



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

ON THE FOLLOWING MEASURE:

H.B. NO. 1595, H.D. 1, S.D. 1, RELATING TO EXPUNGEMENT.

BEFORE THE:

SENATE COMMITTEE ON WAYS AND MEANS

DATE: Friday, April 5, 2024

TIME: 10:20 a.m.

LOCATION: State Capitol, Room 211 and Videoconference

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**

(For more information, contact Dave Day,
Special Assistant to the Attorney General, at 808-586-1284)

Chair Dela Cruz and Members of the Committee:

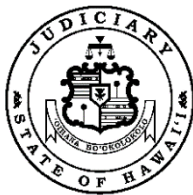
The Department of the Attorney General (Department) provides the following comments on this bill.

This bill creates a pilot project, to be administered by the Department, for a state-initiated expungement process of arrest records concerning certain marijuana offenses under section 712-1249, Hawaii Revised Statutes. It requires the Hawai'i Criminal Justice Data Center to submit reports to the Legislature.

The Department believes that this bill presents a more reasonable, cost-effective alternative to the "Clean Slate Expungement Task Force" found in Senate Bill No. 2706. If the Legislature chooses to enact this bill, the Department opposes the passage of Senate Bill No. 2706.

Thank you for the opportunity to provide testimony.

LATE



The Judiciary, State of Hawai‘i

Testimony to the Thirty-Second Legislature, 2024 Regular Session

Senate Committee on Ways and Means

Senator Donovan M. Dela Cruz, Chair

Senator Sharon Y. Moriwaki, Vice-Chair

Friday, April 5, 2024, 10:20 a.m.

State Capitol, Conference Room 211 & Videoconference

by:

Rodney A. Maile

Administrative Director of the Courts

Bill No. and Title: House Bill No. 1595, HD1 SD1, Relating to Expungement.

Purpose: Creates a pilot project, to be administered by the Department of the AG, for a state-initiated expungement process of arrest records concerning certain marijuana offenses under section 712-1249, HRS. It requires the HCJDC to submit reports to the Legislature.

Judiciary’s Position:

The Judiciary supports the intent of this measure and believes that such a pilot project regarding the expungement of non-conviction arrest records is a significant first step in addressing the concerns of the Legislature regarding simplifying the expungement of arrest records process for self-represented individuals.

Thank you for the opportunity to testify on this matter.

**Hawaii
Legislative
Council
Members**

Joell Edwards
Wainiha Country
Market
Hanalei

Russell Ruderman
Island Naturals
Hilo/Kona

Dr. Andrew Johnson
Niko Niko Family
Dentistry
Honolulu

Robert H. Pahia
Hawaii Taro Farm
Wailuku

Maile Meyer
Na Mea Hawaii
Honolulu

Tina Wildberger
Kihei Ice
Kihei

L. Malu Shizue Miki
Abundant Life
Natural Foods
Hilo

Kim Coco Iwamoto
Enlightened Energy
Honolulu

Chamber of
Sustainable
Commerce
P.O. Box 22394
Honolulu, HI
96823

LATE



Senator Donovan M. Dela Cruz, Chair
Senator Sharon Moriwaki, Vice Chair
Committee on Ways and Means

Friday, April 5, 2024
10:20 AM in Conference Room 211

RE: **HB1595 HD1 SD1** Expunge Decriminalized Offenses - **Strong Support**

Dear Chair Dela Cruz, Vice Chair Moriwaki and Committee Members,

The Chamber of Sustainable Commerce represents over 150 small businesses across the State that strive for a triple bottom line: people, planet and prosperity; we know Hawaii can strengthen its economy without hurting workers, consumers, communities or the environment.

This is why we are in strong support of HB1595 HD1 SD1, which creates a pilot project, to be administered by the Department of the Attorney General, for a state-initiated expungement process of arrest records concerning certain marijuana offenses under section 712-1249, HRS, and requires the Hawaii Criminal Justice Data Center to submit reports to the Legislature.

As you know, Hawaii has a worker shortage. Many of our members have a hard time filling positions. Job applicants are discouraged from seeking work because they have arrest and/or convictions for crimes that are no longer crimes. This leads to increasing numbers of individuals living on the streets, not being able to care for their families or pay child support. They may also be barred from certain public housing options, anchoring them to a state of homelessness.

Let's be real about the statistics of the racial background and economic status of those stopped by police for cannabis related offenses; compared to the data that shows cannabis is used by people of all racial backgrounds and all income levels. We must also consider the harsher penalties certain classes of people bear due to the bias of adjudicators and those with discretionary powers.

We must continue to move forward with our efforts to remedy the racial and economic injustices that start, and can be stopped, by our laws. These injustices impact our larger communities and all aspects of society, including commerce, which generates state revenue through general excise taxes and income taxes.



LATE

Marijuana Policy Project
P.O. Box 21824 • Washington, DC 20009
202-462-5747 • www.mpp.org

April 5, 2024

Re: In support of HB 1595, SD 1 to create a state-initiated process to expunge certain cannabis arrest records

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran, and distinguished members of the Senate Ways and Means Committee:

My name is Karen O'Keefe. I am the director of state policies for the Marijuana Policy Project (MPP), the largest cannabis policy reform organization in the nation. I am an attorney who has worked on cannabis policy at MPP since 2003. For the past year, I have had the pleasure of working with a coalition of Hawai'i advocates as part of the Hawai'i Alliance for Cannabis Reform.

I am writing to urge you to advance HB 1595, SD 1, which would create a state-initiated process to expunge a limited category of records — low-level cannabis possession arrests that did not result in convictions, where that was the only charge, and only in one county. HB 1595 would remove an economic life sentence for conduct that the person was never convicted of, where the charge is for conduct most Hawai'i voters¹ — and the Hawai'i Senate — believe should be legal.

Criminal records trigger a host of collateral consequences that make it difficult to get housing, employment, and jobs.² One survey found 92% percent of employers report using criminal records checks on some or all applicants.³ Fifty-five percent of people with records report difficulties getting employment or making a living.⁴ These barriers to legally making ends meet increase the likelihood that people will turn to the underground economy. A lifetime of stigma and collateral consequences is unduly harsh and inappropriate for an arrest that did not even result in conviction for cannabis possession.

¹ A recent Pacific Resource Partnership survey found 58% of Hawai'i residents support legalization.

² See: Jamiles Lartey, "How Criminal Records Hold Back Millions of People," *The Marshall Project*, April 1, 2023.

³ Society for Human Resources Management Background Checking: Conducting Criminal Background Checks, slide 3 (Jan. 22, 2010) https://www.slideshare.net/shrm/background-check-criminal?from=share_email

⁴ Alliance for Justice national survey of people with records: <https://asj.allianceforsafetyandjustice.org/wp-content/uploads/2023/05/2023-05-15-2023-TimeDoneSurvey-Full.pdf>

Cannabis enforcement has been staggeringly unequal,⁵ meaning these life-altering collateral consequences disproportionately derail the lives of Black individuals, Native Hawaiians, and other people of color.

The state-initiated aspect of the bill is essential because few eligible individuals complete petition-based expungement,⁶ which is costly and cumbersome.

HB 1595 is an extremely limited first step, for a very limited class of records. But up for around 40,000 people, it would mean getting their life back, and removing a cloud that shuts the door of opportunity.

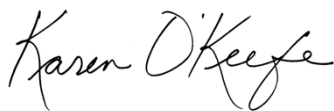
HB 1595 is consistent with past action of the full Senate, but far more limited. As part of SB 3335, SD 1 and SB 669, SD 2 (2023), the Senate approved including state-initiated expungement for possession and distribution *convictions*. While HB 1595 is very limited, it is a first step that can be built on in future years.

Half of Americans admit having used cannabis.⁷ Maintaining a life-long stigma for those unlucky enough to get arrested — or, worse, who were arrested due to disparate enforcement — is wrong. This “scarlet letter” is especially inappropriate given that cannabis possession has been decriminalized since 2019. Moreover, these records did not even result in conviction, making the moral imperative for relief all the more pressing.

Also of note, HB 1595, SD 1 includes no appropriation. It can be expected to have a positive impact on the state’s finances by allowing more Hawai’i residents to find better paying and steadier work, and thus generating more taxes.

I urge you to report HB 1595 out of committee. Please don’t hesitate to reach out if you have any questions or would like any additional information.

Mahalo for your time and consideration,



Karen O’Keefe
Director of State Policies
202-905-2012
kokeefe@mpp.org

⁵ See, "A Tale of Two Countries: Racially Targeted Arrests in the Era of Marijuana Reform," ACLU, April 16, 2020. (Showing Black people are 3.6 times as likely to be arrested in the U.S. for cannabis, despite similar use rates across races.)

⁶ J.J. Prescott and Sonja B. Starr, "Expungement of Criminal Convictions: An Empirical Study," University of Michigan Law School, 2020. (Finding, "[A]mong those legally eligible for expungement, just 6.5% obtain it within five years of eligibility.")

⁷ Justin McCarthy, "Fully Half of Americans Have Tried Marijuana," Gallup, August 10, 2023.

LATE

COMMUNITY ALLIANCE ON PRISONS

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

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



COMMITTEE ON WAYS AND MEANS

Senator Donovan DelaCruz, Chair

Senator Sharon Moriwaki, Vice Chair

Friday, April 5, 2024

10:20 AM

STRONG SUPPORT FOR HB 1595 HD1 SD1 - EXPUNGEMENT

Aloha Chair DelaCruz, Vice Chair Moriwaki 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 3,830 Hawai'i individuals living behind bars¹ and under the "care and custody" of the Department of Corrections and Rehabilitation of April 1, 2024.

We are always mindful that 857 men who are serving their sentences abroad (44% of the male prison population of 1,970) 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 appreciates this opportunity to testify in **strong support of HB 1595 HD1, SD1** that creates a pilot project, to be administered by the Department of the Attorney General, for a state-initiated expungement process of arrest records concerning certain ~~marijuana~~ cannabis offenses under section 712-1249, HRS and requires the Hawai'i Criminal Justice Data Center to submit reports to the legislature.

We appreciate that WAM is considering this bill. On March 1st, the House Judiciary and Hawaiian Affairs Committee held a very informative informational briefing on expungement to help people understand the process, see what other jurisdictions are doing, and start to develop a process in Hawai'i that will help

¹ DPS/DCR Weekly Population Report, April 1, 2024.

<https://dcr.hawaii.gov/wp-content/uploads/2024/01/Pop-Reports-Weekly-2024-04.01.pdf>

thousands of people move on with their lives. The onus of a criminal record, especially for a nonviolent low-level offense, is a heavy burden for individuals who may be serving time as well as their families to bear.

According to a recent AG report entitled 'Report Regarding the Final Draft Bill Entitled 'Relating to Cannabis,'²

'...As of January 2, 2024, there are over 50,000 arrests with a charge code of HRS § 712-1249, Promoting a Detrimental Drug in the Third Degree, which the Department considers to be the most minor criminal offense for cannabis. There are over 10,000 convictions for the same offense, and a court order would be required to expunge these convictions under existing law (HRS § 706-622.5). The expungement process is not automatic: it is time and resource intensive. If the Legislature decides to implement an expungement program, it must be an application-driven process.'...

What is being discussed here is what the AG '*considers to be the most minor criminal offense for cannabis*' that saddle individuals and their families and communities with criminal records that keep them tied to an unforgiving system. Expungement is a way to forgive past mistakes and un-yoke an individual from the criminal legal system that has been exploited by the prohibitionist, tough on crime crowd, whose agency budgets don't bear the costs that the state must take on to incarcerate these low-level lawbreakers. And the cost is much more than the more than \$260/day to send them to jail or prison. Incarceration is the barrier to securing meaningful work, finding appropriate housing, and helping families recover from incarceration – all of them, not just the person who served time.

The Brennan Center released a report in September 2020³ that opens with a graphic - Lost Earnings By The Numbers – the data show that

- 7 million + people have been imprisoned,
- 12 million + have been convicted of a felony without imprisonment, and
- 45 million + have been convicted of a misdemeanor.

National research shows that less than 6.5% of people who are already eligible for an expungement ever have their records expunged because of the cumbersome nature of the record clearance process.

² Report Regarding the Final Draft Bill Entitled 'Relating to Cannabis', page 32 in pdf.

<https://ag.hawaii.gov/wp-content/uploads/2024/01/REPORT-REGARDING-THE-FINAL-DRAFT-BILL-ENTITLED-RELATING-TO-CANNABIS-PREPARED-BY-THE-DEPARTMENT-OF-THE-ATTORNEY-GENERAL-dated-January-5-2024.pdf>

³ Conviction, Imprisonment, and Lost Earnings - How Involvement with the Criminal Justice System Deepens Inequality, The Brennan Center, September 2020.

https://www.brennancenter.org/sites/default/files/2020-09/EconomicImpactReport_pdf.pdf

This is a loss for the community since people experiencing poverty or those returning to the community after serving a sentence are frequently overlooked by employers as they struggle to achieve financial stability for themselves and their families.

Empirical data demonstrates that five years after benefitting from record clearance, individuals are actually less likely than members of the general public to engage in criminal conduct. Prior to 2019, simple possession of cannabis could have landed someone in jail. Even for those lucky enough to avoid that penalty, their arrest still generated a criminal record along with numerous collateral consequences.

HB 1595 HD1 SD1 develops a pilot program to ensure that individuals who continue to suffer the consequences of a penalty the state changed its mind about enforcing in 2019 are applied evenly so no one is left behind.

Community Alliance on Prisons urges the committee to support HB 1595 HD1 SD1 to develop a process to provide retroactive relief for individuals criminalized by cannabis possession and begin to dismantle the racial injustices that the criminal legal system has used as a blunt weapon in their war on families. Mahalo.

LATE



TESTIMONY FROM THE DEMOCRATIC PARTY OF HAWAII

COMMITTEE REFERRAL: WAM

APRIL 5, 2024

HB 1595, HD1, SD1, RELATING TO EXPUNGEMENT

POSITION: SUPPORT

The Democratic Party of Hawai'i **supports** HB 1595, HD1, SD1, relating to expungement. Pursuant to the "Public Safety and Disaster and Emergency Preparedness" section of the official Democratic Party of Hawai'i platform, the party believes that "public safety laws should be just, equitable and enforced fairly without discrimination. We believe that true justice restores people and communities."

The war on drugs has been found to be destructive and devastating to immigrant, indigenous, and low-income individuals, families, and communities. The same findings were made about the impact of the war on drugs in Hawai'i in the 2010 "The Disparate Treatment of Native Hawaiians in the Criminal Justice System" report from the Office of Hawaiian Affairs, which found that mass incarceration for Hawaiian and other minority groups is significantly worsened by the war on drugs, including the criminalization of cannabis possession. Moreover, numerous studies have demonstrated that the prosecution of cannabis offenses has deprived people of accessing higher education, housing, employment, and individual liberty.

On October 6, 2022, President Joseph Biden pardoned 6,500 people convicted between 1992 and 2021 of federal cannabis possession, as well

as thousands more who were convicted of cannabis possession in the District of Columbia. President Biden also urged governors throughout the country to follow his lead and provide similar legal relief for those who have entered the criminal justice system for cannabis convictions. In response to President Biden's call for states to implement clemency programs for cannabis offenses, in November of 2022, Governor Kate Brown of Oregon announced her intent to pardon over 47,000 Oregonians with low-level cannabis convictions. The Oregon pardon program will eliminate barriers for thousands of people seeking employment, housing, and educational opportunities who would have otherwise been ineligible.

In 2023, Hawai'i lawmakers adopted House Concurrent Resolution 51, which urged Gov. Josh Green to initiate a clemency program for individuals who have been prosecuted for cannabis-related offenses and to seek the assistance of The Last Prisoner Project and Hawaii Innocence Project in implementing the clemency program. The Last Prisoner Project, a leading national nonprofit organization dedicated to cannabis criminal justice reform, has stated that Gov. Josh Green currently has the legal authority to undertake a targeted relief and clemency program for individuals in Hawai'i who have been prosecuted for cannabis-related offenses.

Furthermore, in enacting programs to legalize adult-use recreational cannabis, many states have instituted expungement or other forms of clemency and record clearance for individuals who have been prosecuted for cannabis-related offenses. These initiatives have delivered legal relief for thousands of people, whose civil liberties and financial security have been hampered by cannabis convictions. **Hawai'i should follow their lead and heed President Biden's call for restorative justice.**

Mahalo nui loa,

Kris Coffield

Co-Chair, Legislative Committee

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Abby Simmons

Co-Chair, Legislative Committee

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LATE



Committee: Judiciary
Hearing Date/Time: Tuesday, March 12, 2024, at 10:00am
Place: Conference Room 016 & Via Videoconference
Re: **Testimony of the ACLU of Hawai'i in SUPPORT of HB1595, HD1 Relating to Expungement**

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

The ACLU of Hawai'i **supports H.B. 1595 H.D.1**, which creates a state-initiated process to expunge arrest and conviction records of arrests and convictions pursuant to H.R.S. section 712-1249, at no cost to the record holder. Additionally, this measure would require the Hawaii Criminal Justice Data Center to submit bi-annual reports to the Legislature until all eligible records are expunged.

Our state's ineffective prohibition policies on recreational cannabis have impacted civil liberties in many ways – searches and seizures, arrests, locking up individuals behind bars and separating them from families and extracting fines and fees for using a plant with known medicinal properties for thousands of years. In addition, these prohibition policies have resulted in criminal records, effectively creating a lifetime paper prison for many people in Hawai'i.

According to a recent report by the Attorney General's office, there are currently over 50,000 arrests and 10,000 convictions currently in the system for low-level cannabis related offenses.¹

The ACLU of Hawai'i believes in a society where all people, including those who have been arrested and/or convicted of a crime, and have paid their debt under the law, get an equal opportunity to contribute to society and build successful and fulfilling lives.

Research confirms that criminal records create barriers and in some cases block access to jobs, housing, education, participating in public programs and services, insurance, or participating fully in social and civil community life. These barriers have a ripple effect on families and their local communities and economies, disparately impacting Native Hawaiian and Pacific Islanders in Hawai'i.

¹ "Report Regarding the Final Draft Bill Entitled 'Relating to Cannabis.' Hawaii State Department of the Attorney General, January, 2024: <https://ag.hawaii.gov/wp-content/uploads/2024/01/REPORT-REGARDING-THE-FINAL-DRAFT-BILL-ENTITLED-RELATING-TO-CANNABIS-PREPARED-BY-THE-DEPARTMENT-OF-THE-ATTORNEY-GENERAL-dated-January-5-2024.pdf>

According to Prison Policy Initiative and the National Resource Re-entry Center, a criminal record reduces a job seeker's change of getting a callback or job offer by nearly 50%.²

In stark contrast, expungement helps people move on with their lives and get back to work. [Research from the University of Michigan](#) finds that people are 11 percent more likely to be employed and are earning 22 percent higher wages one year after a record has been cleared.

This bill creates a mechanism for state agencies that serve as repositories of arrest and conviction records to work collaboratively and harness technology to create a state-initiated record clearing process for cannabis related arrests and convictions pursuant to H.R.S. sec. 712-1249. In turn, research indicates that this will increase job opportunities and enhanced wages.

Proposed Amendment

We recommend including language that requires removal of records from screening databases. Many employers and property managers find out about criminal convictions not from government databases directly, but from their third-party criminal history screening services.

To ensure expunged convictions do not continue to serve as barriers to individuals, HB 1595 H.D. 1 should mandate that screening services remove all expunged convictions from the next update.

As highlighted by Marijuana Policy Project, Indiana Code § 35-38-9-12 or Virginia Code § 19.2-392.16 may be used as statutory language to strengthen this measure.

For the above reasons, we urge the Committee to support this measure. Thank you for the opportunity to testify in support of **H.B. 1595 H.D. 1**.

Sincerely,

Carrie Ann Shiota

Carrie Ann Shiota
Policy Director
ACLU of Hawai'i
cshiota@acluhawaii.org

American Civil Liberties Union of Hawai'i
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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 <https://nationalreentryresourcecenter.org/news/clearing-path-conviction-employment#:~:text=Studies%20have%20shown%20that%20the,effects%20of%20a%20criminal%20record>. See also, <https://www.prisonpolicy.org/reports/outofwork.html>

Hawai'i Criminal Justice Data Center
Data Presented at the House Judiciary and Hawaiian Affairs Informational Briefing
March 1, 2024 at 2:00 p.m.

#	%	#Dup Charges		Description
52,639	Total charges for 712-1249	16,261.00	30.9%	About 1/3 of charges are with people who have other charges.
36,378				Number of unique offenders that were charged with 712-1249
31,720	87.2%			Offenders have other charges on their criminal history record
25,600	70.4%			Offenders were convicted on other charges

Total Number of offenders w/712-1249 Charges	36,378	
Number with only one 712-1249 Charge	27,026	74%
Total number of offenders with multiple 712-1249 charges	9,352	26%

Offenders with multiple 712-1249 charges		
Number of 712-1249 charges	Count of offenders	Charges
2	5,932	11,864
3	1,827	5,481
4	815	3,260
5	346	1,730
6	184	1,104

7	92	644
8	67	536
9	36	324
10	16	160
11	11	121
12	5	60
13	8	104
14	4	56
15	4	60
18	2	36
20	1	20
25	1	25
28	1	28
Total	9,352	25,613

Data as of 3/1/24		
25,602	Offenders who have convictions for charges other than 712-1249	
1,220	4.8%	Offenders had Felony A convictions
5,050	19.7%	Offenders had Felony B convictions
10,789	42.1%	Offenders had Felony C convictions
19,180	74.9%	Offenders had Misdemeanor convictions
19,072	74.5%	Offenders had Petty Misdemeanor convictions
7,339	28.7%	Offenders had Violation convictions

Offenders with multiple 712-1249 charges			
Number of 712-1249 charges	Count of offenders	# Charges	
2	5932	11864	
3	1827	5481	
4	815	3260	
5	346	1730	
6	184	1104	
7	92	644	
8	67	536	
9	36	324	
10	16	160	
11	11	121	
12	5	60	
13	8	104	
14	4	56	
15	4	60	
18	2	36	
20	1	20	
25	1	25	
28	1	28	
		25613	
Total number of offenders with multiple 712-1249 charges	9,352	2.74	26%
Total Number of offenders w/712-1249 Charges	36,378		
Number with only 1 712-1249 Charge	27,026	74%	

2023 Expungements		
1409		Total applications
222	15.8%	Denied
1187	84.2%	Certificates issued
4168	2.96	Charges expunged

Of the 1187 certificates issued		
878	74.0%	Full expungements
309	26.0%	Partial expungements

Breakout of the 4168 charges expunged			
# of charges	%	Severity	
3	0.1%	F	felony (old charges)
102	2.4%	FA	felony a
225	5.4%	FB	felony b
853	20.5%	FC	felony c
18	0.4%	IN	infraction
1532	36.8%	MD	misdemeanor
1078	25.9%	PM	petty misdemeanor
255	6.1%	VL	violation
102	2.4%	NULL	no severity

LATE

HB-1595-SD-1

Submitted on: 4/4/2024 6:41:47 PM

Testimony for WAM on 4/5/2024 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Randy Gonce	Testifying for Hawaii Cannabis Industry Solutions	Support	Written Testimony Only

Comments:

Strong Support. Would really love to see the original language and state initiated process from HD1 be restored but at the end of the day we need meaningful legislation on this issue this session. This bill is a step in the right direction.

Opportunity Youth Action Hawai'i

April 5, 2024

Senate Committee on Ways and Means
Hearing Time: 10:20AM
Location: State Capitol Conference Room 211
Re: HB1595 HD1 SD1, Relating to Expungement

LATE

Aloha e Chair Dela Cruz, Vice Chair Moriwaki, and Members of the Committee:

On behalf of the Opportunity Youth Action Hawai'i hui, we are writing in **strong support** of HB1595 HD1 SD1, relating to expungement. This bill creates a pilot project to be administered by the Department of the Attorney General for a state-initiated expungement process of arrest records concerning certain marijuana offenses under section 712-1249 HRS. This also requires the Hawai'i Criminal Justice Data Center to submit reports to the legislature.

This bill addresses a critical issue in our criminal justice system, providing a pathway for individuals with past convictions to rebuild their lives and reintegrate into society successfully. Further, expunging records not only benefits individuals seeking a fresh start, but also contributes to the overall wellbeing of our communities. Research shows that individuals with expunged records are more likely to secure stable employment and housing, reducing the likelihood of recidivism. This, in turn, enhances public safety and fosters a sense of community rehabilitation.

Finally, the War on Drugs and the criminalization of cannabis has contributed to a racially inequitable criminal legal system that disproportionately impacts people of color, including Native Hawaiians, who constitute 37% of the adult incarcerated population while making up just 18% of the state's adult population. According to the Attorney General's office, there are over 50,000 arrests and 10,000 convictions in the system for low-level cannabis related offenses. By creating a pilot program aimed at expunging certain marijuana offenses, HB1595 HD1 SD1 recognizes the financial challenges that individuals with criminal records often face. Removing financial barriers to expungement ensures that all eligible individuals, regardless of their economic status, can access the benefits of a clean slate.

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 homelessness 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 HB1595 HD1 SD1.

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

tur



JAPANESE AMERICAN CITIZENS LEAGUE

HONOLULU CHAPTER

P.O. BOX 1291, HONOLULU, HAWAII 96807

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INSTAGRAM: [@jaclhonolulu](https://www.instagram.com/jaclhonolulu)

LATE

April 4, 2024

Board Members

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Allicyn Hikida-Tasaka

Clayton Ikei

William Kaneko

Colbert Matsumoto

Alan Murakami

To: Chair Donovan M. Dela Cruz and Members of the Senate Committee on Ways and Means

From: Minda Yamaga
President, Japanese American Citizens League, Honolulu Chapter

Re: SUPPORT OF H.B. 1595, RELATING TO EXPUNGEMENT

Chair Dela Cruz and Members of the Committee:

The Japanese American Citizens League (JACL) is the oldest Asian civil rights organization in our country, and we seek to protect and defend the rights of all persons. HB 1595 proposes a state-initiated process to expunge cannabis records. As a civil rights organization, we are acutely aware that the War on Drugs and the criminalization of cannabis have created a racially inequitable criminal legal system that disproportionately impacted people of color, including Native Hawaiians. We strongly believe that every person living with a criminal record who has earned the chance to be in society deserves a fair chance at supporting themselves and their families. The collateral consequences of a criminal record are staggering and often pose an insurmountable barrier to reformed individuals finding housing, employment, education, or even insurance. A criminal record should not lead to a lifetime of poverty, exclusion, and stigma.

Critically, this bill does not expand or alter those already eligible for expungement under the current laws. It simply provides a state-initiated path to expungement for those eligible individuals. This is vitally necessary because national data shows individuals eligible to have their record expunged frequently do not utilize this benefit. The cumbersome process or the cost associated with filing fees are the most often reported barriers. We recognize that individuals without work flexibility and without financial resources are likely disproportionately burdened by the current system.

HB 1595 ensures that individuals who continue to suffer the consequences of a no longer imposed penalty are applied evenly and assists people move on with their lives and get back to work as a productive member of our community.

Signed,

Minda K. Yamaga
President
JACL Honolulu Chapter



Testimony from Frank Stiefel
Senior Policy Associate
Last Prisoner Project

RE: Support for House Bill 1595, SD1, Creating a Pilot Program to Expunge Non-Conviction Cannabis Possession Records

April 4, 2024

Dear Members of the Committee on Ways and Means,

In 2019, the Hawai'i legislature decriminalized the simple possession of cannabis. However, to this day, [thousands of individuals in Hawai'i still carry a criminal record for cannabis possession](#) even if they have been found not guilty of any criminal wrongdoing. National research shows that less than 6.5% of people who are already eligible for an expungement ever have their records expunged because of the cumbersome nature of the record clearance process. House Bill 1595, SD1 (HB 1595) will address this issue by creating a pilot for the implementation of a state-initiated expungement process for non-conviction records of cannabis possession under §712-1249. We would like to commend the Department of the Attorney General for providing feedback throughout the legislative session to ensure that a process can be laid out to begin to provide retroactive relief for individuals who have non-conviction records for cannabis possession.

The pilot program that HB 1595, SD1 outlines will have little to no budgetary implications on the Hawai'i Criminal Justice Data Center (HCJDC). In fact, during their most recent testimony, the Department of the Attorney General stated that the "pilot project would be limited to cases within a single county, to ensure a manageable number of cases for the Data Center to process using existing resources." The state-initiated record clearance pilot will also promote public safety by expanding access to employment, housing, and educational resources that allow for community reintegration and stability. Empirical data demonstrates that five years after benefitting from record clearance, individuals are actually less likely than members of the general public to engage in criminal conduct.

On March 1st of this year, the Last Prisoner Project participated in an [informational briefing on the importance of cannabis record clearance](#). HB 1595 was discussed during the briefing and Dave Roberts, who is the Executive Director of SEARCH (the National Consortium for Justice Information and Statistics) and who has a 37-year career supporting justice information

technology, including providing technical assistance to the Hawaii Criminal Justice Data Center, said that he completely agreed with the approach that was outlined in HB 1595, particularly as it relates to prioritizing relief for individuals who have non-conviction records for cannabis possession. During this briefing, the HCJDC stated that approximately 40,000 of the 50,000 criminal records for cannabis possession were for non-convictions. This means that 40,000 individuals have been found not guilty of any criminal wrongdoing yet still carry a criminal record.

Prior to 2019, simple possession of cannabis could have landed someone in jail. Even for those lucky enough to avoid that penalty, their arrest still generated a criminal record along with numerous collateral consequences. HB 1595, SD1 is a tempered approach that will come at no cost to the state and will provide a blueprint for how Hawai'i can begin to provide retroactive relief to individuals who continue to suffer the consequences of a penalty they were never convicted of. For these reasons we urge the members of this committee to support HB 1595, SD1.

We thank you for your consideration of this urgent matter.

About Last Prisoner Project

The Last Prisoner Project, 501(c)(3), is a national nonpartisan, nonprofit organization focused on the intersection of cannabis and criminal justice reform. Through policy campaigns, direct intervention, and advocacy, LPP's team of policy experts works to redress the past and continuing harms of unjust cannabis laws. We are committed to offering our technical expertise to ensure a successful and justice-informed pathway to cannabis legalization in Hawai'i.

LATE

HB-1595-SD-1

Submitted on: 4/4/2024 11:40:10 AM

Testimony for WAM on 4/5/2024 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Jennifer Brown	Testifying for Hawai'i Innocence Project and Beyond Guilt Hawai'i	Support	Written Testimony Only

Comments:

The Hawai'i Innocence Project and Beyond Guilt Hawai'i pro bono legal clinics at the William S. Richardson School of Law are in strong support of HB1595 HD1 SD1, which would create a pilot program that would provide a state-initiated expungement process for arrests and non-convictions of offenses under section 712-1249, Hawaii Revised Statutes, for possessing marijuana.

We strongly support this bill as the HCJDC stated that approximately 40,000 of the 50,000 criminal records for marijuana possession were for non-convictions. This means that 40,000 individuals have been found not guilty of any criminal wrongdoing yet still carry a criminal record.

Regardless of guilt or innocence, those who have been charged with these offenses should not have to suffer a lifetime with the charge on their record. The current record clearing (or expungement process) puts the burden on the individual to navigate the current process alone without the assistance of counsel. This bill would allow a pilot program would create a process that would be state-initiated, removing the unfair burden on the individual to clear their records.

We submit this testimony in strong support and are willing to assist the HCJDC and provide any legal or technical assistance as needed or requested. Thank you for the opportunity to testify in support of HB 1595 HD1 SD1.

Thank you,

Jennifer Brown, Associate Director, Hawai'i Innocence Project and Beyond Guilt Hawai'i

HB-1595-SD-1

Submitted on: 4/4/2024 11:49:58 AM

Testimony for WAM on 4/5/2024 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Emily Sarasa	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Dela Cruz and committee members,

My name is Emily Sarasa, and I am testifying **in strong support of HB1595** relating to the expungement of criminal records. Our current overly punitive system does not make Hawai‘i safer. If enacted, these bills will likely lower recidivism rates, address the overcrowding in our jails, and improve access to education, housing, and employment for Hawai‘i residents. Please vote to better our communities by voting yes on HB1595.

Mahalo for your time and consideration,

Emily Sarasa, 96816

LATE

HB-1595-SD-1

Submitted on: 4/5/2024 12:00:58 AM

Testimony for WAM on 4/5/2024 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Jennifer Martin	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Dela Cruz, Vice Chair Moriwaki and Committee Members,

I am writing in strong support of HB1595 HD1 SD1. Nearly 50,000 people in Hawai'i are living with a cannabis possession-related criminal record; that means 50,000 people facing barriers to safe housing, employment, education, and access to financial and credit services.

In 2019, the State Legislature decriminalized the possession of three grams or less of cannabis. As a matter of fairness and restorative justice,, we ask that you clear people's arrest/non-convictions records for cannabis possession of 3 grams or less.

Mahalo for your support of this sensible measure.

LATE

HB-1595-SD-1

Submitted on: 4/5/2024 3:24:16 AM

Testimony for WAM on 4/5/2024 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Wendy Gibson-Viviani	Individual	Support	Written Testimony Only

Comments:

TO: WAM Committee

From: Wendy Gibson-Viviani RN/BSN

RE: Support for House Bill 1595, SD1, Creating a Pilot Program to Expunge

Non-Conviction Cannabis Possession Records

Hearing: April 5, 2024

Dear Chair Dela Cruz, Vice Chair Moriwaki and Members of the Committee,

My name is Wendy Gibson-Viviani. I am an RN who has been a resident of Oahu for 30 years and worked on shaping drug laws in Hawaii for ten years.

I write in strong support of HB1595, SD1.

My understanding is that this bill would create a pilot program that will possibly help expunge criminal records for tens of thousands of people in Hawaii, who carry a criminal (arrest) record but were not convicted of any crimes.

As you know, the collateral consequences of having a criminal record can and **do have a lifetime of negative impacts**. Current expungement process are so complex that most people do not have the resources to navigate the system. This bill would help simplify and automate the expungement process---allowing for an expansion of access and easier navigation through the process.

Please support HB1595, SD1.

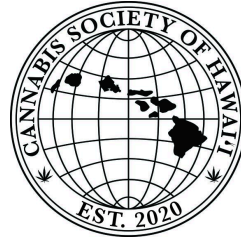
Thank you for the opportunity to give testimony on this important matter.

Wendy Gibson-Viviani RN/BSN

Kailua Resident

LATE

**CANNABIS
SOCIETY OF
HAWAII**



April 5, 2024

Dear Chair and Members of the Committee,

The Cannabis Society of Hawaii, helping to represent the 812,000 registered voters of Hawai'i who support expungement and decriminalization of cannabis offenses, writes to express our sincere gratitude for your continued advocacy on this critical issue to help more of our residents and visitors.

We support cannabis expungement and decriminalization and believe it's crucial to move House Bill HB1595 HD1 SD1 forward to help our community and end the war on cannabis.

We are in opposition to the pilot project and program and suggest a full roll out with state wide expungement and considerations outlined below.

- **Hawaii Criminal Justice Data Center**
 - Work with community partners to offset workload
 - Cannabis Society of Hawai'i volunteers to assist with expungement process
 - Work with interns from UH, HPU, Chaminade, and others to provide hands-on learning opportunities for students.
 - Work with other states that have initiated a state process for expungement
 - Missouri ; Beginning August 28, 2022, any person convicted of the offense of possession of marijuana in an amount of 35 grams or

less shall have such conviction expunged. All official records shall be expunged by the court on the day the person is convicted.

- Illinois ; Following the passage of Public Act 101-27 which became law on June 25, 2019, records related to an offense deemed a “Minor Cannabis Offense” became eligible for expungement. “Minor Cannabis Offense” is defined as follows in Section 5.2 of the Criminal Identification Act:

“Minor Cannabis Offense” means a violation of Section 4 or 5 of the Cannabis Control Act concerning not more than 30 grams of any substance containing cannabis, provided the violation did not include a penalty enhancement under Section 7 of the Cannabis Control Act and is not associated with an arrest, conviction or other disposition for a violent crime as defined in subsection (c) of Section 3 of the Rights of Crime Victims and Witnesses Act.”

- New York ; The 2021 Marijuana Regulation & Taxation Act (MRTA) gives New York courts two years to clear (expunge) records of certain convictions, including: » possession of up to 16 ounces of marijuana » sale of up to 25 grams of marijuana » possession of up to 1 ounce of concentrated cannabis (hashish).
- New Jersey ; The New Jersey Judiciary has expunged more than 362,000 marijuana and hashish cases from court records since the Marijuana Decriminalization Law became effective July 1.

Eligible cases are expunged automatically by the Judiciary. Once a case is expunged, it is removed from the court’s public record and does not have to be reported on applications for jobs, housing, or college admissions.

More than 1,200 individuals have been released from probation after their cases were expunged.

Members of the public, or their attorney, can go to the court where their case was heard or to the Superior Court Clerk's Office in Trenton to receive a certification stating their case has been expunged. The Judiciary has issued more than 2,800 certifications to date.

Cases with offenses eligible for expungement include certain marijuana or hashish charges alone or in combination with the following: possession of drug paraphernalia; use or being under the influence of a controlled, dangerous substance; and failure to make lawful disposition of a controlled, dangerous substance.

- Minnesota ; The legislation calls for automatically expunging low-level cannabis convictions and for creating a Cannabis Expungement Board, which will review felonies for expungement or resentencing. Expungement seals a person's conviction record, making the record not publicly accessible from the Bureau of Criminal Apprehension. Sealing records is intended to remove barriers for people with cannabis-related offenses who are subject to a background check for a job or housing.
- New Mexico ; Individuals can go to the New Mexico Courts website at:
<https://www.nmcourts.gov/criminal-record-expungement-applying-automatic...>

The online form allows individuals to apply for your cannabis (marijuana) criminal records to be expunged according to the Criminal Records Expungement Act. NMSA 1978 29-3A-1 et seq.

If individuals have a case record involving cannabis, they may request that this charge be cleared.

If the case record involves charges other than cannabis related charges, they may petition the court to expunge all charges.

“We’ve already expunged 14,000 cases,” says Celina Jones, the general counsel at the Administrative Office of the Courts told KQRE News. “Where the charges were very clear that they involved cannabis or marijuana, we were able to proceed with an automated expungement.”

- Arizona ; Arizona voters passed Proposition 207 in November, 2020. Among its provisions is the ability to petition a court at no cost to expunge certain marijuana-related records.
- Montana ; The Montana Marijuana Regulation and Taxation Act (MMRTA), enacted in 2021, has made some marijuana-related activities that were previously criminal acts legal and it has made others no longer criminal acts but civil infractions. Individuals who were convicted of acts that are now legal can petition to have their conviction expunged (if they have completed their sentence for the crime) or resentenced (if they are currently serving that sentence) or redesignated as a civil infraction if the previously criminal act is now a civil infraction.

The Cannabis Society of Hawaii stands firmly behind cannabis expungement and cannabis decriminalization in legislation. Our hope is that this program will be initiated state wide to help all constituents of our community.

Thank you for your dedication to representing the interests of your constituents. We look forward to collaborating with you on this critical initiative.

Respectively,

Kai Luke - Mmember

Cannabis Society of Hawai'i

cannabissocietyofhawaii@gmail.com

808-429-8632

Here is a list of some additional information and data:

[Group Of Pro-Cannabis Legalization Law Enforcement Agents Share Recommendations For Police Transparency, Accountability](#)

[Study: No Association Between Rec MJ Laws, Use Among Middle School Youth | High Times](#)

[Teen Marijuana Use Dropped Dramatically In Colorado In 2021, State Study Finds](#)

[Marijuana Regulation and Crime Rates | NORML](#)

[The Effect of Marijuana Legalization on Crime Rates](#)

[Study: Patients Exhibit Few Changes In Driving Performance Following Medical Marijuana Use - NORML](#)

[Federally Funded Study Shows Marijuana Legalization Is Not Associated With Increased Teen Use](#)

[Effects of Cannabis Legalization on Adolescent Cannabis Use Across 3 Studies - ScienceDirect](#)

[The History Of Hashish](#)

[Exodus of Hawaii residents cost state \\$185M in lost taxes since 2020 | Honolulu Star-Advertiser](#)

[Cannabinoids as antioxidants and neuroprotectants - Patent US-6630507-B1 - PubChem](#)

[Anticancer mechanisms of cannabinoids - PMC](#)

[Cannabinoid-induced apoptosis in immune cells as a pathway to immunosuppression - PMC](#)

[Cannabidiol Induces Programmed Cell Death in Breast Cancer Cells by Coordinating the Cross-talk between Apoptosis and Autophagy](#)

[Cannabinoids as anticancer drugs: current status of preclinical research | British Journal of Cancer](#)

[CDC Finds Youth Marijuana Use Fell In Washington State's Largest County After Adult-Use Legalization](#)

[About | CCJ CANNABIS CULTURE JAPAN | Legal Dispensary in Americamura](#)

[2022 Annual Visitor Research Report](#)

[Hawaii: Analysis Projects Adult-Use Cannabis Sales Could Create 3000+ New Jobs, Raise Over \\$80 Million in Annual Tax Revenue - NORML](#)

[Exodus-of-island-residents-cost-state-185-million-in-lost-taxes-since-2020](#)

[February marks 7th monthly decline for Hawaii's visitor industry | Honolulu Star-Advertiser](#)

[Exodus of Hawaii residents costs the state \\$185 million in tax revenue | Local | kitv.com](#)