



**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. 1604, H.D. 1, RELATING TO CRIMINAL JUSTICE REFORM.

**BEFORE THE:**

SENATE COMMITTEE ON JUDICIARY

**DATE:** Thursday, March 21, 2024                      **TIME:** 10:01 a.m.

**LOCATION:** State Capitol, Room 016 and Videoconference

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

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Chair Rhoads and Members of the Committee:

The Department of the Attorney General (Department) provides the following comments with suggested amendments.

The purpose of this bill is to allow courts to order a defendant, before trial, to undergo a substance abuse assessment and participate in any necessary treatment. Additionally, this bill prohibits the arrest and parole revocation of a parolee based solely upon one positive test for drug use.

The Department is concerned with the new sections proposed to be added to chapters 805 and 806, Hawaii Revised Statutes (HRS), by section 2 (page 2, line 12, to page 3, line 2) and section 3 (page 3, lines 3-13), respectively, of this bill. Chapters 805 and 806 govern the criminal procedures utilized within the District and Circuit Courts. However, the new sections proposed to be added by sections 2 and 3 of this bill appear to be misplaced in chapters 805 and 806, because pretrial orders for substance abuse assessment and treatment are not matters of criminal procedure, but rather conditions of bail, recognizance, or supervised release. While the new sections proposed by sections 2 and 3 allow for pretrial orders for treatment, they do not connect those orders with conditions of bail. It is important to note that section 804-7.1(7), HRS, "Conditions of release on bail, recognizance, or supervised release," already includes an option for a court to require a defendant to seek treatment for drug or alcohol dependency as a condition of bail, recognizance, or supervised release. Because the courts already have

the authority to order substance abuse assessment and necessary treatment under other existing statutes, the Department recommends that sections 2 and 3 of this bill be deleted.

Additionally, for purposes of clarity and comprehension, the Department would suggest revising the wording of the proposed amendment to subsection (b) of section 353-66, HRS, by section 4 (page 3, lines 17-21), to read as follows:

(b) No parole shall be revoked and no credits forfeited without cause, which cause must be stated in the order revoking the parole[;] or forfeiting the credits. But such revocation or forfeiture shall not be based solely upon the parolee having one positive test for unprescribed or illegal drug use. A parole revocation hearing may take place after notice to the ~~[paroled prisoner]~~ . . . .

Thank you for the opportunity to submit our comments and suggested amendments on this matter.



**HB1604 HD1**  
**RELATING TO THE HAWAII STATE PLANNING ACT**  
Senate Committee on Water and Land

March 21, 2024

1:15 PM

Conference Room 229

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The Office of Hawaiian Affairs (OHA) **SUPPORTS HB1604 HD1** which would allow the court to order a defendant to undergo a substance abuse assessment and participate in necessary treatment and prohibits the revocation of parole or arrest of a parolee for one positive test for drug use. **Criminal justice reform is critical to the health and well-being of Native Hawaiians.**

In 2010 OHA, with the directive of the Legislature of the State of Hawai‘i, completed a report on the disparate impacts of the criminal justice system on Native Hawaiians. The key findings of this report indicated that Native Hawaiians are more likely to receive a prison sentence than any other group, receive longer prison sentences and serve longer probation terms than most other racial or ethnic groups, are more likely to be incarcerated for drug offenses, and bear a disproportionate burden of punitive responses to drug use despite Native Hawaiians not using drugs at a widely dissimilar rate to other ethnic groups.<sup>1</sup> One of the key barriers to equity for Native Hawaiians in the criminal justice system is the discretionary nature of minimum sentence setting and release determinations set by the Hawai‘i Paroling Authority (HPA).<sup>2</sup> Specifically, OHA found that “[t]he real determination of sentence appears to be not set by a judge, but by the [HPA] which people that come into contact with the system see as arbitrary criteria.”<sup>3</sup>

Many individuals facing criminal charges also struggle with substance abuse. Even with the best intentions to achieve sobriety, individuals may encounter momentary lapses that can be overcome with treatment rather than revocation of parole. This measure, in allowing the court to order a defendant to undergo a substance abuse assessment and treatment, as part of the pre-trial process, would allow people to receive necessary treatment early on and reduce the long-term impacts of untreated substance abuse. HB1604 HD1 addresses addiction and the criminal justice system.

OHA appreciates the opportunity to testify on **HB1604 HD1** and urges the Legislature to **PASS** this measure. Mahalo nui for the opportunity to testify on this important issue.

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<sup>1</sup>OHA, *The Disparate Treatment of Native Hawaiians in the Criminal Justice System*, September 29, 2010, p. 10-12.

<sup>2</sup> *Id.* at p. 12.

<sup>3</sup> *Id.*



**HB1604 HD1**  
RELATING TO THE HAWAII STATE PLANNING ACT  
Senate Committee on Water and Land

JOSH GREEN, M.D.  
GOVERNOR  
KE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I  
**HAWAII PAROLING AUTHORITY**  
*Ka 'Ākena Palola o Hawai'i*  
1177 Alakea Street, First Floor  
Honolulu, Hawaii 96813

EDMUND "FRED" HYUN  
CHAIR

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CAROL K. MATAYOSHI  
MEMBERS

COREY J. REINCKE  
ACTING ADMINISTRATOR

No. \_\_\_\_\_

TESTIMONY ON HOUSE BILL 1604, HD1  
RELATING TO CRIMINAL JUSTICE REFORM

by  
Edmund "Fred" Hyun, Chair  
Hawaii Paroling Authority

Senate Committee on Judiciary  
Senator Karl Rhoads, Chair  
Senator Mike Gabbard, Vice Chair

Wednesday, March 21, 2024, 10:01 a.m.  
State Capitol Conference Room 415 and Via Video Conference

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

The Hawaii Paroling Authority (HPA) OPPOSES House Bill (HB) 1064 HD1, which would undermine the ability of the HPA and its parole officers to properly supervise convicted felons in the community and protect public safety. HPA's practice is to exhaust all social services and community-based treatment programs available to the parolee before considering a parole warrant/retake.

We find that this measure addresses the exception more than the rule. For the period of January 2023 through February 2024 there were 278 warrants/retakes issued and four were for one time drug use noted on the warrant, but other violations are documented in the supervision report presented to the board after adjudication. Although there were previous violations (not noted on warrant) this practice allows the parole officer to use professional discretion to continue working with the parolees, especially those with housing, family, and/or employment concerns.

In the four rare instances noted above, when a parolee is retaken due to a single drug use, it has been determined that their public safety risk to themselves and others outweighs their amenability to rehabilitative efforts in the community at that time.

Additionally, there are times a parolee will refuse to cooperate with any community-based treatment and/or social services.

Lastly, HPA is not the cause of any severe overcrowding in state correctional facilities, nor the alleged "skyrocketing rates" as drafted.

Thank you for the opportunity to present testimony on HB 1604 HD1. We will be available for any questions.

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H.B. No. 1604, HD1: RELATING TO CRIMINAL JUSTICE REFORM

Chair Karl Rhoads  
Vice Chair Mike Gabbard  
Honorable Committee Members

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

A significant number of people charged with crimes struggle with drug addiction. While maintaining sobriety is the goal, it is expected that those in the throes of addiction will stumble and use. When judges make sobriety and drug testing a condition of their release—be it pretrial, on probation, or even on parole—the threat of losing their liberty and going to jail or prison looms large.

This bill acknowledges the realities of addiction and the criminal legal system. It recognizes the need for pretrial, probation, and parole officers have to be flexible when it comes to monitoring those in the throes of substance abuse. Addiction is a struggle and maintaining sobriety can be a nearly impossible task for many people. If someone is—but for their drug use—otherwise law abiding, this bill ensures that they will not immediately return to prison the first time around. It is a step in the right direction.

Instead of costing the State more money to jail and imprison someone for using drugs, money should be spent on social services, housing, and other treatment options.

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

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**THE HONORABLE KARL RHOADS, CHAIR  
THE HONORABLE MIKE GABBARD, VICE CHAIR  
SENATE COMMITTEE ON JUDICIARY  
Thirty-Second State Legislature  
Regular Session of 2024  
State of Hawai'i**

March 21, 2024

**RE: H.B. 1604, H.D. 1; RELATING TO CRIMINAL JUSTICE REFORM.**

Chair Rhoads, Vice Chair Gabbard, and members of the Senate Committee on Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony, **opposing-in part** H.B. 1604 H.D. 1.

H.B. 1604 H.D. 1 amends H.R.S. Chapters 805 and 806 to provide court-ordered substance abuse assessment and treatment at any time before trial. The bill also prohibits revocation of parole, or the arrest of a parolee, predicated only on the defendant having one positive drug test.

The Department takes no position on the amendments to HRS Chapters 805 and 806, but would clarify that the courts already have discretion to order substance abuse assessment and treatment. Before trial, the court may require substance abuse assessment and treatment.<sup>1</sup> Likewise, the court may order defendants on probation or deferral (i.e., after conviction or plea) to undertake and complete substance abuse assessment and treatment.<sup>2</sup>

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<sup>1</sup> H.R.S. § 804-7.1(7) (West, Westlaw through Act 1 of the 2024 Regular Sessions) ("Upon the defendant's release on bail, recognizance, or supervised release, however, the court may enter an order [r]equiring the defendant to seek and maintain mental health treatment or testing, including treatment for drug or alcohol dependence, or to remain in a specified institution for that purpose.").

<sup>2</sup> *Id.* § 706-624(2)(j). *See also* H.R.S. § 706-624(1)(a)(mandatory requirement to refrain from committing state or federal crime); § 706-624(2)(h)(discretionary order to refrain from alcohol or drug consumption); § 706-624(2)(l)(discretionary order requiring periodic urinalysis or other similar testing); § 706-624(2)(q) (discretionary order permitting searches for illicit substances); § 853-1(b) (permitting court to impose any authorized probationary conditions during a deferral period).

The Department opposes the amendments in H.R.S. § 353-66 in Section 4 of H.B. 1604 H.D. 1. This removes any assessment of individual characteristics and parole violation history. The Hawaii Paroling Authority (HPA) uses an evidence-based risk/needs assessment to first determine offenders' risks and needs and then implement supervision strategies addressing high-risk behaviors. HPA is best able to determine if a parolee represents a continuing threat to public safety following a positive drug test result.

For example, a sex-offender parolee convicted for sexually abusing several minors may have an offending pattern of using methamphetamine with his victims as a "grooming" method. Initial assessment might classify him as medium-risk for recidivism. After facing parole revocations for unauthorized contact with minors, he may then test positive for methamphetamine. This positive drug test would now reclassify him as high-risk for reoffending. The proper response would be to remove him from the community as quickly as possible. Only the parole officer would know that this single violation was not innocuous, when taking the defendant's history and current behavior into consideration.

H.R.S. § 353-66 also requires HPA to revoke parole for a drug violation if it determines the parolee cannot benefit from any substance abuse treatment program outside a correctional facility.<sup>3</sup> For example, a parolee may have been initially sentenced to probation, receiving incarceration only after repeatedly absconding from treatment or committing new offenses. Under those circumstances, HPA might reasonably conclude that the parolee must receive drug treatment within the correctional facility.

These amendments remove discretion from the parole officer and HPA to assess the individual facts and circumstances surrounding a particular drug violation. Any parolee facing revocation based on a drug violation receives notice and an opportunity to be heard.<sup>4</sup> So basic principles of procedural due process already safeguard the parolee's interest when facing revocation. But the procrustean rule introduced by these amendments would substantially jeopardize the public interest.

Thank you for the opportunity to present testimony on H.B. 1604 H.D. 1.

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<sup>3</sup> H.R.S. § 353-66(f) ("If the paroled prisoner fails to complete the substance abuse treatment program or the Hawaii paroling authority determines that the paroled prisoner cannot benefit from any substance abuse treatment program, the paroled prisoner shall be subject to revocation of parole and return to incarceration.").

<sup>4</sup> *Id.* § 353-66(b).



# COMMUNITY ALLIANCE ON PRISONS

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## COMMITTEE ON JUDICIARY

Senator Karl Rhoads, Chair

Senator Mike Gabbard, Vice Chair

Thursday, March 21, 2024

Room 016 & Videoconference

10:01 AM

## **STRONG SUPPORT FOR HB 1604 HD1**

Aloha Chair Rhoads, Vice Chair Gabbard, and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies in Hawai`i for almost thirty years. This testimony is respectfully offered on behalf of the 3,842 Hawai`i individuals living behind bars<sup>1</sup> and under the “care and custody” of the Department of Corrections and Rehabilitation of March 11, 2024.

We are always mindful of the 858 men who are serving their sentences abroad (44% of the male prison population of 1,964) 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 1604 HD1** that acknowledges the realities of addiction and the criminal legal system. It recognizes the need for pretrial, probation, and parole officers to be more flexible when it comes to monitoring drug use. Instead of costing the State more money to jail and imprison someone for using drugs, money should be spent on social services, housing, and other treatment options.

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<sup>1</sup> DPS/DCR Weekly Population Report, March 11, 2024.

<https://dcr.hawaii.gov/wp-content/uploads/2024/03/Pop-Reports-Weekly-2024-03-11.pdf>

As of February 12, 2024, there were 314 persons imprisoned for parole violations in HI and AZ (8% of the total incarcerated population). There were also 317 persons imprisoned for probation violations in Hawai`i (8%). Together, the people serving time for parole and probation violations total 631 imprisoned persons (more than 16% of the total incarcerated population). These folks are serving time NOT FOR A NEW CRIME, but for a technical violation. We need to reform parole!

Community Alliance on Prisons participated in Hawai`i's Sequential Intercept Model (SIM)<sup>2</sup>, 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.

This bill amends parole practices in a manner that addresses the needs identified by the report.

We did a quick scan of the web and it seems that many jurisdictions do not revoke on the first positive drug test, however, experience informs that it totally depends on the parole officer. We know of people who chose to go back to prison and serve out their maximum sentences. This should indicate that something is very wrong at parole.

Let's practice aloha and help our friends and neighbors, who may be struggling with addiction, find a positive path forward.

*To err is human; to forgive is divine.*

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<sup>2</sup> 2024 O`AHU SEQUENTIAL INTERCEPT MODEL, Hawai`i Health & Harm Reduction Center  
[https://www.hhhrc.org/\\_files/ugd/960c80\\_57295252137446ef9002b9db1e8c8deb.pdf](https://www.hhhrc.org/_files/ugd/960c80_57295252137446ef9002b9db1e8c8deb.pdf)



## HB1604 HD1 Pre-trial Court can order Substance Abuse Assessment and Tx

COMMITTEE ON JUDICIARY

Senator Karl Rhoads, Chair

Senator Mike Gabbard, Vice Chair

Thursday, Mar 21, 2024: 10:01 : Room 016 Videoconference

### Hawaii Substance Abuse Coalition supports HB1604 HD1:

*ALOHA CHAIRS, VICE CHAIRS, AND DISTINGUISHED COMMITTEE MEMBERS. My name is Alan Johnson. I am the current chair of the Hawaii Substance Abuse Coalition (HSAC), a statewide organization for substance use disorder and co-occurring mental health disorder treatment and prevention agencies and recovery-oriented services.*

Ordering substance abuse assessments and treatments during pretrial is essential for Courts to best determine appropriate course of action<sup>1</sup>:

- Providing **effective services at this early stage of involvement can result in heightened motivation** to seek treatment and decreased recidivism.
- **Treatment has been credited with helping to reduce criminal behavior** and so it should be a higher priority in the criminal justice system at the pretrial stage.
- **The challenge will be to expedite the process so as not to cause significant disruption and delays** related to their arrest. Also, pretrial people in treatment will need more motivation than pre-sentencing offenders.

**Successful completion of the treatment and reduced sentences can mitigate the pressure of overcrowded jails and prisons.**

### Recommendations:

- An increasingly common condition is a **pretrial supervision agency or probation department that monitors compliance** during release to participate in some form of treatment. Should the individual fail to comply with the conditions of release, he or she can be returned to jail for detention prior to trial.
- Not revoking probation for one positive drug test is a good step, provided the probation or parole officer has some discretion depending on circumstances.

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<sup>1</sup> Substance Abuse and Mental Health Services Administration (US); 2005. Substance Abuse Treatment: For Adults in the Criminal Justice System [Internet]. Rockville (MD): (Treatment Improvement Protocol (TIP) Series, No. 44.) 7 Treatment Issues in Pretrial and Diversion Settings. Available from: <https://www.ncbi.nlm.nih.gov/books/NBK572952/>

- Ideally, **judges should mandate as a condition of release that offenders receive treatment within 24 hours.**
- Effective pretrial and diversion programs are the next topic: the staff resources, training, coordination, program components and procedures.

We appreciate the opportunity to provide testimony.



## TESTIMONY FROM THE DEMOCRATIC PARTY OF HAWAII

COMMITTEE REFERRAL: JDC

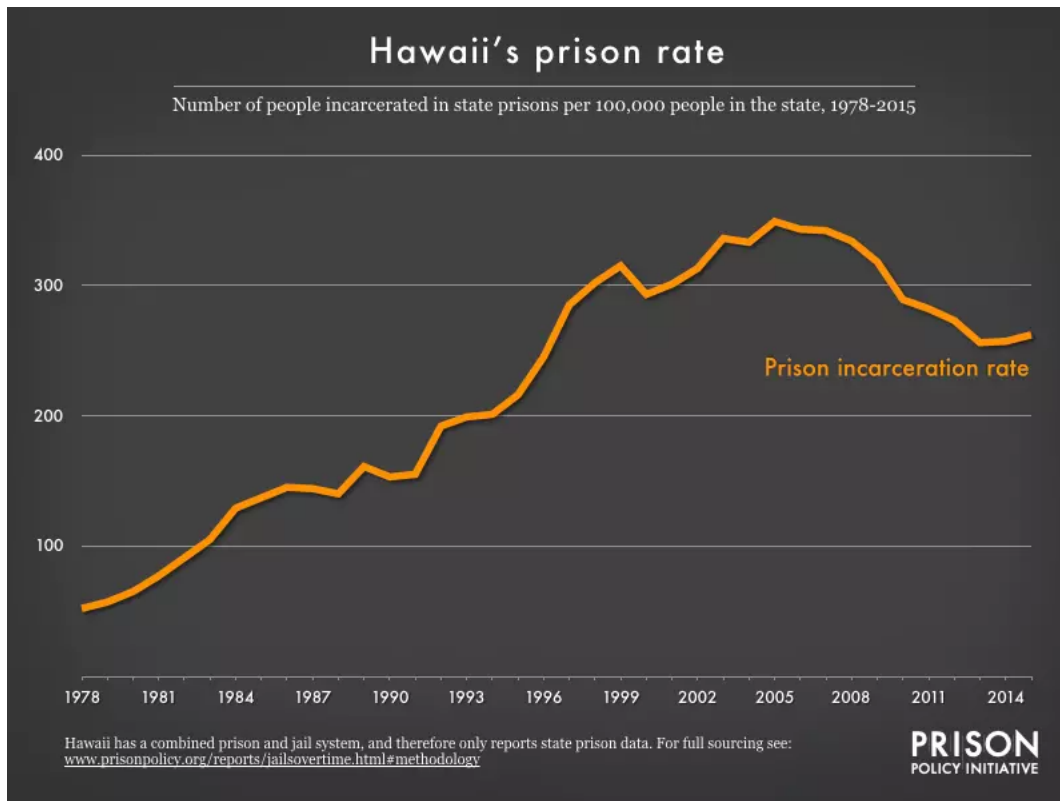
MARCH 21, 2024

HB 1604, HD1, RELATING TO CRIMINAL JUSTICE REFORM

POSITION: SUPPORT

The Democratic Party of Hawai'i **supports** HB 1604, HD1, 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.”

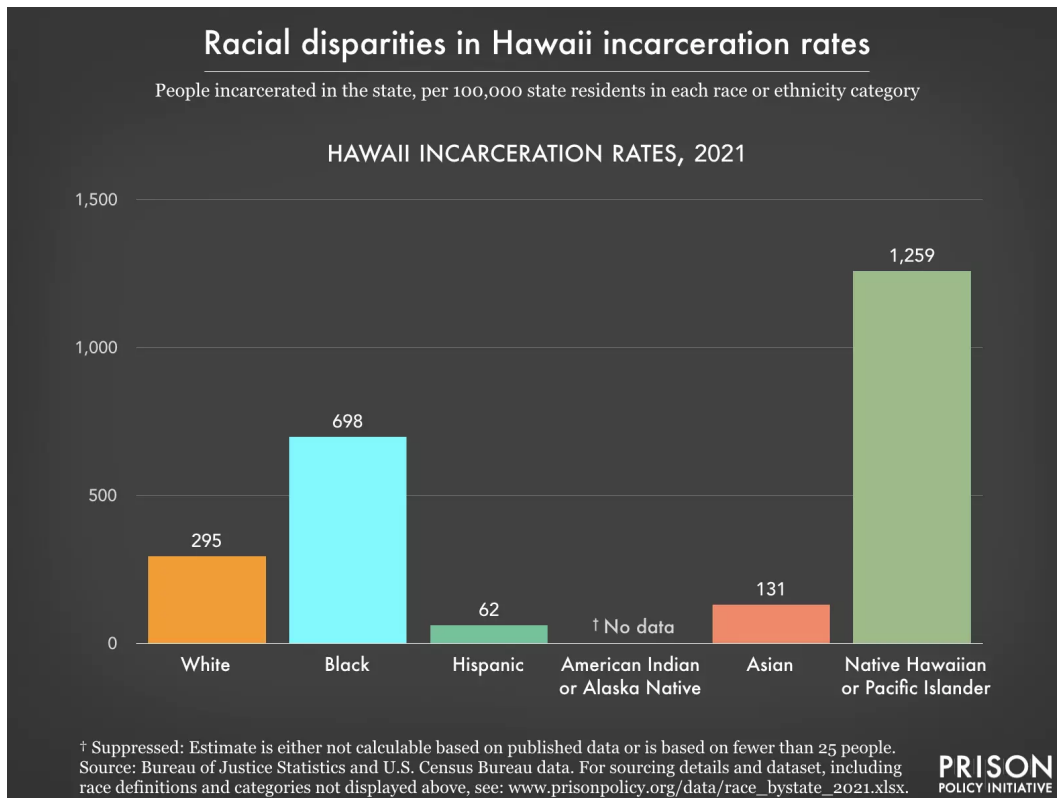
Hawai'i has approximately 5,100 inmates, hundreds of whom are incarcerated overseas, away from their families and homeland. The Prison Policy Initiative has found that our incarcerated population has grown dramatically since the 1970s and far surpasses that of the international community, with the islands 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 redirection of funds used for arresting a parolee who has tested positive for drug use to reinvestments in employment, housing, social services, and treatment programs that more effectively reduce recidivism.** It is time to invest in restoration, rather than incarceration. Let's build people, not our penal system.

Mahalo nui loa,

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# Opportunity Youth Action Hawai‘i

March 21, 2024

Senate Committee on Judiciary

Hearing Time: 10:01 AM

Location: State Capitol Conference Room 16

Re: HB1604, HD1, Relating to Criminal Justice Reform

Aloha e Chair Rhoads, Vice Chair Gabbard, and members of the Committee,

On behalf of the Opportunity Youth Action Hawai‘i hui, we are writing in **support** of HB1604, HD1, relating to criminal justice reform. This bill allows the court to order substance abuse assessment and treatment. It prohibits the arrest of a parolee, or the revocation of parole, solely due to the defendant having one positive test for drug use.

The use of alcohol and illicit substances by parolees is often rooted in complex issues of addiction, rather than a deliberate choice to disregard the law or terms of parole. Subjecting a parolee to arrest and potential revocation of community supervision is disruptive to their overall efforts and progress in re-integrating into their community. HB1604, HD1 recognizes that recovery from a substance abuse disorder is a process, often marked by challenges and setbacks. A positive drug test should be viewed as an indication of the need for further support and treatment, rather than an automatic trigger for punitive measures. This approach aligns with best practices in public health and substance abuse treatment, which advocate for patience, support, and evidence-based interventions in the journey towards recovery.

Further, treatment and support for substance abuse have shown to be more cost-effective and beneficial to society than incarceration. The State of Hawai‘i currently spends \$253 per day, or \$92,345 per year, to incarcerate just one individual. This bill reflects the legislature’s belief that, rather than spending funds to arrest a parolee who has tested positive for drug use and holding a hearing on whether parole should be revoked, funds should instead be reinvested in employment, housing, social services, and community-based treatment programs that more effectively reduce recidivism.

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 HB1604, HD1.**

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





Committee: Judiciary  
Hearing Date/Time: Thursday, March 21, 2024, at 10:00am  
Place: Conference Room 016 & Via Videoconference  
Re: *Testimony of the ACLU of Hawai'i in SUPPORT of HB1604 HD1  
Relating to Criminal Justice Reform*

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

The ACLU of Hawai'i **supports HB1604 HD1**, which allows the court to order the substance abuse assessment and treatment of a defendant before trial and prohibits the revocation of parole or arrest of a parolee solely due to the parolee having one positive drug test.

First, it's worth noting that parole technical violations contribute to mass incarceration. <https://www.aclu.org/publications/aclu-and-hrw-report-revoked-how-probation-and-parole-feed-mass-incarceration-united-states>

Second, the Hawai'i Paroling Authority (HPA) continues to oppose the Legislature's attempts to enact data-driven reforms to reduce revocations for technical violations under parole supervision.

#### **SB 2515 Relating to Parole Reform**

[https://www.capitol.hawaii.gov/session/archives/measure\\_indiv\\_Archives.aspx?billtype=SB&billnumber=2515&year=2022](https://www.capitol.hawaii.gov/session/archives/measure_indiv_Archives.aspx?billtype=SB&billnumber=2515&year=2022)

#### **HPA Testimony in Opposition to SB 2515 (2022)**

[https://www.capitol.hawaii.gov/sessions/Session2022/Testimony/SB2515\\_TESTIMONY\\_PSM\\_02-03-22\\_.PDF](https://www.capitol.hawaii.gov/sessions/Session2022/Testimony/SB2515_TESTIMONY_PSM_02-03-22_.PDF)

SB2515 included salient findings that are relevant today in 2024:

- The legislature also finds that based on weekly population reports, typically one-fourth of all jail and prison admissions in Hawaii are the result of probation or parole technical violations, which are violations of the terms of legal supervision, other than the commission of certain crimes.
- Technical violations include: missing an appointment with a parole officer; working at a job during times that extended past curfew; using alcohol or drugs; failing to report a change in address; or associating with another person under legal supervision, even if that other person had no involvement in the defendant's crime.

- According to *Confined and Costly: How Supervision Violations are Filling Prisons and Burdening Budgets*, June 2019, a report of the Council of State Governments Justice Center, in 2017 fifty-three per cent of all prison admissions in the State were the result of technical violations.
- According to the Hawaii Paroling Authority's 2020 Annual Statistical Report for fiscal year 2020, three hundred twenty-one of the three hundred ninety-four parole revocation hearings held resulted in the revocation of parole and the parolee's return to prison. **Significantly, all the three hundred twenty-one reincarcerated persons had committed technical violations of parole, meaning none of the violations were the result of new felony convictions.**

Despite our support for this incremental reform measure under **HB1604 HD1**, we urge this Legislative body to consider numerous data-driven strategies to improve our parole system and reduce technical revocations as outlined in SB2515 Relating to Parole (2022), now and into the future.

In addition to prohibiting the revocation of parole supervision for positive tests for drug use alone, we urge the Legislature to provide resources to make substance use treatment available on demand - and remove barriers to treatment such as health care insurance, lack of treatment space and wait lists to get into treatment programs.

We also require greater investments in reintegration programs and services while people are in jail and prison and a continuum of care into the community to enhance opportunities for success.

In closing, HB1604 HD1 is an incremental step forward in acknowledging that substance use is a public health issue that should be addressed with public health strategies - not more time in our jails and prisons where drugs are still available, and treatment is limited.

Sincerely,

**Carrie Ann Shirota**

Carrie Ann Shirota

Policy Director

ACLU of Hawaii

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

*The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii 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 Hawaii has been serving Hawaii for over 50 years.*

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**HB-1604-HD-1**

Submitted on: 3/19/2024 2:43:03 PM

Testimony for JDC on 3/21/2024 10:01:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Earl Everett	Individual	Oppose	Written Testimony Only

Comments:

HB No. 1604 H.D. 1

I'm Strongly Opposed to this Bill

The proposed Bill for an Act, relating to Criminal Justice Reform, prohibits revocation of parolees based on 1 positive drug use.

This bill is flawed and should be deferred. The bill creates barriers to rehabilitation service for parolees in the community. It does not consider parolee's criminogenic risk factors for change. It minimizes the harm and dangerousness that parolee present to community when parolees are not forthcoming with PO on their illicit drug use. It does not take in to account parolees repeated illicit drug use on their 1st drug screen.

HB 1604 H.D.1. Creates barriers to rehabilitation for parolees. The Hawaii Paroling Authority is an institution of change. It gives the parolee an opportunity to replace old behaviors (anti-social, illicit drug use, and pro-criminal attitude/ conduct/ behaviors) that led to their initial incarceration with new pro-social behaviors (pro-social network and activities) for change. For change to occur, parolees must be vested in their rehabilitation programs and demonstrate they are capable of following rules. When a parolee becomes resistant to change and begins to deviate from the parole rules, Parole Officers must have the capacity to act to reduce the immediate threats posed to public safety and community. They must be able to hold parolees accountable, re-direct offenders into the community programming, and even arrest parolee on 1st drug offense when become clear to them that parolee presents a clear danger to self and others through aggressive and violent behaviors, anti-social and pro-criminal attitude, conduct, behaviors, compounded with illicit drug use.

HB 1604 H.D.1. Does not consider parolee's criminogenic risk factors for change. When a parolee becomes non-compliant with their parole order, Parole Officers are always evaluating, re-evaluating, and mitigating paroled prisoner situations to reduce criminal risk factors while

promoting rehabilitation outcomes in the community. However, this bill does neither and instead proposes to prohibit Parole Officer from revoking the parole of parolees on 1st positive drug screens. You don't lower the standards to improve the success rate because people can't meet the benchmark standard. There is a reason why the standard is there in the first place, and this is for the good governance of Rehabilitation Services, Public Safety, and protection of the Community.

Parole Officers utilizes the RNR (Risk, Needs, Responsivity) principles to determine a Parole Officers response to a parolee's parole violation. For each parole violation, a Parole Officer will evaluate parolee's risk levels in the community, required level of intervention needed, and person commitment/ motivation for successful outcomes. The RNR principle suggests a parolee with low Risk, low Needs, and high Responsivity (commitment/ motivation) towards pro-social changes are more likely than not to have successful outcomes on parole supervision.

HB 1604 H.D.1. Does not consider parolees repeated drug use prior to parolee's 1st positive drug screen. I have witness parolees attempt to defeat their drug screen test using a wizzinaters, synthetic urine, and other person's urine. In one instance, a parolee went 6 months using methamphetamine before he was caught tampering with his urinalysis test. This bill will further enable the wrong behavior among parolees to tamper with their urine drug screens, incentivize parolee to use illicit drugs, and encourage parolee to refuse participation in substance abuse recovery service after a drug relapse knowing there will be no consequences.

#### CONCLUSION:

Please make your vote count and vote NO to Bill for Act Relating to Criminal Justice Reform.

This bill impedes Hawaii Paroling Authority, Parole Officers from doing their job. This bill does not consider the heightened criminogenic risk factors it poses to Rehabilitation Services, Public Safety, and the Community.

Final thoughts - You don't lower your standards because people can't rise to that benchmark standard. These rules are there to maintain the good governance between Rehabilitation Services, Public Safety, and the Community.

Mahalo!

Earl Everett, Senior Parole Officer



**HB-1604-HD-1**

Submitted on: 3/18/2024 9:55:39 AM

Testimony for JDC on 3/21/2024 10:01:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Brendan Ajolo	Individual	Oppose	Written Testimony Only

Comments:

Oppose this bill

**HB-1604-HD-1**

Submitted on: 3/18/2024 11:01:01 AM

Testimony for JDC on 3/21/2024 10:01:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Jonathan Aronce	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose HB1604 HD1. Prohibiting the Paroling Authority from revocation of parole solely due to one positive drug test could compromise public safety. As a citizen of this community I should have the right to feel safe in my community. This bill may undermine the efforts to rehabilitate parolees and address substance abuse issues. Implementing HB 1604 could introduce legal and administrative challenges for the Paroling Authority. Lawmakers need to engage in dialogue with the Paroling Authority and other stakeholders to address the issues. I strongly suggest the lawmakers reconsider this proposed law.

**HB-1604-HD-1**

Submitted on: 3/18/2024 4:30:41 PM

Testimony for JDC on 3/21/2024 10:01:00 AM

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

Comments:

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

As a public health professional and concerned citizen, I write in **STRONG SUPPORT** of HB1604 HD1, which would, in part, prohibit the arrest of a parolee, or the revocation of parole, solely due to the defendant having 1 positive test for drug use.

Our jails are unnecessarily crowded with people with low-level defendants with single instance of positive drug use. This crowding causes our local communities to bear the economic and public health costs.

Please ensure passage of this bill so that the state may relieve undue burden on local families.

Mahalo,

Thaddeus Pham (he/him)



**HB-1604-HD-1**

Submitted on: 3/19/2024 8:14:09 AM

Testimony for JDC on 3/21/2024 10:01:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Michael EKM Olderr	Individual	Support	Written Testimony Only

Comments:

I support this bill. Substance Abuse, and the journey to getting clean is a messy and neverending battle filled with wins and losses. We shouldn't punish those who fall off the wagon but offer them support to keep going. Please pass this bill.

**HB-1604-HD-1**

Submitted on: 3/19/2024 8:41:50 AM

Testimony for JDC on 3/21/2024 10:01:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Carolyn Eaton	Individual	Support	Written Testimony Only

Comments:

Aloha, Chair Rhoads, Vice Chair Gabbard and members of the Committee,

My name is Carolyn Eaton and I live in Honolulu. I am very happy to support this bill, an excellent example of diversion! If a defendant can receive assessment and treatment of a possible substance abuse disorder before trial, it can, and likely will, make a huge difference in life outcome for the individual.

Mahalo for your hard work and serving to advance this and other justice reform bills upon which my great hope is riding.

**HB-1604-HD-1**

Submitted on: 3/19/2024 12:21:41 PM

Testimony for JDC on 3/21/2024 10:01:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Adrienne Boxer	Individual	Oppose	Written Testimony Only

Comments:

Please accept this testimony as my strong opposition to HB 1604. The focus of this bill does not address the public safety component that is involved in the supervision of a paroled prisoner.

**HB-1604-HD-1**

Submitted on: 3/19/2024 3:41:28 PM

Testimony for JDC on 3/21/2024 10:01:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Daphne Barbee	Individual	Support	Written Testimony Only

Comments:

Dear Representatives,

Please support this bill. As a practicing attorney I have seen firsthand what happens when a person's parole has been revoked based upon 1 positive drug test. This happened to one of my clients and he was placed back into Halawa Prison. He was returned to prison for 3 years based upon that one test. He had a job, and was beginning to get his life together to become more adjusted. He is now incarcerated. Sometimes the test can be incorrect. In Drug Court, many people did not have to return to prison with 1 positive drug test. They were instead referred to more counseling and monitoring. Please support this law which gives people hope. Thank you.

Daphne Barbee-Wooten, Atty.

**HB-1604-HD-1**

Submitted on: 3/20/2024 8:15:26 AM

Testimony for JDC on 3/21/2024 10:01:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Colleen Rost-Banik	Individual	Support	Written Testimony Only

Comments:

Aloha committee members,

My name is Colleen Rost-Banik. I am a resident of Honolulu and a Sociology Instructor at the University of Hawaii, Manoa. I have also taught college courses within the Women's Community Correctional Center. I ask for your support of HB 1604 which both realizes that people sometimes relapse in their efforts toward sobriety and offers people another chance in their parole so that they do not end up back in prison.

In working with women at WCCC, I have heard many stories about how difficult reentry is. Resocializing into life outside of prison takes much effort and many community resources. However, many people don't have adequate community resources to smoothly reenter, making it even easier to fall back into old habits of drug use. Putting people back in prison rather than using a relapse as a signal that additional help is needed is short-sighted. We can and need to do better in assisting people toward individual and community well-being.

Thank you for all you're doing to work toward the betterment of all people, including parolees struggling with the complexities of addiction.

Mahalo for your time.  
Colleen Rost-Banik, PhD