



**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. 2706, S.D. 1, RELATING TO EXPUNGEMENT OF CRIMINAL RECORDS.

**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  
Philip D. Higdon, Administrator, Hawaii Criminal Justice Data  
Center

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Chair Tarnas and Members of the Committee:

The Department of the Attorney General (Department) opposes this bill and respectfully requests that it be held.

The purpose of this bill is to establish a Clean Slate Expungement Task Force to develop a state-initiated record-clearing program, which will be attached to the Judiciary for administrative purposes only.

The Department opposes this bill because it believes that House Bill No. 1595, H.D. 1, S.D. 1, provides a more effective and efficient method to assess the resources needed to develop a state-initiated expungement program. House Bill No. 1595, in its current form, creates a pilot project to be established and administered by the Department. The pilot project would require the Department to set up a project for state-initiated expungement of certain arrest records for marijuana offenses under section 712-1249, Hawaii Revised Statutes (HRS), in a county having a population greater than two hundred thousand and less than five hundred thousand persons. The bill also requires the Department's Hawaii Criminal Justice Data Center (Data Center) to submit reports to the Legislature on the progress of the project and any future recommendations, including a statement of required resources and appropriations concerning state-initiated expungements.

As stated in the preamble of House Bill No. 1595, expunging records relating to any offense requires manual examination of those records. The resources of the Data Center, however, are limited. Being mindful of the limited resources, the pilot project under House Bill No. 1595 would be limited to cases within a single county to ensure a manageable number of cases for the Data Center to process using existing resources. The results of the pilot project could then be used to evaluate the project's effectiveness, utility, and efficiency and to allow the Data Center to make more informed recommendations for future efforts.

While we appreciate the intent of this bill, the Department believes that House Bill No. 1595, H.D. 1, S.D. 1, will achieve the purpose of this bill more effectively and efficiently.

For the reasons above, the Department respectfully submits its testimony in opposition and requests that the bill be held.

Thank you for the opportunity to testify.

JON N. IKENAGA  
STATE PUBLIC DEFENDER

**DEFENDER COUNCIL**  
1130 NORTH NIMITZ HIGHWAY  
SUITE A-254  
HONOLULU, HAWAII 96817

**HONOLULU OFFICE**  
1130 NORTH NIMITZ HIGHWAY  
SUITE A-254  
HONOLULU, HAWAII 96817

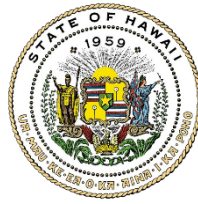
**APPELLATE DIVISION**  
TEL. No. (808) 586-2080

**DISTRICT COURT DIVISION**  
TEL. No. (808) 586-2100

**FAMILY COURT DIVISION**  
TEL. No. (808) 586-2300

**FELONY DIVISION**  
TEL. No. (808) 586-2200

**FACSIMILE**  
(808) 586-2222



STATE OF HAWAII  
**OFFICE OF THE PUBLIC DEFENDER**

**March 11, 2024**

HAYLEY Y.C. CHENG  
ASSISTANT PUBLIC DEFENDER

**HILO OFFICE**  
275 PONAHAHAWAI STREET  
SUITE 201  
HILO, HAWAII 96720  
TEL. No. (808) 974-4571  
FAX No. (808) 974-4574

**KONA OFFICE**  
75-1000 HENRY STREET  
SUITE #209  
KAILUA-KONA HI 96740  
TEL. No. (808) 327-4650  
FAX No. (808) 327-4651

**KAUA'I OFFICE**  
3060 EIWA STREET  
SUITE 206  
LIHUE, HAWAII 96766  
TEL. No. (808) 241-7128  
FAX No. (808) 274-3422

**MAU'I OFFICE**  
81 N. MARKET STREET  
WAILUKU, HAWAII 96793  
TEL. No. (808) 984-5018  
FAX No. (808) 984-5022

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

**S.B. 2706, S.D.1: RELATING TO EXPUNGEMENT OF CRIMINAL RECORDS**  
**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) supports this bill.

As many as one in three adults in the U.S. have some sort of criminal record.<sup>1</sup> The consequences of having a criminal record are significant. “A criminal record can be a life sentence to poverty, creating barriers to jobs, housing, public assistance, education, family reunification, building good credit and more.”<sup>2</sup> Moreover, having a criminal record not only has negative consequences for the

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<sup>1</sup>Americans with Criminal Records, The Sentencing Project. See <https://www.sentencingproject.org/app/uploads/2022/08/Americans-with-Criminal-Records-Poverty-and-Opportunity-Profile.pdf><https://www.sentencingproject.org/app/uploads/2022/08/Americans-with-Criminal-Records-Poverty-and-Opportunity-Profile.pdf>

<sup>2</sup> “Working with communities and government to fundamentally transform the process of clearing records,” Code for America ([https://codeforamerica.org/programs/criminal-justice/automatic-record-clearance/#:~:text=In%20total%2C%20our%20technology%20and,Connecticut%2C%20California%2C%20and%20Delaware](https://codeforamerica.org/programs/criminal-justice/automatic-record-clearance/#:~:text=In%20total%2C%20our%20technology%20and,Connecticut%2C%20California%2C%20and%20Delaware).)).

Americans with Criminal Records, The Sentencing Project. See <https://www.sentencingproject.org/app/uploads/2022/08/Americans-with-Criminal-Records-Poverty-and-Opportunity-Profile.pdf><https://www.sentencingproject.org/app/uploads/2022/08/Americans-with-Criminal-Records-Poverty-and-Opportunity-Profile.pdf>

individual but can “create ripple effects for generations” on their children with negative consequences for a child’s cognitive development, school performance and even employment outcomes in adulthood.”<sup>3</sup>

In previous hearings on expungement bills, the Attorney General’s Office and the Hawai’i Criminal Justice Data Center (HCJDC) characterized the current expungement process as a simple matter of filling out information on form and submitting it with payment. The OPD respectfully disagrees. Many persons who could benefit from expungement of arrest or conviction records have socioeconomic and language challenges. A screenshot of the HCJDC website instructions and the form are attached to illustrate the complexity of the instructions and process. Simply put, many persons do not have the wherewithal to initiate expungement of their records. Further, all clients of the OPD and many other persons who would seek expungement face financial challenges. Even a fee of \$35 (\$50 for non-first-time expungements) is beyond the means of many people who could benefit from this bill.

The judicial process for expungement of conviction records is similarly inaccessible. As the expungement process is civil, not criminal, individuals who seek expungement are not entitled to an attorney. Thus, the majority of individuals who would benefit from expungement will not have the means to retain an attorney to assist them in the process and will be forced to work through the process pro se. In order to seek judicial expungement of a conviction, an individual must file a motion<sup>4</sup> with the court and navigate through the court process to obtain an expungement order. The individual must then use the court order to go through the HCJDC conviction expungement process, including payment of the fee.

Twelve states have passed “Clean Slate” laws which include automation of record clearance (Pennsylvania, Utah, New Jersey, Michigan, Connecticut, Delaware, Virginia, Oklahoma, Colorado, California, Minnesota, New York). Hawai’i must join this list of states that recognize that the state, not individuals, should fairly bear the burden of expunging arrest and conviction records for qualified persons. While the OPD urges the Legislature to pass other legislation which automatically expunges records, in the absence of such legislation this task force is a much needed first step.

The OPD supports this bill. Thank you for the opportunity to comment on H.B. 2706, S.D. 1.

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<sup>3</sup> Id.

<sup>4</sup> In other hearings on expungement bills, the Judiciary stated that it would consider a letter from an unrepresented individual seeking expungement as a motion and would proceed on that basis. However, in order to write a letter the individual would still need basic knowledge of the availability of the expungement process and have the ability to write such a letter.



[Home](#) » [Expungements](#)

## EXPUNGEMENTS

### GENERAL INFORMATION

- The Expungement process takes 120 days to complete. Expedited services are not available.
- An expungement of your arrest record does not remove or seal court records or traffic records. For information on how to seal court records, visit the Judiciary's website at <https://www.courts.state.hi.us/requests-for-sealing-court-records>.
- Arrest records that have been expunged from your criminal history record are confidential. Additionally, due to the confidentiality of the arrest records, information regarding the expungement application, including the status or receipt of an application, will not be provided over the phone or through email. Applicants will be notified by mail if their applications are denied.
- If you were only issued a citation or summons and not arrested or booked for a criminal offense, there is no arrest record to be expunged.

### NON-CONVICTION ARRESTS

[§831-3.2, Hawaii Revised Statutes \(HRS\)](#), authorizes the expungement of non-conviction arrest information. Arrest records will be expunged from the arresting agency and the statewide central repository of adult criminal history record information. Records may still be retained and made available by the courts. If you were arrested or charged with a crime and not convicted, you may apply to have that arrest expunged from your criminal history record. However, an expungement order shall not be issued:

- In the case of an arrest for a felony or misdemeanor where conviction has not been obtained because of bail forfeiture;
- For a period of five years after arrest or citation in the case of a petty misdemeanor or violation where conviction has not been obtained because of a bail forfeiture;
- In the case of an arrest of any person for any offense where conviction has not been obtained because the person has rendered prosecution impossible by absenting oneself from the jurisdiction;
- In the case of a person who was involuntarily hospitalized pursuant to §706-607, or who was acquitted or had charges dismissed pursuant to chapter 704 due to a physical or mental disease, disorder, or defect;
- For a period of one year upon discharge of the defendant and dismissal of the charge against the defendant in the case of a deferred acceptance of guilty plea or nolo contendere plea, in accordance with chapter 853; and
- Pursuant to §712-1200, for a period of four years upon discharge of the defendant and dismissal of a §712-1200 charge against the defendant in the case of a deferred acceptance of guilty plea or nolo contendere plea.

### EXPUNGEMENT OF CONVICTION INFORMATION

The court may grant an order for the expungement of conviction for certain offenses and circumstances noted below. The conviction information is expunged from the statewide repository of adult criminal history record information only. Records may still be retained and made available by the arresting agency and the courts. Qualifying offenses/sentencing provisions are:

- [§291E-0064\(e\)](#) – Operating a vehicle after consuming a measurable amount of alcohol; persons under the age of twenty-one;
- [§706-622.5](#) – Sentencing for first-time drug offender;
- [§706-622.8](#) – First-time drug offender prior to 2004; and
- [§706-622.9](#) – Sentencing for first-time property offender.

Only the court may issue an order granting the expungement of a conviction. To determine if your conviction qualifies, you should contact your attorney or a licensed Hawaii attorney or review the statutes listed above. Records of criminal convictions are available on the Hawaii State Judiciary's website, via the eCourt Kokua link [https://www.courts.state.hi.us/legal\\_references/records/jims\\_system\\_availability](https://www.courts.state.hi.us/legal_references/records/jims_system_availability). A copy of the Order Granting the Expungement of Conviction must be included with the Expungement Application.

### FREQUENTLY ASKED QUESTIONS

Click [here](#) for answers to several frequently asked questions.

### APPLICATION FORM

- The fee for a first-time expungement is \$35. The fee for a non-first-time expungement is \$50. The fee includes a non-refundable \$10 processing fee. Should your application be denied, the expungement fee minus the non-refundable \$10 will be returned to you.
- Payment of fee must be made by cashier's check or money order made payable to the "State of Hawaii". Business and personal checks are not accepted and will result in your application being denied.
- All qualifying charges will be expunged from your arrest record.
- The expungement process takes 120 days to complete. The certificate will be mailed to the address provided on the application form. There are no expedited services available.
- [Expungement Application \(Form HCJDC 159\(b\)\)](#)

## ADMINISTRATOR

Philip D. Higdon

## HCJDC QUICK LINKS

- [AG Main Website](#)
- [Criminal History Frequently Asked Questions](#)
- [Criminal History Record Check](#)
  - [Name-Base Background Check](#)
  - [Fingerprint-Base Background Check](#)
  - [Other Services](#)
- [Expungement Frequently Asked Questions](#)
- [Expungements](#)
- [Gun Violence and Violent Crimes Commission](#)
  - [Notice & Agenda](#)
  - [Commission Packet](#)
  - [Minutes](#)
  - [Receive Notices](#)
  - [Reports](#)
- [HCJDC Forms](#)
- [Public Access Sites](#)
- [Sex Offender and Other Covered Offender Info](#)
- [Volunteer & Employee Criminal History Service \(VECHS\)](#)

## HCJDC SERVICES

- [Adult Criminal Conviction \(eCrim\) Website](#)
- [Sex Offender and Other Covered Offender Website](#)

## OTHER SERVICES

- [The Dru Sjodin National Sex Offender Public Website](#)

**Expungement Application**  
Hawaii Criminal Justice Data Center, Department of the Attorney General

Complete this form in its entirety. **ILLEGIBLE or INCOMPLETE applications will result in a denial. The expungement certificate will be mailed to the address provided within the 120 days authorized by HRS 831-3.2(a).** Due to the confidentiality of the arrest records, information, including the status of an application, will NOT be provided over the phone or through email. Although optional, please attach a copy of your valid photo ID, which may assist with timelier processing.

**The fee for a first-time expungement is \$35. Non-first-time expungements are \$50. The fee includes a non-refundable \$10 processing fee. Should your application be denied, the application fee minus the non-refundable \$10 will be returned to you.**

**EXPUNGEMENT OF NON-CONVICTION INFORMATION**

§831-3.2, Hawaii Revised Statutes, authorizes the expungement of non-conviction arrest information. Arrest records will be expunged from the arresting agency and the statewide repository of adult criminal history record information. Records may still be retained and made available by the courts. An expungement order shall NOT be issued:

- In the case of an arrest for a felony or misdemeanor where conviction has not been obtained because of bail forfeiture;
- For a period of five years after arrest or citation in the case of a petty misdemeanor or violation where conviction has not been obtained because of a bail forfeiture;
- In the case of an arrest of any person for any offense where conviction has not been obtained because the person has rendered prosecution impossible by absenting oneself from the jurisdiction;
- In the case of a person who was involuntarily hospitalized pursuant to §706-607, or who was acquitted or had charges dismissed pursuant to chapter 704 due to a physical or mental disease, disorder, or defect;
- For a period of one year upon discharge of the defendant and dismissal of the charge against the defendant in the case of a deferred acceptance of guilty plea or nolo contendere plea, in accordance with chapter 853; and
- Pursuant to §712-1200, for a period of three years upon discharge of the defendant and dismissal of a §712-1200 charge against the defendant in the case of a deferred acceptance of guilty plea or nolo contendere plea.

**EXPUNGEMENT OF CONVICTION FOR FIRST-TIME DRUG RELATED/PROPERTY OFFENDERS & DUI <21**

The court may grant an order for the expungement of conviction for certain offenses and circumstances noted below. The conviction information is expunged from the statewide repository of adult criminal history record information only. Records may still be retained and made available by the arresting agency and the courts. Qualifying offenses include:

- §291E-0064(e) – Operating a vehicle after consuming a measurable amount of alcohol; persons under the age of twenty-one;
- §706-622.5 – Sentencing for first-time drug offender;
- §706-622.8 – First-time drug offender prior to 2004; and
- §706-622.9 – Sentencing for first-time property offender

**If you are applying to have a conviction expunged, you MUST ATTACH A COPY OF THE COURT ORDER GRANTING THE EXPUNGEMENT. Applications without a copy of the court order granting the expungement of conviction will be denied.**

**Current Legal Name (Last, First, Middle):** \_\_\_\_\_

**Other Names Used:** \_\_\_\_\_

**Social Security Number:** \_\_\_\_\_ **Date of Birth:** \_\_\_\_\_ **Sex: M** \_\_\_\_\_ **F** \_\_\_\_\_

*(SSN is optional; if provided, SSN will only be used to aid in verifying correct record is expunged)*

**Home Address:** \_\_\_\_\_

**Mailing Address:** \_\_\_\_\_

**Phone:** \_\_\_\_\_ **Email:** \_\_\_\_\_

**Initial by all that apply:**

	<b>Expungement of Non-Conviction Information:</b> In accordance with the provisions of <b>§831-3.2</b> , HRS, I hereby submit this written application to have my arrest record expunged for all qualifying alleged offense(s) for which <b>no conviction</b> has been secured, or for which I have found to be eligible for redress under chapter 661B. Further, I hereby declare that I am not a fugitive from justice. If I am found to have no record of conviction, I also request the return of non-digitized fingerprints and photographs.
	<b>Expungement of First-time Drug Offender, Property Offender and/or DUI &lt;21:</b> In accordance with the provisions of <b>§§706-622.5, 706-622.8, 706-622.9, and 291E-0064(e)</b> , HRS, I hereby submit this written application and a <b>copy of my Court Order Granting the Expungement</b> of Conviction for First-time Drug-related/Property Offender and/or Conviction for Driving Under the Influence; persons under the age of 21 to have my conviction expunged.

**Before submitting application, confirm these items are complete:**

- Signature of applicant
- Copy of valid photo ID (optional)
- Mailing Address
- Court Order Granting Expungement, if applicable
- Payment – Money Order or Cashier's Check payable to "State of Hawaii"  
(First-time expungement: \$35; Non-First-time Expungement: \$50)

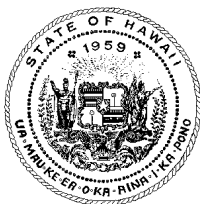
LEAVE BLANK; HCJDC USE ONLY

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

Submit completed application to:  
Hawaii Criminal Justice Data Center, Attn: Expungement  
465 South King Street, Room 102  
Honolulu, HI 96813

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



STATE OF HAWAII – KA MOKU'ĀINA 'O HAWAII  
**CRIME VICTIM COMPENSATION  
COMMISSION**

**Ke Komikina Uku Luaahi Kalaima**

1164 Bishop Street, Suite 1530

Honolulu, Hawaii 96813

Telephone: 808 587-1143

Fax: 808 587-1146

**MARI McCAIG BELLINGER**  
Chair

**CLIFTON Y.S. CHOY**  
Commissioner

**JO KAMAE BYRNE**  
Commissioner

**PAMELA FERGUSON-BREY**  
Executive Director

**TESTIMONY ON SENATE BILL 2706, SD1  
RELATING TO EXPUNGEMENT OF CRIMINAL RECORDS**  
by

Pamela Ferguson-Brey, Executive Director  
Crime Victim Compensation Commission

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

Thursday, March 28, 2024; 2:00 PM  
State Capitol, Conference Room 325 & Videoconference

Good afternoon Chair Tarnas, Vice Chair Takayama, and Members of the House Committee on Judiciary and Hawaiian Affairs. Thank you for providing the Crime Victim Compensation Commission (Commission) with the opportunity to testify before you today. Senate Bill 2706, SD1, establishes the Clean Slate Expungement Task Force to develop a state-initiated record clearing program that automatically expunges certain criminal offenses. The Commission supports the recommendations of victim service providers to include representatives from the Sex Abuse Treatment Center (SATC), the Hawai'i State Coalition Against Domestic Violence (HSCADV), Mothers Against Drunk Driving (MADD), and the Crime Victim Compensation Commission (Commission), on the Task Force.

Criminal justice reform must not only serve the interest of offenders but must also include meaningful protection of the interests and rights of crime victims to avoid harmful, unintended consequences.

The Commission provides compensation for victims of violent crime to pay un-reimbursed expenses for crime-related losses due to physical or mental injury or death. The Commission also administers a Restitution Recovery Project (Project) to collect court-ordered restitution from inmates and parolees and to disburse those funds to their crime victims. Since the inception of the Project, the Commission has collected over \$5.6 million. Based on the success of the Project, the Commission and the Council of State Governments co-authored an article titled *Victim Restitution Matters: Four Lessons from Hawai'i to Ensure Financial Justice for Crime Victims* published in January 2021. Additionally, the Commission has represented the needs of victims and survivors on the Justice Reinvestment Working Group

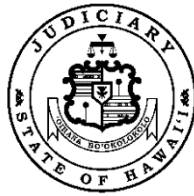
and the 2015 Penal Code Review Committee and currently serves on the HCR 23 Task Force.

SB 2706, SD1, provides for a state-initiated program to provide for the automatic expungement of conviction records for certain persons. Examples of offenses which may be eligible for automatic expungement include domestic abuse, harassment by stalking, certain sex offenses, sexual exploitation, promoting pornography for minors, and habitual intoxicated driving. Criminal justice reform should not only serve the interest of offenders but must consider the impact on victims, survivors, and community safety. Of specific concern to the Commission is the impact of these provisions on an offender's court-ordered restitution obligations.

The Commission is requesting that the Commission together with SATC, HSCADV, and MADD be included among the membership of the Clean Slate Expungement Task Force to ensure that any recommendations are informed by the needs of victims, survivors, and community safety.

Thank you for providing the Commission with the opportunity to support with an amendment to include the Sex Abuse Treatment Center, the Hawaii State Coalition Against Domestic Violence, Mothers Against Drunk Driving, and the Crime Victim Compensation Commission on the Clean Slate Expungement Task Force as provided in Senate Bill 2706, SD1.





*The Judiciary, State of Hawai‘i*

**Testimony to the Thirty-Second State Legislature  
2024 Regular Session**

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

Thursday, March 28, 2024 at 2:00 p.m.  
Conference Room 325 & Videoconference

by

Thomas J. Berger  
Staff Attorney for the Hawai‘i Supreme Court

**WRITTEN TESTIMONY ONLY**

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**Bill No. and Title:** Senate Bill No. 2706, S.D. 1 – Relating to Expungement of Criminal Records.

**Purpose:** Establishes the Clean Slate Expungement Task Force to develop a state-initiated record clearing program. Requires the Task Force to submit reports to the Legislature. (SD1)

**Judiciary’s Position:**

The Judiciary appreciates the intent of this measure and offers the following comments:

To the extent that the task force proposed in this measure seeks to study ways to create a state-initiated expungement process and imbed such processes into the Hawaii Penal Code, we note that HB1953, HD,1 SD1, Relating to the Penal Code is currently awaiting a hearing in the Senate WAM. This measure would require a comprehensive review of the Hawaii Penal Code with recommended proposed changes due 40-days prior to the convening of the 2026 regular legislative session. A comprehensive review of the Hawaii Penal Code occurs approximately every 10-years, so review would be timely and the ideal way to incorporate meaningful reforms to the current processes for expungement of conviction and non-conviction arrests, and other

criminal matters. As contemplated in HB1953, HD1, SD1, the reviewing committee would consist of representatives from the Judiciary, Legislature, Office of the Public Defender, Department of Corrections and Rehabilitation, prosecutors from each county, police department from each county, Office of the Attorney General, Office of Hawaiian Affairs, advocacy groups for incarcerated individuals, private citizens interested in criminal law and civil liberties, advocacy groups for crime victims, etc.

For context, in 2016, the Legislature considered recommendations from a 29-member penal code review committee representing nearly 20 different departments, organizations, and interests, who contributed more than 1,000 hours to the 2015 penal code review. This process required review of each chapter of the penal code for amendments and updates. After considering 84 proposals, the Legislature passed the 137-page Act 231 (SLH 2016) (HB2561, HD1, SD1, CD1). Indeed, HRS § 831-3.2(f), relating to the sealing of expungement orders for non-conviction arrests, and other changes were enacted as a result of that effort.

Given the timeliness and support for a full review of the Hawaii Penal Code, we note that this would be the best way to address expungement reform so that any recommendations are considered and incorporated during the review process. We note that a task force, if convened at the same time, could have difficulty suggesting legislative amendments to laws that could be undergoing change and updates through the review process. However, if a penal code review is not initiated at this time, then we would support and welcome the taskforce contemplated in this measure as an alternative.

Thank you for the opportunity to testify on this measure.

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

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

ALII PLACE  
1060 RICHARDS STREET • HONOLULU, HAWAII 96813  
PHONE: (808) 768-7400 • FAX: (808) 768-7515 • WEB: <https://honoluluprosecutor.org/>

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



**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. 2706 S.D. 1; RELATING TO EXPUNGEMENT OF CRIMINAL RECORDS.**

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”) offers **comments expressing concern** with S.B. 2706 S.D. 1.

This bill would create a task force to develop a state-initiated expungement program. While the Department welcomes any opportunity to work with stakeholders on improving the expungement process, it does not believe automatic expungement fulfills this objective.

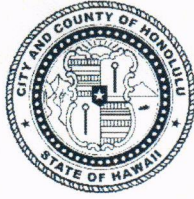
Describing this effort as “clean slate expungement” would seem to predetermine the outcome. Exactly how expungement takes place would be better left to the task force to study and make appropriate recommendations.

The current law applies to persons who have not been convicted of any crime or who have complied with a court-mandated process for expungement. Executive and judicial review ensure that clemency accounts for individual circumstances. It prevents abuses of this remedy: for instance, to circumvent laws targeting habitual offenders or evade conditions of probation or deferral.

Thank you for the opportunity to testify.

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

801 SOUTH BERETANIA STREET • HONOLULU, HAWAII 96813  
TELEPHONE: (808) 529-3111 • WEBSITE: [www.honoluluupd.org](http://www.honoluluupd.org)



RICK BLANGIARDI  
MAYOR  
MEIA

ARTHUR J. LOGAN  
CHIEF  
KAHU MĀKA'I

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

OUR REFERENCE **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. 2706, S.D.1, Relating to Expungement of Criminal Records**

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

The HPD opposes Senate Bill No. 2706, S.D.1, Relating to Expungement of Criminal Records.

Conviction records expunged in all petty misdemeanors, misdemeanors, and non-violent class C felony cases will drastically affect the ability of law enforcement and prosecutors to appropriately charge defendants and would adversely affect employers and the community from making informed decisions for defendants who had their criminal records expunged.

The HPD is respectfully requesting that additional time and communication between the involved parties are required to analyze, assess, and process the challenges that this law will create and determining any possible solutions. The HPD also requests that further analysis is needed to see what challenges other states have encountered, as current research has shown that states that have implemented this law are facing notable logistical challenges and issues.

The Honorable David A. Tarnas, Chair  
and Members  
Page 2  
March 28, 2024

The HPD urges you to oppose Senate Bill No. 2706, S.D.1, Relating to  
Expungement of Criminal Records.

Thank you for the opportunity to testify.

Sincerely,



Thomas Chang, Captain  
Criminal Investigation Division

APPROVED:



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Arthur J. Logan  
Chief of Police

# COMMUNITY ALLIANCE ON PRISONS

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

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



## 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 SUPPORT FOR SB 2706 SD1 - CLEAN SLATE EXPUNGEMENT TASK FORCE**

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 bars<sup>1</sup> 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 appreciates the opportunity to testify in **STRONG SUPPORT of SB 2706 SD1** that establishes the Clean Slate Expungement Task Force and requires a report to the legislature of its findings and recommendations as well as any proposed legislation 40 days prior to the 2025 session and a final report of its findings and recommendations no later than 40 days prior to the 2026 session.

We are so grateful to the JHA and CMV committees for sponsoring the informational briefing on expungement on March 1<sup>st</sup>. There included Phillip Higdon of the Criminal Justice Data Center, David Roberts, Executive Director of System for the Electronic Analysis and Retrieval of Criminal Histories (SEARCH), Michelle Acosta, Deputy Court Administrator for the First Circuit, Thomas Berger, Supreme Court Staff Attorney, Mai Nguyen Van, Director of Information Technology and Systems Department, Dana Nakasato, Judiciary Information Management System (JIMS) Specialist, Jennifer Brown, Associate Director & Staff Attorney, Hawai'i Innocence Project, and Frank Stiefel, Senior Policy Associate, Last Prisoner Project.

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

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



The Clean Slate Initiative passes and implements laws that automatically clear eligible records for people who have completed their sentence and remained crime-free, and expands who is eligible for clearance. This is especially important for people who have been arrested, but never convicted. For instance, long after a person is found not guilty at a trial, a judge dismisses the case, or even after a prosecutor decide not to bring charges at all, the arrest record remains.

The impact of an arrest record can foreclose a person's future impacting their ability to secure housing for themselves and their families, to seek meaningful employment, and services to assist themselves and their families in moving forward with their lives.

Several states have "clean slate" laws<sup>2</sup>: Pennsylvania (2018); Utah (2019); New Jersey (2019); Michigan (2020); Connecticut (2020); Delaware(2021); Virginia (2021); Oklahoma (2022); Colorado (2022); California (2022); Minnesota (2023); and New York (2023).

Clean Slate efforts are rooted in a belief that people should not face unnecessary and extra-judicial punishments long after they have been arrested or completed a court-imposed sentence. Records relief offers people a pathway to redemption by opening access to meaningful employment, housing, and education opportunities that allow them to provide for themselves and their families.

While clean slate advocates promote expansive and comprehensive record clearance legislation, the minimum criteria a state law must meet to meet clean slate standards include:

- Automation of record clearance,
- Automatic clearance upon eligibility of the record (noting that eligibility varies from state to state),
- Inclusion of arrest records,
- Inclusion of misdemeanor records, and
- A strong recommendation for laws to include eligibility of at least one felony record.

We are happy that a Task Force will be established to consider helping our people become successful, pro-social members of our communities.

Community Alliance on Prisons suggests that an important element of the Task Force membership has been left out – people with lived experience who can add another dimension to the deliberations of the task force. Since there are 15 members identified in the bill, **we suggest adding 2 members with lived experience to the Task Force: 1 who was never convicted and sought to expunge the arrest record, and 1 who had a conviction and sought to expunge the criminal record.**

We urge the committee to pass this measure and hope that you will consider adding two members with lived experience navigating the expungement process.

Mahalo nui!

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<sup>2</sup> Clean Slate Initiatives. <https://www.cleanslateinitiative.org/states#states>



Testimony from Frank Stiefel  
Senior Policy Associate  
Last Prisoner Project

**RE: Last Prisoner Project Supports SB 2706, SD 1**

March 28, 2024

Dear Members of the Committee on Judiciary & Hawaiian Affairs,

Individuals with criminal records face an array of extensive, life-altering restrictions, prohibitions, and disadvantages known as collateral consequences. Nearly 45,000 separate collateral consequences exist through federal and state laws and regulations, and further consequences may be imposed at the municipal and county levels.

While states generally allow individuals to petition the court to have certain records cleared, due to cost, complexity, and lack of legal representation, the vast majority of individuals eligible to clear, seal, expunge, or set aside their records never obtain relief. As a result, many individuals legally eligible for record clearance continue to be burdened by the collateral consequences of criminal records, including lack of access to meaningful employment, housing, and education.

SB 2706, SD 1 will create a much needed task force that can provide a roadmap for how Hawai'i can best transition to a state-initiated record clearance process and ensure that the tens of thousands of individuals that have a criminal record can finally move on with their lives. In fact, during the [Expungement Informational Briefing](#) on March 1st of this year, both Phillip D. Higdon (Administrator of the Hawai'i Criminal Justice Data Center) and Michelle Acosta (Deputy Chief Court Administrator for the First Circuit) said that they supported the creation of a task force to think through how to best implement a state-initiated record clearance process in Hawai'i. For these reasons, we support SB 2706, SD 1.

**About Last Prisoner Project**

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



March 28, 2024

Members of the House Committee on Judiciary & Hawaiian Affairs:

Chair David A. Tarnas

Rep. Linda Ichiyama

Vice Chair Gregg Takayama

Rep. Greggor Ilagan

Rep. Luke A. Evslin

Rep. Sam Satoru Kong

Rep. Sonny Ganaden

Rep. Tyson K. Miyake

Rep. Daniel Holt

Rep. Kanani Souza

Re: SB2706 SD1 Relating to Expungement of Criminal Records

Dear Chair Tarnas, Vice Chair Takayama, and Members of the House Committee on Judiciary & Hawaiian Affairs:

The Hawai'i State Coalition Against Domestic Violence (HSCADV) addresses the social, political, and economic impacts of domestic violence on individuals, families, and communities. We are a statewide partnership of domestic violence programs and shelters.

On behalf of HSCADV and our 28 member programs statewide, I respectfully submit testimony in **support of SB2706 SD1**, which establishes the Clean Slate Expungement Task Force to develop a state-initiated record-clearing program that automatically expunges certain criminal offenses. We respectfully recommend the addition of representatives from the Sex Abuse Treatment Center (SATC), the Hawai'i State Coalition Against Domestic Violence (HSCADV), Mothers Against Drunk Driving (MADD), and the Crime Victim Compensation Commission (Commission), to the Task Force.

**Criminal justice reform should not only serve the interest of offenders but must consider the impact on victims, survivors, and community safety.**

Examples of offenses that may be eligible for automatic expungement include domestic abuse, harassment by stalking, certain sex offenses, sexual exploitation, promoting pornography for minors, and habitual intoxicated driving. Prior convictions are important when assessing an individual for dangerousness and community safety. Additionally, these are offenses that would be considered in the state's Domestic Violence Fatality Review ([HRS 321-473](#)) and are an important part of the systemic response to domestic violence and preventing future offenses.

We're concerned about the impact of the expungement on an offender's court-ordered restitution obligations. The Commission provides compensation for victims of violent crime to pay un-reimbursed expenses for crime-related losses due to physical or mental injury or death.



The Commission also administers a Restitution Recovery Project (Project) to collect court-ordered restitution from inmates and parolees and to disburse those funds to their crime victims. Since the inception of the Project, the Commission has collected over \$5.6 million. Based on the success of the Project, the Commission and the Council of State Governments co-authored an article titled [\*Victim Restitution Matters: Four Lessons from Hawai'i to Ensure Financial Justice for Crime Victims\*](#) published in January 2021. Additionally, the Commission has represented the needs of victims and survivors on the Justice Reinvestment Working Group and the 2015 Penal Code Review Committee. Currently, it serves on the HCR 23 Task Force.

Thank you for providing the opportunity to support this measure with an amendment to include the Sex Abuse Treatment Center, the Hawai'i State Coalition Against Domestic Violence, Mothers Against Drunk Driving, and the Crime Victim Compensation Commission on the Clean Slate Expungement Task Force as provided in SB2706 SD1.

Thank you for the opportunity to testify on this important matter.

Sincerely,  
Angelina Mercado, Executive Director



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 SUPPORT of SB2706 SD1 Relating to Expungement of Criminal Records**

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

The ACLU of Hawai'i **supports SB2706 SD1**, which establishes the Clean Slate Expungement Task Force to develop a state-initiated record clearing program and requires the Task Force to submit reports to the Legislature.

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

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

### **Why is Clean Slate important?**

As the use of background checks has grown, so has the number of laws and restrictions limiting access to jobs, occupational licensing, credit, housing, education, and other basics. People with records potentially face some [50,000 such restrictions](#).

In the digital era, with nearly [9 in 10 employers, 4 in 5 landlords, and 3 in 5 colleges](#) now using background checks, any record—no matter how old or minor—can put employment, housing, education, and other basics permanently out of reach.

According to data reported by Prison Policy Initiative and the National Resource Re-entry Center, a criminal record reduces a job seeker's change of getting a callback or job offer by nearly 50%.<sup>1</sup>

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<sup>1</sup> <https://nationalreentryresourcecenter.org/news/clearing-path-conviction-employment#:~:text=Studies%20have%20shown%20that%20the,effects%20of%20a%20criminal%20record>. See also, <https://www.prisonpolicy.org/reports/outofwork.html>

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

Of note, the University of Michigan study also showed that people who had their records cleared and earned higher wages, also had a decrease in recidivism.<sup>2</sup> In short, enabling people with records to earn a clean slate will smooth the path to re-entry, reducing the likelihood of recidivism. That means safer communities, fewer people behind bars, and fewer taxpayer dollars wasted on unnecessary incarceration.

### **The Scope of the Problem in Hawai'i**

In Hawai'i, as of 2019, it is estimated that **approximately 300,000 people in Hawai'i have some form of a record with arrests and/or convictions. This means that 28% of the population** are saddled with records that could block their access to jobs, housing, education, starting a business, or participating fully in social and civic community life.<sup>3</sup>

### **Clean Slate Laws**

Clean Slate legislation is the process of clearing records, using technology to move records through a system towards clearance. As highlighted by Clean Slate Initiative, "Successfully reforming a state's record-clearing process requires a collaborative approach with stakeholders, understanding the interconnected processes in a particular state, and developing data-driven."<sup>4</sup>

To date, twelve (12) states have passed laws that meet Clean Slate Initiative's criteria for Clean Slate designation. These states include Pennsylvania (2018), Utah (2019), New Jersey (2019), Michigan (2020), Connecticut (2020), Delaware (2021), Virginia (2021), Oklahoma (2022), Colorado (2022), Minnesota (2023), and New York (2023). Additionally, a handful of other states are also considering enacting Clean Slate laws.

SB2706 is important for Hawai'i as it would create a process for more people to experience expungement relief. Some people are already eligible to have their records cleared through expungement or sealing. However, the vast majority don't ever get relief, because they can't afford a lawyer, pay the court fees, or figure out how to navigate the paper application process – or don't have the funds that accompany an application. Many are not even aware it's an option. Hence, Clean Slate provides a win-win solution!

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<sup>2</sup> <https://online.ucpress.edu/fsr/article-abstract/30/4-5/361/96141/Michigan-Set-Asides-Found-to-Increase-Wages-and?redirectedFrom=fulltext>

<sup>3</sup> Clean Slate Initiative estimated data from 2022.

<sup>4</sup> <https://www.cleanslateinitiative.org/lawmakerspage>



## **Proposed Amendments**

We respectfully request the following amendments to this measure:

1. Add two persons who have been impacted by having a record to the Task Force and
2. Extend an invitation for the Director or a representative from SEARCH to participate in the Task Force.<sup>5</sup>

For the above reasons, we urge the Committee to support this Clean Slate measure. Thank you for the opportunity to testify in support of **SB2706 SD1**.

Sincerely,

### ***Carrie Ann Shiota***

Carrie Ann Shiota  
Policy Director  
ACLU of Hawai'i  
[cshiota@acluhawaii.org](mailto:cshiota@acluhawaii.org)

*The mission of the ACLU of Hawai'i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai'i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai'i is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawai'i has been serving Hawai'i for over 50 years.*

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<sup>5</sup> SEARCH, the National Consortium for Justice Information and Statistics, is a nonprofit organization governed by a [Membership Group](https://www.search.org/about-search/background/) of governor appointees from the 50 States, the District of Columbia, and the territories. <https://www.search.org/about-search/background/> Mr. David Roberts, the current SEARCH Executive Director, presented at the JHA Committee's Informational Briefing on Expungement on March 1, 2024, and provided invaluable information.

**SB-2706-SD-1**

Submitted on: 3/27/2024 1:47:34 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Jennifer Brown, Esq	Hawai'i Innocence Project and Beyond Guilt Hawai'i	Support	Remotely Via Zoom

Comments:

The Hawai'i Innocence Project and Beyond Guilt Hawaii pro bono legal clinics at the William S. Richardson School of Law are in strong support of SB 2706, which would create a Task Force to implement a state-initiated record clearance program.

We strongly support this bill as it expands what qualifying convictions would be eligible for record clearance and establishes a Task Force to implement it.

Regardless of guilt or innocence, those who have been convicted of crimes have met their various obligations as required by the court, and should not have to suffer a lifetime with a conviction on their record. We must most move from our punitive system to a system that believes and understands that people are people and make mistakes, many of whom will never make that mistake again and deserve the opportunity for a second chance and having their records cleared. This is what this bill will allow, people who may have committed an offense but have been rehabilitated and deserve a second chance to have a clean record, and a clean slate. The current record clearing (or expungement process) puts the burden on the individual to navigate the current process alone without the assistance of counsel. This bill would allow a Task Force to be created that would not only expand the offenses eligible for record clearance but would also create and implement a process that would be state-initiated, removing the unfair burden on the individual to clear their records.

We submit this testimony in strong support and are willing to serve on the Task Force as well as provide any legal or technical assistance as needed. We are happy to answer any questions or provide more information at the scheduled hearing.

Thank you,

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



## **TESTIMONY FROM THE DEMOCRATIC PARTY OF HAWAII**

**COMMITTEE REFERRAL: JHA**

**MARCH 28, 2024**

**SB 2706, SD1, RELATING TO EXPUNGEMENT OF CRIMINAL RECORDS**

**POSITION: SUPPORT**

The Democratic Party of Hawai'i **supports** SB 2706, SD1, relating to expungement of criminal records. Pursuant to the “Public Safety and Disaster and Emergency Preparedness” section of the official Democratic Party of Hawai'i platform, the party believes that “public safety laws should be just, equitable and enforced fairly without discrimination. We believe that true justice restores people and communities.”

Clean Slate laws would expand eligibility for expungement and establish a government-initiated record clearance process, rather than requiring eligible individuals to file a paper application for expungement. This significantly expand restorative justice and repair people's lives, especially in Native Hawaiian, Pacific Islander, Black, and Filipino communities that are disproportionately harmed by the criminal legal system in Hawai'i.

Over 50 percent of people in Hawai'i are saddled with criminal records, including traffic offenses, which create barriers to accessing jobs, obtaining housing, pursuing educational opportunities, starting a business, and participating fully in social and civic community life. Clean Slate laws would remove these substantial barriers and empower people to contribute to their

communities, seek meaningful work, participate in civic life, and provide for themselves and their families.

Criminal convictions should not be lifetime sentences to economic and social hardship. As the ACLU of Hawai'i has stated, "Every person living with a record deserves a fair chance to support themselves and their families." These sentiments are especially crucial to heed in light of our state's and our nation's racially discriminatory legal apparatus.

Mahalo nui loa,

**Kris Coffield**

*Co-Chair, Legislative Committee*

(808) 679-7454

kriscoffield@gmail.com

**Abby Simmons**

*Co-Chair, Legislative Committee*

(808) 352-6818

abbyalana808@gmail.com

**SB-2706-SD-1**

Submitted on: 3/26/2024 11:08:19 PM

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

Submitted By	Organization	Testifier Position	Testify
Sydney Story	Opportunity Youth Action Hawai'i	Support	Written Testimony Only

Comments:

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

On behalf of the Opportunity Youth Action Hawai'i hui, we are writing in **strong support** of SB2706 SD1, relating to the expungement of criminal records. This bill establishes the Clean Slate Expungement Task Force to develop a state-initiated record clearing program. The bill also requires the task force to submit reports to the Legislature.

SB2706 SD1 is a crucial step towards fostering rehabilitation, promoting fairness, and ensuring a more equitable and just society. Several states have similar “clean slate” laws. Pennsylvania, the first to institute an automatic record clearance legislation, has cleared over 45 million records since 2019. Issues with this program saw some individuals struggling to pay the required fees and an increase in applications caused backlogs in processing. However, if effectuated alongside other measures aimed at criminal justice reform, Hawai'i is well on its way to proactively addressing these potential concerns.

The barriers attached to a criminal record are detrimental not only to the individual, but for employers, the workforce, and the economy as a whole. Studies have shown that individuals with an expunged record are significantly more likely to find stable employment, which not only benefits them personally but also contributes to the overall economic well-being of the community. Expungement improves housing prospects, opens doors to educational opportunities, and restores civil rights.

Opportunity Youth Action Hawai'i is a collaboration of organizations and individuals committed to reducing the harmful effects of a punitive incarceration system for youth; promoting equity in the justice system; and improving and increasing resources to address adolescent and young adult mental health needs. We seek to improve the continuity of programs and services for youth and young adults transitioning from minor to adult status; eliminate youth houselessness and

housing market discrimination against young adults; and promote and fund more holistic and culturally informed approaches among public/private agencies serving youth.

**Please support SB2706 SD1.**





Date: March 25, 2024

To: Representative David Tarnas, Chair  
Representative Gregg Takayama, Vice-Chair  
Members of the Committee on Judiciary and Hawaiian Affairs

From: Lynn Costales Matsuoka, Executive Director  
The Sex Abuse Treatment Center  
A Program of Kapi'olani Medical Center for Women & Children

RE: Testimony on SB 2706, SD1  
Relating to Expungement of Criminal Records

Hearing: March 28, 2024, Conference Room 325, 2:00pm

Good afternoon, Chair Tarnas, Vice Chair Takayama and Members of the Judiciary and Hawaiian Affairs Committee:

The Sex Abuse Treatment Center (SATC) supports SB 2706, SD1, as it relates to the creation of Clean Slate Expungement Taskforce and asks for amendments to include the Sex Abuse Treatment Center (SATC), the Hawai'i State Coalition Against Domestic Violence (HSCADV), Mothers Against Drunk Driving (MADD) and the Crime Victim Compensation Commission (CVCC) as members to the Taskforce.

The bill as it currently reads, is much different than the original, which sought to have a blanket automatic expungement of petty misdemeanor, misdemeanor and non-violent class C felonies. The original bill did not define a "non-violent" offense, and casted a wide net, to include sexual offenses, which we strongly opposed.

As currently written, SD1 seeks to create a Taskforce to develop a state-initiated record clearing program. Unfortunately, of those agencies and departments listed, none appear to represent victims, or serve victims/survivors, despite the fact that any record clearing program will have a direct impact on the lives of so many victims.

While we can appreciate the legislature's intention to provide a mechanism to allow many so called "low level" offenders the ability to have a fresh or new start on life, it fails to take into account, the rights and needs of victims who have elected to engage in the criminal justice system. While many have low expectations that their offender will be incarcerated for any length of time, for many sex assault victims, the mandate of sex offender registry, can provide an added layer of safety, that they and the larger community can rely on. Knowing that they are not moving to, or living in, the same neighborhood as their offender, or other sex offenders can be particularly important to their sense of safety and overall healing. The impact of an automatic expungement program on victim rights and interests, is significant, and equally uncertain, as it relates to sex offender registration requirements and restitution.

We fear that without the voice of victims having some level of representation on the Taskforce, their voices will be all but forgotten. While criminal justice reform can, and does play a vital role in our community, any Clean Slate program, will only inure to the benefit of the offender. We ask this committee to not forget, that many of the offenses being slated for expungement, have a victim on the other side.

For these reasons, we respectfully ask, that this committee to include the SATC, HSCADV, MADD, and CVCC on this Taskforce to represent the voices of victims, who can bring much needed perspective, balance and information to this newly formed program.

Thank you for the opportunity to submit testimony in support of SB 2706, SD1 with amendments.

**SB-2706-SD-1**

Submitted on: 3/27/2024 2:47:21 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Liam Chinn	Reimagining Public Safety in Hawai'i Coalition	Support	Written Testimony Only

Comments:

“Aloha, my name is Liam Chinn and I live in Ewa Beach. I’m testifying in strong support of SB 2706 SD 1 establishing a Clean Slate Expungement Task Force. For anyone living with a record who paid their debt to society, a second chance means access to education and job training, a stable job, livable income and safe housing for themselves and their ohana. For businesses, it means a bigger pool of qualified job applicants. This also means safer streets as fewer people will commit repeat offenses as they have hope for a better future. Please support SB 2706 and empower the taskforce research what's needed to begin a state-initiated record clearance initiative. Mahalo for your time and consideration.

**SB-2706-SD-1**

Submitted on: 3/27/2024 6:41:38 PM

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

Submitted By	Organization	Testifier Position	Testify
Nikos Leverenz	Drug Policy Forum of Hawaii	Support	Written Testimony Only

Comments:

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

Drug Policy Forum of Hawai‘i supports the establishment of a Clean Slate Expungement Task Force to develop a state-initiated record clearing program.

[The Missouri Budget Project noted just last month](#) that after expungement "justice involved individuals are 13% more likely to be employed and on average see a 23% increase in annual wages." Missouri notably expunged over 100,000 cannabis-related convictions in the last year alone.

A March 2021 [report from Californians for Safety & Justice also addresses the economic impact of records on household and community finances](#):

*"Even being arrested —without any conviction arising from the arrest—can influence decisions around hiring and reduce one’s earning potential.... Not being able to attain employment and earn a living has been shown to have a direct relationship to safety and stability, both for people with past convictions and their families... When workers are gainfully employed, they support vital public resources through state and local taxes, they spend more as consumers supporting other workers, and they produce services and goods that boost the state’s economy. When employed, people with old felony records perform equally to their coworkers without convictions and stay at their jobs longer."*

Similarly, those disproportionately impacted by the operation of this state's criminal legal system could be better positioned to obtain employment or, if already employed, see an increase in their wages. Increased wages will most directly impact their communities.

Mahalo for the opportunity to provide testimony.

Law Office of Georgette A. Yaindl, LLLC  
Georgette Anne Yaindl 8940  
P.O. Box 307  
Kailua-Kona Hawai'i 96745-0307  
(808) 224-0219 v/txt (877) 300-8869 fax  
gyaindl@gyattorney.com

March 26, 2024

Rep. David A. Tarnas, Chair  
Rep. Gregg Takayama, Vice Chair  
Committee on Judiciary & Hawaiian Affairs  
House of Representatives, State of Hawai'i

via: <http://www.capitol.hawaii.gov>

Dear Committee leadership and members,

Re: **STRONG SUPPORT FOR SB2706 SD1**  
**“CLEAN SLATE EXPUNGEMENT TASK FORCE”**

Hearing Date: Thursday, March 28, 2024  
Time: 2:00 p.m.  
Location: Conference Room 325  
State Capitol  
415 South Beretania Street

I write in strong support of SB2706 SD1.

Please accept excerpts from written testimony I previously provided for consideration at Senate Judiciary Committee hearings on the original SB2706 and HB1595 HD1, each relating to Expungement, including as follows:

Hearing Date and Time: Tuesday, March 12, 2024 at 10:00 a.m.  
**SUPPORT FOR HB1595 HD1 RELATING TO EXPUNGEMENT,**  
**WITH STRONGER SUPPORT FOR SB2706 SD1 Re: “CLEAN SLATE**  
**EXPUNGEMENT TASK FORCE”**

I write in support of **HD1595 HD1** while also acknowledging the reservations expressed by the Judiciary and Office of the Attorney General in their written comments submitted during House deliberations, including that the administrative actions proposed in the bill are indeed administratively “oppressive”, and that the bill does not propose new funding nor account for the AG’s loss of \$35/expungement application fee should the process be administered fee-free as proposed in the bill. In lieu, respectfully, it appears the prudent and efficient legislative action this session as concerns the critical issue of collateral consequences of a criminal conviction in the State of Hawai'i is as expressed in **SB2706 SD1** proposing to establish the “Clean Slate Expungement Task Force.” Please note however, **SB2706 SD1** does not presently include

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provision for appropriated funding nor designate a lead agency. Hopefully, those matters will be addressed by the House and/or conference committee(s).

Hearing Date and Time: Tuesday, February 13, 2024 at 10:00 a.m.  
**SB2706 RELATING TO EXPUNGEMENT OF CRIMINAL RECORDS**  
**PLEASE SUPPORT AND AMEND to Provide For Automatic Expungement**  
**For Acquittals, Discharges, and Dismissals With Prejudice**

Thank you, Senator Chris Lee, for introducing this important legislation. I write in support but especially for the class of persons not contemplated by HRS Chapter 831, entitled “Uniform Act on The Status of Convicted Persons” (emphasis added): the class of “The Exonerated” - persons that are arrested and never charged within the applicable statute of limitations; persons that are acquitted (found not guilty); persons discharged (judicial determination of no probable cause for arrest); and cases terminated via an order of dismissal with prejudice (nolle prosequi with prejudice).

Section 1 of SB2706 opens with: “The legislature finds that approximately seventy-seven million people living in the United States, or one in three adults, have a criminal record. (*Comment: please amend to include “including xyz persons in the State of Hawai`i”*). In some instances, the person was arrested but ultimately not convicted of any crime.” So the draft recognizes this class exists, but no such persons are accounted for in the proposed revisions to Chapter 831 set forth in section 2. Ultimately, a Chapter 831A entitled, “Act on the Status of Exonerated Persons,” is called for.

After suffering the indignity of arrest and “processing” (and if you are in the 3<sup>rd</sup> circuit that includes publication of your name, mug shot, and charge(s) printed in the Hawaii Tribune), potential pretrial detention in a county jail, missed work, and the emotional and psychological preoccupation with court proceedings, the adjudicated “free to go” is not in fact “free to go” until such time that the arrest record is expunged and the case is removed in the entirety from the publicly accessible database. And this should be automatic and occur at the same time judgment is entered. (The court can transmit the order of expungement to the Office of the Attorney General).

Under existing statute and circumstances, the exonerated are treated the same as the expungement-eligible persons that have been convicted or granted a deferral: they have to make the same application to the AG requesting expungement of the arrest, pay the same \$40.00 (money order or cashiers check only) to get one, wait months for the order to arrive, and then proceed to provide a copy of the order to the court with a letter requesting that the case record is sealed. Many if not most persons charged with a criminal offense under the laws of the State of Hawai`i either are not informed about the expungement/sealing post-adjudication procedures, and most if not all of do not know that expungement does not mean erasure.

And sealing the record in the publicly accessible database (e-court kokua) after expungement of the arrest is not enough. Right now, unless request specifically is made that the case title is redacted, a search by an individual’s name will yield a showing of, e.g. “State v. John Doe” and the case number, e.g., “3CC-23-0001234”. Click on the case to open it and this

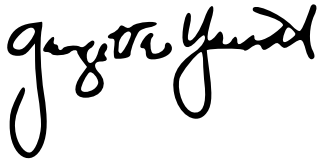
The information contained in communication is confidential. It is intended solely for the use of the person(s) to whom it is addressed and others authorized to receive it. If you are not an intended recipient, you hereby are notified that any disclosure, copying, or distribution of this communication and/or its contents is strictly prohibited and may be unlawful. If you have received this communication in error, please inform the sender immediately and destroy any copies. Thank you.



appears: “These records are not available for public inspection at this time,” (emphasis added). No, these records will not be made available public inspection at a later time or any time. That statement incites conviction conjecture: “hmm, this person must have something really bad probably involving a minor or other protected person, but in any event I know this is a criminal case because the case title is ‘State v.’”.

In the interests of complete justice, thank you for your attention to this issue and my comments today in these regards.

Sincerely,



**SB-2706-SD-1**

Submitted on: 3/27/2024 10:09:41 AM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Carla Allison	Individual	Support	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 support SB2706. It is time for Hawaii to join other states to help Hawaii's people successfully reenter our communities after incarceration. Hawaii needs a Clean Slate Expungement Task Force to develop a state-initiated record clearing program to automatically clear eligible records for people who have completed their sentence and remained crime-free, plus to expand who is eligible for clearance. Long after a person is found not guilty at a trial, a judge dismisses the case, or even after a prosecutor decides not to bring charges at all, the arrest record remains. When background checks are run on job applicants, arrest records come up, significantly reducing applicants' chances of getting the job or securing a place to live. We need a Clean Slate Expungement Task Force now. Please support SB2706.

Thank you.



**SB-2706-SD-1**

Submitted on: 3/27/2024 12:49:32 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Greg Puppione	Individual	Support	Written Testimony Only

Comments:

“Aloha, my name is Greg Puppione and I live in Honolulu. I’m testifying in strong support of SB 2706 SD 1 establishing a Clean Slate Expungement Task Force. For anyone living with a record who paid their debt to society, a second chance means access to education and job training, a stable job, livable income and safe housing for themselves and their ohana. For businesses, it means a bigger pool of qualified job applicants. This also means safer streets as fewer people will commit repeat offenses as they have hope for a better future. Please support SB 2706 and empower the taskforce research what's needed to begin a state-initiated record clearance initiative. Mahalo for your time and consideration.

**SB-2706-SD-1**

Submitted on: 3/27/2024 1:30:27 PM

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

Submitted By	Organization	Testifier Position	Testify
pahnelopi mckenzie	Individual	Support	Written Testimony Only

Comments:

I respectfully submit testimony in **support of SB2706 SD1**, which establishes the Clean Slate Expungement Task Force to develop a state-initiated record-clearing program that automatically expunges certain criminal offenses. I respectfully recommend the addition of representatives from the Sex Abuse Treatment Center (SATC), the Hawai'i State Coalition Against Domestic Violence (HSCADV), Mothers Against Drunk Driving (MADD), and the Crime Victim Compensation Commission (Commission), to the Task Force.

**Criminal justice reform should not only serve the interest of offenders but must consider the impact on victims, survivors, and community safety.**

Examples of offenses that may be eligible for automatic expungement include domestic abuse, harassment by stalking, certain sex offenses, sexual exploitation, promoting pornography for minors, and habitual intoxicated driving. Prior convictions are important when assessing an individual for dangerousness and community safety. Additionally, these are offenses that would be considered in the state's Domestic Violence Fatality Review ([HRS 321-473](#)) and are an important part of the systemic response to domestic violence and preventing future offenses.

I am concerned about the impact of the expungement on an offender's court-ordered restitution obligations. The Commission provides compensation for victims of violent crime to pay unreimbursed expenses for crime-related losses due to physical or mental injury or death. The Commission also administers a Restitution Recovery Project (Project) to collect court-ordered restitution from inmates and parolees and to disburse those funds to their crime victims. Since the inception of the Project, the Commission has collected over \$5.6 million. Based on the success of the Project, the Commission and the Council of State Governments co-authored an article titled [Victim Restitution Matters: Four Lessons from Hawai'i to Ensure Financial Justice for Crime Victims](#) published in January 2021. Additionally, the Commission has represented the needs of victims and survivors on the Justice Reinvestment Working Group and the 2015 Penal Code Review Committee. Currently, it serves on the HCR 23 Task Force.

Thank you for the opportunity to testify on this important matter. Pannelopi McKenzie

**SB-2706-SD-1**

Submitted on: 3/27/2024 1:35:58 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Judith A Mick	Individual	Support	Written Testimony Only

Comments:

Aloha- After a person has served time for a crime, it's time for us to give them a second chance to live a good life, Showing we have compassion will make a difference in them and help them to become a good citizen. Thanks you. Judith Mick, Kailua

**SB-2706-SD-1**

Submitted on: 3/27/2024 2:15:45 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Emily Sarasa	Individual	Support	Written Testimony Only

Comments:

Aloha,

My name is Emily Sarasa. I am a law student living in Kaimukī. I'm testifying in **strong support** of SB 2706 SD 1 establishing a Clean Slate Expungement Task Force. For anyone living with a record who paid their debt to society, a clean slate means access to education and job training, a stable job, livable income and safe housing for themselves and their ohana. For businesses, it means a bigger pool of qualified job applicants. This also means safer streets as fewer people will commit repeat offenses as they have hope for a better future. Please **support SB 2706** and empower the taskforce research what's needed to begin a state-initiated record clearance initiative.

Mahalo for your time and consideration,

Emily Sarasa

**SB-2706-SD-1**

Submitted on: 3/27/2024 3:15:08 PM

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

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

Comments:

Aloha, my name is Colleen Rost-Banik and I live in Honolulu. I am a sociology instructor at the University of Hawaii, Manoa and also teach at the Women's Community Correctional Center. I'm testifying in strong support of SB 2706 SD 1 establishing a Clean Slate Expungement Task Force. For anyone living with a record who paid their debt to society, a second chance means access to education and job training, a stable job, livable income and safe housing for themselves and their ohana. For businesses, it means a bigger pool of qualified job applicants. This also means safer streets as fewer people will commit repeat offenses as they have hope for a better future. Please support SB 2706 and empower the taskforce research what's needed to begin a state-initiated record clearance initiative. Mahalo for your time and consideration.

Colleen Rost-Banik, PhD

**SB-2706-SD-1**

Submitted on: 3/28/2024 12:23:14 AM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Jeffrey Hong	Individual	Support	Written Testimony Only

Comments:

Aloha,

My name is Jeff Hong; I am the Board Chair of Hawaiian Ethos, a medical cannabis licensee. I also serve as Chair of the Honolulu Liquor Commission. I am testifying in a personal capacity.

I'm testifying in strong support of SB 2706 SD 1 establishing a Clean Slate Expungement Task Force. State-initiated expungement is vital to addressing the harms of our failed past policies. Under our current liquor laws HRS 281-45, a felony disqualifies an applicant from ownership in any business that serves alcohol; boat, store, bar, club, or restaurant. This prevents a significant slice of our citizens from creating small businesses in our hospitality focused economy. In previous testimony (HB1595), the law enforcement community raised objections to the complexity and cost to implement a state-initiated expungement process. Our State's current IT systems are inadequate to automate the process and the criminal records are inadequately encoded for automation. We need to research the scope and issues involved in the process to map a clear path forward.

Mahalo

**SB-2706-SD-1**

Submitted on: 3/28/2024 1:12:22 AM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Raelyn Reyno Yeomans	Individual	Support	Written Testimony Only

Comments:

Strong Support!



**SB-2706-SD-1**

Submitted on: 3/28/2024 7:11:27 AM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Chuck Taylor	Individual	Support	Written Testimony Only

Comments:

For anyone living with a record who paid their debt to society, a second chance means access to education and job training, a stable job, livable income and safe housing for themselves and their ohana. For businesses, it means a bigger pool of qualified job applicants. This also means safer streets as fewer people will commit repeat offenses as they have hope for a better future.

**SB-2706-SD-1**

Submitted on: 3/28/2024 8:32:07 AM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Lisa Seikai Darcy	Individual	Support	Written Testimony Only

Comments:

Aloha, my name is Lisa Darcy and I live in Kula, Maui, HI.

I'm testifying in strong support of SB 2706 SD 1 establishing a Clean Slate Expungement Task Force.

This is common sense and begins a proactive approach; a second chance means access to education and job training, a stable job, livable income and safe housing for themselves and their ohana. For businesses, it means a bigger pool of qualified job applicants. This also means safer streets as fewer people will commit repeat offenses as they have hope for a better future. Please support SB 2706 and empower the taskforce research what's needed to begin a state-initiated record clearance initiative. Mahalo for your time and consideration.

Lisa Darcy