

State of Hawai‘i
The Office of the Public Defender

S.B. No. 3274: RELATING TO PROPERTY FORFEITURE

Chair Karl Rhoads
Vice Chair Mike Gabbard
Honorable Committee Members

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

Civil asset forfeiture has allowed the police and prosecutors to confiscate property based on the lowest evidentiary standard for nearly any kind of criminal offense and oftentimes before criminal charges are brought. In some cases, the State does not bring any charges, and just takes property. On top of this, the police and prosecutors get a cut of the forfeited property thereby creating a built-in financial incentive to take the property. Any other institution would declare this a conflict of interest.

Challenging forfeitures is burdensome and usually requires lawyers familiar with the statutes and posting a bond. Over the recent years, states and the federal government have changed their forfeiture laws. Changes to civil asset forfeiture laws even made its way to the Supreme Court of the United States. In one of her last opinions, Justice Ruth Bader Ginsburg wrote for a commanding majority in 2019 that the State’s seizure of property is subject to the Eight Amendment’s prohibition against excessive fines.

This bill removes the most unfair and glaring problems in our state forfeiture statute and aligns with the spirit of Justice Ginsburg’s opinion.



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

ON THE FOLLOWING MEASURE:

S.B. NO. 3274, RELATING TO PROPERTY FORFEITURE.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY

DATE: Tuesday, February 6, 2024 **TIME:** 9:45 a.m.

LOCATION: State Capitol, Room 016 and Videoconference

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Dean A. Soma, Gurudev D. Allin, Steve A. Bumanglag, or
Jennifer H. Tran, Deputy Attorneys General

Chair Rhoads and Members of the Committee:

The Department of the Attorney General (Department) offers the following comments on this bill.

This bill would restrict civil asset forfeiture to cases involving a felony offense where the property owner has been convicted of an underlying felony offense and direct forfeiture proceeds to the general fund among other related amendments to chapter 712A, Hawaii Revised Statutes (HRS).

The civil asset forfeiture program codified in chapter 712A, HRS, was originally enacted in 1988 to take the profit out of crime, deter criminality, and protect the community.

Under the current law, the initial seizure must be justified by probable cause and a showing that the property was involved in criminal activity. Notice of forfeiture is given to all persons known to have an interest in the property. Owners may contest a forfeiture or seek remission or mitigation due to extenuating circumstances. Also, forfeitures cannot be excessive – the value of the property seized may not be grossly disproportionate to the seriousness of the offense.

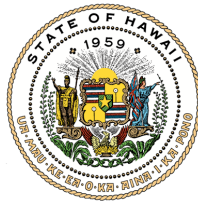
While the expressed intent of this bill is understandable, the Committee should be aware that the measures in this bill, particularly the provision restricting asset forfeiture to matters where there is a felony conviction of the property owner together

with the directing of forfeiture proceeds to the general fund are likely to undermine the operation of State's civil asset forfeiture program. Law enforcement agencies would be discouraged from proceeding with asset forfeiture under this program if this bill were to be enacted into law because their efforts would result in operating at a loss. The requirement of felony conviction of the owner prior to forfeiture would add uncertainty and delay in subjecting property to the forfeiture procedure. It would also prevent property from being subject to forfeiture where the owner did not actively participate in criminal conduct, and is thus not charged with a felony, but was nevertheless aware that the property was being used for criminal activity and permitted such use. Seized property would need to be stored and maintained for potentially very lengthy periods of time before conviction of the owner is obtained. This would add costs to the program while reducing revenue to the program.

If this bill were enacted into law, it is quite possible that the Department's civil asset forfeiture program would ultimately cease generating sufficient revenue to pay for basic administrative costs.

The Department offers this testimony so that the Committee is aware of possible issues that may arise should this become law. Thank you for the opportunity to testify.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



JORDAN LOWE
DIRECTOR

MICHAEL VINCENT
Deputy Director
Administration

JARED K. REDULLA
Deputy Director
Law Enforcement

SYLVIA LUKE
LT GOVERNOR
KE KE'ENA

STATE OF HAWAII | KA MOKU'ĀINA O HAWAII
DEPARTMENT OF LAW ENFORCEMENT

Ka 'Oihana Ho'okō Kānāwai

715 South King Street
Honolulu, Hawaii 96813

T0945-ESTIMONY ON SENATE BILL 3274
RELATING TO PROPERTY FOREFEITURE
Before the Senate Committee on Judiciary
Tuesday, February 6, 2024; 9:45 a.m.
State Capitol Conference Room 016, Via Videoconference

WRITTEN TESTIMONY ONLY

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

The Department of Law Enforcement (DLE) **opposes** Senate Bill 3274.

This bill restricts civil asset forfeiture to cases involving the commission of a felony offense where the property owner has been convicted of an underlying felony offense. This bill also eliminates any proceeds or transfer of property to the seizing agency, limits equitable sharing program for property to a federal participating agency, requires reporting requirements, and other changes to Chapter 712A, Hawaii Revised Statutes.

Civil asset forfeiture can only be used as an enforcement tool following the commission of a specified crime. The use of civil asset forfeiture is to stop ongoing criminality and serve as a deterrent to others. Additionally, the civil forfeiture law encourages property owners to exercise care in the management and use of their property by not allowing their property to be used for illegal purposes. Civil forfeiture makes sure the economic benefit of the criminal activity is not greater than the penalties. Crime without consequences will simply continue or increase.

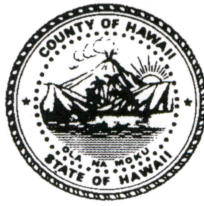
One of the major problems with the bill is the felony conviction requirement. First, the civil asset forfeiture proceeding is a civil proceeding against the property used in the commission of a crime or obtained as proceeds from the commission of a crime. It is not a proceeding against a person in a criminal prosecution. Requiring the owner to

be convicted of a crime before his or her assets are forfeited misses the point of asset forfeiture, which seeks to prevent property from being used in the commission of criminal conduct and serve as a deterrent.

Another problem with the bill is limiting civil asset forfeiture to the owner of the property, but often the owner is not the defendant in the criminal case. It is common for those engaging in criminal activities to "borrow" a vehicle or property from another which is then used in the commission of crime. There are protections in Chapter 712A for innocent owners, or owners who do not have any reason to believe their property is being used in the commission of crime. However, it is also common for people to allow someone who they know engages in crime to borrow their vehicle or property. This bill would create a situation where any loaned vehicle or property could never be forfeited even when the owner knows it is highly likely to be used in the commission of a crime. The current law applies to property owners who knowingly and blatantly allow their property to be used in the commission of a crime. To stop ongoing criminal activity, the property of these individuals should continue to be subject to the civil asset forfeiture proceeding.

Thank you for the opportunity to testify in opposition to 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 2, 2024

Senator Karl Rhoads
Chairperson and Committee Members
Committee on Judiciary
415 South Beretania Street
Honolulu, Hawai'i 96813

Dear Senator Rhoads:

RE: SENATE BILL 3274, RELATING TO PROPERTY FORFEITURE
HEARING DATE: FEBRUARY 6, 2024
TIME: 9:45 A.M.

The Hawai'i Police Department **opposes** Senate Bill 3274, with its purpose to restrict civil asset forfeiture to cases involving the commission of a felony offense where the property owner has been convicted of an underlying felony offense.

The opening comments in the proposed bill indicate law enforcement agencies can “seize and keep property based on *suspicion* that the property is connected to criminal activity.” Additional language indicates that “there is a potential incentive to improperly seize property for forfeiture, as state and county law enforcement agencies are permitted to retain all proceeds from the sale of the forfeited property.” Those statements are misleading, seem to rely on unsubstantiated information, and are an inaccurate depiction of asset forfeitures and related law enforcement action.

The purpose of asset forfeiture is to deprive offenders of any profits or proceeds gained as a result of criminal activities through the seizure of those identified profits or proceeds. It is an investigative tool that is based on thorough and often complex investigations of the criminal act(s) and the ill-gotten financial gains that are often discovered through such investigations; in short, it is more than just a level of suspicion. Through a preponderance of evidence, law enforcement must demonstrate articulable facts and circumstances which establish the nexus between the criminal offenses and the gains received.

Hawai'i Revised Statutes (HRS), Chapter 712A, which covers Forfeiture statutes, clearly details the criminal offenses for which assets can be seized (most of which are felony offenses), the types of property that can be forfeited, establishes notification and filing deadlines, and defines how property forfeited to the State is distributed. As defined in the HRS, the state or county law enforcement agency that seized the forfeited property is entitled to just one-quarter of the proceeds.

The idea that property should not be seized until someone is convicted of a felony for the underlying offense is inherently flawed, as the judicial system is a process that can take years to adjudicate. The current method of allowing agencies, before adjudication of the criminal offense, to seize property in connection with a crime often has the desired effect of, if not stopping, then at least inconveniencing those offenders from being allowed the means to continue their criminal enterprise. If we were to wait

SENATOR KARL RHOADS
CHAIRPERSON AND COMMITTEE MEMBERS
COMMITTEE ON JUDICIARY
RE: SENATE BILL 3274, RELATING TO PROPERTY FORFEITURE
FEBRUARY 2, 2024
PAGE 2

until someone is convicted of a crime before attempting to forfeit any profits or proceeds, we would in fact be allowing them to continue to victimize the community by our inaction.

Law enforcement agencies use all of the tools available to them to detect, deter, and address criminal activity as expeditiously as possible. Asset forfeiture is one of those tools that assist law enforcement in removing the profitability factor from the criminal act. Just as law enforcement is continuously seeking ways to stop criminal activity, the criminal element is constantly seeking ways to benefit from their nefarious activities. Eliminating or restricting this crucial law enforcement investigative tool will empower and embolden the criminal element to continue to commit their criminal acts without fear of financial consequences; and as an unintended result, there will be significant and detrimental impacts to our community at large.

It is for these reasons, that we urge this committee **to not support** this legislation. Thank you for allowing the Hawai'i Police Department to provide comments relating to Senate Bill 3274.

Sincerely,


BENJAMIN T. MOSZKOWICZ
POLICE CHIEF

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

STEVEN S. ALM
PROSECUTING ATTORNEY
LOIO HO'OPI'I

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
PHONE: (808) 768-7400 • FAX: (808) 768-7515 • WEBSITE: www.honoluluProsecutor.org

THOMAS J. BRADY
FIRST DEPUTY PROSECUTING ATTORNEY
HOPE MUA LOIO HO'OPI'I



**THE HONORABLE KARL RHOADS, CHAIR
SENATE COMMITTEE ON JUDICIARY**

**Thirty-Second State Legislature
Regular Session of 2024
State of Hawai'i**

February 6, 2024

RE: S.B. 3274; RELATING TO PROPERTY FORFEITURE.

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 in **opposition** to S.B. 3274.

The Department is deeply concerned that S.B. 3274 is a "solution in search of a problem," which would confuse the difference between civil and criminal proceedings, by making civil asset forfeiture proceedings reliant upon criminal convictions. Indeed, criminal proceedings and civil proceedings are separate for a reason, and they have different standards of proof for a reason. If the Legislature ever required that other civil proceedings be held to a standard of "beyond a reasonable doubt" (the standard for criminal convictions), there would likely be an uproar among civil law practitioners (including those in private practice, non-profit legal organizations, or government entities like Corporation Counsel). There is currently no civil proceeding in the State that turns on a criminal standard of proof.

If the Committee feels strongly that civil asset forfeiture must be held to a higher standard, the Department would suggest that the state of mind be increased to "clear and convincing evidence"—which we believe is the highest standard of proof used in civil law—from the current standard of "preponderance of the evidence." That said, the Department would note that "preponderance of the evidence" is actually the standard of proof used in most civil and administrative legal proceedings throughout Hawaii. While it may not be widely known, "preponderance of the evidence" is already used every day to decide matters that affect people's assets, property and livelihood. For example, the standard used by the Department of Commerce and Consumer Affairs, Commissioner of Securities, Insurance Commissioner, Commissioner of

Financial Institutions, and any board or commission attached for administrative purposes to the Department of Commerce and Consumer Affairs with rulemaking, decision making, or adjudicatory powers, is preponderance of the evidence.¹ Also, all adjudication hearings held before the Honolulu Liquor Commission,² Land Use Commission,³ the Hawaiian Homes Commission,⁴ or any other State body or agency governed by HRS Chapter 91, are decided based on preponderance of the evidence.⁵

While the Department has heard horror stories about a number of civil asset forfeiture programs on the Continental U.S., abusing their programs for their own benefit, Hawaii's forfeiture laws have always provided due process safeguards for the protection of property owners' rights, and ample statutory safeguards—including exemptions (HRS §712A-5) and a prohibition against excessive forfeitures (HRS §712A-5.5)—that some of those states are only now adding to their framework. Concerns about “innocent owners” being deprived of their property or “policing for profit” are unfounded—as safeguards for the protection of property owners' rights were codified long ago—and we would welcome the opportunity to look into any specific instances of concern (we would just need the case number or other identifying case information). That said, it is our understanding that the Department of the Attorney General did implement all or nearly all of the specific recommendations provided by the State Auditor's report in 2018 (available online at: <https://files.hawaii.gov/auditor/Reports/2018/18-09.pdf>). Since those changes were made, we are not aware of any complaints arising from a civil asset forfeiture case in Hawaii.

¹ See the definition of “Authority,” under Section 16-201-2, Hawaii Administrative Rules (“HAR”). See also HAR §16-201-21(d), which states:

(d) Except as otherwise provided by law, the burden of proof, including the burden of producing the evidence and the burden of persuasion, shall be upon the party initiating the proceeding. Proof of a matter shall be by a preponderance of the evidence.

Available online at https://files.hawaii.gov/dcca/oah/forms/oah_oah_hearings_rules.pdf; last accessed February 2, 2024.

² See Section 3-85-91.5(d), Rules of the Liquor Commission, which states:

(d) Except as otherwise provided by law, the burden of proof, including the burden of producing the evidence and the burden of persuasion, shall be upon the party initiating the proceeding. Proof of a matter shall be by a preponderance of the evidence.

Available online at https://www.honolulu.gov/rep/site/bfslq/bfslq_docs/LIQ_Rule_Book_Rev_03-2018_Print_012023.pdf; last accessed February 2, 2024.

³ See HRS §205-4(h) and (i), which state that all land use boundary decisions by the commission, and upon judicial review, shall be found “upon the clear preponderance of the evidence.” Available online at https://www.capitol.hawaii.gov/hrscurrent/Vol04_Ch0201-0257/HRS0205/HRS_0205-0004.htm; last accessed February 2, 2024.

⁴ See *Lui-Dyball v. Hawaiian Homes Commission*, Memorandum Opinion issued May 29, 2015, at page 7, which states in relevant part, “The degree or quantum of proof Section 91-10, HRS, establishes that the burden of proof in matters such as this is ‘by a preponderance of the evidence.’...not ‘beyond a reasonable doubt.’” Available online at www.courts.state.hi.us/docs/opin_ord/ica/2015/May/CAAP-12-0000572mopada.pdf; last accessed February 2, 2024.

⁵ See HRS §91-10(5), which states:

(d) Except as otherwise provided by law, the party initiating the proceeding shall have the burden of proof, including the burden of producing the evidence as well as the burden of persuasion. The degree or quantum of proof shall be by a preponderance of the evidence.

Available online at https://www.capitol.hawaii.gov/hrscurrent/Vol02_Ch0046-0115/HRS0091/HRS_0091-0010.htm, last accessed February 2, 2024.

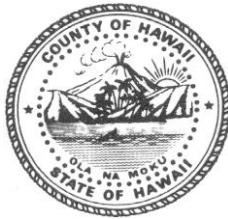
By design, Hawaii's civil asset forfeiture proceedings protect unknowing property owners and operate independently from any related criminal case, just as other civil proceedings operate independently from any related criminal case. Taking the drastic leap of tying our civil and criminal proceedings together would not only be unprecedented and unnecessary, but would frustrate and impede the very purpose of civil asset forfeiture. Under Hawaii's existing laws, civil asset forfeiture is used to immediately and effectively disrupt the infrastructure of criminal activity and protect the community from the effects of that criminal activity; on Oahu, nearly all of our asset forfeiture cases involve illegal gambling establishments.

If the concern is that the civil asset forfeiture process should be more simple, transparent or accessible for the public, or those impacted by its proceedings, that can and should be addressed in other ways, and the Department is absolutely willing to participate in stakeholder meetings that could make the system more user-friendly.

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu opposes S.B. 3274, and asks that the measure be deferred. Thank for you the opportunity to testify on this matter.

KELDEN B.A. WALTJEN
PROSECUTING ATTORNEY

STEPHEN L. FRYE
FIRST DEPUTY
PROSECUTING ATTORNEY



655 KILAUEA AVENUE
HILO, HAWAII 96720
PH: (808) 961-0466
FAX: (808) 961-8908

74-675 KEALAKEHE PARKWAY
KAILUA-KONA, HAWAII 96740
PH: (808) 322-2552
FAX: (808) 322-6584

64-1067 MAMALAHOA HIGHWAY, C-3
KAMUELA, HAWAII 96743
PH: (808) 887-3017
FAX: (808) 887-3016

OFFICE OF THE PROSECUTING ATTORNEY

TESTIMONY IN OPPOSITION TO SENATE BILL NO. 3274

A BILL FOR AN ACT RELATING TO PROPERTY FOREITURE

COMMITTEE ON JUDICIARY
Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair

Tuesday, February 6, 2023 at 9:45 a.m.
Via Videoconference
State Capitol Conference Room 016
415 South Beretania Street

Honorable Chair Rhoads, Vice-Chair Gabbard, and Members of the Committee on Judiciary. The County of Hawai'i, Office of the Prosecuting Attorney submits the following testimony in opposition to Senate Bill No. 3274 with comments.

This bill was drafted with the intention to prohibit civil asset forfeiture to cases involving the commission of a felony offense where the property owner has been convicted of an underlying felony offense, directs forfeiture proceeds to the general fund, amends the allowable expenses for moneys in the Criminal Forfeiture Fund, requires the Attorney General to adopt rules necessary to carry out the purpose of the Hawai'i Omnibus Criminal Forfeiture Act, amends the deadline for the Attorney General to report to the Legislature on the use of the Hawai'i Omnibus Criminal Forfeiture Act, limits the transfer of certain forfeiture property to federal agencies, and establishes records requirements.

In Hawai'i County, violent crime trends continue to rise as a result of the influx of illegal narcotics. Thus, narcotics addiction, including the use of methamphetamine, heroin, and fentanyl, is at an all-time high and one of the most prevalent challenges our community faces. Statistically, narcotics distribution and possession of illegal and prohibited firearms offenses constitutes the overwhelming majority of the offenses which trigger asset forfeiture in Hawai'i County and all property is seized pursuant to the strict rules and guidelines as set forth by the Attorney General.

As exhibited in the Preamble, the estimated value of property seized by Hawai'i State law enforcement has been in a steep decline over the last few years. Law enforcement agencies seized \$1,050,463 in fiscal year 2018-2019, \$963,055 in fiscal year 2019-2020, \$483,506 in fiscal year 2020-2021 and only \$412,192 in fiscal year 2021-2022. As a result, a legislative

amendment does not seem to be necessary at this time and any notion of “policing for profit” or a profit incentive appears misguided and misplaced.

Criminal enterprises generate a profit from the sale of their “product” or “services” through criminal activity. It is widely accepted and acknowledged that asset forfeiture can remove the tools, equipment, cash flow, profit, and the product itself from the criminals and criminal organizations.

Currently, proceeds from asset forfeiture are required to be used for law enforcement purposes. One suggestion would be to also incorporate the use of property and money seized for crime prevention purposes.

Our Office is unique in that we are the only county prosecutor’s office in the State, and one of a few in the country, that has its own dedicated Crime Prevention Unit (“CPU”). Our CPU is comprised of three full-time employees, a program manager and two special projects coordinators. One of the special projects coordinators has defined roles and responsibilities related to substance misuse prevention, supporting treatment services, community stakeholder collaboration, criminal justice system drug diversion, impaired driving, and promoting awareness. CPU also facilitates juvenile justice initiatives on Hawai‘i Island, which include career planning, mentoring, capacity building, and positive youth development. CPU enacts positive changes in our community by collaborating with different community leaders, stakeholders, and agencies. If funds and property seized by civil asset forfeiture were dedicated to crime prevention efforts, like CPU, they could additionally be directed toward programs which aim to prevent abuse of illegal narcotics through education, prevention, rehabilitation, and reintegration. Any re-allocation of the proceeds to the state general fund would ultimately undercut these types of deterrent efforts, defund programs and prevention priorities, as well as the portion of the funds used directly for the purpose of providing training to community stakeholders and law enforcement.

Our Office proposes to amend Hawaii Revised Statutes Section 712A-16(3) as follows, “Property and money distributed to units of state and local government shall be used for law enforcement **and/or crime prevention** purposes, and shall complement but not supplant the funds regularly appropriated for such purposes.”

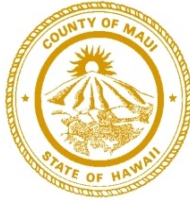
The Office of the Prosecuting Attorney, County of Hawai‘i remains committed to the cause of ensuring that any property forfeited is within the interest of justice and pursuant to the strict rules, timeframes, and guidelines as set forth by the Attorney General. Nevertheless, our Office is more than willing to participate in discussions to address any concerns related to our current civil asset forfeiture process.

For the foregoing reasons, the Office of the Prosecuting Attorney, County of Hawai‘i, opposes Senate Bill No. 3274 and submits the aforementioned comments for the Committee’s consideration. Thank you for the opportunity to testify on this matter.

RICHARD T. BISSEN, JR.
Mayor

ANDREW H. MARTIN
Prosecuting Attorney

SHELLY C. MIYASHIRO
First Deputy Prosecuting Attorney



DEPARTMENT OF THE PROSECUTING ATTORNEY
COUNTY OF MAUI
150 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
PHONE (808) 270-7777 • FAX (808) 270-7625

TESTIMONY
ON
S.B. 3274 RELATING TO
PROPERTY FORFEITURE

TO: Honorable Karl Rhoads, Chair
Honorable Mike Gabbard, Vice Chair
Senate Committee on Judiciary

FROM: Department of the Prosecuting Attorney, County of Maui

DATE: February 5, 2024

SUBJECT: **OPPOSITION TO SB 3274, PROPERTY FORFEITURE**

Thank you for the opportunity to testify in **OPPOSITION** to SB 3274 and request that it be deferred. Although we appreciate the legislature's efforts to address the issue of civil asset forfeiture reform, the bill in its current form unnecessarily hinders our efforts to reduce crime by removing incentives for engaging in criminal behavior. We oppose this measure for the following reasons:

1. This bill appears to prohibit forfeiture for any property unless the property owner has been convicted of a covered felony offense. The change would link initiation of a civil asset forfeiture action to a conviction in a felony criminal case. In theory, this would create an incentive for the State to ensure that defendants are convicted of felony offenses¹.

Moreover, requiring a criminal conviction has the indirect effect of raising the standard of proof for civil forfeiture cases (a preponderance of the evidence standard) to the criminal standard of beyond a reasonable doubt. The preponderance of the evidence standard has been used for years by Hawai'i courts and government agencies to review matters such as land use

¹In saying this, we want to make it clear that prosecutorial ethics bar us from initiating criminal cases as a means to pursue asset forfeiture proceedings and vice versa. Preventing this conflict is part of the reason why the two proceedings are initiated independently.

boundary amendments², domestic abuse protective orders³, and traffic/emergency period infractions⁴. It is also used in scenarios where civil and criminal cases arise from the same set of facts, such as the 1994 stabbing deaths of Nicole Brown Simpson and Ron Goldman where O. J. Simpson was acquitted of the two murders but found civilly liable for wrongful death (the civil court equivalent of a criminal murder charge).

Finally, the bill does not take into account the criminal appellate process or how forfeited funds are treated when a criminal conviction is vacated. Whether via direct appeal or the Hawai'i Rules of Penal Procedure Rule 40 post-conviction relief process, a criminal conviction can be vacated months, years or decades after the civil asset forfeiture process has been completed. Without the separation between criminal offense and civil asset forfeiture cases provided by the current HRS 712A process, litigation to return funds or real property may arise well after the property is no longer in the government's possession.

2. As part of our mission to seek justice, our Department shares the Legislature's interest in ensuring that the civil asset forfeiture process is not used to seize property from innocent owners. However, HRS Chapter 712A's existing safeguards contain significant protections for innocent property owners.

The initial seizure must be justified by a showing of probable cause that the property was involved in criminal activity. If we are unable to meet this burden of proof, the property cannot be forfeited regardless of whether the property owner is convicted in a related criminal case. Notice of forfeiture must then be given to everyone known to have an interest in the property. Owners have the right to contest a forfeiture, present evidence in support of their claim and have their claims decided by a court or administrative official. Chapter 712A already provides an "innocent owner" defense, preventing forfeiture of property used criminally if the owner did not know of or consent to the criminal use. Forfeitures cannot be excessive: the value of the property seized cannot be grossly disproportionate to the seriousness of the offense.

Finally, Hawai'i's appellate courts continue to be an additional safeguard against government overreach. For example, in Alm v. Eleven Products, 150 Hawai'i 329, 501 P.3d 298 (2021), the Hawai'i Supreme Court ruled that law enforcement personnel must follow stricter standards when retaining property for a future forfeiture action that was initially seized in a

²HRS §205-4(h) ("No amendment of a land use district boundary shall be approved unless the commission finds upon the clear preponderance of the evidence that the proposed boundary is reasonable, not violative of section 205-2 and part III of this chapter, and consistent with the policies and criteria established pursuant to sections 205-16 and 205-17.")

³JD v. PD, 149 Hawai'i 92, 101, 482 P.3d 555, 564 (Ct. App. 2021) (The "preponderance of the evidence" standard is constitutional when applied in cases involving a protection order under HRS Chapter 586).

⁴HRS 291D-8(a)(3) ("The standard of proof to be applied by the court shall be whether, by a preponderance of the evidence, the court finds that the traffic infraction or emergency period infraction was committed").

criminal case.

For these reasons, the Department of the Prosecuting Attorney, County of Maui opposes the passage of SB 3274 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.

Rebecca V. Like
Prosecuting Attorney



Keola Siu
First Deputy
Prosecuting Attorney

OFFICE OF THE PROSECUTING ATTORNEY

County of Kaua'i, State of Hawai'i

3990 Ka'ana Street, Suite 210, Līhu'e, Hawai'i 96766
808-241-1888 ~ FAX 808-241-1758
Victim/Witness Program 808-241-1898 or 800-668-5734

The Honorable Karl Rhoads, Chair
Senate Judiciary Committee
Thirty-third State Legislature
Regular session of 2024
State of Hawai'i
February 5, 2024

RE: SB 3274, Relating to Civil Asset Forfeiture

Dear Chair Rhoads:

Civil asset forfeiture is an important law enforcement tool to immediately disrupt a criminal enterprise. If you are fortunate enough not to live or work near a criminal enterprise, it is easy to overlook the community benefit of civil asset forfeiture laws. Some members of the community are concerned about perceived abuses of HRS Chapter 712A, "Hawaii Omnibus Criminal Forfeiture Act," as it authorizes forfeiture of property to law enforcement agencies before a person is charged with or convicted of a crime.

With this in mind:

1. I oppose the proposed requirement of a felony conviction before property is forfeited to the State. This bill does not address the situation in which a person appeals a felony conviction – a very common occurrence. When a person is convicted of a crime, he or she has a right to an appeal; and appeals generally take 2-5 years before they are disposed of by our appellate courts. This bill must be amended to address how a criminal appeal will impact the companion forfeiture action.

If this bill is amended to condition the forfeiture of property on an affirmed felony conviction after appeal, this will significantly delay the disposition of civil asset forfeiture cases. This will frustrate law enforcement agencies (which will have to store the property for years, awaiting an outcome of the criminal appeal) and the property owners

(the lack of finality in the forfeiture case will be frustrating, especially given that personal property such as vehicles deteriorate with substantial passage of time).

As an alternative, this Committee might consider conditioning forfeiture of property on the filing of a felony charge (which requires a judge or grand jury finding of probable cause to support the charge).

2. I do not take a position on the proposal that seizing agencies will not retain any proceeds of forfeited property. I anticipate that if this bill passes, the overall volume of civil asset forfeiture cases in the State will decline, given a reduced incentive to law enforcement agencies to pursue asset forfeiture. Relatedly, I anticipate that if police departments and prosecutors' offices struggle to maintain full staffing, it is likely that they will reduce the amount of time dedicated to civil asset forfeiture cases, choosing to prioritize time spent on criminal cases.

Thank you for the opportunity to comment on this bill.

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

COMMUNITY ALLIANCE ON PRISONS

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

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



COMMITTEE ON JUDICIARY

Senator Karl Rhoads, Chair

Senator Mike Gabbard, Vice Chair

Tuesday, February 6, 2024

9:45 AM

Room 016 & Videoconference

STRONG SUPPORT FOR SB 3274 – PROPERTY FORFEITURE

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 three decades. This testimony is respectfully offered on behalf of the 3,844 Hawai`i individuals living behind bars¹ and under the “care and custody” of the Department of Public Safety/Corrections and Rehabilitation on January 29, 2024. We are always mindful that 857 - 33% of the male imprisoned 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.

In the interest of justice, Community Alliance on Prisons is in strong support of SB 3274!

In 2015, the Institute of Justice graded states on their programs: **Hawaii** earns a **D-** for its civil forfeiture laws² because of 1) the low bar to forfeit and no conviction required; 2) the poor protections for innocent third-party property owners; and 3) the fact that 100% of forfeiture proceeds go to law enforcement. This only encourages corruption.

In 2010, Hawai`i received a grade of D- for Forfeiture Law; C for State Law and an overall grade of D³; showing that things have gotten worse. As part of the Cooperative Congressional Election Study National Survey, the Institute for Justice asked a random sample of 1,000 participants nationwide whether they agree or disagree with various features

¹ DPS/DCR Weekly Population Report, January 29, 2024.

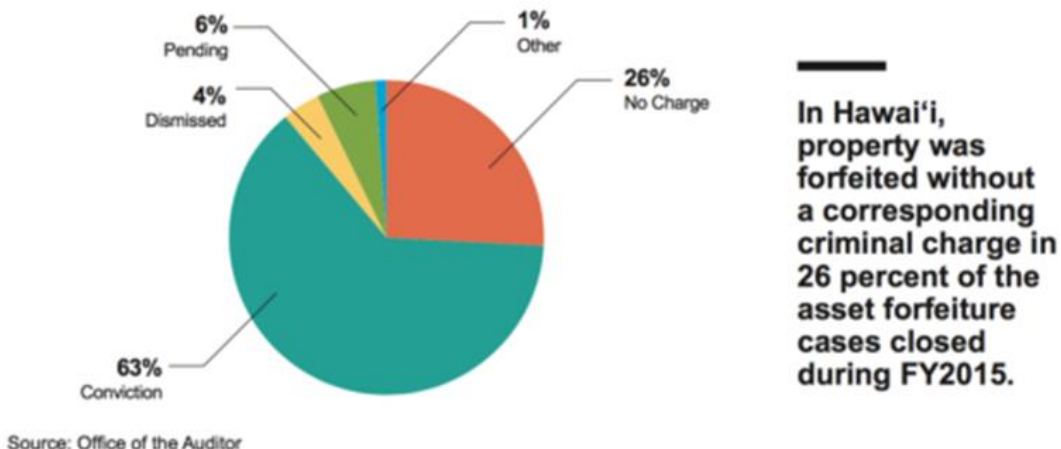
<https://dcr.hawaii.gov/wp-content/uploads/2024/01/Pop-Reports-Weekly-2024-01-29.pdf>

² Institute for Justice <https://ij.org/pfp-state-pages/pfp-hawaii/>

³ Institute for Justice, March 2010. <https://ij.org/report/policing-for-profit-first-edition/part-ii-grading-the-states/hawaii/>

of modern civil forfeiture laws. The results show that the public overwhelmingly favors greater protections for property owners and removing financial incentives that encourage civil forfeiture.

After this pitiful history, in 2018 the long-awaited audit of the Forfeiture program was released by the Hawai'i Attorney General and it highlighted the mismanagement of the program by the Office of the Attorney General.



The scathing Hawai'i auditor's report⁴ *Audit of the Department of the Attorney General's Asset Forfeiture Program, A Report to the Governor and the Legislature of the State of Hawai'i*, Report No. 18-09, June 2018 concluded: *"Hawai'i's asset forfeiture program is controversial, attracting criticism from lawmakers, the public, and the media. The statute gives the Attorney General broad power to take personal property from individuals without judicial oversight based on a relatively low standard of proof. Given the high profile of the program and the power bestowed on the Attorney General to administer it, it is crucial that the department manage the program with the highest degree of transparency and accountability. We found that is not the case. The department has failed to adopt administrative rules as required by statute, establish formal Report No. 18-09 / June 2018 17 management policies and procedures, and implement strong internal controls."*

On February 20, 2019, in an opinion delivered by Justice Ruth Bader Ginsberg, the U.S. Supreme Court ruled that the Eighth Amendment's ban on excessive fines applies to the states. The decision is a victory for an Indiana man whose luxury SUV was seized after he pleaded guilty to selling heroin. It is also a blow to state and local governments, for whom fines and forfeitures have become an important source of funds.

The question presented: Is the Eighth Amendment's Excessive Fines Clause an "incorporated" protection applicable to the States under the Fourteenth Amendment's Due

⁴ Audit of the Department of the Attorney General's Asset Forfeiture Program, A Report to the Governor and the Legislature of the State of Hawai'i, Report No. 18-09, June 2018. <http://files.hawaii.gov/auditor/Reports/2018/18-09.pdf>

Process Clause? Like the Eighth Amendment's proscriptions of "cruel and unusual punishment" and "[e]xcessive bail," the protection against excessive fines guards against abuses of government's punitive or criminal law-enforcement authority. **This safeguard, we hold, is "fundamental to our scheme of ordered liberty," with "dee[p] root[s] in [our] history and tradition."** McDonald v. Chicago, 561 U. S. 742, 767 (2010) (internal quotation marks omitted; emphasis deleted). The Excessive Fines Clause is therefore incorporated by the Due Process Clause of the Fourteenth Amendment.

Community Alliance on Prisons urges the committee to pass this important reform to restore faith in Hawai'i's system of justice.

Mahalo!



Committee: Judiciary
Hearing Date/Time: Tuesday, February 6, 2024 at 9:45am
Place: Conference Room 016 & Via Videoconference
Re: **Testimony of the ACLU of Hawai'i in SUPPORT of SB3274
Relating to Property Forfeiture**

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

The American Civil Liberties Union of Hawai'i ("ACLU of Hawai'i") supports SB3274 Relating to Property Forfeiture, which restricts civil asset forfeiture to cases involving the commission of a felony offense where the property owner has been convicted of an underlying felony offense and directs forfeiture proceeds to the general fund. It also amends the allowable expenses for moneys in the Criminal Forfeiture Fund and requires the Attorney General to adopt rules necessary to carry out the purpose of the Hawaii Omnibus Criminal Forfeiture Act. Finally, the bill amends the deadline for the Attorney General to report to the Legislature on the use of the Hawaii Omnibus Forfeiture Act, limits the transfer of certain forfeiture property to federal agencies, and establishes records requirements.

The Origins of Civil Asset Forfeiture.

Asset forfeiture is a law based on the idea that property can be charged with a crime independently of its owner. Administered in Hawai'i by the Department of the Attorney General, funds are generated when law enforcement agencies seize a person's property and sell it – often without a criminal conviction or even a criminal charge.

Although SB3274 doesn't stop law enforcement from initially seizing property, it will require a felony conviction before property is forfeited to the government. Moreover, it will dilute the "policing for profit" incentive for law enforcement by directing proceeds to the state's general fund instead of earmarking funds back to the police and prosecutors.

Hawaii's law enforcement is abusing the current system.

In 2018, the Hawaii State Auditor conducted a study of civil asset forfeiture in Hawai'i.¹ The report found that in fiscal year 2015, **"property was forfeited without a corresponding criminal charge in 26 percent of the asset forfeiture cases."** This means during that period, in more than a quarter of all civil property forfeiture cases, not only was there no conviction, but no criminal charges were even filed.

¹ State of Hawaii, Office of the Auditor, Audit of the Department of the Attorney General's Asset Forfeiture Program, Report No. 18-09 (June 2018): <https://files.hawaii.gov/auditor/Reports/2018/18-09.pdf>

Hawaii's civil asset forfeiture law is regarded among the worst in the nation. The Institute for Justice awarded Hawai'i a grade of D-.² A low standard of proof means that property can be seized when it only has a tenuous connection to the alleged underlying offense, and property may be forfeited even when there has been no criminal charges filed. This is often a substantial burden on the property owner, who may lose their job or home because the State seized their means of transportation or money needed to pay rent. **While the law contains a provision intended to protect innocent property owners, this provision is inadequate. The burden placed on the property owners seeking to challenge a forfeiture makes it nearly impossible in most cases for innocent people to recover their property.**

This legislation is necessary to rectify the harms done by our current system and to prevent its continued abuse. SB3274 limits civil asset forfeiture to felony cases in which the property owner has been convicted and redirects all proceeds into the General Fund, thereby eliminating any profit incentive there may be from law enforcement.

For the above reasons, we urge the Committee to support this measure. Thank you for the opportunity to testify.

Sincerely,

Carrie Ann Shirota

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.

² Institute for Justice, Policing for Profit: The Abuse of Civil Asset Forfeiture, 3rd Edition (December 2020): <https://ij.org/wp-content/uploads/2020/12/policing-for-profit-3-web.pdf>



Dedicated to safe, responsible, humane and effective drug policies since 1993

TESTIMONY IN SUPPORT OF SB 3274

TO: Chair Rhoads, Vice-Chair Gabbard, and Senate Judiciary Committee Members

FROM: Nikos Leverenz
DPFH Board President

DATE: February 6, 2024 (1:00 PM)

Drug Policy Forum of Hawai'i (DPFH) **strongly supports** SB 3274, which would restrict Hawai'i's civil asset forfeiture law to those cases involving the commission of a felony offense where the property owner has been convicted of an underlying felony offense, among other safeguards, and directs forfeiture proceeds to the state's general fund.

As evinced by legislative efforts and significant media coverage of this issue in recent years, the need for reform is clear to most everyone but those executive agencies who have effectively operated without meaningful legislative oversight, clear operational parameters, or any meaningful public reporting requirements for over three decades.

A [2018 report by the Hawai'i State Auditor](#) noted that about 85 percent of administrative forfeiture cases went uncontested during FY2006-FY2015. Current state law erects high barriers for an innocent owner to recoup their seized property, including the requirement to post bond. The auditor further noted that transparency and accountability have been lacking:

The Attorney General [has] broad power to take personal property from individuals without judicial oversight based on a relatively low standard of proof. Given the high profile of the program and the power bestowed on the Attorney General to administer it, it is crucial that the department manage the program with the highest degree of transparency and accountability.

[As I noted in a 2018 Honolulu Star-Advertiser op-ed I co-authored with Jennifer McDonald of the Institute for Justice \(IJ\)](#), a national non-profit public interest law firm, the Auditor's report found that the state AG's Office "consistently failed to comply with a state law requiring it to use 20

percent of its share of forfeiture proceeds for drug prevention programs. While the office should have allocated more than \$2 million in forfeiture revenue to such programs over the past 13 years, the audit could identify no such spending. Yet during that time, over \$2.6 million in forfeiture revenue was spent on salaries.”

Beyond the lack of administrative oversight and historic misuse of funds, Hawai'i law and current practices do not adequately protect the rights of innocent owners to be secure in their property. IJ [calls Hawai'i's civil forfeiture laws “among the nation's worst” in assigning it a grade of “D-.”](#) IJ also noted the wide disparity between the standard of proof required of state actors and that required of private individuals:

State law has a low standard of proof, requiring only that the government show by a preponderance of the evidence that property is tied to a crime. Furthermore, innocent owners bear the burden of proving that they had nothing to do with the alleged crime giving rise to the forfeiture. Most troubling, law enforcement has a large financial stake in forfeiture, receiving 100 percent of civil forfeiture proceeds: 25 percent goes to police, 25 percent to prosecuting attorneys and 50 percent to the attorney general.

When I served as an advocate to help reform California's civil asset forfeiture law in 2015, it was my pleasure to facilitate meetings between Senate Republican members, IJ Staff Attorney Lee McGrath, and Brad Cates, Director of the Justice Department's Asset Forfeiture Office from 1985 to 1989. Their message and their presence were very well-received, even among those conservative Republicans who were not typically inclined to support reforms to the criminal legal system. Ultimately, Governor Jerry Brown signed the measure, [SB 443](#), into law in 2016.

Cates, who spearheaded successful efforts in New Mexico to abolish civil asset forfeiture entirely with a Republican governor and Republican majorities in both houses, [wrote a penetrating opinion editorial in The Washington Post](#) with his immediate predecessor John Yoder calling for its national abolition. They noted the how the practice of asset forfeiture turns the law on its head:

In America, it is often said that it is better that nine guilty people go free than one innocent person be wrongly convicted. But our forfeiture laws turn our traditional concept of guilt upside down. Civil forfeiture laws presume someone's personal property to be tainted, placing the burden of proving it “innocent” on the owner. What of the Fourth Amendment requirement that a warrant to seize or search requires the showing of probable cause of a specific violation?... Valid, time-tested methods exist to allow law enforcement to seize contraband, profits and instrumentalities via legitimate criminal prosecution.

Since 2014, [at least 37 states and the District of Columbia have reformed their civil forfeiture laws.](#) 16 states require a conviction in criminal court to forfeit most or all types of property in civil court, and four states (Maine, New Mexico, Nebraska, and North Carolina) have abolished civil forfeiture entirely.

Hawai'i should join them.

Thank you for the opportunity to testify on this critical reform measure.

Feb. 6, 2024, 9:45 a.m.
Hawaii State Capitol
Conference Room 016 and Videoconference

To: Senate Committee on Judiciary
Sen. Karl Rhoads, Chair
Sen. Mike Gabbard, Vice-Chair

From: Grassroot Institute of Hawaii
Ted Kefalas, Director of Strategic Campaigns

RE: COMMENTS IN SUPPORT OF SB3274 — RELATING TO PROPERTY FORFEITURE

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

The Grassroot Institute of Hawaii would like to offer its comments in support of [SB3274](#), which would substantially reform the practice of civil asset forfeiture in Hawaii by restricting the practice to only those cases where the property owner has been convicted of an underlying criminal offense.

In addition, the bill would remove the incentive for the agencies involved to benefit from forfeitures by directing forfeiture revenues to the general fund.

Finally, SB3274 would greatly strengthen oversight and reporting of the practice of asset forfeiture in the state.

We commend the Legislature for focusing on this issue, which has been the subject of growing national concern and criticism.

In 2020, a report card of civil asset forfeiture practices nationwide by the Institute of Justice gave Hawaii a D- and the dubious distinction of having some of the worst forfeiture laws in the country.¹

Singled out for criticism was the state's low standard of proof for showing how the property is tied to a crime.

¹ Lisa Knepper, Jennifer McDonald, Kathy Sanchez, Elyse Smith Pohl, "[Policing for Profit: The Abuse of Civil Asset Forfeiture, 3rd Edition](#)," Institute for Justice, December 2020.

In addition, Hawaii places the burden on innocent owners to prove they weren't tied to the crime resulting in the forfeiture.

The result is a state forfeiture program open to abuse and able to prey on innocent property owners.

As the Hawaii state auditor wrote in a June 2018 report, Hawaii's asset-forfeiture program lacks clear rules and procedures, inadequately manages funds and is badly in need of greater transparency.²

That 2018 report found that:

>> In 26% of asset forfeiture cases closed during fiscal 2015, property was forfeited without a corresponding criminal charge.

>> In 4% of cases, the property was forfeited even though the charge was dismissed. Of those whose property was forfeited, very few petitioned for remission or mitigation. The state auditor speculated that most people might not know that being able to petition is an option because of the lack of transparency surrounding the forfeiture program.

A follow-up report in 2021 by the state Office of the Auditor found that the state Department of the Attorney General had implemented only two of its 2018 recommendations, with two partially implemented and two not implemented at all.

Among the recommendations that were ignored was that the AG department develop policies and procedures "to ensure that petitions for administrative forfeiture are processed timely and consistently; that forfeited property and program funds are appropriately managed; and that proceeds from the sale of forfeited property are used for purposes intended by the Legislature."

The other unimplemented recommendation concerned the lack of a strict accounting and valuation system for forfeited property.³

In fiscal 2022, the Department of the Attorney General reported that there were 58 cases of forfeiture, 56 of which were uncontested. There were no claims for judicial review, and only two petitions for remission or mitigation.⁴

Rather than attest to the efficacy of the program, the lack of petitions and other claims suggests that the state auditor's conclusions still hold — that there is too little transparency around the program and most people are unaware of their rights regarding forfeiture.

² ["Audit of the Department of the Attorney General's Asset Forfeiture Program,"](#) Hawaii Office of the Auditor, June 2018.

³ ["Follow-Up on Recommendations from Report No. 18-09, Audit of the Department of the Attorney General's Asset Forfeiture Program,"](#) Hawaii Office of the Auditor, July 2021.

⁴ ["Report on Proceedings under the Hawaii Omnibus Criminal Forfeiture Act,"](#) Hawaii Department of the Attorney General, Nov. 23, 2022.

It is shocking that Hawaii residents can lose their property without being convicted of a crime. Given that many of those subject to forfeiture lack the knowledge, assets or ability to challenge the seizures, this makes the forfeiture program especially threatening to vulnerable populations.

By limiting forfeiture to those situations where the property owner has been convicted of a felony, this bill would address the auditor's concerns while strengthening protections for innocent third-parties who can get swept up in a forfeiture case.

This bill also deserves praise for seeking to eliminate the monetary incentives that can arise from the practice of asset forfeiture. By directing the proceeds from the forfeiture program to the general fund and limiting the allowable expenses for monies in the criminal forfeiture fund, this bill would prevent any agency or group from having a financial interest in asset forfeiture.

Similarly, SB3274 should also be praised for limiting the transfer of forfeiture property to federal agencies, a technique that has been used elsewhere to circumvent state restrictions on forfeiture.

Finally, the recording and reporting requirements included in the bill would help improve transparency and accountability within the program. This, in turn, would help improve public trust in government.

To sum up, Hawaii continues to be among the worst states for property forfeiture. It is clear that reform is overdue.

By introducing a higher standard for forfeiture, this bill would represent a giant leap forward in improving Hawaii's forfeiture laws.

Thank you for the opportunity to testify.

Ted Kefalas
Director of Strategic Campaigns
Grassroot Institute of Hawaii



AMERICANS FOR DEMOCRATIC ACTION

OFFICERS

John Bickel, President
Alan Burdick, Vice President
Doug Pyle, Secretary

Melodie Aduja
Juliet Begley
Stephanie Fitzpatrick
Robert Kinslow

DIRECTORS

Jan Lubin
Shannon Matson
Jenny Nomura

Stephen O'Harrow
Maria Glodilet Rallojaj
Bill South

MAILING ADDRESS

P.O. Box 23404
Honolulu HI
968233

February 2, 2024

TO: Chair Rhoads and Members of the Judiciary Committee

RE: SB 3274 Relating to Property Forfeiture

Support for hearing on February 3

Americans for Democratic Action is an organization founded in the 1950s by leading supporters of the New Deal and led by Patsy Mink in the 1970s. We are devoted to the promotion of progressive public policies.

We support this bill as it would restrict civil asset forfeiture to cases involving the commission of a felony offense where the property owner has been convicted of an underlying felony offense. Civil Forfeiture has been too often abused. Seizing assets before a conviction is a violation of basic civil liberties.

Thank you for your favorable consideration.

Sincerely,

John Bickel, President

Hawai'i Association of Criminal Defense Lawyers

February 5, 2024

By Richard H.S. Sing
Vice-President, Hawaii Association of Criminal Defense Lawyers
State of Hawaii

S.B. No. 3274: RELATING TO PROPERTY FORFIETURE

Chair Karl Rhoads
Vice Chair Mike Gabbard
Honorable Committee Members

HACDL fully supports this bill.

The Hawai'i Association of Criminal Defense Lawyers (HACDL) is a local organization of lawyers practicing in state and federal courts. HACDL members include public defenders and private counsel who represent people accused of committing crimes.

The current civil asset forfeiture system is burdensome and challenging for respondents and counsel. This bill removes the most unfair and glaring problems in our state forfeiture statute.

HACDL hopes this much-needed bill becomes law.

SB-3274

Submitted on: 1/30/2024 3:01:53 PM

Testimony for JDC on 2/6/2024 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
lynne matusow	Individual	Support	Written Testimony Only

Comments:

I am in full support of this bill. It is long overdue. I commend Senator Rhoads on introducing it and ask you to move the bill forward.

SB-3274

Submitted on: 1/31/2024 8:31:30 AM

Testimony for JDC on 2/6/2024 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Michael EKM Olderr	Individual	Comments	Written Testimony Only

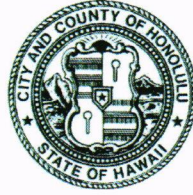
Comments:

I would prefer if we could eliminate the Civil forfeiture. But having a scaled-back version like this bill suggests is something that I could stomach for the time being. Granted I want to make sure that the funds or property taken is transferred only after the involved suspects are convicted of a crime and all items and property seized are auctioned off to the public if no next of kin can claim it. Other than that I support this bill.

POLICE DEPARTMENT
KA 'OIHANA MĀKA'I O HONOLULU
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET • HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 • WEBSITE: honolulu.police.org

RICK BLANGIARDI
MAYOR
MEIA



ARTHUR J. LOGAN
CHIEF
KAHU MĀKA'I

KEITH K. HORIKAWA
RADE K. VANIC
DEPUTY CHIEFS
HOPE LUNA NUI MĀKA'I

OUR REFERENCE ML-HR

February 6, 2024

The Honorable Karl Rhoads, Chair
and Members
Committee on Judiciary
State Senate
415 South Beretania Street, Room 016
Honolulu, Hawaii 96813

Dear Chair Rhoads and Members:

SUBJECT: Senate Bill No. 3274, Relating to Property Forfeiture

I am Jerome Pacarro, Captain of the Narcotics/Vice Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD opposes Senate Bill No. 3274, Relating to Property Forfeiture.


This bill would change the requirements of civil forfeiture to require that forfeiture could only proceed on cases that are chargeable as a felony.

Asset forfeiture is an essential tool law enforcement uses to take the profit out of crime. It also serves as a deterrent against future illegal activity involving forfeited assets. The proposed changes by this legislation would significantly compromise and affect law enforcement's ability to combat those who profit from illegal activity that victimizes our community.


The HPD urges you to oppose Senate Bill No. 3274, Relating to Relating to Property Forfeiture. Thank you for the opportunity to testify.

APPROVED:

Sincerely,



Arthur J. Logan
Chief of Police



Jerome Pacarro, Captain
Narcotics/Vice Division