

**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. 2347, RELATING TO CRIME.

BEFORE THE:
HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

DATE: Thursday, March 28, 2024 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 325 and Videoconference

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

Chair Tarnas and Members of the Committee:

The Department of the Attorney General (Department) provides the following comments and has attached a proposed H.D. 1, that includes our recommendations in a single compilation.

The purpose of this bill is to establish the offense of habitual violent misdemeanor crime to allow prosecutors to charge a person who is convicted of three or more violent misdemeanors within five years of the offense being charged, with a class C felony.

The Department agrees that repeat violent offenders pose a danger to the community, and their actions should be very strongly deterred and merit a higher degree of offense. To better accomplish the bill's goal, the Department's Proposed H.D. 1 incorporates three suggested amendments, outlined below:

1. Addition of specific felony offenses to the definition of "habitual violent crime perpetrator"

The Department suggests adding the following felony offenses to the definition of "habitual violent crime perpetrator," to account for circumstances in which a defendant may not have three prior convictions for the specific misdemeanor offenses listed in the bill, on page 2, lines 10-14, but does have prior felony convictions for similar, or in fact more, violent offenses within the preceding five years. Under the current wording of this bill, a person can only be considered a "habitual violent misdemeanor offender" if the

person has any combination of three or more misdemeanor convictions for section 707-712, Hawaii Revised Statutes (HRS) (assault in the third degree); section 707-712.6, HRS (assault against a law enforcement officer in the second degree); or section 707-733, HRS (sexual assault in the fourth degree). However, if the intent of the bill is to deter people from developing a pattern of violent behavior, it is logical to include prior convictions for violent felony offenses among the offenses that count towards the new offense. Therefore, the Department suggests the following charges to the definition of a "habitual violent crime perpetrator." This mirrors a similar term ("habitual property crime perpetrator") found in section 708-803, habitual property crime), and appear to be consistent with the intent of the bill:

- Assault in the first degree under section 707-711, HRS;
- Assault in the second degree under section 707-712, HRS;
- Assault against a law enforcement officer in the first degree under section 707-712.6, HRS;
- Sexual assault in the first degree under section 707-730, HRS;
- Sexual assault in the second degree under section 707-731, HRS;
- Sexual assault in the third degree under section 707-732, HRS; and
- Abuse of family or household member under section 709-906(1), HRS.

2. Sentencing provisions

The Department suggests mirroring the sentencing provisions of section 708-803, HRS, habitual property crime. Currently, if a defendant is charged and convicted for the offense of habitual property crime, that defendant could be sentenced to an indeterminate term of imprisonment or probation of five years, either of which would include a mandatory minimum term of one year of imprisonment. Because repeat violent crime perpetrators are at least as much of a concern as repeat property crime perpetrators, it would be appropriate to make the sentencing provisions for repeat violent crime at least as serious as those for repeat habitual property crime, by requiring a mandatory minimum of one year of imprisonment.

3. Addition of abuse of family or household member

The Department suggests adding abuse of family or household member under section 709-906(1), HRS, to the list of offenses that would qualify as a triggering offense for habitual violent crime, as shown on page 2, lines 14-15, in the Department's attached Proposed H.D. 1. Section 709-906(1) includes essentially the same behavior as assault in the third degree, under section 707-712, HRS, which is one of the triggering offenses included in the original draft of this bill.

In addition to these three suggested amendments, the Proposed H.D. 1 makes some minor technical amendments to the bill for increased clarity and consistency with other existing statutes in the HRS. Thank you for the opportunity to submit our comments and suggested amendments on this matter.

A BILL FOR AN ACT

RELATING TO CRIME.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that although many people
2 from all socioeconomic groups break laws, only a few become
3 persistent offenders who habitually commit crimes, including
4 crimes of a violent nature. A pattern of convictions for
5 violent behavior correlates to a likelihood of similar repeat
6 offenses in the future. Therefore, repeat violent offenders
7 pose a danger to the community. Other legislatures have enacted
8 laws to allow prosecutors to charge offenders with repeat
9 violent convictions, as a felony, if they commit the same or
10 similar offenses within a given timeframe. For example, the
11 third or any subsequent offense of abuse of a family or
12 household member would result in the charging of a class C
13 felony, and the offense of habitual property crime is a class C
14 felony for persons who, within ten years of the instant offense,
15 have multiple property crime convictions.

16 Accordingly, the purpose of this Act is to establish the
17 offense of habitual violent crime, to allow the prosecution to
18 charge a person who, within five years of the instant offense,

1 had been convicted of three or more violent misdemeanors or
2 felonies, with a class C felony.

3 SECTION 2. Chapter 707, Hawaii Revised Statutes, is
4 amended by adding a new section to be appropriately designated
5 and to read as follows:

6 "§707- Habitual violent crime. (1) A person commits
7 the offense of habitual violent crime if the person is a
8 habitual violent crime perpetrator and commits:

9 (a) Assault in the third degree under section 707-712;

10 (b) Assault against a law enforcement officer in the
11 second degree under section 707-712.6;

12 (c) Sexual assault in the fourth degree under section 707-
13 733; or

14 (d) Abuse of a family or household member under section
15 709-906(1).

16 (2) For the purposes of this section, "habitual violent
17 crime perpetrator" means a person who, within five years of the
18 instant offense, has convictions for any combination of three or
19 more of the following offenses set forth in sections 707-710,
20 707-711, 707-712, 707-712.5, 707-712.6, 707-730, 707-731, 707-
21 732, 707-733, and 709-906.

1 The convictions shall be for separate incidents on separate
2 dates. The prosecution is not required to prove any state of
3 mind with respect to the person's status as a habitual violent
4 crime perpetrator. Proof that the person has the requisite
5 minimum prior convictions shall be sufficient to establish this
6 element.

7 (3) Habitual violent crime is a class C felony.

8 (4) For a conviction under this section, the sentence
9 shall be either:

10 (a) An indeterminate term of imprisonment of five years;
11 provided that the minimum term of imprisonment shall
12 be not less than one year; or

13 (b) A term of probation of five years, with conditions to
14 include but not be limited to one year of
15 imprisonment; provided that probation shall only be
16 available for a first conviction under this section."

17 SECTION 3. This Act does not affect rights and duties that
18 matured, penalties that were incurred, and proceedings that were
19 begun before its effective date.

20 SECTION 4. New statutory material is underscored.

21 SECTION 5. This Act shall take effect upon its approval.

Report Title:

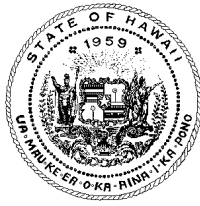
Habitual Crime; Violent Misdemeanors or Felonies; Criminal Law

Description:

Establishes the offense of habitual violent crime.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII
**DEPARTMENT OF CORRECTIONS
AND REHABILITATION**
*Ka 'Oihana Ho'omalu Kalaima
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Sanna Muñoz
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Rehabilitation Services
and
Programs

No. _____

TESTIMONY ON SENATE BILL 2347
RELATING TO CRIME.

By
Tommy Johnson, Director

House Committee on Judiciary & Hawaiian Affairs
Representative David A. Tarnas, Chair
Representative Gregg Takayama, Vice Chair

Thursday, March 28, 2024; 2:00 p.m.
Conference Room 325 & Via Video Conference

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

The Department of Corrections and Rehabilitation (DCR) **supports** the passage of House Bill (HB) 2347, which seeks to establish the offense of habitual violent misdemeanor crime that prosecutors can utilize to charge repeat violent misdemeanor offenders with a Class C felony offense.

The DCR believes that offenders who continually use violence in the commission of crimes, including violent misdemeanor offenses pose an undue risk to the community, and therefore, should be prosecuted accordingly. However, all available jail diversion and community-based programs and/or treatment options should be exhausted before charging a Class C felony offense.

All justice-involved individuals convicted of any felony-level offense and sentenced to prison and/or re-sentenced from probation to prison undergo a thorough screening and assessment process to determine their level of risk and need for programs and/or treatment. An individualized plan is developed to assist the offenders with the completion of identified programs and/or treatment before the expiration of their minimum term(s) of imprisonment. The offender must be willing to participate in this voluntary process.

Thank you for the opportunity to provide testimony in **support** of HB 2347.

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March 11, 2024

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**TESTIMONY OF THE OFFICE OF THE PUBLIC DEFENDER STATE OF HAWAII
TO THE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS**

S.B. 2347, S.D.1: RELATING TO CRIME

Hearing: March 28, 2024 at 2:00 p.m.

Chair David A. Tarnas
Vice Chair Gregg Takayama
Honorable Committee Members

The Office of the Public Defender (OPD) **strongly opposes** this bill.

In recent years, the state and this legislature has invested in programs which are meant to divert persons from prison and to adopt a rehabilitative model versus a punitive model for the criminal justice system. The Department of Public Safety has rebranded itself as the Department of Corrections and Rehabilitation. Yet for all the progress we have made to move away from a purely carceral, punitive penal model this bill takes a significant step backward.

This bill is unnecessary. Each of the enumerated offenses – assault in the third degree, assault against a law enforcement officer in the second degree, sexual assault in the fourth degree – carry prison terms of up to one year. The courts already have the discretion to increase punishment for subsequent convictions as judges routinely progress from sentencing first-time offenders to probation leading up to increasing jail time for subsequent convictions.

This bill will not deter most violent crimes. Most violent crimes are not premeditated and the enumerated offenses can be committed with a reckless state of mind. The prospect of greater punishment is not going to stop people who are acting impulsively, without thought to the likely consequences of their actions. Even the U.S. Department of Justice has stated that, “[s]ending an individual convicted of a crime to prison isn’t a very effective way to deter crime” and “increasing

the severity of punishment does little to deter crime.¹ The solution to preventing recidivism is through rehabilitation and education, not incarceration.²

This bill violates the principle of proportionality embodied in the Eighth Amendment to the U.S. Constitution and Article I, Section 12 of the Hawai'i Constitution.³ Simply put, the principle of proportionality means that under our criminal justice system, the punishment must fit the crime. This bill violates proportionality by allowing a person who is convicted of a misdemeanor level offense to be punished as if they committed a felony level offense. This bill departs sharply from the proportionality rule by failing to take into consideration the gravity of the offense.

The term “violent misdemeanors” is inflammatory and a misnomer. Both assault in the third degree and assault against a law enforcement officer in the second degree only require that the persons actions create “bodily injury.”⁴ “Bodily injury” is in turn defined as “physical pain, illness, or any impairment of physical condition.”⁵ Thus, if a person on three separate occasions within a five year period simply causes pain to another person and/or a police officer, that person will be subject to a five-year term of incarceration. By contrast, assault in the second degree, HRS § 707-711, which is a Class C felony on its own, requires that the subject sustain either “substantial bodily injury” or “serious bodily injury.”⁶ “Substantial bodily injury” means bodily injury which causes, a major avulsion, laceration, laceration or tearing of the skin, a burn of at least second degree severity, a bone fracture, a serious concussion or a tearing rupture, or corrosive damage to the esophagus, viscera, or other internal organs.⁷ “Serious bodily injury” means bodily injury which creates a substantial risk of death or which causes serious, permanent, disfigurement, or protracted loss or impairment of the function of any bodily member or organ. Thus, this bill would subject a person who caused pain on a third separate occasion in five years to sentencing akin to someone who created a far more significant degree of injury on a single occasion.

¹ See “Five Things About Deterrence,” U.S. Department of Justice, Office of Justice Programs, National Institute of Justice. <https://www.ojp.gov/pdffiles1/nij/247350.pdf>

² See Santa Cruz, J., “Rethinking Prison as a Deterrent to Future Crime,” JSTOR Daily, July 18, 2022 (noting that “A large body of research finds that spending time in prison or jail doesn’t lower the risk that someone will offend again. In some instances, it actually raises the likelihood that they will commit future crimes.”) <https://daily.jstor.org/rethinking-prison-as-a-deterrent-to-future-crime/>

³ Both the Eighth Amendment and Article I, Section 12 state, “[e]xcessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.”

⁴ See HRS §§ 707-712 (assault in the third degree) and 707-712.6 (assault against a law enforcement officer in the second degree).

⁵ See HRS § 707-700.

⁶ See HRS § 707-711.

⁷ See HRS § 707-700.

Sexual assault in the fourth degree can be committed by a person subjecting another person to sexual contact by compulsion, exposing their genitals to another person, trespassing on property to conduct surreptitious surveillance for sexual gratification or, while acting in a professional capacity, engages with a minor who is at least sixteen years old. By contrast, sexual assault in the third degree, HRS § 707-732, which is a Class C felony on its own, is committed when a person recklessly subjects another person to an act of sexual penetration, has sexual contact with a person less than fourteen years of age, has sexual contact with a person between fourteen and sixteen years of age, subjects a mentally incapacitated or physically helpless person to sexual contact, subject a mentally defective person to sexual contact, while a corrections officer or law enforcement officer has sexual contact with an imprisoned person, or subjects another person to sexual contact by strong compulsion.⁸ Again, the acts which constitute sexual assault in the fourth degree are less serious than the acts which constitute sexual assault in the third degree yet this bill would subject a person who committed the less serious acts on a third occasion in five years to sentencing akin to someone who committed a far more serious offense on single occasion. More troubling is the fact that the act allows the three separate misdemeanor offenses to be any combination of assault in the third degree, assault against a law enforcement officer in the second degree or sexual assault in the fourth degree. Thus, a person who commits a single act of misdemeanor sexual assault, even if it is their first sexual assault conviction, would be sentenced akin to a Class C felony sexual offender simply because they had committed two previous, unrelated misdemeanors within five years.⁹

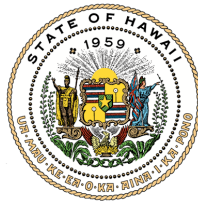
Finally, on a practical matter, creating a felony offense for what would normally be a misdemeanor will cause backlogs on an already strained criminal justice system. Faced with a felony conviction, repeat offenders will demand costly and time-consuming trials rather than submitting to plea bargaining. Since many of the affected defendants will be indigent and require the services of the OPD, the expenses of their defense will be borne by taxpayers. Moreover, persons who are convicted and sentenced to prison as a felony repeat violent offender on this bill will needlessly add to the overcrowding of our prisons and the resultant costs of incarceration for persons who would normally be misdemeanants.

The OPD **strongly opposes** this bill. Thank you for the opportunity to comment on S.B. 2347, S.D. 1.

⁸ See HRS § 707-732.

⁹ By contrast, the felony abuse of family household member and habitual property crime offenses referenced in Section 1 of this bill punish multiple crimes of the same or similar character. Although the OPD does not support the enactment of any habitual offenses, at least the aforementioned have a more direct connection to their statement aim. This bill would instead allow felony punishment for a potpourri of unrelated offenses under the guise of their mislabeling as “violent.”

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

TESTIMONY ON SENATE BILL 2347

RELATING TO CRIME

Before the House Committee on Judiciary & Hawaiian Affairs

Thursday, March 28, 2024; 2:00 p.m.

State Capitol Conference Room 325, Via Videoconference

WRITTEN TESTIMONY ONLY

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

The Department of Law Enforcement (DLE) **strongly supports** Senate Bill 2347.

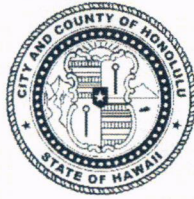
This bill establishes the offense of habitual violent misdemeanor crime for those persistent offenders who habitually commit violent crimes.

This is an important measure to address the rise of violent crime in our community. Currently, there is very little ramifications for those who habitually commit violent misdemeanors and many repeat offenders know there is little in the way of consequences for their repeated acts of violence. This bill will make it clear that continued violent behavior will be treated with appropriate criminal sentences for the significant danger these actions pose to the community. The community looks to the Legislature, law enforcement, and the courts to protect them from the people that this bill is intended to address. This bill should be passed to give the criminal justice system a tool to address the habitual violent offender.

Thank you for the opportunity to testify in support of this bill.

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

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DEPUTY CHIEFS
HOPE LUNA NUI MĀKA'I

OUR REFERENCE **TC-BT**

March 28, 2024

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

Dear Chair Tarnas and Members:

SUBJECT: Senate Bill No. 2347, Relating to Crime

I am Thomas Chang, Captain of the Criminal Investigation Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports Senate Bill No. 2347, Relating to Crime.


Deterring habitual violent crime is paramount in ensuring the safety of the community and potential victims. Habitual violent crimes can cause irreversible impacts to victims and the community, as a whole. This measure will strengthen the HPD's ability to combat frequent habitual violent crime violators.

The HPD urges you to support Senate Bill No. 2347, Relating to Crime.

Thank you for the opportunity to testify.

APPROVED:

Sincerely,


Arthur J. Logan
Chief of Police


Thomas Chang, Captain
Criminal Investigation Division

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

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THOMAS J. BRADY
FIRST DEPUTY PROSECUTING ATTORNEY
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**THE HONORABLE DAVID TARNAS, CHAIR
HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS
Thirty-Second State Legislature
Regular Session of 2024
State of Hawai'i**

March 28, 2024

RE: S.B. 2347; RELATING TO CRIME.

Chair Tarnas, Vice Chair Takayama, and members of the House Committee on Judiciary and Hawaiian Affairs, the Department of the Prosecuting Attorney of the City and County of Honolulu (“Department”) **supports** passage of S.B. 2347.

This bill permits felony prosecution of persons who repeatedly commit any of three specific violent misdemeanors within a five-year period. Under current Hawai'i law,¹ these offenders face a maximum sentence of a year in jail and a \$2,000 fine—no matter how many times they offend, no matter how many victims they create.

The bill is limited to three misdemeanor offenses:

- Assault in the Third Degree
- Assault Against a Law Enforcement Officer in the Second Degree
- Sexual Assault in the Fourth Degree

These misdemeanors often differ from corresponding felonies by only one or two elements. An assault resulting in massive bruising might only qualify as a misdemeanor, while a

¹ See Hawai'i Revised Statutes (HRS) § 701-107(3) (West, Westlaw through Act 1 of the 2024 Regular Session) (defining misdemeanor); § 706-640(1)(d) (maximum fine for misdemeanor). See also HRS. § 706-623(1)(c) (maximum probation term for misdemeanor); § 706-663 (maximum term of imprisonment for misdemeanor).

single broken bone would aggravate the crime to a felony.² Likewise, a defendant who *recklessly* hits an on-duty police officer would be charged with a misdemeanor,³ while a defendant who *knowingly* beat an on-duty officer could be convicted for a felony.⁴ A person who knowingly subjects a stranger to sexual contact by *compulsion* commits a misdemeanor: sexual assault in the fourth degree.⁵ But a person who knowingly subjects that same stranger to sexual contact by *strong compulsion* commits sexual assault in the third degree, a Class C felony.⁶

Any criminal code must draw such fine distinctions. The Legislature clearly should balance multiple competing interests when deciding how to distinguish misdemeanors from felonies. This bill simply recognizes repeat offending as a significant aggravating factor. Similar statutes for habitual property crime⁷ and habitual drunk driving⁸ have held offenders accountable, earned praise from victims, and enhanced public safety.

Most violent crimes are committed by a small number of repeat offenders. In a study of state prisons across 34 states (including Hawai‘i), researchers found that more than three-quarters of inmates admitted to state prison had five or more prior arrests.⁹ Nor is this a quirk of the American criminal justice system: a comprehensive longitudinal study in Sweden showed that nearly two-thirds of violent crimes were committed by one percent of the population.¹⁰ Targeting repeat offenders is an intelligent and efficient crime-control policy.

This bill is not a “three-strikes” law mandating either charging or incarcerating repeat offenders. Prosecutors will retain discretion on when and if to use the statute and judges will

² Compare HRS § 707-712(1)(a) (“A person commits the offense of assault in the third degree if the person [i]ntentionally, knowingly, or reckless causes bodily injury to another person[.]”) with § 707-711(1)(a) (“A person commits the offense of assault in the second degree if the person [i]ntentionally, knowingly, or recklessly causes substantial bodily injury to another[.]”). See also HRS § 707-700 (defining “bodily injury” to mean “physical pain, illness, or any impairment of physical condition” and “substantial bodily injury” to include a “bone fracture”).

³ HRS § 707-712.6(1) (“A person commits the offense of assault against a law enforcement officer in the second degree if the person recklessly causes bodily injury to a law enforcement officer who is engaged in the performance of duty.”); § 707-712.6(2) (grading the offense as a misdemeanor).

⁴ *Id.* § 707-712.5(1)(a) (“A person commits the offense of assault against a law enforcement officer in the first degree if the person [i]ntentionally or knowingly causes bodily injury to a law enforcement officer who is engaged in the performane of duty[.]”); § 707-712.5(2) (grading the offense as a Class C felony).

⁵ See *id.* § 707-733(1)(a) (“A person commits the offense of sexual assault in the fourth degree if [t]he person knowingly subjects another person, not married to the actor, to sexual contact by compulsion or causes another person, not married to the actor, to have sexual contact with the actor by compulsion[.]”).

⁶ *Id.* § 707-732(1)(g) (“A person commits the offense of sexual assault in the third degree if the person [k]nowingly, by strong compulsion, has sexual contact with another person or causes another person to have sexual contact with the actor.”). See also § 707-700 (defining “compulsion” and “strong compulsion”).

⁷ *Id.* § 708-803.

⁸ *Id.* § 291E-61.5.

⁹ See Leonardo Anteangeli & Matthew R. Dunrose, *Arrest History of Persons Admitted to State Prison in 2009 and 2014*, Figure 1, U.S. DEP’T OF JUSTICE (April 2023 Bulletin), available at <https://bjs.ojp.gov/document/ahpasp0914.pdf>. See also E. Ann Carson, *Prisoners in 2021 - Statistical Tables*, Table 18, U.S. Dep’t of Justice (Dec. 2022 Bulletin), available at <https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/p21st.pdf>. (more than half of Hawaii prisoners serving time for a violent offense).

¹⁰ Orjan Falk et al., *The 1% of the population accountable for 63% of all violent crime convictions*, 49 SOC. PSYCHIATRY & PSYCHIATRIC EPIDEMIOLOGY 559-71 (2014).

retain discretion to sentence offenders to probation.¹¹ Appropriate candidates could be enrolled in HOPE (Hawaii's Opportunity Probation with Enforcement) or directed to specialty courts, such as Mental Health Court or Veterans Treatment Court.

This bill does not unfairly target the poor. Most poor people do not commit crimes, and many wealthy people do. In fact, poverty is a significant risk factor for becoming a victim of violent crime. A recent study found the per-capita rate of violent victimization for households earning less than \$25,000 was more than twice that of households with more than \$200,000.¹²

S.B. 2347 will give prosecutors another critical tool to protect the public. That helps everyone, including the most vulnerable in our society.

Thank you for the opportunity to testify in support of S.B. 2347.

¹¹ See HRS § 706-623(1)(b) (four-year probation term for most Class C felonies). See also HRS § 706-623(1)(authorizing court to shorten a probation term after entering its reasons on the record).

¹² Alexandra Thompson & Susannah N. Tapp, *Criminal Victimization, 2022*, Table 5, U.S. DEP'T OF JUSTICE (Sept. 2023 Bulletin), available at <https://bjs.ojp.gov/document/cv22.pdf>.



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March 25, 2024

Senate Bill 2347

Support

House Committee on Judicial and Hawaiian Affairs

Aloha Chair Tarnas and Committee

Thank you for the opportunity to provide testimony on SB2347. At the February 13th meeting of the Waikiki Neighborhood Board the board voted in favor of support for this bill.

Waikiki is in the second year of Safe and Sound and this bill will support the efforts to take those who resort to violence off the street.

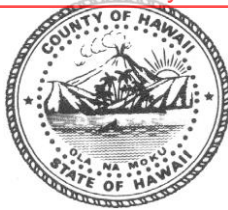
The City Prosecutor, HPD and others have a great success rate in catching, arresting and prosecuting offenders but the penalty needs to be strengthened by passing this bill.

Board members and other residents would like to support this bill.

Robert Finley
Chair

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OFFICE OF THE PROSECUTING ATTORNEY

TESTIMONY IN SUPPORT OF SENATE BILL NO. 2347

RELATING TO CRIME

COMMITTEE ON JUDICIARY &
HAWAIIAN AFFAIRS

Representative David Tarnas, Chair
Representative Gregg Takayama, Vice Chair

Tuesday, March 28, 2024 at 2:00 p.m.

Honorable Chair Tarnas, Vice Chair Takayama, and Members of the Committee on Judiciary and Hawaiian Affairs. The County of Hawai'i, Office of the Prosecuting Attorney submits the following testimony in support of the passage of Senate Bill No. 2347.

This legislation was introduced with the intent to establish the offense of habitual violent misdemeanor crime to allow the prosecution to charge a person who is convicted of three or more violent misdemeanors within five years with a class C felony.

This legislation is taking a crucial step towards mitigating the escalating issue of violent crime within our community. At present, individuals who recurrently commit violent misdemeanors face minimal consequences. This legislation aims to establish that ongoing acts of violence will be met with appropriate legal penalties, acknowledging the substantial threat such behaviors present to public safety. Our community relies on the Legislature, law enforcement, and judicial system to safeguard them against violent crime. Passage of this bill will equip the criminal justice system and law enforcement with an effective means to address the issue of repeat violent offenders.

Our Office also supports the comments and suggestions submitted by the Department of the Attorney General in their most recent testimony, including: 1) Addition of specific felony offenses to the definition of "habitual violent crime perpetrator; 2) Sentencing Provisions; and 3) Addition of abuse of a family or household member.

For the foregoing reasons, the County of Hawai'i, Office of the Prosecuting Attorney supports the passage of Senate Bill No. 2347. Thank you for the opportunity to testify on this matter.

COMMUNITY ALLIANCE ON PRISONS

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COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Representative David A. Tarnas, Chair

Representative Gregg Takayama, Vice Chair

Thursday, March 28, 2024

2:00 PM

Room 325 & Videoconference

STRONG OPPOSITION TO SB 2347 - HABITUAL VIOLENT MISDEMEANORS

Aloha Chair Tarnas, Vice Chair Takayama, and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies in Hawai'i for thirty years. This testimony is respectfully offered on behalf of the 3,850 Hawai'i individuals living behind bars¹ and under the "care and custody" of the Department of Public Safety/Corrections and Rehabilitation on March 18, 2024.

We are always mindful that 858 - 43% of the male prison population of 1,986 - are serving their sentences abroad -- thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Kanaka Maoli, far, far from their ancestral lands.

Community Alliance on Prisons was heartbroken to see this bill rise again. We were warned that this might happen, however, we believed that the legislature was on the right track, following the research and science and understanding that reforming Hawai'i's punitive policies was crucial. Hawai'i is an outlier in criminal justice as other jurisdictions have relaxed some of their punitive policies and reduced their incarcerated populations.

In the interest of justice, Community Alliance on Prisons is in **STRONG OPPOSITION to SB 2347** that establishes the offense of habitual violent misdemeanor.

This bill should be called, **THREE STRIKES, YOU'RE A FELON**. It revives a bad proposal by former Honolulu Prosecutor Keith Kaneshiro, before his indictment.

Upon our initial review of the bill, we wondered just who this bill was targeting and then we saw it on page 1, lines 13-15. Wrapped in domestic violence crimes, there it was: *"... and the offense of habitual property crime is a Class C felony for persons who, within ten years of the instant offense, have multiple property crime convictions."*

¹ **DPS/DCR Weekly Population Report, March 18, 2024.**

<https://dcr.hawaii.gov/wp-content/uploads/2024/03/Pop-Report-Weekly-2024-03-18.pdf>

As the session progressed and we witnessed some pretty mean hearings, we now know exactly who this bill is going after – THE UNHOUSED. However, it is so politically incorrect to target people struggling to survive, that the bill is couched in domestic violence.

**This bill actually criminalizes poverty and is just another way to hide our social challenges - incarcerate people living unhoused – remove them from sight.
It's bad for tourism.**

This is another indicator that this is a stealth bill targeting the houseless and pushing a division between the 'haves' and the 'have nots' found on pages 2, lines 15-21 and page 3, lines 1-3:

"The prosecution shall not be required to prove any state of mind with respect to the person's status as a habitual violent misdemeanor offender. Proof that the person has the requisite minimum prior convictions shall be sufficient to establish this element."

WOW! How shameful for the Aloha State.

All is not well at the Honolulu Prosecutor's office - seasoned attorneys have left, the prosecutor informed the AG that they will no longer be handling forfeitures, all the while the Prosecutor is campaigning shamelessly on our hard-earned tax dollars!

Despite the research on proportional sentencing (on which the current Honolulu prosecutor campaigned) Hawai'i still has mandatory sentencing that takes away the discretion of the court. And Hawai'i is still entertaining bills that have been deemed racist, classist, and inhumane, like this one. Creating felons from Class C misdemeanants is sneaky and defies justice.

We have looked at recent research from the California Policy Lab, who issued new research on sentence enhancement in California in March 2023².

"Since the 1980s, California has added numerous enhancements to the penal code that have lengthened sentences and increased the state's prison population. More recent reforms have dialed back the use of enhancements, though they are still applied frequently and affect the sentences of the majority of currently incarcerated individuals."

Two Key Findings:

Prevalence: Roughly 40% of individual prison admissions since 2015 have sentences lengthened by a sentence enhancement

Racial, ethnic, and sex disparities: Sentence enhancements are more likely to be applied to men. Black and American Indian are most likely to receive sentence enhancements.

A breakdown of the population presented at the Breaking Cycles Symposium clearly shows that

² New Research provides In-Depth Look at Sentence Enhancements in California.

<https://www.capolicylab.org/news/new-research-provides-in-depth-look-at-sentence-enhancements-in-California>

- native Hawaiians are the largest ethnic population in Hawai`i's jails and prisons;
- at least 30% of OCCC's population were homeless prior to entry; and
- 49% of new HCCC intakes need mental health treatment.

At \$260 a day/\$94,900 a year surely Hawai`i can do better for our people who are struggling to survive. Banishing people to prison and saddling them with a lifelong criminal record (for misdemeanors) is not the way to build community and it definitely does not demonstrate the values we hold dear.

Community Alliance on Prisons respectfully asks the committee defer this bill indefinitely. THIS IS NOT JUSTICE. THIS IS POLITICS.

**“Jail for those with mental health illness is the
most costly and least effective option.”**

Tommy Johnson, DCR Director



WAIKĪKĪ IMPROVEMENT ASSOCIATION

**Testimony of Rick Egged
Waikīkī Improvement Association**

Before the

House Committee on Ways and Means & Commerce and Consumer Affairs

Thursday, March 28, 2024

In consideration, of SB 2347 Relating to Crime

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

My name is Rick Egged, President of the Waikīkī Improvement Association (WIA). The WIA is a membership organization consisting of landowners, hotels, retailers and restaurants in Waikīkī, the businesses that serve them and those interested in the future of this important part of our community and economy.

WIA strongly supports Senate Bill 2347. This bill establishes the offense of habitual violent misdemeanor crime to allow prosecutors to charge a person who is convicted of three or more violent misdemeanors within five years with a class C felony.

The bill targets persistent habitual violent offenders who have the following violent misdemeanors convictions: (a) Assault in the third degree under section 707-712; (b) Assault against a law enforcement officer in the second degree under section 707-712.6; or (c) Sexual assault in the fourth degree under section 707-733. Allowing prosecutors to charge certain repeat offenders with a class C felony, protecting law enforcement and the public from perpetrators of multiple violent attacks.

Some individuals commit multiple violent attacks on others. If none of the attacks cause sufficient harm to the victims to rise to the level of a felony the perpetrator is only charged with a misdemeanor and escapes serious punishment. For example a victim can be pushed, punched, kicked and the crime remains a misdemeanor. Those that repeatedly commit such violent acts need to be held accountable.

Mahalo for the opportunity to testify.

Rick Egged

President of Waikiki Improvement Association



The Institute for Human Services, Inc.
Ending the Cycle of Homelessness

TO: Honorable Rep. David A. Tarnas,
Chair, House Committee on Judiciary and Hawaiian Affairs

Honorable Rep. Gregg Takayama,
Vice Chair, House Committee on Judiciary and Hawaiian Affairs

FROM: Angie Knight, Community Relations Manager
IHS, The Institute for Human Services, Inc.

RE: SB2347 - RELATING TO CRIME.

HEARING: Thursday, March 28, 2024 at 2:00 PM

POSITION: IHS, The Institute for Human Services **strongly supports** SB2347.

As Hawaii's largest nonprofit human services organization providing intensive and specialized homeless outreach across O'ahu and sheltering many others seeking help, we encounter individuals who clearly pose various levels of threat to our community and themselves. Many of these individuals are struggling with chronic substance use and chronic mental illness, and often, both at the same time. Outbursts are common and we try to accommodate such behaviors and deliver treatment to mitigate the threat they pose.

Mental illness and substance use disorders are on the rise among the homeless community. In the 2023 O'ahu Point in Time Count, 39% of those surveyed reported having a known mental illness, while 31% reported having a substance use disorder. These are disabilities that need to be treated and should engender compassion. However, violent behaviors that occur while under the influence of these two mental disabilities cannot be excused. While we are opposed to the criminalization of individuals solely because they suffer from mental illness or addiction, we are aware of the threat some of them pose to our community, including to other, more vulnerable homeless individuals. Some of the acts of violence are misdemeanors and do not reach the level of a felony. However, that does not mean the assaults are not traumatizing to the victims.

IHS has been painfully enlightened to the impact of a changing landscape of substances being distributed on the street as violence has erupted within and outside our shelters with greater frequency. Methamphetamine is currently far more potent than ever due to its manufacturing in overseas drug labs. Many drugs are being mixed with others, resulting in a hastened path to addiction. The mixture of methamphetamine in street marijuana has had the effect of disinhibition and precipitating unexpected violence when the use of marijuana previously has been historically effective in reducing anxiety and calming users.

Our direct service staff, such as our outreach workers and shelter guest service assistants, daily are putting themselves into positions of potential harm as they canvas offering services and assistance to individuals using drugs or coming off of highs. Moreover, IHS advocates diligently for the treatment of persons experiencing homelessness who are afflicted with serious and



The Institute for Human Services, Inc.
Ending the Cycle of Homelessness

persistent mental illness through assertive homeless outreach and also petitioning for guardianships or court-ordered community treatment when they require long-acting medication, sometimes over their objection. These efforts have been generally successful for the subjects we select, who are often the most vulnerable.

IHS' shelters and services are offered to all individuals experiencing homelessness, including those who are formerly incarcerated or arrested, some of whom even engaged with our services before their incarceration. Choosing to change one's life, and beginning a new journey of sobriety is incredibly difficult, often it takes a jolting intervention to convince an individual to take the leap and get clean, such as the ones made possible through the passing of this measure. **This bill is needed to distinguish those persons from those who may have behaved inappropriately once due to behavioral health issues from those whose behaviors have evolved to include habitual violent acts against citizens of and visitors to our community.** Many times, being incarcerated for a sufficient period to motivate and receive treatment is the only way to break the cycle of violence for some whose mental illness and addictions continue untreated in the community.

Ultimately, this bill has the potential to reduce the risk of injury to members of our community and re-establish the expectation that violent behaviors are not tolerated in the Aloha State. Please help make our community a safer one while promoting access to treatment for people who whose behaviors indicate they need treatment.

Thank you for the opportunity to testify.

SB-2347

Submitted on: 3/26/2024 12:57:12 PM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Liam Chinn	Reimagining Public Safety in Hawai'i Coalition	Oppose	Remotely Via Zoom

Comments:

I oppose SB2347 for the following reasons:

The Hawaii public safety system must be overhauled into a more rehabilitative framework to provide offenders with the resources, support, and skills they need to desist from crime

- **Unfortunately, SB2347 is an example of what criminologists refer to as crime control theater. Habitual Offender laws give the perception of a serious response to crime, but actually do little to combat crime.**
- **Locking people up for an offense as minor as shoving another person is not how we will reduce crime in our neighborhoods and communities.**
- **Studies on deterrence and punishment find that increasing the severity of punishments has a very limited deterrent effect, and the harshest policies tend to be the least effective.**
- **SB2347 is not effective justice policy.**
- **Under this bill the prosecution doesn't need to prove any state of mind. This means being of sound mind is inconsequential when they commit an offense.**
- **This bill creates the pretext for long-term incarceration of houseless people who experience chronic mental illness, extracting vulnerable people from their communities rather than providing them assistance.**
- **Hawaii has tried the mass incarceration approach and habitual offender laws for decades. It has failed. In just the last four decades Hawaii's combined jail and prison population increased 670%, and the incarceration rate increased 400%.**
- **This "tough on crime" approach and has not worked, Hawaii's recidivism rate is over 50%.**
- **There are more promising alternatives that the legislature is currently considering, including restorative justice, mobile crisis responders, and crisis drop off centers which are proven to be more effective than incarceration.**



Hawai'i

Committee: Judiciary & Hawaiian Affairs
Hearing Date/Time: Thursday, March 28, 2024 at 2:00pm
Place: Conference Room 325 & Via Videoconference
Re: **Testimony of the ACLU of Hawai'i in OPPOSITION to SB2347 Relating to Crime**

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

The ACLU of Hawai'i **OPPOSES SB2347**, which establishes the offense of habitual violent misdemeanor crime. In effect, this proposed measure creates a mandatory minimum sentence that is procedurally premature and grounded in failed "tough on crime" approaches, rather than data-driven solutions to enhance public safety.

Hawai'i is Due for a Comprehensive Penal Code Review

Currently, the State Legislature is considering **HB1953 HD1 SD1** which requires the Judicial Council to appoint an advisory committee to conduct a comprehensive review of the Hawai'i Penal Code and recommend proposed changes.¹

Practically speaking, it is premature for the State legislature to propose this new mandatory minimum sentence outside of a comprehensive review of the Hawai'i Penal Code as outlined in **HB 1953 HD1 SD1**.

Mandatory minimums threaten due process principles, eliminate transparency in charging and ultimately sentencing decisions, and create powerful incentives to force guilty pleas.

ACLU Hawai'i opposes this measure because it creates a mandatory minimum sentence for a new Habitual Violent Misdemeanor crime. Mandatory minimum sentences reduce the sentencing discretion of judges and perpetuates racial disparities. Additionally, mandatory minimum sentences give prosecutors the leverage they have historically used to strong-arm defendants out of their constitutional rights and force them to plead to harsh sentences.

A prosecutor is not required to disclose their reasons for bringing or dropping a charge. Judges, on the other hand, typically must disclose their reasons for sentencing in the written, public court record, and aggravating factors can be contested by the defendant.

As Justice Anthony Kennedy stated, "the trial judge is the one actor in the system most experienced with exercising discretion in a transparent, open, and reasoned way."

¹ https://www.capitol.hawaii.gov/session/measure_indiv.aspx?billtype=HB&billnumber=1953&year=2024

Under mandatory sentencing laws, prosecutors have control over sentencing because they have total and unreviewable authority to decide what charges to pursue. In prosecutors' hands, the minimum transforms to a tool for prosecutors to incentivize behavior and make judgment calls. This charging power can be used to cut deals, secure testimony against other defendants, and force guilty pleas where the evidence is shaky.

A defendant faced with a plea deal of paying a fine or the risk of going to jail for up to 5 years if they decided to go to trial is likely to choose the former, no matter how weak the evidence. The threat of mandatory minimum penalties may cause people to give false information, to plead guilty to charges of which they may be innocent, or to forfeit a strong defense.

A recent **task force report by the American Bar Association found that “mandatory sentencing laws often make the risks of taking a case to trial intolerable, and in some cases, prosecutors understand and exploit these fears to induce defendants to plead guilty in cases where they otherwise would prefer to exercise their constitutional right to have the case decided by a jury.** Similarly, mandatory collateral consequences, including the threat of deportation, push defendants to accept pleas in cases they might otherwise fight at trial.”²

By putting all discretion in the hands of prosecutor offices that may be rewarded for achieving numerous convictions for unnecessarily long sentences, mandatory minimums ensure that public policy concerns take a back seat. **If there is a reason in a particular case to believe that a more severe sentence is warranted, the decision should be left to the judge,** who has fewer incentives to ratchet up sentencing.

Sentences should be individualized, not one-size-fits-all.

Mandatory sentences don't allow judges to reduce a defendant's sentence based on any number of mitigating factors, including circumstances of the case or a person's role, motivation, or likelihood of repeating the crime. This approach to sentencing is unfair, treating similar defendants differently and different defendants the same. It is ineffective at reducing criminal behavior because it is not consistently applied.

Mandatory minimums are ineffective at improving public safety.

There is no evidence that there is a public safety benefit to mandating severe sentences, regardless of circumstances. Indeed, **the evidence overwhelmingly shows that imprisonment largely fails to advance public safety goals, while creating lasting negative consequences for people, families, and communities.**³

The U.S. prison population has increased nearly seven times the size it was in the past 35 years. Studies have found that not only do harsher sentencing laws and increased prison

² *2023 Plea Bargain Task Force Report*, American Bar Association Criminal Justice Section (2023).

³ Vera Institute for Justice, *A New Paradigm for Sentencing in the United States* (Feb. 2023) (finding that the carceral system has not “been effective in delivering accountability, building public safety, or repairing harm, results we can ask sentencing to deliver. They have, however, disproportionately hurt Black and Latino communities.”).

populations not reduce crime, but they also actually correlate with a small increase in violent crime and property crime rates.⁴

This Proposed Bill is Driven by Speculation, Not Hard Data.

ACLU Hawai'i is concerned that the new proposed mandatory minimum sentence is being primarily driven by anecdotal reports rather than actual data. Of note, the Honolulu Police Department, Department of Law Enforcement, SHOPO, and the Honolulu Prosecutor's office broadly reference increases in violent crime in their written testimony without providing any statistical data.⁵

Good public policy is shaped by data and evidence based practices. In stark contrast, the proposed measure is devoid of data to prove increases in violent misdemeanor charges throughout Hawai'i. Nor has data been presented to demonstrate that increasing penalties is a cost-effective response to behaviors targeted in the bills.

Despite Enhanced Class C Felony Penalties, the Proposed Measure Does Not Require an Intentional State of Mind and Will Disparately Criminalize Persons with Mental Health Conditions and or Co-Occurring Disorders.

H.R. S. Section 707-712 - Assault in the third degree (1) A person commits the offense of assault in the third degree if the person: (a) Intentionally, knowingly, or recklessly causes bodily injury to another person; or (b) Negligently causes bodily injury to another person with a dangerous instrument.

The proposed measure targets "violent " conduct regardless of whether the person intends to cause bodily injury to another person:

"The prosecution shall not be required to prove any state of mind with respect to the person's status as a habitual violent misdemeanor offender."

For example, a former Deputy Public Defender represented a youth charged with Assault in the third degree for throwing a Slurpee on a person. The youth had no intention of causing bodily injury yet was charged with Assault in the third degree.

ACLU Hawai'i is concerned that persons under ACT orders may be charged with this proposed Habitual Class C felony – and subject to up to five years in prison - for physically opposing forced medication as permitted under ACT Orders, without legal representation to safeguard their due process rights under our federal and Hawai'i Constitutions.

⁴ Dhondt, Geert Leo, "The Relationship Between Mass Incarceration and Crime in the Neoliberal Period in the United States" (2012) Open Access Dissertations. 636. <https://doi.org/10.7275/4xa6-js81>

⁵ https://www.capitol.hawaii.gov/sessions/session2024/Testimony/SB2347_TESTIMONY_JDC_02-09-24_.PDF

Despite good intentions, ACT orders may be creating relationships of distrust and inciting fear and terror amongst persons with mental health and/or co-occurring disorders in response to some service providers and law enforcement attempting to force medication against their will.

Reimagining Public Safety Requires Investments in Data-Driven Strategies to Effectively Reduce Violence.

The ACLU supports investments in data driven solutions that protects individuals and families. and creates safer streets and communities. **Here's a list of 8 alternatives that policy makers and communities can invest in to help effectively reduce harm and violence.**

1. ***There are many effective approaches to reducing violence that don't involve police.*** Investments in [housing](#), [health care](#), [jobs programs](#), [education](#), [after school programs](#), [gun control](#), [environmental design](#), and [violence interruption programs](#) have all been proven to quantifiably reduce violence. For example, one [study](#) found that every additional community- focused nonprofit in a medium-sized city leads to a 12 percent reduction in homicide rate, a 10 percent reduction in violent crime, and a 7 percent reduction in property crime. In Philadelphia, simply cleaning vacant lots in neighborhoods below the poverty line resulted in a [29 percent decrease](#) in gun assaults.
2. ***Policing is not especially effective at reducing violence.*** Police typically deal with violence only after someone has already been killed, injured, or otherwise harmed. Even then, many police departments are alarmingly ineffective at holding anyone accountable for violent crimes, as reflected by low “clearance rates” (whether any suspect is ever charged for a reported crime).
3. ***Investing so heavily in policing is not evidence-based.*** Our dependence on police as first responders to every social problem is the product of decades of reliance on antiquated and [disproven theories](#) about safety, and fearmongering of powerful [police lobbyists](#). Policing as a one-size-fits-all solution to violence is simply a bad and dangerous policy choice made by elected officials — one they now have a responsibility to correct.
4. ***There is no connection between violence and police budgets.*** America has steadily increased police funding year-over-year [regardless of whether crime rates are going up or down](#). There is no documented connection between the two. In 2020, for example, Houston, Nashville, Tulsa, and Fresno all increased their police budgets — and all saw increased homicides. [Most experts believe](#) the recent increase in homicides in some cities is due to the pandemic, economic stress, unprecedented gun sales, and the defunding of community services — not a lack of resources for police.
5. ***There is a connection between violence and defunding social services.*** As noted above, community investments have proven effective at reducing violence, and the converse is also true: Underfunding and defunding these supports for decades in communities of color has a deeply destabilizing effect that [increases the likelihood of](#)

[homicide](#), violence, and other crime.

6. **Violence interruption programs show extraordinary promise during moments of heightened interpersonal violence.** In addition to long-term investments in social infrastructure, “violence interruption programs” — community-driven interventions to prevent or peacefully resolve conflict — are proving remarkably effective. For example, in Baltimore, directly impacted staff and volunteers of the Safe Streets Program engage in conflict resolution and connect people to services and resources. [Since last June](#) alone, the group has peacefully resolved over 400 conflicts without police, 70 percent of which involved a gun.
7. **Violence is a complex public health problem with numerous interconnected causes.** Violence is caused by [many different things](#), including poverty, alcohol, guns, interpersonal conflict, unmet mental health and social needs, juvenile trauma, and more. It is no wonder then that relying on a single approach — policing — has not worked in the past and is not going to work to meet the moment now.
8. **We know what works to build safe and healthy communities.** Reducing violence is difficult and takes time, but the solutions are not mysterious. To see them in action, just look at a nearby affluent neighborhood or community. You’re likely to find a neighborhood where people have stable, well-paying jobs and access to well-funded public services, experience little violence, and have a small police force that responds only when it is wanted. Instead of fully and equitably funding all these same approaches in low- income communities and communities of color, we overfund police year after year after year.

This is a critical moment to decide which path we are going to take to address the unmet needs of community members.

Are we going to continue the dangerous *status quo* of endlessly cutting blank checks for policing, prosecution and incarceration while neglecting proven alternatives such as supportive housing and health care services? Or will we finally decide to fully invest in a more effective multi-pronged approach to public safety and community health?

In closing, we urge this committee to make policy decisions based on evidence based practices proven to reduce the drivers of crime. **Please defer S.B. 2347.**

Sincerely,

Carrie Ann Shirota

Carrie Ann Shirota

Policy Director

ACLU of Hawai'i

cshirota@acluhawaii.org

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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.



Chamber of Commerce HAWAII

The Voice of Business

**Testimony to the House Committee on Judiciary & Hawaiian Affairs
Thursday, March 24, 2024 at 2:00PM
Conference Room 325 & Video Conference**

RE: SB2347 Relating to Crime

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

The Chamber of Commerce Hawaii Supports (“The Chamber”) **supports SB2347**, which establishes the offense of habitual violent misdemeanor crime.

Aside from economic leadership, the Chamber also focuses on “quality of life” issues that impact our members, and their employees and families. Central to this commitment is ensuring the safety and well-being of our communities, which we consider paramount. We firmly believe that SB2347 is a crucial step in addressing the persistent threat of violent behavior, particularly within businesses such as retail and restaurants.

With the rise of substance abuse and violent crimes, it is evident that intervention is urgently needed to safeguard our families, keiki, and businesses. While the Chamber acknowledges the importance of long-term community investment and social services as systemic solutions to crime prevention and public safety enhancement, we also recognize the immediate necessity for legislation that directly confronts the challenges posed by habitual violent offenders.

As proposed, SB2347 would create a significant deterrent against repeat violent offenders, thereby enhancing accountability and fostering safer communities for both our workforce and families. By imposing stricter measures on repeat offenders, this bill encourages and facilitates pathways for treatment, support, and rehabilitation, ultimately breaking the cycles of violence and shielding our vulnerable populations from precarity and harm.

The Chamber is Hawaii’s leading statewide business advocacy organization, representing about 2,000+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the “Voice of Business” in Hawaii, the organization works on behalf of members and the entire business community to improve the state’s economic climate and to foster positive action on issues of common concern.

On behalf of The Chamber, thank you for this opportunity to testify.



HAWAI'I LODGING & TOURISM
ASSOCIATION

**Testimony of Mufi Hannemann, President & CEO
Hawai'i Lodging & Tourism Association**

**House Committee on Judiciary & Hawaiian Affairs (JHA)
SB2347 RELATING TO CRIME
Thursday, March 28, 2024
Position: SUPPORT**

Chair Tarnas and members of the Committee,

On behalf of the Hawai'i Lodging & Tourism Association, the oldest and largest private sector tourism organization in the state, we express our support for **SB2347 RELATING TO CRIME**. This bill would establish the offense of habitual violent misdemeanor crime. Particularly, an individual convicted three or more times of: 1) causing bodily injury; 2) causing bodily injury to a law enforcement officer, or 3) sexual assault, including on minors, within a five-year period will be charged with a "habitual violent misdemeanor crime" — a class C felony.

The Hawai'i Lodging & Tourism Association – the state's largest and oldest private sector visitor industry organization representing more than 50,000 hotel rooms and nearly 40,000 lodging workers – has always been at the forefront of prioritizing public safety for both visitors and kama'āina.

This measure aims to deter further criminal behavior, hold individuals accountable for their actions, protect society from persistent threats, and foster rehabilitation efforts. By imposing stricter penalties on repeat offenders, we send a clear message that recidivism – the tendency of a convicted criminal to reoffend – will not be tolerated, while also providing an opportunity for intervention and rehabilitation. We must take proactive steps to address this pressing issue, to ensure the safety and well-being of our communities while upholding the principles of justice and accountability.

Mahalo for the opportunity to offer our testimony.



ABC Stores
766 Pohukaina Street
Honolulu, Hawaii 96813-5391
www.abcstores.com

Telephone: (808) 591-2550
Fax: (808) 591-2039
E-mail: mail@abcstores.com

To: Committee on Judiciary & Hawaiian Affairs

Re: SB2347 Relating to Crime

Date: March 28, 2024

Time: 2:00 p.m.

Place: Conference Room 325

Position: Strong Support

Good afternoon, Chairperson David A. Tarnas, Vice Chair Greg Takayama and members of the Committee on Judiciary & Hawaiian Affairs. I am Curtis Higashiyama Employee Relations and Government Affairs Manager and I appreciate this opportunity to testify.

ABC Stores **Strongly Supports** SB2347. Establishes the offense of habitual violent misdemeanor crime. The habitual violent misdemeanor crime measure allows the prosecution to charge a person who is convicted of three or more violent misdemeanors within five years with a class C felony.

This measure will enable our prosecutors the ability to support our enforcement officers in removing that group of offenders who are persistent/habitual in their offenses. We have seen too often those who have committed violent offenses with **multiple offenses** then go on to commit more due to the inability to enforce stronger prosecutorial elements to keep these offenders off the street.

The focus of this measure is on crimes that hurt individuals physically. One should also note along with the hurt from the crime, the mental consequences/trauma an individual will endure, all it takes is one. A person convicted of three or more times within a five-year period will be charged with a "habitual violent misdemeanor crime"-a class C felony:

- Causing bodily injury
- Causing bodily injury to a law enforcement officer
- Sexual assault, including on minors.

We urge you to help keep our community safe and support this bill by passing this measure. Thank you for the opportunity to testify.

Mahalo,
Curtis Higashiyama
ABC Stores
Employee Relations and Government Affairs

SB-2347

Submitted on: 3/25/2024 1:45:19 PM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
John Deutzman	Individual	Support	In Person

Comments:

Aloha Chair Tarnas, Vice Chair Takayama and the House Judiciary & Hawaiian Affairs Committee,

You all have seen the headline grabbing crimes in our community. In almost every major case , the perpetrator’s extensive criminal history sparks outrage among your constituents.

SB 2347 ,“Habitual Violent Misdemeanor Law”, is urgently needed to properly sanction individuals who have a propensity to commit violent crimes. Exactly 20 years ago, your colleagues found it necessary to pass the “Habitual Property Crime Law” to address defendants with a habit of committing non-violent crimes like theft. It’s only logical to use the same rationale to punish incorrigible violent criminals.

Your colleagues in the Senate have embraced the bill. SB 2347 passed through the Senate Judiciary Committee as written and received a 25-0 vote on third reading.

I’m three time victim of frightening ,unprovoked attacks by chronic violent criminals . I’ve been following hundreds of arrests in my Waikiki neighborhood for the past three years. It’s become very clear that there are a few people out there with a pattern of violent behavior which is not appropriately addressed by the justice system . Even though in each case innocent victims are being hurt , the the crime is charged as a misdemeanor. A misdemeanor is considered a “minor crime” by many .But when a community is attacked over and over again by the same person the cumulative effect of the misdemeanors on the community is “a death by a thousand cuts”.

It’s important to understand the nature of these crimes. The most commonly committed violent misdemeanor included in this law is assault 3. An assault 3 charge mandates that an innocent victim is physically injured. The successful prosecution of assault 3 also requires the victim to follow through and press charges. Despite the high bar to secure an assault 3 conviction, there are some people in my area with multiple recent assault 3 convictions. One individual has three assault 3 convictions and three harassment strike-shove convictions in less than two years. In chronological order his sentences for his assault 3 convictions were (1st) 90 days (2nd) 40 Days (3rd) 120 days. In the last case prosecutors asked for one year (the maximum) or six months and one year probation but the judge only sentenced him to four months no probation.

Regarding worries about “mass incarceration” : Based on my data, there are less than a handful of individuals in my neighborhood who would qualify for felony prosecution under 2347 and likely not too many who would face felony charges in the entire state. However, the individuals who do qualify are dangerous enough to warrant this surgical approach to target the worst of the worst.

Additionally this is not a “three strikes your out” law. SB 2347 allows prosecutors to use discretion to charge the felony.

Mahalo For Considering This Law

John Deutzman

Waikiki

SB-2347

Submitted on: 3/26/2024 1:12:52 PM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Louis Erteschik	Individual	Support	In Person

Comments:

I write in support as a private citizen. I am the Vice Chair of the Waikiki Neighborhood Board and the Board has voted to formally support this. I have resided in Waikiki since 1990. At our Board meetings, crime is a concern that is front and center every month. Progress has been made with some recent efforts and yet issues still persist. This measure would help in that clearly if an individual is committing multiple violent offenses, even though they may be misdemeanors, they must be dealt with in a more serious fashion. While each individual offense may technically be a misdemeanor, at some point this represents someone who is more of a danger to the community and the criminal justice system should acknowledge that. As I understand the Bill, it gives the Prosecutor discretion, so if they felt on a case by case basis that it was not warranted, they would not be mandated. That should address the concern raised by some opponents that this is a three strikes law or a mandatory minimum sentencing law. I don't see it that way. To me, this is simply saying that if a person commits three violent offenses they are someone that the criminal justice system needs to take more seriously and treat differently than one who has committed a lower level offense.

I appreciate the work of Senator Moriwaki and Representative Tam in introducing this and urge favorable consideration by the Committee.

SB-2347

Submitted on: 3/27/2024 6:13:34 PM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Nikos Leverenz	Individual	Oppose	In Person

Comments:

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

This not-so-novel "three strikes, you're a felon" approach is unwarranted at this time and should be deferred. Given the foreseeable increased costs to the Department of Corrections & Rehabilitation (formerly PSD), it is curious that this sentencing measure wasn't referred to either chamber's fiscal committee.

Prosecutors already have sufficient mechanisms to further the continued criminalization of those with little or no economic means, with current practices disproportionately impacting those from Native Hawaiian and Pasifika communities.

While it is true that "persons from all socioeconomic groups break laws," decades of data show that laws are not enforced on a proportionate basis.

Felony convictions have a range of collateral consequences that significantly impair a person's ability to obtain housing, employment, and otherwise available services.

For those with behavioral health problems, criminalization constitutes the most severe and lasting stigma perpetuated by dominant structures of power.

As the state contemplates entering into a public-private partnership to erect a new billion dollar jail facility, policymakers should instead endeavor to initiate much needed, long overdue reforms related to behavioral health crisis response, sentencing, pre-trial incarceration, reentry services, and probation and parole practices, among other areas.

The prior felonization of "habitual property crime," including petty theft, should also be assessed by the next penal code review, which will hopefully soon come to light given the ongoing fiscal implications of the state's excessively punitive criminal legal system.

Mahalo for the opportunity to provide testimony.

SB-2347

Submitted on: 3/25/2024 2:26:23 PM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Tammy Chu	Individual	Support	Written Testimony Only

Comments:

I support this proposed bill. Thank you

SB-2347

Submitted on: 3/25/2024 2:36:44 PM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Samuel Nam	Individual	Support	Written Testimony Only

Comments:

My name is Samuel Nam, I am writing in support of SB2347. As a concerned citizen of The State of Hawaii, any law that punishes a career criminal will always be supported by me. I myself have seen first hand how these criminal organizations take advantage of our Hawaii State Judiciary system along with hard working Americans. When I was working at Hallmark in Ala Moana I encountered a lady with 2 girls come into the shop and she created a distraction as the young girls began stealing products from the store. The lenient crime laws create incentives for these criminal families to teach their children to become criminals and this is also how crime organizations are created and grow. If anyone understands the law and ways to break it, it is a career criminal. I pray that the house will vote to pass this bill as it is the right step forward to fixing our lax crime laws.

SB-2347

Submitted on: 3/25/2024 3:10:19 PM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Beverly Heiser	Individual	Support	Written Testimony Only

Comments:

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

I strongly support SB 2347 that establishes the offense of habitual violent misdemeanor crime.

Please pass SB 2347.

SB-2347

Submitted on: 3/25/2024 3:32:43 PM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Nicholas Chagnon	Individual	Oppose	Written Testimony Only

Comments:

Dear Committee Members,

I am writing you to express my opposition to this bill, stemming from my experience as a professional scholar of crime and justice policy. This bill is bad policy in the long tradition of failed 'get tough' measures that have been implemented across the US. These policies rely on the notion of deterrence through harsh sentencing as a means of controlling crime. The research on this is clear. Such deterrence doesn't work. Moreover, our prisons are criminogenic institutions where people are dehumanized and deprived of the material and social resources (e.g. healthcare, nutrition, safe housing, family) that are necessary for true rehabilitation and healing. Incarcerating people for longer terms does nothing to ensure their desistance from crime in the future. Please do not pass this bill as it will only add to the suffering in our community.

Sincerely,

Nicholas J. Chagnon, Ph.D

SB-2347

Submitted on: 3/25/2024 4:30:54 PM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Don Baluran	Individual	Support	Written Testimony Only

Comments:

I support this bill.

SB-2347

Submitted on: 3/25/2024 5:33:30 PM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Rory Yamasaki	Individual	Support	Written Testimony Only

Comments:

Aloha,

I fully support this bill and any other bills that hold violent offenders accountable for their actions. Violent crime is out of control on Oahu and more must be done.

SB-2347

Submitted on: 3/26/2024 7:56:05 AM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Colleen Rost-Banik	Individual	Oppose	Written Testimony Only

Comments:

Aloha JHA Committee members,

My name is Colleen Rost-Banik. I am a resident of Waikiki and a Sociology Instructor at University of Hawaii, Manoa. I have also worked with women at the Women's Community Correctional Center for the past 6 years, initially teaching sociology courses and now facilitating a creative writing course.

I respectfully ask that you please oppose SB2347, which would reclassify misdemeanor assault as a class C felony upon a third conviction for the offense. This is known as a habitual offender law, modeled after Three Strikes laws that have been popularized on the continent but have had, at best, minimal impact, for reducing crime rates and offender actions. What habitual offender laws *have* been successful at is placing more and more people in prison. More people in prison simply leads to more violence in our communities because it separates people from their families, exposes people to trauma and violence inside prison, and creates overbearing challenges - for all of us - as a person tries to reintegrate into larger society upon release from prison.

Rather than focus on punitive measures for people who repeat misdemeanor offenses, we need to expand and fully fund restorative justice initiatives, substance abuse treatment, and the Crisis Outreach Response and Engagement (C.O.R.E.) program.

Please oppose SB2347. It offers nothing more than political theater and the appearance of being 'tough on crime.'

Mahalo for your time and attention. I trust that you will do what is pono for our communities by halting SB2347.

Colleen Rost-Banik PhD

SB-2347

Submitted on: 3/26/2024 8:02:56 AM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Chuck Lee	Individual	Support	Written Testimony Only

Comments:

Aloha,

I am in FULL SUPPORT of SB2347. There are way to many criminals committing crimes and hardly any significant consequences and that is one of the main reasons why there are so many repeat offenders! There should be more laws like this that protect law abiding citizens instead of these criminals!! Mahalo

SB-2347

Submitted on: 3/26/2024 9:38:32 AM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Russell Stephen Pang	Individual	Comments	Written Testimony Only

Comments:

While SB2347 would improve the existing law, I believe the law still pampers repeat revolving door offenders. Aren't laws enacted to encourage correct behavior? Aren't laws made to discourage and penalize improper behavior? Why play the game of 3 strikes with repeat offenders? Why not have a class c felony for the first offense?

- Ecclesiastes 8:11 Because the sentence against an evil deed is not executed speedily, the heart of the children of man is filled to do evil. (ESV)

This verse suggests that when punishment for wrongdoing is delayed or not enforced, it emboldens people to continue doing evil. The lack of immediate consequences makes them believe they can get away with it.

SB-2347

Submitted on: 3/26/2024 11:57:27 AM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Glen Kagamida	Individual	Support	Written Testimony Only

Comments:

STRONG SUPPORT! IT'S ABOUT TIME. MORE LIKE THIS IS NEEDED.

MAHALO!

SB-2347

Submitted on: 3/26/2024 1:44:48 PM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Isis Usborne	Individual	Oppose	Written Testimony Only

Comments:

Aloha,

Please drop the tough on crime rhetoric - all it does is harm vulnerable communities and play into the myth that incarceration helps with broader issues like poverty. I oppose this bill because there are other, better solutions for the problems this bill is purporting to help solve. Studies have shown that such 3 strike policies do not actually work to deter crime or reduce recidivism. What does work are mobile crisis centers, housing for houseless people, and other supportive and rehabilitative services - not prison or jail time.

Mahalo,

- Isis Usborne, 96815

SB-2347

Submitted on: 3/26/2024 2:21:41 PM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Julia York	Individual	Support	Written Testimony Only

Comments:

I strongly support this bill. I am working in property Management and we are surrounded by public parks that are as of current the dumping grounds for criminals. Over the years we are experience the criminal subjects getting more and more brazen as there is really no consequence to their doing. Robberies and assaults are way to common and they should not be !. Please do your part to protect the general public. Repeat offenders need to get off the street and into jail where they belong.

SB-2347

Submitted on: 3/26/2024 2:40:36 PM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Marie Sabado-Reynon	Individual	Support	Written Testimony Only

Comments:

Aloha,

My name is Marie and I was born and raised in Honolulu, Hawaii. I have always felt safe here and never felt like I was in danger until the last few years. Within the last few years, I have felt really unsafe due to the homeless and crimes that have been happening. Ten years ago, I felt comfortable waiting for the last bus at Ala Moana at midnight, but now I am sure I will get robbed or assaulted. Also, the recent acid attack at Ala Moana should not have happened. That innocent woman that was minding her own business was attacked because of the lack of punishment here on the islands. That woman could of been me, my mom, my grandmother, or any other woman. This bill needs to be passed because women need to feel safe again while they walk home to work or home or even exercising. I should not feel the need to carry a pepper spray with me at all times because these criminals get released so quickly back to society. I truly do not feel like we are a Aloha State anymore. Hawaii is now a crime state that allows the criminals to run the streets because of the minimum enforcement from prosecutors and judges alike. I am in support of this bill because I want to have back the safe Honolulu I have known and loved my whole life. I do not want to move away because Oahu is my home. Please do something about this high crime situation that is hurting the locals the most.

Sincerely,

Marie Sabado-Reynon

SB-2347

Submitted on: 3/26/2024 2:53:36 PM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Dylan	Individual	Support	Written Testimony Only

Comments:

Hi,

My name is Dylan and I am from Maui. I now live on Oahu, but I have visited Oahu a few times since I was a child. The current state of Oahu is appalling due to the high crime that has been allowed. I have never felt so unsafe as a local resident. When I read the news, I feel like I live in a third world country. Now I feel worried when I wait at a bus stop because someone might push me in front of a bus. I feel even more afraid because the criminal that pushed that innocent man in front of the bus only got a \$10,000 bail for attempted murder. Why is crime now okay here? What happened to Hawaii where we used to all feel safe? Why have the criminals gotten to take over and get to steal and hurt local people? Why are the prosecutors and judges allowing this? Something needs to change and at least this bill is a start. My wife exercises in town everyday and I worry for her always. I should not have to be worried for her safety because criminals are running around like they own the place. If you want locals to stop moving to the mainland then you need to pass this bill and pass even more harsher bills.

Dylan

SB-2347

Submitted on: 3/26/2024 3:32:55 PM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Rachelle Nobriga	Individual	Support	Written Testimony Only

Comments:

Hopefully, this will not only get these offenders off our streets, this will protect our residents, keiki and kapuna. Most important, it will provide these individuals with mental illness or drug problems the treatment they need so they can start a new healthy fulfilling life.

for these reasons, I support this bill. Please Pass This Bill SB2347. Thank You.

SB-2347

Submitted on: 3/26/2024 5:05:19 PM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
John & Rita Shockley	Individual	Support	Written Testimony Only

Comments:

Aloha!

We support SB2347 that will punish repeat offenders with actual felony jail time. Some criminals need to be incarcerated to protect the general public. This Bill will make that possible.

Mahalo for your time.

SB-2347

Submitted on: 3/26/2024 6:46:30 PM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Edmay Apana	Individual	Support	Written Testimony Only

Comments:

I wholeheartedly support SB2347 because it finally acknowledges that a person can commit multiple misdemeanors without suffering any consequences. At least this bill addresses that and will hold serial offenders responsible for their actions. It's very disturbing to listen to newscasts of the same persons doing the same crimes and not being adequately punished.

I thank you for your attention and support to this matter.

Edmay Apana

SB-2347

Submitted on: 3/27/2024 7:23:08 AM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Thaddeus Pham	Individual	Oppose	Written Testimony Only

Comments:

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

As a concerned citizen and public health professional, I write in **STRONG OPPOSITION** to SB2347, which would establish the offense of habitual violent misdemeanor crime.

Criminologists have found that similar Habitual Offender laws give the perception of a serious response to crime, but actually do little to combat crime. Studies on deterrence and punishment find that increasing the severity of punishments has a very limited deterrent effect, and the harshest policies tend to be the least effective. As such, SB2347 is not effective justice policy.

Hawaii has tried the mass incarceration approach and habitual offender laws for decades. It has failed. In just the last four decades Hawaii’s combined jail and prison population increased 670%, and the incarceration rate increased 400%. This “tough on crime” approach and has not worked, Hawai’i’s recidivism rate is over 50%.

Furthermore, under this bill the prosecution doesn’t need to prove any state of mind. This means being of sound mind is inconsequential when they commit an offense. This bill creates the pretext for long-term incarceration of houseless people who experience chronic mental illness, extracting vulnerable people from their communities rather than providing them assistance.

There are more promising alternatives that the legislature is currently considering, including restorative justice, mobile crisis responders, and crisis drop off centers which are proven to be more effective than incarceration.

Please do not pass this bill, which will cost the state more money for little impact.

Mahalo,

Thaddeus Pham (he/him)

SB-2347

Submitted on: 3/27/2024 8:50:37 AM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Carla Allison	Individual	Oppose	Written Testimony Only

Comments:

Aloha Chair Tarnas, Vice Chair Takayama, and JHA Committee members. My name is Carla Allison, I live in Honolulu and strongly oppose SB2347. The passage of this bill will result in the long-term incarceration of houseless people who experience chronic mental illness. It will remove vulnerable people from their communities rather than providing them with assistance. Hawaii has tried the mass incarceration approach and habitual offender laws for decades and it has failed. In just the last four decades Hawaii’s combined jail and prison population increased 670%, and the incarceration rate increased 400%. That Hawai’i’s recidivism rate is over 50% shows that a “tough on crime” approach has not worked. There are more promising alternatives that the legislature is currently considering. Please direct our state’s resources toward restorative justice practices, mobile crisis responders, and crisis drop off centers which are proven to be more effective than incarceration. Please oppose SB2347.

Thank you.

SB-2347

Submitted on: 3/27/2024 12:09:31 PM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Michelle Fei	Individual	Oppose	Written Testimony Only

Comments:

Aloha,

I oppose SB2347 for the following reasons:

- SB2347 is an example of what criminologists refer to as crime control theater. Habitual Offender laws give the perception of a serious response to crime, but actually do little to combat crime.
- Locking people up for an offense as minor as shoving another person is not how we will reduce crime in our neighborhoods and communities.
- Studies on deterrence and punishment find that increasing the severity of punishments has a very limited deterrent effect, and the harshest policies tend to be the least effective.
- SB2347 is not effective justice policy.
- Under this bill the prosecution doesn't need to prove any state of mind. This means being of sound mind is inconsequential when they commit an offense.
- This bill creates the pretext for long-term incarceration of houseless people who experience chronic mental illness, extracting vulnerable people from their communities rather than providing them assistance.
- Hawaii has tried the mass incarceration approach and habitual offender laws for decades. It has failed. In just the last four decades Hawaii's combined jail and prison population increased 670%, and the incarceration rate increased 400%.
- This "tough on crime" approach and has not worked, Hawai'i's recidivism rate is over 50%.
- There are more promising alternatives that the legislature is currently considering, including restorative justice, mobile crisis responders, and crisis drop off centers which are proven to be more effective than incarceration.
- The Hawaii public safety system must be overhauled into a more rehabilitative framework to provide offenders with the resources, support, and skills they need to desist from crime.

Thank you,

Michelle Fei

SB-2347

Submitted on: 3/27/2024 2:22:50 PM

Testimony for JHA on 3/28/2024 2:00:00 PM

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

Comments:

Aloha,

My name is Emily Sarasa and I am a law student residing in Kaimukī. I am testifying in **strong opposition** to SB2347. Hawai'i has tried the mass incarceration approach and enforced habitual offender laws for decades. They have failed. In just the last four decades, Hawai'i's combined jail and prison population increased 670%, and the incarceration rate increased 400%. This "tough on crime" approach has not worked. Hawai'i's recidivism rate is over 50%. SB2347 is not effective justice policy. There are more promising alternatives that the legislature is currently considering, including restorative justice, mobile crisis responders, and crisis drop off centers which are proven to be more effective than incarceration. Please oppose SB2347.

Mahalo for your time and consideration,

Emily Sarasa

SB-2347

Submitted on: 3/28/2024 1:10:06 AM

Testimony for JHA on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Raelyn Reyno Yeomans	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose SB2347