hearing date: February 22, 2024

In consideration of  
House Bill 1601  
Relating to Criminal Justice Reform

Honorable Chair Tarnas, Honorable Vice-Chair Takayama, and Committee Members:

The Kaua'i Police Department (KPD) submits the following testimony in **opposition** to House Bill 1601 and offers comments for your consideration.

I stand in support of the testimony provided by Kaua'i Prosecuting Attorney Rebecca V. Like in opposition of this Bill and agree that implementation will jeopardize public safety.

House Bill 1601 favors the criminal actions of individuals and overlooks the negative emotional and financial impacts on the victims of their crimes. Law enforcement officers and prosecutors are commonly subjected to the legitimate dissatisfaction of crime victims who feel victimized by the criminal justice system due to the limitations and rules of arrest and prosecution. House Bill 1601 will exacerbate the frustration of victims.

I respectfully recommend the following amendments to House Bill 1601 for your consideration.

Amend Section 2 paragraph 2 line 18 [page 2] to read:

"enforcement officers [may, but need not,] shall **consider** issue-ing a citation..."

Amend Section 2 paragraph 2 [page 2, lines 20-21] and Section 2 paragraph 2 subsections 1 through 3 [page 3 lines 1-7] by removing the proposed strikethrough and retaining the language as currently written in §803-6.

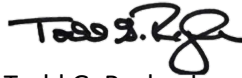
Passage of House Bill 1601 as written will limit the necessary discretion of police officers who are charged with investigating and taking actions on criminal matters.

For these reasons, the Kaua'i Police Department **opposes** House Bill 1601 as written.



Thank you for your time and consideration.

Sincerely,



Todd G. Raybuck  
Chief of Police  
Kaua'i Police Department

Therefore, I respectfully urge this committee to *reject* HB 1601. I feel passage of this bill will substantially jeopardize public safety.

Thank you for the opportunity to comment on this bill.

TODD G. RAYBUCK  
Chief of Police





Committee: Judiciary & Hawaiian Affairs  
Hearing Date/Time: Thursday, February 22, 2024 at 2:00pm  
Place: Conference Room 325 & Via Videoconference  
Re: Testimony of the ACLU of Hawai'i in SUPPORT of HB1601  
Relating to Criminal Justice Reform

Dear Chair Tarnas, Vice Chair Takayama, and Members of the Committee:

The ACLU of Hawai'i **supports HB1601**, which requires law enforcement officers to issue citations in lieu of arrest for certain offenses.

Custodial arrests can have a dramatic negative impact on individuals, families, and communities. Law enforcement should make such arrests only where absolutely necessary. This measure accomplishes that, by requiring law enforcement to issue—rather than having law enforcement merely *consider* issuing—citations in lieu of arrest for certain crimes.

Notably, the ACLU of Hawai'i has represented (and is still representing) multiple clients who were severely traumatized by hasty custodial arrests made by police officers in situations that did not actually justify the use of such an extreme measure.<sup>1</sup>

This measure is especially important given two other serious issues impacting the Hawai'i criminal legal system: the severe overcrowding in its jails<sup>2</sup>, and unfair pretrial bail practices that force people—especially Native Hawaiians and Pacific Islanders—to remain behind bars.<sup>3</sup>

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<sup>1</sup> See, e.g., Candace Cheung, *Honolulu cops can't duck suit over arrest of 10-year-old Black student*, Courthouse News Service (Apr. 3, 2023), <https://www.courthousenews.com/judge-slows-progress-for-case-protesting-arrest-of-a-disabled-black-girl> (describing judge's ruling denying qualified immunity to HPD officers based on their arrest of a 10-year-old girl for "drawing an image threatening a fellow student" after being "involved in a squabble with a classmate"); Christina Jedra, *Lawsuit: HPD Officer Unlawfully Arrest Son's High School Classmate*, Honolulu Civil Beat (Oct. 26, 2020), <https://www.civilbeat.org/2020/10/lawsuit-hpd-officer-unlawfully-detained-sons-high-school-classmate> (describing lawsuit regarding HPD officer falsely arresting and handcuffing a 15-year-old boy).

<sup>2</sup> See, e.g., Arielle Argel, *Hawaii Community Correctional Center way over capacity*, KITV Island News (Oct. 5, 2023), [https://www.kitv.com/news/crime/hawaii-community-correctional-center-way-over-capacity/article\\_32db982e-63f0-11ee-9a6f-6be4692e399a.html](https://www.kitv.com/news/crime/hawaii-community-correctional-center-way-over-capacity/article_32db982e-63f0-11ee-9a6f-6be4692e399a.html) (describing how Hilo jail "is over its capacity levels by more than 70" such that there are "four or five people to a cell that's supposed to have one or two in it"); Kevin Dayton, *Watchdog Cites 'Inhumane Conditions' And Security Lapse at Oahu Jail*, Honolulu Civil Beat (Mar. 13, 2023), <https://www.civilbeat.org/2023/03/watchdog-cites-inhumane-conditions-and-security-lapse-at-oahu-jail> (noting how Oahu's jail "suffers from persistent overcrowding").

<sup>3</sup> See, e.g., Ainsley Dowling, *As Much Justice As You Can Afford: Hawaii's Accused Face An Unequal Bail System*, ACLU of Hawai'i (Jan. 2018), available at <https://www.acluhi.org/bailstudy> (describing how ~90% of criminal cases involve money bail; over 50% of criminal defendants do not post bail, likely because they cannot afford it; and about half of all people held in Hawai'i jails are pretrial detainees).

Disrupting the existing law enforcement norm of automatically detaining and restraining people—even those who are suspected of committing a crime—will help deescalate tension in the community and, ultimately, make us all safer.

For these reasons, we urge you to move this measure forward.

Sincerely,



Jongwook “Wookie” Kim  
Legal Director  
ACLU of Hawai‘i  
[wkim@acluhawaii.org](mailto:wkim@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.*

# COMMUNITY ALLIANCE ON PRISONS

P.O. Box 37158, Honolulu, HI 96837-0158

Phone/E-Mail: (808) 927-1214 / [kat.caphi@gmail.com](mailto:kat.caphi@gmail.com)



## COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Representative David A. Tarnas, Chair

Representative Gregg Takayama, Vice Chair

Thursday, February 22, 2024

Room 325 & VIDEOCONFERENCE

2:00 PM

## **STRONG SUPPORT FOR HB 1601 - CITATIONS IN LIEU OF ARREST**

Aloha Chair Tarnas, Vice Chair Takayama 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 3,866 Hawai`i individuals living behind bars<sup>1</sup> and under the “care and custody” of the Department of Corrections and Rehabilitation on February 12, 2024.. We are always mindful that 858 - 25% - of Hawai`i’s imprisoned male population 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 grateful for the opportunity to share our strong support for HB 1601. The National Council of State Legislators (NCSL) describes citations in lieu of arrest as: “an order issued by law enforcement that releases a person on a promise to appear in court or pay a fine. Citations provide an alternative to booking and jail, and allow people who are not public safety or flight risks to: Remain in the community.”

An arrest can have major implications for a person’s life because of the criminal record that an arrest incurs. Data released at a conference last Fall, showed that 75% of Hawai`i’s Jail Population are imprisoned for Class C and lower level offenses.

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<sup>1</sup> DPS/DCR Weekly Population Report, February 12, 2024

<https://dcr.hawaii.gov/wp-content/uploads/2024/01/Pop-Reports-Weekly-2024-02-12.pdf>



These are the offenses for which 75% of the Jail population are imprisoned:

- Technical offense - 8%
- None 1%
- Misdemeanors 15%
- Petty Misdemeanors - 10%
- Violations 1%
- C felonies 40%

Other data that was shared at the conference shows:

- 86% of the total state corrections population needs substance use treatment at some level
- 56% of the Jail Population are Pretrial Detainees (innocent until proven guilty)
- 49% of new intakes need mental health treatment
- 30% of OCCC's population were homeless immediately prior to entry

When the data shows that we are using our jails as very expensive housing for the homeless and de facto mental health centers, citations in lieu of arrest make sense instead of sending some of our most vulnerable neighbors to Hawai'i's overcrowded jails.

## State Laws<sup>2</sup>

### Citation in Lieu Of Arrest State Laws

All states allow issuance of citations in lieu of arrest for [misdemeanor crimes](#) or petty offenses. At least eight states permit citations for some felonies. Another seven states provide general authority to issue citations for crimes or offenses, without specifying the offense level. Laws in over half the states have a presumption of issuing citations—rather than arrest—for certain crimes or under certain circumstances. [Click on the link in Footnote 2.](#)

Community Alliance on Prisons urges the committee to pass this bill to stem the serious overcrowding of our jails and get people the help they need to lead meaningful lives for themselves and their families.

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<sup>2</sup> National Conference of State Legislatures, "Citation in Lieu of Arrest," <http://www.ncsl.org/research/civil-and-criminaljustice/citation-in-lieu-of-arrest.aspx>





February 22, 2024

Members of the House Committee on Judiciary & Hawaiian Affairs:

Chair David A. Tarnas

Rep. Linda Ichiyama

Vice Chair Gregg Takayama

Rep. Greggor Ilagan

Rep. Luke A. Evslin

Rep. Sam Satoru Kong

Rep. Sonny Ganaden

Rep. Tyson K. Miyake

Rep. Daniel Holt

Rep. Kanani Souza

Re: HB1601 Relating to Criminal Justice Reform

Dear Chair Tarnas, Vice Chair Takayama, and Members of the House Committee on Judiciary & Hawaiian Affairs:

The Hawai'i State Coalition Against Domestic Violence (HSCADV) addresses the social, political, and economic impacts of domestic violence on individuals, families, and communities. We are a statewide partnership of domestic violence programs and shelters.

On behalf of HSCADV and our 27 member programs statewide, I respectfully submit testimony opposing HB1601 and respectfully request this measure be deferred. This measure would allow law enforcement officers without a warrant for arrest to issue a citation for petty misdemeanor and misdemeanor offenses and violations.

While we appreciate the intent of this measure, we are deeply concerned that casting the net broadly to include all petty misdemeanor and misdemeanor crimes would cause more harm to survivors of gender-based violence. The offenses that would be included in this measure include but are not limited to:

- Abuse of family or household member ([HRS §709-906](#));
- Violation of an order for protection ([HRS §586-11](#));
- Violation of temporary restraining order ([HRS §586-4](#));
- Cruelty to animals in the second degree ([HRS §711-1109](#)) **(a lethality indicator)**;
- Assault in the third degree ([HRS §707-712](#));
- Terroristic threatening in the second degree ([HRS §707-717](#));

The classification of these crimes as petty misdemeanors and misdemeanors should not be used to underestimate the safety implications for survivors of domestic violence. Especially in cases of Abuse of a Family or Household Member (AFHM), violations of temporary restraining orders (TRO), and protection orders (PO), survivors are not given sufficient options for safety if



the perpetrator is not arrested because as written, law enforcement does not have the option to make an arrest:

Page 2, lines 17-20: “...law enforcement officer [may, but need not,] shall issue a citation in lieu of [~~the requirements of~~] making an arrest pursuant to [{}subsection[{}]] (a)...”

As drafted, this measure also sends the wrong message to survivors of domestic violence that their victimization is minimized to a mere ticket and their abuser is free to go until they (choose to) appear in court several weeks later. Deferring this measure would allow for community engagement and discussion on harm reduction that is survivor-centered.

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

Sincerely,  
Angelina Mercado, Executive Director

**HB-1601**

Submitted on: 2/21/2024 9:02:34 PM

Testimony for JHA on 2/22/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Arkie Koehl	MADD Hawaii	Oppose	In Person

Comments:

Mothers Against Drunk Driving is testifying in provisional opposition to HB 1601. We have discussed the implications of the bill for OVUII enforcement with several of our partners in the law enforcement community, and we fear that the issuance of a citation to a suspected impaired driver may render the required timely blood/breath intoxylizer test at the pollce station moot. In the absence of clarity at present, MADD respectfully opposes this bill as currently drafted.

Arkie Koehl, Public Policy Chair, MADD Hawaii

## **HAWAI‘I HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS**

### **HEARING:**

Public Hearing on House Bill 1601, Feb. 22, 2024

### **DATE OF TESTIMONY:**

Feb. 21, 2024

## **TESTIMONY OF THE POLICING PROJECT AT NYU SCHOOL OF LAW IN SUPPORT OF H.B. 1601**

A custodial arrest is a serious event that leaves a lasting impact on the individual being arrested as well as the law enforcement officer conducting the arrest.<sup>1</sup> Although an arrest may be necessary in some instances to preserve public safety or ensure that an individual appears in court, a growing body of evidence indicates that arrests are also overused, with law enforcement officers arresting people who pose little safety or flight risk. Citations, in particular, have proven to be an effective alternative: relative to an arrest, they require a bare fraction of the law enforcement resources and do not carry the same damaging consequences for the involved individual. Hawai‘i already recognizes the usefulness of citations in lieu of arrest by authorizing its law enforcement officers to issue citations for low level offenses in some—but not all—appropriate situations. By removing a few of the existing barriers to a law enforcement officer’s ability to issue a citation in lieu of an arrest, H.B. 1601 would increase the use of citations and reduce unnecessary arrests. We applaud this measure and suggest an additional amendment, which would further expand citation use for appropriate low-level offenses in Hawai‘i.

### **A Citation Can Serve As A Valuable Arrest Alternative**

Regardless of the offense charged or the circumstances involved, the immediate costs and consequences of an arrest are the same. An individual loses their liberty for, at a minimum, hours or days while they are booked, processed, and potentially bailed. In addition, the arrest itself can negatively affect everything from an individual’s employment to their psychological well-being. For the law enforcement officer or officers involved, the arrest can take hours of their valuable

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<sup>1</sup> As part of its mission to advance democratic accountability in policing, the Policing Project has aided numerous states across the country in establishing and strengthening their arrest related statutes and regulations. We have vetted our thinking on arrest policy with an advisory committee consisting of law enforcement officials, academics, policing experts, and affected community members. We have also created a number of model statutes, all of which are informed by best practices in existing legislation and vetted by our advisory committee.

time—hours in which they are not otherwise able to patrol, respond to calls, or investigate more serious offenses. Further, as we have seen all too frequently in recent years, an arrest creates a flashpoint that can be dangerous for all involved; a volatile situation that can quickly spiral and damage relationships between police and the communities they serve. Although such risks may well be worth taking for more serious offenses or dangerous situations, they are frequently disproportionate to the stakes involved in many low-level offenses.

The disparity between the costs associated with an arrest and the public safety implications of low-level offenses has led every single state to permit law enforcement officers to issue a citation in lieu of an arrest for at least some offenses.<sup>2</sup> While state laws vary, there is a clear trend in favor of the expanded use of citations for offenses with little or no prospect of jail time. In particular, over a dozen states have created a statutory presumption in favor of a citation in certain low-level cases. Instead of the default being an arrest unless an officer chooses otherwise, these states assert that a citation shall be used unless the officer determines that one or more exclusionary factors (e.g., an articulable public safety risk) are present. This presumption reflects the fact that for low level offenses, an arrest can safely and effectively be the exception rather than the rule. A handful of states apply this presumption in favor of citations across a broad array of misdemeanor offenses.<sup>3</sup>

### **H.B. 1601 Would Expand Citation Authority, But It Would Be Strengthened With Amendments**

H.B. 1601 laudably moves to empower officers to issue more citations in lieu of making arrests when safe to do so. At present in Hawai'i, law enforcement officers may not issue a citation in lieu of arrest if one or more of certain enumerated factors are present. Although this is a well-intentioned effort to guide and constrain law enforcement discretion, it does more than merely highlight for officers situations in which an arrest may be appropriate—it categorically requires their use in these cases. Even if these factors provide useful general rules, invariably there will be some situations in which a law enforcement officer on scene assesses that a citation can safely resolve the encounter, yet the law requires them to conduct an arrest, possibly to their own detriment and certainly that of the arrestee. H.B. 1601 recognizes that these factors may be standing in the way of appropriate citation use, eliminating them so that law enforcement officers can always issue a citation for a misdemeanor, petty misdemeanor, or violation whenever they deem it to be a safe and effective response.

We recommend Hawai'i build upon this first step toward the more frequent use of citations by making a citation the default for petty misdemeanors and violations. In so doing, it would be following the lead of Kentucky, Maryland, Minnesota, and Ohio, which have all established a

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<sup>2</sup> See, "Citation in Lieu of Arrest," National Conference of State Legislatures, available at <https://www.ncsl.org/civil-and-criminal-justice/citation-in-lieu-of-arrest>.

<sup>3</sup> See, e.g., 234 Pa. Crim. Pro. R. 519 (Pennsylvania); Tenn. Code Ann. § 40-7-118 (Tennessee); Va. Code Ann. § 19.2-74 (Virginia).

presumption in favor of citations for their lowest level offenses, while preserving an arrest default and the discretionary use of citations for slightly more serious misdemeanors.<sup>4</sup> Law enforcement officers could continue to conduct an arrest in these petty misdemeanor and violation cases, but only if one or more factors are present, such as the use of violence, an articulable safety risk, or an individual's history of prior failures to appear in court. With sentences involving no period of incarceration or only a very short one (penalties are capped at 30 days in jail for petty misdemeanors, fines only for violations), these offenses represent ideal candidates for citations in lieu of arrest. Exclusionary factors can still capture those rare instances in which immediate incarceration is necessary in these cases. In all others, a citation will prevent unnecessary disruptions to individual lives and the waste of law enforcement resources.

### **Conclusion**

H.B. 1601 would expand the discretion of law enforcement officers to issue a citation in lieu of arrest for a misdemeanor, petty misdemeanor, or violation. This could result in additional citations being issued in Hawai'i, thereby allowing more of its residents to remain in the community while conserving law enforcement resources. We commend this move to improve citation use in Hawai'i and recommend that you consider amending the legislation to further increase citation use by making citations the default (but not mandatory) response to petty misdemeanors and violations.

Thank you for considering our testimony.

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<sup>4</sup> Ky. Rev. Stat. Ann. 431.015 (Kentucky); Md. Code, Crim. Proc. 4-101 (Maryland); Minn. R. Crim. Pro. 6.01 (Minnesota); Ohio Rev. Code 2935.26 and Ohio Crim. R. 4 (Ohio).





Subject: Testimony in Opposition of HB 1601 relating to Criminal Justice Reform

I respectfully submit my testimony **strongly opposing** HB 1601. Domestic violence, sexual violence, and stalking are crimes committed against an overwhelming number of victims who are intimate partners, family members, and/or household members. If these offenses result in citations rather than arrests, there is a very strong potential for an increase in trauma and violence against the victims of these crimes.

Domestic violence offenses are often repeated by offenders, and the arrests made in these instances are very much needed. Specifically: Abuse of a family or household member, Violation of an order for protection, Violation of a temporary restraining order, Violation of an injunction for harassment, Sexual assault in the fourth degree, and Cruelty to animals in the second degree are crimes where offenders need to be arrested. This is important not only for these offenders to be held accountable but also to provide a safe buffer between the offender and the victim. This buffer allows the victim time to secure resources for support, sends a message to victims that the crimes committed against them are unacceptable, validates their healing journeys, and has the potential to prevent future abuse against victims. Domestic violence victims need to know that if their abuser violates an order or commits a crime, they will be arrested.

Sincerely,

Genia Stith, M.A.

Advocacy Manager

Domestic Violence Action Center

**DOMESTIC VIOLENCE ACTION CENTER**

ADDRESS: P.O. BOX 3198, HONOLULU, HI 96801-3198

LEGAL HELPLINE: (808) 531-3771

TOLL-FREE NEIGHBOR ISLAND HELPLINE: (800) 690-6200

WEBSITE: [WWW.DOMESTICVIOLENCEACTIONCENTER.ORG](http://WWW.DOMESTICVIOLENCEACTIONCENTER.ORG)

EMAIL: [DVAC@STOPTHEVIOLENCE.ORG](mailto:DVAC@STOPTHEVIOLENCE.ORG)



HB1601

Hearing Date: 2/22/24, 2 PM

Committee: JHA

I respectfully submit testimony **strongly opposing HB1601**.

While it is commendable that the legislature is taking actionable steps to reduce the trauma a person experiences during an arrest, many of the offenses that would fall under this bill as a citation instead of an arrest **directly result in increased trauma and violence** against survivors of crimes such as domestic violence.

A temporary restraining order, order for protection, and an order for injunction against harassment are often the only legal recourse a survivor of intimate partner violence has against an abuser. Taking this step requires immense courage and detailed safety planning. Survivors know that although a TRO is “just a piece of paper,” if an abuser violates that order, they will be arrested. When abusers begin to lose power and control over a survivor, such as when an OFP is put into place, they escalate the abuse in an attempt to regain that power and control. When survivors begin to take their own power back and leave their abuser, this is the most dangerous time for them, and when a great number of homicides occur. Abusers may feel more empowered to violate orders knowing that there will still be time to harass their victim before their next court appearance, and this does nothing to protect the physical and psychological safety of the 1 in 3 women and 1 in 4 men in Hawai’i who are victims of domestic violence. Taking away one of the only ways to help a survivor get out of an abusive situation will negatively impact the work to prevent abuse and help our ohana heal from abusive situations.

Survivors of domestic violence, sexual violence, and stalking have had their power, control, and choices taken from them. They face daily trauma which impacts their family relationships, physical/emotional health, and employment. Allow them the peace of mind that if their abuser violates an order or commits a new crime, they will be arrested.

Mahalo,

Jordan Addison  
Safe, Strong, and Sober Program Manager  
Domestic Violence Action Center

February 21, 2024

**Via E-MAIL**

The Honorable David A. Tarnas  
Chair  
The Honorable Gregg Takayama  
Vice-Chair  
House Committee on Judiciary & Hawaiian Affairs  
Hawaii State Capitol, Rooms 442, 404  
415 South Beretania Street  
Honolulu, HI 96813

Re: **HB 1601 – Relating to Criminal Justice Reform – Citation in Lieu of Arrest**

Dear Chair Tarnas, Vice-Chair Takayama, and Honorable Committee members:

I serve as the President of the State of Hawaii Organization of Police Officers (“SHOPO”) and write to you on behalf of our Union in **strong opposition** to HB 1601, which proposes drastic changes to HRS § 803-6 by eliminating law enforcement officer discretion to issue a citation in lieu of arrest and instead, *requiring* officers to issue citations in any case in which it is lawful for an officer to arrest a person without a warrant for a misdemeanor, petty misdemeanor or violation.

As you may know, as the law currently stands, HRS § 803-6(b) states:

(b) In any case in which it is lawful for a police officer to arrest a person without a warrant for a misdemeanor, petty misdemeanor or violation, the police officer may, but need not, issue a citation in lieu of the requirements of [subsection] (a), if the police officer finds and is reasonably satisfied that the person:

- (1) Will appear in court at the time designated;
- (2) Has no outstanding arrest warrants which would justify the person's detention or give indication that the person might fail to appear in court; and
- (3) That the offense is of such nature that there will be no further police contact on or about the date in question, or in the immediate future.

If passed, law enforcement officers will no longer have discretion to issue a citation in lieu of arrest for these (and other) crimes that are misdemeanors and petty misdemeanors and instead, a citation *must* be issued:

- Terroristic threatening in the second degree (m), HRS § 707-717
- Assault in the third degree (m or pm), HRS § 707-712
- Reckless endangering in the second degree (m), HRS § 707-714
- Unlawful imprisonment in the second degree (m), HRS § 707-722
- Assault of a law enforcement officer in the second degree (m), HRS § 707-712.6
- Sexual assault in the fourth degree (m), HRS § 707-733
- Indecent exposure (pm), HRS § 707-734
- Indecent electronic display to a child (m), HRS § 707-759
- Criminal trespass in the first degree (m), HRS § 708-813

- Criminal trespass in the second degree (pm), HRS § 708-814
- Criminal property damage in the third degree (m), HRS § 708-822
- Criminal property damage in the fourth degree (pm), HRS § 708-723
- Theft in the third degree (m), HRS § 708-832
- Theft in the fourth degree (pm), HRS § 708-833

This bill is troubling in many respects. First, it places good faith on the part of a criminal defendant to show up at court for further proceedings, many of whom will not, either intentionally or otherwise, and relieves law enforcement of their discretionary power to decide when a citation is more appropriate. If passed this bill will turn the existing status quo on its head by requiring a citation to be issued in cases where previously, an arrest would have been carried out unless certain circumstances existed to the reasonable satisfaction of the officer involved. In short, this bill is yet another example of the legislature second-guessing the judgment of police officers who have expertise, training and the benefit of real time observations of criminal defendants and if passed, will no doubt result in negative consequences borne solely by our community members and businesses.

Second, this proposal ignores the pleas of those in our community for more to be done to address brazen criminals who seem to be operating without consequences. Passing over the concerns of victims of these crimes, this bill arbitrarily addresses what it refers to as “unnecessary arrests” and emphasizes the disruption of an arrest and jail overcrowding. I urge the legislators proposing this bill to explain the concept of “unnecessary arrests” to the victims and their families of these crimes. Our community cannot afford the consequences of this bill, which will directly affect the safety of our communities and further decrease the public’s trust and confidence in our criminal justice system.

We respectfully suggest that another more effective way to address our overcrowded prisons is to build a new prison with greater capacity which has been in the works for years but seems to be going nowhere. Millions of dollars have been spent on studies and planning for the construction of a new prison, but a way forward is still unclear. Rather than build a new prison, the solution being offered is to limit our police officers’ ability to effect arrests that will only prolong the criminal justice process as defendants will inevitably not show up at Court when required to, and thus, be given opportunity to continue terrorizing our citizens.

We fully understand and appreciate the social issues involved with criminal justice reform. However, we have laws in place for a reason, which is to protect our community from harm. We are police officers entrusted to enforce those laws. The proposals in this bill will only compound the existing dangers our community already faces by having offenders walking freely in our neighborhoods and will constrain our hard-working officers from doing their jobs to keep our communities safe.

If the legislature is going to address the underlying social and economic issues related to criminal justice reform, limiting our police officers’ abilities to keep our streets safe by taking away their ability to arrest individuals is not the answer nor the approach we should take to address such issues. We thank you for allowing us to be heard and to share our concerns on this bill and hope your committee will unanimously reject this bill.

RESPECTFULLY SUBMITTED,

ROBERT "BOBBY" CAVACO  
SHOPO PRESIDENT

HB1601

Hearing Date: 2/22/24, 2 PM

Committee: JHA

I respectfully submit testimony **strongly opposing HB1601**.

While it is commendable that the legislature is taking actionable steps to reduce the trauma a person experiences during an arrest, many of the offenses that would fall under this bill as a citation instead of an arrest **directly result in increased trauma and violence** against survivors of crimes such as domestic violence.

A temporary restraining order, order for protection, and an order for injunction against harassment are often the only legal recourse a survivor of intimate partner violence has against an abuser. Taking this step requires immense courage and detailed safety planning. Survivors know that although a TRO is “just a piece of paper,” if an abuser violates that order, they will be arrested. When abusers begin to lose power and control over a survivor, such as when an OFP is put into place, they escalate the abuse in an attempt to regain that power and control. When survivors begin to take their own power back and leave their abuser, this is the most dangerous time for them, and when a great number of homicides occur. Abusers may feel more empowered to violate orders knowing that there will still be time to harass their victim before their next court appearance, and this does nothing to protect the physical and psychological safety of the 1 in 3 women and 1 in 4 men in Hawai’i who are victims of domestic violence. Taking away one of the only ways to help a survivor get out of an abusive situation will negatively impact the work to prevent abuse and help our ohana heal from abusive situations.

Survivors of domestic violence, sexual violence, and stalking have had their power, control, and choices taken from them. They face daily trauma which impacts their family relationships, physical/emotional health, and employment. Allow them the peace of mind that if their abuser violates an order or commits a new crime, they will be arrested.

Mahalo,

Sarah Baylor

Executive Assistant

Domestic Violence Action Center

# Opportunity Youth Action Hawai‘i

February 22, 2024

House Committee on Judiciary and Hawaiian Affairs

Hearing Time: 2:00 PM

Location: State Capitol Conference Room 325

Re: HB1601, Relating to Criminal Justice Reform

Aloha e Chair Tarnas, Vice Chair Takayama, and members of the Committee,

On behalf of the Opportunity Youth Action Hawai‘i hui, we are writing in **strong support** of HB1601, relating to criminal justice reform. This bill requires law enforcement officers to issue citations in lieu of arrest for certain offenses. This bill aims to reduce the number of unnecessary arrests made in criminal cases by expanding the authorized issuance of citations in lieu of arrest, with certain exceptions.

Arrests are highly disruptive to a person’s life. Arrests cause embarrassment and trauma, and an arrest record can seriously jeopardize the arrestee’s housing and employment prospects, both presently and in the future. Arrests may also set forth a chain of economic and logistical hardships for the arrestee’s family. Here in Hawai‘i, with an exorbitant cost of living and high percentage of families who live paycheck to paycheck, this problem disproportionately affects minority populations. In these instances, many arrestees or their families cannot afford to post bail before a trial.

Further, issuing citations in lieu of arrests can facilitate greater trust and cooperation between law enforcement and the communities they serve. By adopting a more community-oriented and less punitive approach to policing, HB1601 promotes a culture of mutual respect and understanding, fostering stronger relationships between law enforcement officers and the public.

Opportunity Youth Action Hawai‘i is a collaboration of organizations and individuals committed to reducing the harmful effects of a punitive incarceration system for youth; promoting equity in the justice system; and improving and increasing resources to address adolescent and young adult mental health needs. We seek to improve the continuity of programs and services for youth and young adults transitioning from minor to adult status; eliminate youth houselessness and housing market discrimination against young adults; and promote and fund more holistic and culturally informed approaches among public/private agencies serving youth.

**Please support HB1601.**

1099 Alakea Street, Suite 2530 | Honolulu, Hawaii 96813 | (808) 447-1840

HB1601

Hearing Date: 2/22/24, 2 PM

Committee: JHA

I respectfully submit testimony **strongly opposing HB1601**.

I am a loud advocate for less carceral punishment, for the decriminalizing of poverty, the ending of privatized prisons and can recognize that this bill was proposed with good intent. Nevertheless, if these crimes substitute a citation and omit arrest, it would only lessen the hassle for offenders and **directly result in an increase in violence and trauma** for the victims. This especially applies to victims of domestic violence who will face an increase in more fatal violence.

A temporary restraining order, order for protection, and an order for injunction against harassment are often the only legal recourse a survivor of intimate partner violence has against an abuser. To be honest even with these processes in place, if they are not always protected and seriously upheld by law enforcement or courts. Taking this step requires immense courage and detailed safety planning. Survivors know that although a TRO is “just a piece of paper,” if an abuser violates that order, they will be arrested. When abusers begin to lose power and control over a survivor, such as when an OFP is put into place, they escalate the abuse in an attempt to regain that power and control. When survivors begin to take their own power back and leave their abuser, this is the most dangerous time for them, and when a great number of homicides occur. Abusers may feel more empowered to violate orders knowing that there will still be time to harass their victim before their next court appearance, and this does nothing to protect the physical and psychological safety of the 1 in 3 women and 1 in 4 men in Hawai'i who are victims of domestic violence. Taking away one of the only ways to help a survivor get out of an abusive situation will negatively impact the work to prevent abuse and help our ohana heal from abusive situations.

Survivors of domestic violence, sexual violence, and stalking have had their power, control, and choices taken from them. And far too many of community members, neighbors, friends, and family have experienced this most violating theft. It is truly unimaginable how the brave on the aftermath. They face daily trauma which impacts their family relationships, physical/emotional health, and employment. Please don't put another impossible obstacle in their way, allow them to believe that if their abuser violates an order or commits a new crime, they will be arrested.

Mahalo,

Gabriel Verduzco  
Administrative Assistant of Community Services  
Domestic Violence Action Center



**HAWAI'I  
PACIFIC  
HEALTH**

**KAPI'OLANI**  
THE SEX ABUSE  
TREATMENT CENTER



Date: February 21, 2024

To: Representative David Tarnas, Chair  
Representative Gregg Takayama, Vice-Chair  
Members of the Committee on Judiciary and Hawaiian Affairs

From: Lynn Costales Matsuoka, Executive Director  
The Sex Abuse Treatment Center  
A Program of Kapi'olani Medical Center for Women & Children

RE: Testimony on HB 1601  
Relating to Criminal Justice Reform

Hearing: February 22, 2024, Conference Room 325, 2:00pm

Good Afternoon, Chair Tarnas, Vice Chair Takayama and Members of the Judiciary and Hawaiian Affairs Committee:

The Sex Abuse Treatment Center (SATC) is in **opposition** of HB 1601..

The bill seeks to eliminate the discretion of law enforcement officers to make an arrest on any petty misdemeanor or misdemeanor offense. This would include the offense of Sexual Assault in the Fourth Degree.

Our concerns lie primarily with the safety of victims who reach out to the police for help following a sexual assault. For those victims, where police have no discretion but to issue a citation, they would be left with no protection from a perpetrator, until that person shows at court, if they show up at all. For cases where the victim is at risk of harm, or under imminent threat of further harm, an arrest may be the only protection a victim will have. An arrest can provide life saving minutes, for a victim to develop a safety plan. Providing the police with the discretion to assess the dangerousness of the situation and allow them to act accordingly, by making an arrest, is vital to the safety of victims and the public at large. We strongly oppose this measure and while citations may be appropriate for some offenses, it is not appropriate for crimes of violence, sexual assault, domestic violence, to include crimes against children. The safety of victims should not be further compromised.

Thank you for the opportunity to submit testimony in **opposition** HB 1601. We respectfully ask that this committee not pass this legislation as proposed.

**HB-1601**

Submitted on: 2/22/2024 12:56:20 PM

Testimony for JHA on 2/22/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Nikos Leverenz	Drug Policy Forum of Hawaii	Support	Written Testimony Only

Comments:

Chair Tarnas, Vice Chair Takayama, and JHA Committee Members:

Drug Policy Forum of Hawaii strongly supports this measure.

Citations in lieu of arrests should also be extended to include the simple possession of non-cannabis drugs for personal use, misnamed "promotion" under HRS, which is now categorized as a Class C felony.

Mahalo for the opportunity to provide testimony.



## TESTIMONY IN SUPPORT OF HB 1601

**TO:** Chair Tarnas, Vice Chair Takayama, & JHA Committee Members

**FROM:** Nikos Leverenz  
Grants & Advancement Manager

**DATE:** February 22, 2024 (2:00 PM)

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Hawai'i Health & Harm Reduction Center (HHHRC) **strongly supports** HB 1601, which requires law enforcement officers to issue citations in lieu of arrest for certain offenses.

Last month, HHHRC released a report on Hawai'i's [Sequential Intercept Model](#) (SIM), a tool developed by the federal Substance Abuse and Mental Health Services Administration to understand the relationship between criminal-legal agencies and behavioral health services and to identify opportunities for improving diversion away from justice systems and into more appropriate community settings. [[Click here to view the report.](#)]

HHHRC invited Dan Mistak of [Community Oriented Correctional Health Services](#) to facilitate a conversation between 45 participants from across the behavioral health and justice sectors to prepare for the use of Medicaid dollars in carceral settings, help inform legislators about critical needs within the behavioral health and justice systems, and offer insights into how to improve diversion from justice settings. Participants included the state Department of Health, Department of Human Services, Department of Public Safety (PSD), Office on Homelessness and Housing Solutions, Public Defender's Office, two county prosecutors, and the Honolulu Police Department.

Among the specific needs identified by the report: **greater use of citations in lieu of arrest for non-violent Class C felonies.**

HHHRC's mission is to reduce harm, promote health, create wellness, and fight stigma in Hawai'i 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. Many of our clients and participants 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-1601**

Submitted on: 2/21/2024 5:37:07 PM

Testimony for JHA on 2/22/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Shana Wailana Kukila	Individual	Support	Remotely Via Zoom

Comments:

RE: HB1601 Relating to Criminal Justice Reform

Position: Oppose

House Bill 1601 will seriously endanger our most vulnerable. It also violates the rights of crime victims, particularly those protected under the Violence Against Women Act (VAWA).

Under HB1601, misdemeanor crimes protecting domestic violence victims will now result in more thin pieces of paper like temporary restraining orders that do not properly protect victims.

My story relates to this bill, because I believe there are major gaps in our law enforcement and judicial system here in Hawai'i that seriously endangers victims of violent crime, of which HB1601 does not address.

As a victim of family violence in 2022, I filed a police report that was then dropped by the prosecutor's office for a "lack of evidence," despite the physical evidence of bruises I incurred from my attacker. I also had medical records and the responding officers took photos and eye witness accounts with their report. However, they refused to pursue an arrest, nor did they want to further the case, downplaying it, even though the crime happened in the presence of two of my disabled family members, of whom I was caregiving at the time. I then had to quit my job due to the trauma, and stayed in my home for two weeks afterwards, filled with fearful emotions and extreme anxiety.

After my ordeal and being told that the case was being closed, I pleaded with the prosecutor's victim witness program to help me with services and counseling, but was turned away with no assistance or follow up. Just an apology that they are sorry this happened. I was then told by the prosecutor's office that I can go to civil court for a remedy and a TRO. Other than that, nothing.

Because of this experience, along with my knowledge of other case's similar to mine, it is understandable why police don't want to file reports, because it may not go anywhere. It is also my understanding that, off the record, domestic violence calls are seen as the police's worst calls, and they do not want to deal with the paperwork or attend court appearances for this kind of case.

In the police report for my assault, the information police recorded was highly inaccurate, including but not limited to the spelling of our names and the inclusion of my other family member's eye witness accounts of the assault.

It's one thing to be victimized by a family member or someone unknown, but it's far more damaging and potentially fatal when law enforcement and the criminal justice system denies victims the right to be safe and to properly seek justice.

My questions are now, "what are the standard law enforcement protocols for screening domestic violence cases in every county?" "are Hawai'i's law enforcement and judicial officials in compliance with federal regulations concerning the treatment of domestic violence victims in their jurisdictions?" and "are laws like HB1601 helping, or further revictimizing the most vulnerable?"

We should all be asking these questions over and beyond the issues raised in this bill.

Mahalo for allowing me to share my testimony. My hope is that it will be heard by those who can make a real difference in addressing violence in our community.

**HB-1601**

Submitted on: 2/20/2024 11:25:37 AM

Testimony for JHA on 2/22/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
tony frascarelli	Individual	Oppose	Written Testimony Only

Comments:

I am opposed to this bill.

**HB-1601**

Submitted on: 2/20/2024 5:49:27 PM

Testimony for JHA on 2/22/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Mitzi Thibodeaux	Individual	Oppose	Written Testimony Only

Comments:

I respectfully submit testimony opposing HB1601.

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

Mitzi Thibodeaux

**HB-1601**

Submitted on: 2/20/2024 6:04:23 PM

Testimony for JHA on 2/22/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Lindsey A Drayer	Individual	Oppose	Written Testimony Only

Comments:

Citations for things like smoking pot seem fine/good, but the things included in this bill pertain to people who are harming others often violently. I oppose this.

Thank you





## TESTIMONY FROM THE DEMOCRATIC PARTY OF HAWAII

### HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

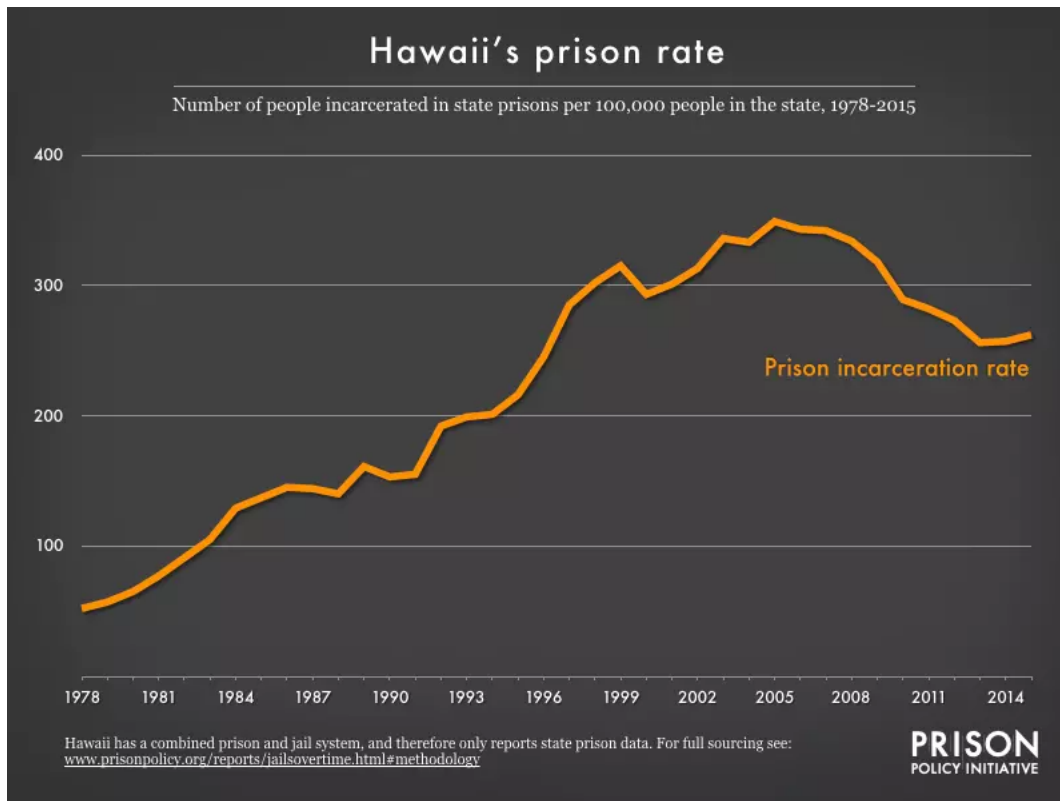
FEBRUARY 22, 2024

### HB 1601, RELATING TO CRIMINAL JUSTICE REFORM

### POSITION: SUPPORT

The Democratic Party of Hawai'i **supports** HB 1601, relating to criminal justice reform. Pursuant to the “Native Hawaiians and Hawaiian Culture” section of the official Democratic Party of Hawai'i platform, the party supports “reforming the criminal justice system to address the disparate treatment of Native Hawaiians, including bail reform and restorative justice which includes Ho‘oponopono.” Moreover, pursuant to the “Public Safety and Emergency Preparedness” section of the platform, the party “opposes racist policies and laws that cause disproportionate harm to communities of color. We believe incarceration should be used only when there are no alternatives to protect the public. We support rehabilitation, addiction services and other humane interventions that promote safe community reintegration as the ultimate goal.”

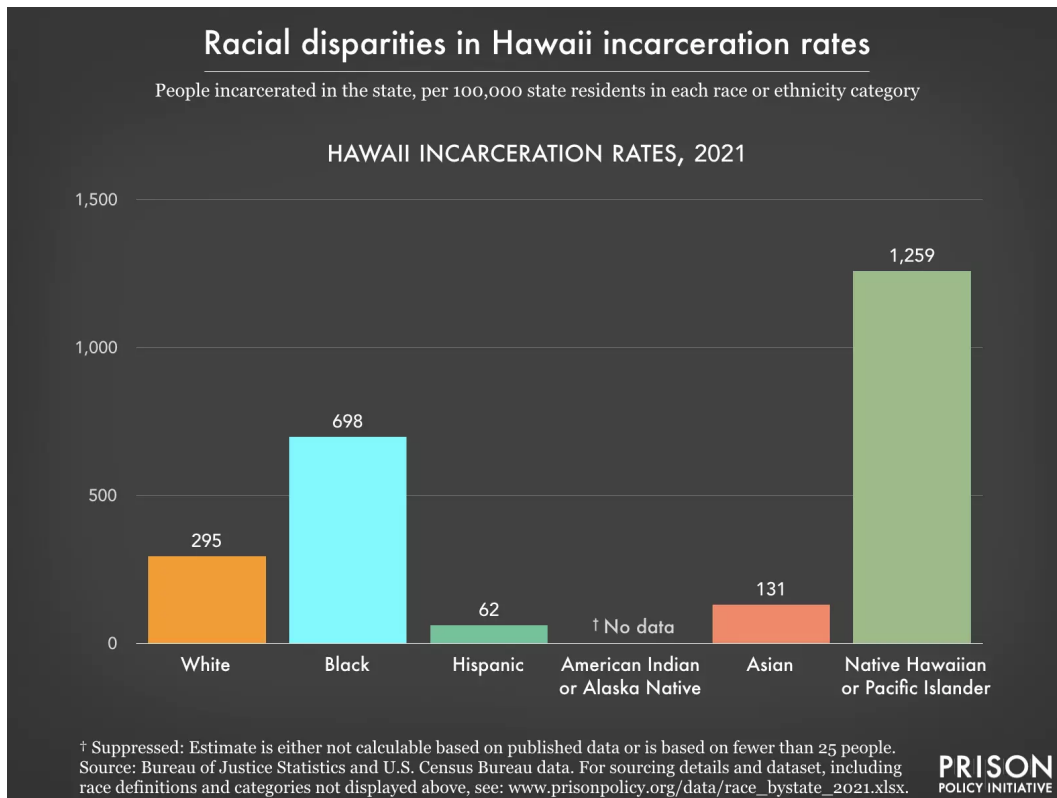
Hawai'i has approximately 5,100 inmates, hundreds of whom are incarcerated overseas, away from their families and homeland. The Prison Policy Initiative has found that our incarcerated population has grown dramatically since the 1970s and far surpasses that of the international community, with the islands incarcerating over 400 people per 100,000 residents, while nations like the United Kingdom, Canada, and France incarcerate roughly one-quarter of that amount.



According to a report by the American Civil Liberties Union released in recent years, pretrial detainees in Honolulu wait an average of 71 days for trial because they cannot afford bail. Additionally, researchers found that circuit courts in Hawai'i set monetary bail as a condition of release in 88 percent of cases, though only 44 percent of those people managed to post the amount of bail set by the court. Moreover, the study found the average bail amount for a Class C felony on O'ahu is set at \$20,000. Even with help from a bail bonding agency, posting bond in such cases would require an out-of-pocket expense of roughly \$2,000. **While wealthy defendants can afford to pay for bail, impoverished defendants often cannot afford to pay even minimal amounts, leaving economically disadvantaged people languishing in our jail system for low-level offenses.** Though officials claim that bail amounts are supposed to be based on a consideration of multiple factors—including flight risk, ability to pay, and danger to the community—researchers learned that in 91 percent of cases in Hawai'i, monetary bail mirrored the amount set by police in arrest warrants, an amount based solely on the crime charged. These injustices led the ACLU to declare that our state's pretrial detention system was and remains unconstitutional.

Furthermore, people of Native Hawaiian ancestry, who comprise approximately 25 percent of the state's population, continue to suffer the pangs of a biased penal system. Approximately 39 percent of incarcerated detainees are

Hawaiian, according to a comprehensive study by the Office of Hawaiian Affairs, with the proportionality gap being even greater for Hawaiian women, who comprise 19.8 percent of the state's female population, but 44 percent of the state's female inmate population. Researchers also found that, on average, Hawaiians receive longer sentences, more parole revocations, and harsher drug-related punishments than other ethnic groups.



Accordingly, **we support efforts to reform Hawai'i's criminal justice system, including this measure's reduce the number of unnecessary arrests made in criminal cases by expanding the authorized issuance of citations in lieu of arrest. We cannot arrest our way to public safety.** It is time to invest in restoration and begin building people instead of more prisons.

Mahalo nui loa,

**Kris Coffield**  
Co-Chair, Legislative Committee  
(808) 679-7454  
kriscoffield@gmail.com

**Abby Simmons**  
Co-Chair, Legislative Committee  
(808) 352-6818  
abbyalana808@gmail.com

**HB-1601**

Submitted on: 2/20/2024 10:29:46 PM

Testimony for JHA on 2/22/2024 2:00:00 PM

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

Comments:

Aloha Chair Tarnas, Vice Chair Takayama, and JHA Committee Members,

As a public health professional and concerned citizen, I write in **STRONG SUPPORT** of HB1601, which would allow for citation to be issued instead of arrest for certain offenses.

Our jails are unnecessarily crowded, causing our local communities to bear the economic and public health costs. In fact, 75% of the state jail population are incarcerated for Class C felonies and lower.

Please ensure passage of this bill so that the state may relieve undue burden on local families, especially when offenses are not commensurate with jail time.

Mahalo,

Thaddeus Pham (he/him)

**HB-1601**

Submitted on: 2/20/2024 11:07:47 PM

Testimony for JHA on 2/22/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Alexandra Chou	Individual	Oppose	Written Testimony Only

Comments:

**I respectfully submit testimony opposing HB1601.**

**Thank you for the opportunity to testify on this important matter.**

**HB-1601**

Submitted on: 2/20/2024 11:39:42 PM

Testimony for JHA on 2/22/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Dayna Hue-Sing	Individual	Oppose	Written Testimony Only

Comments:

Hearing Date: 2/22/24, 2:00pm

Committee: JHA

Aloha,

I respectfully submit testimony opposing HB1601.

As a Domestic Violence Shelter Advocate here in Hawaii, I have seen the hurt and fear that victims of domestic abuse experience at the hands of their perpetrators who control through fear and intimidation. It would be gravely unfair to allow perpetrators of domestic violence to getaway with just a citation. I strongly oppose HB1601 - Citation in Lieu of Arrest.

Victims of domestic violence need to feel safe and heard by Hawaii's local law enforcement and HB1601 does not support the safety and wellbeing of domestic violence victims.

One survivor recently shared with me how her perpetrator forced her watch as he tortured a feral cat and burned it alive. She described the inhumane act in detail, still traumatized by his violence. If we are going to punish animal cruelty, the offense deserves a more serious consequence. -

The laws currently in place to protect victims of domestic violence have proven to not be enough . Take for instance the recent highly publicized murder of domestic violence victim, Theresa Cachuela, who had sought protection through the Hawaii's legal system. The State of Hawaii must do more to protect victims of domestic violence and not allow perpetrators to get away with just "slap on the wrist" citation.

Victims of domestic violence often include children who are witness to the violence. As an advocate for domestic violence victims, I've seen the fear and intimidation that victims experience by their perpetrators in what are often life-threatening circumstances. Victims of domestic violence need much tougher laws to protect them from becoming another murder

statistic. HB1601 does little to protect or support victims of domestic violence, rather protects the perpetrator from any serious consequences for violent behavior.

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

Sincerely,

Dayna HueSing

Domestic Violence Advocate

Child and Family Service

**HB-1601**

Submitted on: 2/21/2024 12:35:10 AM

Testimony for JHA on 2/22/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Greg Misakian	Individual	Oppose	Written Testimony Only

Comments:

I oppose HB1601.

Gregory Misakian

Kokua Council, 2nd Vice President

Waikiki Neighborhood Board, Sub-District 2 Vice Chair



**HB-1601**

Submitted on: 2/21/2024 8:58:21 AM

Testimony for JHA on 2/22/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Lauren Faue	Individual	Oppose	Written Testimony Only

Comments:

HB1601

Hearing Date: 2/22/24, 2 PM

Committee: JHA

I respectfully submit testimony strongly opposing HB1601.

While it is commendable that the legislature is taking actionable steps to reduce the trauma a person experiences during an arrest, many of the offenses that would fall under this bill as a citation instead of an arrest directly result in increased trauma and violence against survivors of crimes such as domestic violence.

A temporary restraining order, order for protection, and an order for injunction against harassment are often the only legal recourse a survivor of intimate partner violence has against an abuser. Taking this step requires immense courage and detailed safety planning. Survivors know that although a TRO is “just a piece of paper,” if an abuser violates that order, they will be arrested. When abusers begin to lose power and control over a survivor, such as when an OFP is put into place, they escalate the abuse in an attempt to regain that power and control. When survivors begin to take their own power back and leave their abuser, this is the most dangerous time for them, and when a great number of homicides occur. Abusers may feel more empowered to violate orders knowing that there will still be time to harass their victim before their next court appearance, and this does nothing to protect the physical and psychological safety of the 1 in 3 women and 1 in 4 men in Hawai’i who are victims of domestic violence. Taking away one of the only ways to help a survivor get out of an abusive situation will negatively impact the work to prevent abuse and help our ohana heal from abusive situations.

Survivors of domestic violence, sexual violence, and stalking have had their power, control, and choices taken from them. They face daily trauma which impacts their family relationships, physical/emotional health, and employment. Allow them the peace of mind that if their abuser violates an order or commits a new crime, they will be arrested.

Mahalo,

Lauren Faue B.S.  
Family Assistance Counselor  
Domestic Violence Action Center

**HB-1601**

Submitted on: 2/21/2024 8:58:51 AM

Testimony for JHA on 2/22/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Scott Sutherland	Individual	Oppose	Written Testimony Only

Comments:

Aloha,

My name is Scott Sutherland, Honolulu resident, and I respectfully submit testimony opposing HB1601.

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

**HB-1601**

Submitted on: 2/21/2024 9:17:16 AM

Testimony for JHA on 2/22/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Seiko Keleb	Individual	Oppose	Written Testimony Only

Comments:

I respectfully submit testimony strongly opposing HB1601.

While it is commendable that the legislature is taking actionable steps to reduce the trauma a person experiences during an arrest, many of the offenses that would fall under this bill as a citation instead of an arrest directly result in increased trauma and violence against survivors of crimes such as domestic violence.

A temporary restraining order, order for protection, and an order for injunction against harassment are often the only legal recourse a survivor of intimate partner violence has against an abuser. Taking this step requires immense courage and detailed safety planning. Survivors know that although a TRO is “just a piece of paper,” if an abuser violates that order, they will be arrested. When abusers begin to lose power and control over a survivor, such as when an OFP is put into place, they escalate the abuse in an attempt to regain that power and control. When survivors begin to take their own power back and leave their abuser, this is the most dangerous time for them, and when a great number of homicides occur. Abusers may feel more empowered to violate orders knowing that there will still be time to harass their victim before their next court appearance, and this does nothing to protect the physical and psychological safety of the 1 in 3 women and 1 in 4 men in Hawai’i who are victims of domestic violence. Taking away one of the only ways to help a survivor get out of an abusive situation will negatively impact the work to prevent abuse and help our ohana heal from abusive situations.

Survivors of domestic violence, sexual violence, and stalking have had their power, control, and choices taken from them. They face daily trauma which impacts their family relationships, physical/emotional health, and employment. Allow them the peace of mind that if their abuser violates an order or commits a new crime, they will be arrested.

**HB-1601**

Submitted on: 2/21/2024 12:15:28 PM

Testimony for JHA on 2/22/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Karlan Osorio	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill. Arresting a person in these types of situations allow a break from contact between parties and give them an opportunity to cool down. With only a citation, you are subjecting the victim to more threats of harm, especially when there may be retribution for contacting the authorities in the first place. In addition, the victim may be forced to leave and be homeless to get away from their abuser.

**HB-1601**

Submitted on: 2/22/2024 7:53:57 AM

Testimony for JHA on 2/22/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Richard Collins	Individual	Oppose	Written Testimony Only

Comments:

While I appreciate the intent of the bill to reduce the financial hardship of posting bail to working families, I fear that this legislation needs to be more closely evaluated to ensure it does not create any unintentional negative consequences. As I think about some of these potential consequences, I wonder about cases where individuals may be only given a fine and still pose a threat to the public. For example, under this bill, individuals involved in child abuse, intimate partner abuse, DUIs, and negligent homicide may only be given a fine and may continue to pose a threat to the public. Please ensure that these situations are considered when considering this legislation. Mahalo for your time and consideration.

**Dennis M. Dunn**

**Kailua, Hawaii 96734**

[dennismdunn47@gmail.com](mailto:dennismdunn47@gmail.com)

**Re: HB 1601, Relating to Criminal Justice Reform**

**Date: February 22, 2024, 2:00 p.m.**

**To: House Committee on Judiciary and Hawaiian Affairs**

**Representative David A. Tarnas, Chair**

**Representative Gregg Takayama, Vice Chair**

Good afternoon, Chair Tarnas, Vice Chair Takayama, and Members of the House Committee on Judiciary and Hawaiian Affairs. My name is Dennis Dunn, and I am the retired Director of the Victim Witness Kokua Services in the Honolulu Prosecuting Attorney's Office. It is through the lens of my 45+ years of assisting crime victims that I am testifying in **strong opposition to HB 1601**, Relating to Criminal Justice Reform.

The provisions of HB 1601 would require the issuance of citations in lieu of arrest for petty misdemeanor and misdemeanor offenses including domestic violence, sexual assault, and stalking. I am unclear as to the origins of this measure, but it is clearly a very bad idea. My initial concern is simply that many offenses covered by this measure could involve crimes that involve acts of domestic violence, sexual assault, stalking, and terroristic threatening among other serious crimes. Even offenses that may appear to be less serious in nature, such as Harassment, but the underlying conduct may be much more serious. For this reason, mandating a citation as opposed to arrest would not be prudent without scrutinizing the specific details of the facts underlying the case. Of equal concern is the fact that many criminals with histories of acts of domestic abuse, sexual violence, and stalking may have committed many prior offenses involving these types of acts and arrest would be critical in preventing further harm to specific victims as well as the general public. Mandated citations would deprive law enforcement of the ability to properly scrutinize and assess the past behavior of individuals and may put all of us at risk.

Additional factors that should be considered when evaluating the merits of the provisions of HB 1601 would be that offenses not supported by fingerprints cannot be entered into the statewide criminal justice data base, CJIS, that is utilized by law enforcement to access information about prior offenses committed by a criminal suspect. Not only are there obvious concerns about potential safety implications posed by lack of arrest for dangerous individuals but a myriad of administrative and fiscal impacts that could also result. The large number of offenses that would

be covered would undoubtedly create an administrative nightmare for Court personnel. This simply makes no sense to me. We must retain the ability to accurately assess offenders and make individual decisions based on the facts and circumstances of a particular criminal incident. In addition, arrest and not citation are clearly indicated for a wide variety of crimes where victim safety is a priority.

For the above stated reasons, I urge the Committee to hold HB 1601. Thank you for your time and consideration.

Mahalo!



**HB-1601**

Submitted on: 2/22/2024 11:59:23 AM

Testimony for JHA on 2/22/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Carol Gaylord	Individual	Oppose	Written Testimony Only

Comments:

Allegations of misdemeanor violent crimes such as abuse, sexual abuse and threatening should be investigated and taken seriously. It is an unacceptable proposition to suggest simple citation vs a thorough investigation to document evidence and to determine probable cause to arrest. As an advocate for victims of violence choosing to prioritize the rights of the accused over the safety of the victim and the public is also unacceptable. I strongly oppose HB 1601.