



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

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 2693, S.D. 1, RELATING TO STATES OF EMERGENCY.

**BEFORE THE:**

SENATE COMMITTEE ON JUDICIARY

**DATE:** Friday, February 16, 2024 **TIME:** 10:00 a.m.

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

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

(For more information, contact Kory W. Young, Deputy Attorney General, at 808-586-1160.)

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Chair Rhoads and Members of the Committee:

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

The purpose of the bill is to make the fraudulent solicitation of contributions for disaster relief victims during a state of emergency declared by the governor under section 127A-14(a), Hawaii Revised Statutes (HRS), a specific criminal offense of "charitable fraud during a state of emergency."

On page 5, lines 20 to 21, the bill states that upon its approval, it will take effect retroactively to July 1, 2023. The retroactive criminalization of conduct prohibited by the bill would likely violate Article 1, Section 10, Clause 1, of the United States Constitution, which prohibits states from, among other things, passing "ex post facto Law." The Department recommends amending the bill to take effect upon its approval.

The Department notes that if investigations into fraudulent activities by purported charities uncover criminal wrongdoing that occurred prior to the passage of the bill, the State may still be able to prosecute these acts under the current theft statutes in part IV of chapter 708, HRS, as thefts by deception.

The Department respectfully asks the Committee to consider our recommended changes. Thank you for the opportunity to provide comments.