



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

Bill No. and Title: House Bill No. 1602, Relating to Criminal Justice Reform.

Purpose: Authorizes a 48-hour grace period after a missed initial court appearance.

Judiciary's Position:

The Judiciary is not able to support this measure as the proposed legislation includes provisions which will greatly impact the orderly operations of the courts and will permit defendants in criminal cases to directly and without consequence violate court orders, essentially allowing them to dictate when their case is heard.

The provisions of this bill provide that if the court chooses to suspend the issuance of a bench warrant for a defendant's failure to appear, where that defendant has previously been released on bail with notice of the hearing, or who has previously been issued a citation or summons to appear at that "initial appearance," then that defendant has the freedom to "voluntarily appear" at any time within 48 hours without needing to provide advance notice to the court. The Judiciary opposes this bill as untenable and disruptive to daily court operations.

This legislation disregards the function of the court and disrupts the orderly judicial process, and detracts from the serious nature of court proceedings. The court is an institution based on rules and procedures. For every hearing, the court provides notice to the litigants and counsel based on established rules. Court calendars exist for a reason. Hearings are intentionally scheduled in advance to provide the judge and staff time to adequately prepare. Such a scheduling system is vital to maintaining an organized and thoughtful judicial process. Permitting defendants to suddenly appear for their court hearings without notice to the court and parties disrupts this system. This bill forces courts to accommodate walk-ins and requires prosecutors and defense counsel to be on standby at every courthouse, 5 days a week, from 7:45 a.m. to 4:30 p.m. There are simply insufficient resources for such accommodations.

The concern is exponential for the district and rural courts. Many courthouses do not have criminal sessions every day. Some courts convene only a few times a week – or even just a few times per month – with some days designated for criminal matters and other days designated for civil matters. For many of the District Courts, this would require holding additional court sessions on days where court is not currently held, requiring judges and court staff to be dispatched to those courts. The addition of these court sessions may require significant appropriations for additional personnel. For example, in the Second Circuit, the Hana District Court convenes on first Friday of each month, with arraignment and plea held on that day only; the Lanai District Court convenes on third Tuesday of each month, with arraignment held on that day only; and the Moloka'i District Court convenes on the second and fourth Tuesday each month, with arraignment and plea held on those days only. Permitting defendants to simply “show up” at the courthouse would require the courtrooms at those courthouses to remain open and operational for 48 hours after arraignment, and for prosecutors and defense counsel to be on standby during that period.

A better practice, as is widely used now in the manner noted below, would be to permit the defendant's counsel to contact the court and request the resetting of the hearing at an appropriate date and time. The Judiciary understands that there are times where defendants miss their initial appearances for legitimate reasons. Indeed, there are several instances where a bench warrant is not issued, and the court merely sets a continued hearing to permit counsel to contact the defendant and/or bond company, if applicable, in an attempt to bring them back before the court after a missed appearance. In addition, where a bench warrant is actually issued, defendants who miss their court dates may file motions to recall bench warrants, without being required to post bail. These motions are routinely granted, and initial appearances are reset with notice to all parties, on dates and times where a prosecutor, judge, court staff, and courtroom are available.

In summary, permitting defendants to appear at any time without notice within a granted 48 hour period is simply unsound and would subvert the orderly operations of the Court.

Thank you for the opportunity to testify on this measure.

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H.B. No. 1602: RELATING TO CRIMINAL JUSTICE REFORM

Chair David Tarnas
Vice Chair Gregg Takayama
Honorable Committee Members

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

Judges across the State require defendants or witnesses at some point to take time off work, leave school, and come to a courtroom. Defendants are required to make several appearances before a case is completed. While perfect attendance is expected, it is often impossible for people who do not have access to reliable transportation, jobs with flexible schedules, or even support for childcare. Missing court has become part of the process.

Issuing a bench warrant and putting people in custody for missing a court date is a draconian and cruel method of securing a person's presence. Nearly every criminal defense attorney knows of more than a few clients who miss their court dates because they were stuck in traffic, could not find a babysitter, or even got lost in the courthouse and did not make it to the right courtroom in time. Too many people are sent to jail for understandable absences. Too many people, afraid of going back to custody, panic and abandon their cases all together.

A grace period is a workable way of addressing this problem. The Judiciary is equipped to handle recalling bench warrants within the 48-hour period through an *ex parte* motion and order resetting the hearing. In Hilo, for example, recalling warrants has been streamlined with the attached form. This is a smart and straightforward way that harmonizes with the grace period in this bill. Just like the

form in Hilo, people who fail to appear in court can come to the courthouse during the grace period, fill out a form, and get their cases back on track.

This bill should not be deferred because more time is needed by stakeholders to study it. While doing the right thing like having a grace period may require changes to our current system, it is worth it. Perfection is the enemy of good. And this bill is a positive and progressive way forward.

COMMUNITY ALLIANCE ON PRISONS

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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 1602 - 48-HOUR GRACE PERIOD AFTER MISSED COURT APPEARANCE

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 bars¹ 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 1602. This is an important bill that grants a 48-hour grace period after a missed court appearance. There are many reasons that people miss court dates: work commitments, no child care, no transportation, car trouble, sick family member, etc. These are all real-life occurrences and a missed court date can negatively impact a person’s life and have unintended consequences.

The National Council of State Legislatures website² states: *“Nonappearance for scheduled court dates while a defendant is on pretrial release can result in revocation or modification of bond, issuance of a warrant, arrest, detention, forfeiture of money bail, suspension of the right to drive or new criminal charges. Failure to pay or respond by appearance to a criminal citation or summons can also result in court actions including default judgment being entered, required appearance in court or suspension of the right to drive. Failure to appear at a hearing*

¹ DPS/DCR Weekly Population Report, February 12, 2024

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

² National Council of State Legislatures

<https://www.ncsl.org/civil-and-criminal-justice/statutory-responses-for-failure-to-appear>

that is set following failure to pay a citation or summons in the time prescribed by the citation, can also result in issuance of a warrant, detention or other sanctions.”

Here are the laws in Hawai`i:

Hawaii

§ 286-10

...Any person who fails to appear at the place and within the time specified in the summons or citation issued to the person by the enforcement officer upon the person's arrest for violation of any provision of this chapter, including any rule adopted pursuant to this chapter, shall be guilty of _____ a _____ misdemeanor. If any person fails to comply with a summons or citation issued to such person, or if any person fails or refuses to deposit bail as required, the enforcement officer shall cause a complaint to be entered against such person and secure the issuance of a warrant for the person's arrest.

Hawaii

§ 286-10

...If any person fails to comply with a summons or citation issued to such person, or if any person fails or refuses to deposit bail as required, the enforcement officer shall cause a complaint to be entered against such person and secure the issuance of a warrant for the person's arrest.

Hawaii

§ 607-8.5

The court, when issuing a bench warrant for any person who fails to appear or who otherwise fails to comply with a court order, may assess that person a sum not to exceed \$50 for the cost of issuing the bench warrant.

Hawaii

§ 710-1024

(1) A person commits the offense of bail jumping in the first degree if, having been released from custody by court order with or without bail, upon condition that the person will subsequently appear as ordered in connection with a charge of having committed a felony, the person knowingly _____ fails _____ to _____ appear _____ as _____ ordered.
(2) Bail jumping in the first degree is a class C felony.

Hawaii

§ 710-1025

(1) A person commits the offense of bail jumping in the second degree if, having been released from custody by court order with or without bail, upon condition that the person will subsequently appear as ordered in connection with a charge of having committed a misdemeanor or a petty misdemeanor, the person knowingly fails to appear as ordered.
(2) Bail jumping in the second degree is a misdemeanor.

Hawaii

§ 803-6

...(e) If a person fails to appear in answer to the citation; or if there is reasonable cause to believe that the person will not appear, a warrant for the person's arrest may be issued. A knowing failure to appear in answer to the citation may be punished by a fine of not more than \$1,000 or imprisonment of not more than thirty days or both.

Hawaii

§ 805-4

The summons shall be served by handing the accused a copy thereof, and showing the accused the original; or, if the accused cannot be found, by leaving the copy, during business hours, at the accused's usual place of business or employment, or by leaving the copy at the accused's place of residence, at any reasonable hour, in charge of some person of discretion. If the alleged offender fails to appear at the prescribed time and place, after having been so summoned, the alleged offender may be attached for contempt, and dealt with accordingly.

Community Alliance on Prisons urges the committee to pass this bill that will demonstrate Hawai'i commitment to and concern for our people, our families, and the aloha spirit.



TESTIMONY FROM THE DEMOCRATIC PARTY OF HAWAII

HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

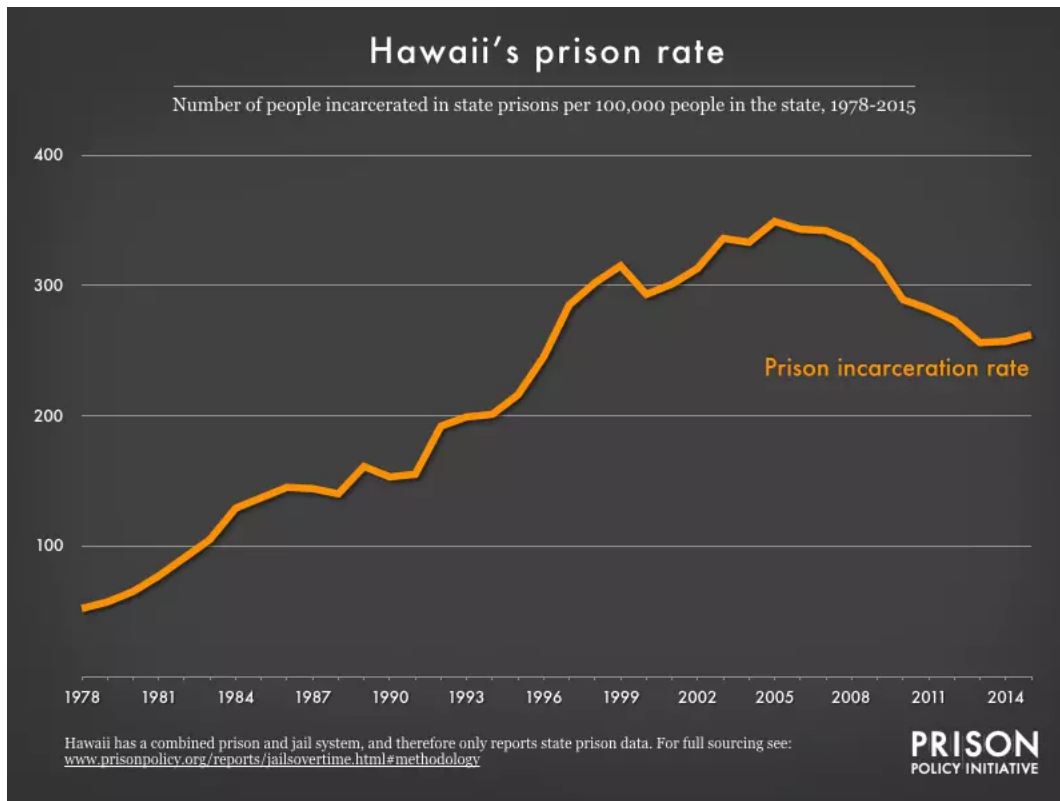
FEBRUARY 22, 2024

HB 1602, RELATING TO CRIMINAL JUSTICE REFORM

POSITION: SUPPORT

The Democratic Party of Hawai'i **supports** HB 1602, 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.”

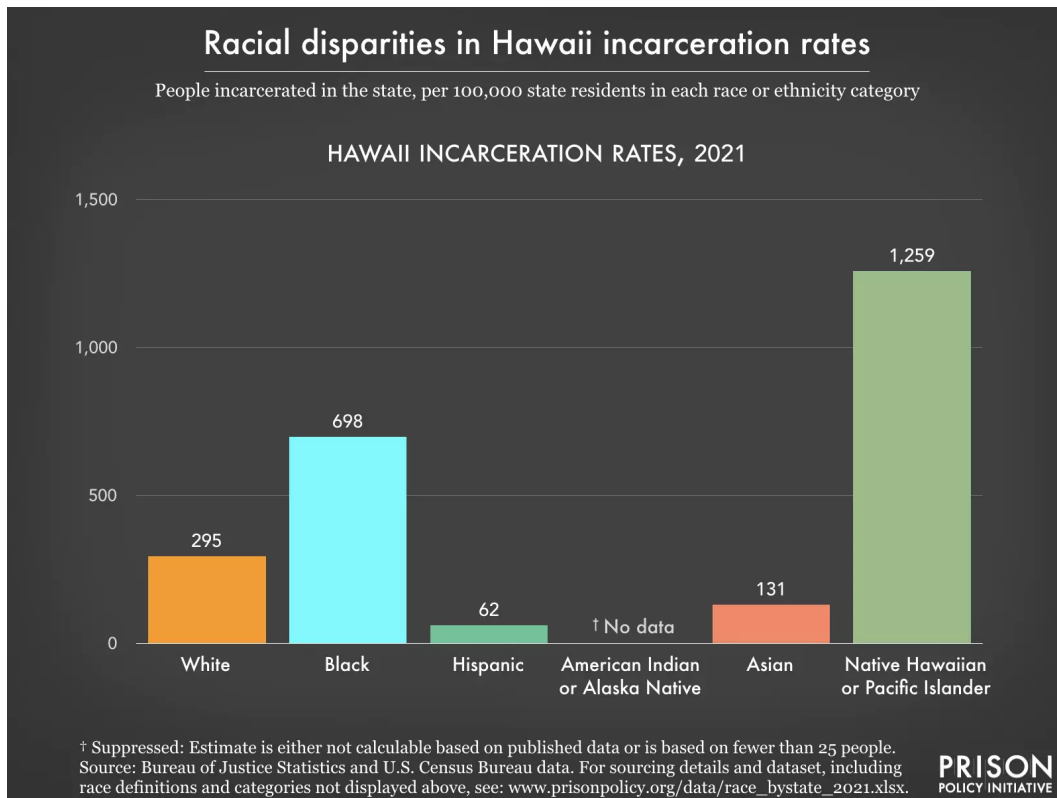
Hawai'i has approximately 5,100 inmates, hundreds of whom are incarcerated overseas, away from their families and homeland. The Prison Policy Initiative has found that our incarcerated population has grown dramatically since the 1970s and far surpasses that of the international community, with the islands 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 provision of a forty-eight-hour grace period after a missed initial court appearance.** It is time to invest in restoration and begin building people instead of more prisons.

Mahalo nui loa,

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HAWAI‘I HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

HEARING:

Public Hearing on House Bill 1602, Feb. 22, 2024

DATE OF TESTIMONY:

Feb. 21, 2024

TESTIMONY OF THE POLICING PROJECT AT NYU SCHOOL OF LAW IN SUPPORT OF H.B. 1602

The standard response to an individual’s failure to appear in court is a bench warrant.¹ This court order commands law enforcement officers to arrest the individual and bring them into court. Although this may seem like a straightforward way to deal with someone who misses court, sending armed law enforcement officers to find every person due in court is both inefficient and potentially harmful. Many people, for example, miss court for relatively mundane reasons such as a work or family conflict rather than a desire to avoid the consequences of their actions by becoming a fugitive from justice. Simply waiting a short period of time before issuing a bench warrant can give these individuals a chance to appear back in court without having to commit law enforcement resources to the problem or place that person in handcuffs unnecessarily. We applaud H.B. 1602’s establishment of a 48-hour grace period for a missed initial court date and recommend a few amendments to strengthen this grace period and thereby increase the benefits that it can deliver to Hawai‘i.

Warrant Grace Periods Can Reduce Unnecessary Arrests

A bench warrant can help bring a wayward defendant back to court, but it can also come with significant costs. These warrants can be dangerous, time-consuming, and unnecessary. Warrant execution remains one of the most deadly law enforcement activities for officers and arrestees

¹ 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 warrant related statutes and regulations. We have vetted our thinking on warrant 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. One of those is our [comprehensive warrant reform statute](#).

alike.² Further, an arrest deprives an individual of their liberty in the short run while potentially damaging their economic well-being and mental health for much longer. An arrest also draws law enforcement officers away from other important, public safety related tasks.

Warrant grace periods can help reduce the number of unnecessary and burdensome bench warrants issued each year by providing individuals who missed court with the chance to appear of their own volition before the court has to resort to a warrant or repurpose the law enforcement resources necessary to execute one. These grace periods reflect research that indicates that many individuals who miss court do so because of reasons such as work or family conflicts or transportation difficulties rather than any intent to evade responsibility.³ They do not prevent a bench warrant from issuing; they merely delay it in order to see if it is truly necessary in light of these frequent causes of missed court appearances. In a typical case involving a relatively minor offense, a slightly delayed warrant response has virtually no impact on public safety while nevertheless creating an opportunity to resolve the missed court appearance without any of the costs or risks associated with warrant execution. This is why over a dozen states have enacted some form of delayed warrant response or grace period. Hawai'i would be well served by passing H.B. 1602 and joining them.

H.B. 1602 Would Be Strengthened With Amendments

H.B. 1602 currently establishes a discretionary 48-hour grace period before any warrant issues for the arrest of an individual who misses their initial court appearance in either district or circuit court. Although this is a valuable step forward in reducing unnecessary arrests and related harms in Hawai'i, a few amendments would expand the reach and impact of this legislation.

In particular, we recommend an amendment that would requiring the use of a grace period for the low-level cases heard in district courts. The current language, which states only that a person “*may* be granted a grace period,” would allow any judge to essentially ignore this legislation—an implementation problem that often arises with similar discretionary measures. To be most effective, a grace period should be a procedural right that is not subject to the whims of any given judge, and so we recommend replacing “*may*” with “*shall*” in Section 2. The cases heard in district courts (i.e., misdemeanors, ordinance violations, and traffic infractions) are the kind that typically do not raise imminent public safety concerns in the wake of a missed court date, and therefore a mandatory grace period is warranted. Further, a handful of other states have successfully enacted

² Nationwide, on average, 7 officers are killed each year while serving a warrant (arrest or search) and 60 percent of arrest-related deaths of arrestees occur while officers are serving a warrant. See, Juan A. Lozano, “Serving warrants is inherently dangerous, experts say,” *Associated Press*, January 29, 2019; and Connor Brooks and Sean E. Goodison, “Federal Deaths in Custody and During Arrest, 2020 – Statistical Tables,” *U.S. Department of Justice*, July 2022.

³ See, Bornstein, Brian H.; Tomkins, Alan; Neeley, Elizabeth; Herian, Mitchel; and Hamm, Joseph A., “Reducing Courts’ Failure-to-Appear Rate by Written Reminders” (2013). Faculty Publications, Department of Psychology. 601.

either a mandatory grace period or a rebuttable presumption of a grace period for comparable offenses, including Michigan, Nevada, and New York.⁴

In addition, many of the reasons that people miss court (e.g., work or family conflicts, transportation issues) apply equally to all court dates, not just initial appearances. We therefore recommend extending the grace period to the first missed court appearance, regardless of whether that was the initial court date, in order to expand and strengthen its protections. We, however, also would counsel including an exception for trial dates given the inconvenience likely posed to witnesses and others by a missed appearance on such dates.

Lastly, a key part of the grace period is the opportunity for the individual to appear and resolve the issue—something that is typically only possible if court is open. If the grace period falls almost entirely on days in which courts are closed (e.g., a weekend), then the legislation’s extension of the grace period to the next business day may still not provide enough time for the person to appear and resolve the issue. We thus recommend excluding from the grace period entirely all days in which the court is not in session.

Conclusion

H.B. 1602 would establish a bench warrant grace period in Hawai’i, providing its residents with a short opportunity to resolve a missed court appearance on their own before law enforcement resources are devoted to tracking them down. This could help reduce unnecessary arrests and all of the associated costs and risks to officers and members of the community. We commend this move to improve arrest related policy in Hawai’i and recommend a few small amendments to strengthen the proposed grace period and increase the impact of this legislation.

Thank you for considering our testimony.

⁴ See, Mich. Comp. Laws 764.3 (Michigan); Nev. Rev. Stat. 484A.780 (Nevada); and N.Y. Crim. Pro. 510.50 (New York).

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 1602 – Relating to Criminal Justice Reform – 48-hr Grace Period**

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 1602, which adds new sections to HRS chapters 805 and 806 by creating a 48-hour grace period after a person fails to make his/her initial appearance before the Court issues an arrest warrant.

Deaf to the pleas of those in our community for more to be done to address brazen criminals who seem to be operating without consequences, the backers of this bill (and others such as HB 1601 and HB 1603) wish to provide criminal defendants with more leeway and less accountability, which will directly affect the safety of our communities and further decrease the public’s trust and confidence in our criminal justice system.

This bill states that arrests are time consuming for law enforcement and our prisons are overcrowded and thus, a grace period would help. But we ask at what cost? Our community cannot afford the consequences of this bill by providing yet another loophole for criminal defendants to take advantage of and continue terrorizing our communities. 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.

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 providing an avenue for criminal defendants to freely ignore Court orders 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, allowing criminal defendants to essentially decide when they’d like to be held accountable in the court of law 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

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: HB1602, 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 HB1602, relating to criminal justice reform. This bill authorizes a 48-hour grace period after a missed initial court appearance.

Currently, failure to appear in court results in the issuance of an arrest warrant. Arrests not only assume a significant portion of limited police resources, but also have a lasting economic and psychological impact on arrestees and their families.

Many factors may cause individuals to miss their court dates, including circumstances beyond their control. These individuals should not be subject to immediate arrest and incarceration without being afforded a reasonable opportunity to rectify the situation. Compounding circumstances, including the issuance of an arrest warrant for a missed court date, only strain our already overburdened criminal justice system, perpetuate the cyclical nature of incarceration, and increase recidivism rates.

By authorizing a 48-hour grace period after a missed initial court appearance, HB1602 provides individuals with the necessary time to reschedule hearings, consult with legal counsel, and make appropriate arrangements to appear before the court. This bill acknowledges the complexity of people’s lives and the myriad of factors that can contribute to missed court dates, while also promoting values of fairness and due process within our legal system. A grace period may also foster greater trust and cooperation between law enforcement, the judiciary, and the communities they serve. By adopting a more compassionate and understanding approach to missed court appearances, we can build stronger relationship and promote a sense of accountability and responsibility within the community.

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 HB1602.



Hawai'i

Committee: Judiciary and Hawaiian Affairs
Hearing Date/Time: Thursday, February 22, 2024, at 2:00pm
Place: Conference Room 325 & Videoconference
Re: **Testimony of the ACLU of Hawai'i in SUPPORT of H.B. 1602 Relating to Criminal Justice Reform**

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

The American Civil Liberties Union of Hawai'i **SUPPORTS HB1602** which authorizes a 48-hour grace period after a missed initial court appearance.

Currently, the Judiciary's standard response to a person's failure to appear in court is to issue a bench warrant. This practice can and should be modified to comport with evolving criminal justice reforms based on research that the majority of persons who miss their court dates are not doing so out of disrespect for the court, but for everyday mundane reasons – such as lacking transportation or child care, illness, being unable to take off time from work, language barriers, and trying to survive when one is homeless.

Research compiled by Prison Policy Initiative shows that most people who miss court are facing low-level charges and are not evading court at all. In fact, [roughly 25% of cases are eventually dismissed](#) altogether, suggesting many of these people should never have been charged in the first place.¹

Research has also shown that many people who fail to appear for court usually return voluntarily within a few days or weeks.² According to Vera, **"Courts can adopt policies that are in line with this research by establishing a grace period before issuing bench warrants and notifying people that they need to come to court to resolve the failure to appear before a warrant is issued.** Courts can also establish procedures for people to easily resolve warrants and request new court dates online or in the community in order to avoid arrest. **State legislatures can also enact laws requiring local courts to allow grace periods."**³ (emphasis added)

Of note, a few other states have successfully enacted either a mandatory grace period or a rebuttable presumption of a grace period for comparable offenses. This includes Michigan, Nevada, and New York.⁴

¹ <https://www.prisonpolicy.org/blog/2023/08/15/fta/>

² Mary T. Phillips, *How Release Type Affects Failure to Appear* (New York: New York C3, <https://perma.cc/7M36-8ZG6>).

³ <https://www.vera.org/a-toolkit-for-jail-decarceration-in-your-community/step-5-build-locally-tailored-policy-solutions/establish-warrant-grace-periods-for-failure-to-appear>

⁴ See, Mich. Comp. Laws 764.3 (Michigan); Nev. Rev. Stat. 484A.780 (Nevada); and N.Y. Crim. Pro. 510.50 (New York)

In closing, we support this sensible reform, as well as the amendments proposed by NYU's Policing Project to strengthen this measure. Please pass **H.B. 1602**.

Sincerely,

Carrie Ann Shirota

Policy Director
ACLU of Hawai'i
cshirota@acluhawaii.org

The mission of the ACLU of Hawai'i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai'i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai'i is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawai'i has been serving Hawai'i for over 50 years.

<https://www.prisonpolicy.org/blog/2023/08/15/fta/>

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TESTIMONY IN SUPPORT OF HB 1602

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

FROM: Nikos Leverenz
Grants & Advancement Manager

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

Hawai'i Health & Harm Reduction Center (HHHRC) **strongly supports** HB 1602, which authorizes a 48-hour grace period after a missed initial court appearance.

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.](#)] This bill amends pretrial practices in manner that addresses the needs identified by 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.

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-1602

Submitted on: 2/22/2024 1:04:43 PM

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

Submitted By	Organization	Testifier Position	Testify
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. Those of limited or no economic means and those with behavioral health challenges often need the assistance of others to make appointments of all kinds, including those related to medical care.

With the continued criminalization of poverty and behavioral health problems resulting in perennially overcrowded jails, policymakers should consider more far-reaching reforms to reduce the burden of the criminal legal system on those from under resourced communities.

Warehousing individuals who would be better served by the provision of safe and stable housing, medical care, and social services is not a judicious use of public revenues.

Mahalo for the opportunity to provide testimony.

HB-1602

Submitted on: 2/20/2024 10:36:17 PM

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

Submitted By	Organization	Testifier Position	Testify
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 HB1602, which authorizes a 48-hour grace period after a missed initial court appearance.

Similar to instances in community health, many people face structural barriers to make appointments, whether medical, or in this context, judicial. Oftentimes, these barriers transportation, lack of caregiving for children or elders, and others related to low socioeconomic status. This bill thus reduces the burden on our most underresourced communities and allows for them to better participate in court proceedings.

Mahalo for your consideration.

Thaddeus Pham (he/him)

HB-1602

Submitted on: 2/21/2024 12:37:27 AM

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

Submitted By	Organization	Testifier Position	Testify
Greg Misakian	Individual	Oppose	Written Testimony Only

Comments:

I oppose HB1602.

Gregory Misakian

Kokua Council, 2nd Vice President

Waikiki Neighborhood Board, Sub-District 2 Vice Chair

HB-1602

Submitted on: 2/21/2024 10:22:08 AM

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

Submitted By	Organization	Testifier Position	Testify
Carolyn Eaton	Individual	Support	Written Testimony Only

Comments:

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

My name is Carolyn Eaton and I voice strong support for this measure. Arrests for minor infractions have resulted in over incarceration, incarceration of people better supported in the community than thrown in with serious offenders. Please consider this measure for positive reform.

Mahalo for your hard work,

Carolyn Eaton