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HB 127 RELATING TO PRETRIAL RELEASE

Chair Tarnas, Vice Chair Poepoe, and Members of the Committee,

The Office of the Public Defender (OPD) **SUPPORTS THIS BILL**

Despite numerous working groups, reports, and suggestions by both governmental agencies and advocacy groups over the last decade, the use of monetary bail to hold individuals in pretrial incarceration remains prevalent in Hawaii. In lieu of discontinuing the use of bail entirely, this bill represents a modest approach to current due process regarding bail hearings.

As pretrial incarceration means as much or more to defendants than final sentencing, it is imperative that the justice system engage in a full exploration of due process in a bail hearing. Any argument against adding a basic investigation into an individual's ability to pay bail is not in support of the constitution, or the wording of HRS 804-9 which requires that the court set bail "based on all available information."

This bill adds a formal discussion with a defendant about the use of money in obtaining freedom. In having a conversation with a defendant about the importance of returning to court and complying with the orders of the court, a judge retains the decision making ability after learning of a defendant's circumstances. We believe this will lead to individuals returning to court and in compliance with the court. We believe this is a more humane and appropriate way to deal with pretrial conditions than the current system of bail, which is inequitable.

JOSH GREEN, M.D.
GOVERNOR



MARK PATTERSON
CHAIR

CHRISTIN M. JOHNSON
OVERSIGHT COORDINATOR

COMMISSIONERS
HON. R. MARK BROWNING (ret.)

HON. RONALD IBARRA (ret.)

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HON. MICHAEL A. TOWN (ret.)

STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION
E HUIKALA A MA'EMA'E NŌ
235 S. Beretania Street, 16th Floor
HONOLULU, HAWAII 96813
(808) 587-4160

TO: The Honorable David A. Tarnas, Chair
The Honorable Mahina Poepoe, Vice Chair
House Committee on Judiciary and Hawaiian Affairs

FROM: Mark Patterson, Chair
Hawaii Correctional System Oversight Commission

SUBJECT: House Bill 127, Relating to Pretrial Release
Hearing: Friday, February 7, 2025; 2:05 p.m.
State Capitol, Room 325

Chair Tarnas, Vice Chair Poepoe, and Members of the Committee:

The Hawaii Correctional System Oversight Commission (HCSOC) **supports** House Bill 127, Relating to Pretrial Release, which requires the court to enter on the record its written findings regarding the necessity of the conditions imposed on a defendant's release, and requires bail to be set in an amount that the defendant can afford based on certain factors.

The use of cash bail disproportionately impacts low-income individuals, who often remain detained solely because they cannot afford bail, while wealthier defendants are released. Moreover, pretrial detention for low-risk individuals disrupts employment, housing, and family stability, creating lasting economic and social hardships that extend beyond the individual to their community. Additionally, the reliance on cash bail exacerbates racial and ethnic disparities in the criminal justice system, eroding public trust and highlighting systemic inequities.

This bill requires judges to consider the offender's ability to financially afford the set bail amount which would address the concerns above. For these reasons, the Commission supports this bill.

Should you have additional questions, the Oversight Coordinator, Christin Johnson, can be reached at 808-900-2200 or at christin.m.johnson@hawaii.gov. Thank you for the opportunity to testify.



The Judiciary, State of Hawai‘i

Testimony to the Thirty-Third Legislature, 2025 Regular Session

House Committee on Judiciary and Hawaiian Affairs

Representative David A. Tarnas, Chair

Representative Mahina Poepoe, Vice Chair

Friday, February 7, 2025 at 2:05 p.m.

State Capitol, Conference Room 325

By

Jeannette Castagnetti
Chief Judge, First Circuit

Peter Cahill
Chief Judge, Second Circuit

Wendy DeWeese
Chief Judge, Third Circuit

Bill No. and Title: House Bill No. 127, Relating to Pretrial Release.

Purpose: Requires the court to enter on the record its written findings regarding the necessity of the conditions imposed on a defendant's release. Requires bail to be set in an amount that the defendant can afford based on certain factors.

Judiciary's Position:

The Judiciary takes **no position on the intent** of the proposed legislation and notes that the Judicial Council is currently conducting the Penal Code Review as required by Act 245 (2024). Included in the Penal Code Review, as one of the subcommittees, is a committee conducting a comprehensive review of Chapter 804, specifically pretrial bail reform, where these matters may be more thoroughly addressed with the stakeholder members of the subcommittee. The report from the advisory committee will be presented to the Legislature at the end of this year. Therefore, the Judiciary respectfully requests that this bill be deferred until the next legislative session.



Should the proposed legislation not be deferred, the Judiciary provides the following comments regarding the provisions of the bill. Bail is set by judges throughout the criminal case¹ in accordance with Hawai'i Revised Statutes Section ("HRS §") 804-9 provisions that:

The amount of bail rests in the discretion of the justice or judge or the officers named in section 804-5 and shall be set in a reasonable amount based upon all available information, including the offense alleged, the possible punishment upon conviction, and the defendant's financial ability to afford bail. The bail amount should be so determined as not to suffer the wealthy to escape by the payment of a pecuniary penalty, nor to render the privilege useless to the poor.

HRS § 804-9 (2019). Defendants are afforded an immediate review of initial bail determinations under the provisions of HRS § 804-7.5 which provides that defendants have a right to a prompt bail hearing after formal charge and detention. At that hearing defendants are represented by counsel, defendants are afforded the opportunity to testify, and both the defendant and the prosecution have the "opportunity to present information by proffer or otherwise." HRS § 804-7.5 (2019). These provisions, although passed in 2019, went into effect on January 1, 2020. Since that time a bail hearing has been conducted at every arraignment and, if requested, is continued to a later time for the taking of additional evidence and argument. In addition, a motion for supervised release, a motion to reduce bail, and/or a motion to set bail can be filed with the court any time after arraignment, with an evidentiary hearing held shortly thereafter.

The Judiciary respectfully suggests that in order to best achieve the stated goals of the proposed legislation, namely to require on the record findings on a defendant's ability to afford bail and the necessity of the conditions imposed, any revisions proposed by Sections 2 and 3 of this bill should instead be placed in HRS § 804-7.5 which already requires an on the record bail hearing, or in a separate stand-alone section to be considered whenever an on the record bail hearing is conducted. HRS § 804-7.5 by its nature requires the court to review the bail amount initially set in accordance with HRS § 804-9, and examine the conditions for any release on bail set forth in HRS § 804-7.1. It is a hearing conducted on the record. While HRS § 804-9 does dictate the determination of the amount of bail throughout a defendant's case, the initial setting of bail by those noted in HRS § 804-5 (justices, judges, or the sheriff, sheriff's deputy, chief of police, or the chief's designee) is not a determination that is made "on the record." The initial setting of bail is made before a case is filed with the court, at times and locations where there is no judicial recording of the determination because no case has been filed with the court and no hearings have been held. The only exception is in the case of a grand jury indictments. The "release hearing" noted in Section 3 of the bill is likely referring to the hearing set forth in HRS § 704-7.5. Therefore these proposed amendments would be more effective if placed in HRS § 704-7.5.

At the HRS § 804-7.5 bail hearing, consideration and determination of continued bail is made after review of any information provided at the time, including pretrial bail reports (if available) and any information provided by the defendant to the court. In addition, defendants

¹ In addition, the initial setting of bail could be set by police or other law enforcement officers as noted below.



can request a further hearing if necessary.² This bail hearing occurs either at the hearing for a defendant's initial appearance or at their arraignment or, in some cases, at both hearings. As drafted, HB127's requirements for the setting of bail after taking evidence at the "release hearing" could be interpreted to require a "release hearing" at the initial bail setting – again a function done primarily by judges and officers prior to a case even being filed. Requiring a hearing at that stage would require substantive changes to other statutory provisions, which in turn may impact the resources needed by the Judiciary, the police departments, the sheriff division, and other agencies involved in such processes. In addition, "release hearings" at the earliest stages may impact the constitutional rights of defendants to remain silent.

Finally, the Judiciary respectfully notes that Section 2's requirement that the court enter written findings as opposed to placing its findings on the record during the HRS § 804-7.5 hearings will negatively impact the efficient operation of the courts, will cause undue delay in all bail proceedings, and will likely require additional judicial resources for each circuit. Currently in the Circuit Court of the First Circuit arraignments are held in felony cases on Monday and Thursday mornings with anywhere between approximately ten to thirty-five defendants. A bail hearing is held for each of these defendants and determinations of bail are made on the record. Requiring written findings will compel the circuit court to draft and file twenty to seventy additional orders every week. In the District Court of the First Circuit there are approximately 170 initial appearances and/or arraignments held for in custody defendants every week.³ This bill would require the district court to draft and file at least 170 additional orders every week.⁴ In fact, Section 2 as written could be interpreted as requiring written findings whenever the court confirms the bail amount and/or confirms the defendants release status, not just at the HRS § 804-7.5 hearing and not just for those defendants who are in custody. For some cases this occurs at every hearing. The Judiciary conducts tens of thousands of criminal hearings each year, requiring written findings in each instance would be unsustainable with our current staffing.

In conclusion, while the Judiciary takes no position on the policy determination to require the court to set forth its findings on the record and to take into consideration those factors outlined in Section 3, the Judiciary respectfully requests that this matter be deferred until the conclusion of the Penal Code Review at the end of the year. If the proposed legislation moves forward, the Judiciary believes that any provisions to require the court to do so should be placed in HRS § 804-7.5, as that prompt bail hearing is where said determinations can be made by the court and placed on the record without the necessity of written findings.

Thank you for the opportunity to testify.

² Furthermore, as noted above, the right to bail continues throughout the case and defendants are always able to file a motion with the court for bail reduction or release.

³ There were 8859 initial appearance hearings and/or arraignments in the District Court of the First Circuit last year where the defendant was in custody.

⁴ The circuit courts of the other circuits conducted 1,618 arraignments last year (450 in the Second Circuit, 924 in the Third Circuit, and 244 in the Fifth Circuit). Under this bill these would all require written findings filed by the court. We are currently collecting data on the district court hearings for the other circuit, but can report that the Second Circuit conducted 851 custody arraignments and/or initial appearance hearings last year (which is just over 16 per week).

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OFFICE OF THE PROSECUTING ATTORNEY

TESTIMONY IN OPPOSITION TO HOUSE BILL NO. 127

A BILL FOR AN ACT RELATING TO PRETRIAL RELEASE

COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Representative David A. Tarnas, Chair
Representative Mahina Poepoe, Vice Chair

Friday, February 7, 2025 at 2:05 p.m.
Via Videoconference
State Capitol Conference Room 325
415 South Beretania Street

Honorable Chair Tarnas, Vice-Chair Poepoe, and Members of the Committee on Judiciary. The County of Hawai'i, Office of the Prosecuting Attorney submits the following testimony in opposition to House Bill No. 127 with comments.

This bill requires judges to reduce pretrial incarceration rates by requiring judges to provide written findings regarding the necessity of the conditions imposed on a defendant's release and bail set to be set in an amount that the defendant can afford based on certain factors.

This legislation is not necessary nor feasible. The additional burdens placed upon the Judiciary, Hawai'i Intake Service Center, and law enforcement will further exacerbate ongoing concerns related to staff shortages, additional overtime expenses, and overloaded court dockets and calendars.

The State has already taken drastic measures to reduce the pretrial incarceration population since the COVID-19 pandemic. The Hawai'i Community Correctional Center ("HCCC"), with an operational capacity of 226, is Hawai'i Island's primary correctional facility. Although HCCC is consistently the highest over occupancy rate (130.1%) correctional facility in the State (does not include the additional beds afforded by the new Kaumana Housing Unit), the State has taken tremendous efforts to address overcrowding. HCCC would routinely house 400 plus inmates up until 2019. During the pandemic, state officials worked collaboratively and the population is now consistently between 290-300 inmates. In addition, the new Kaumana Housing Unit which adds an additional 24 cells or 48 beds to HCCC was dedicated in December 2024. Unfortunately, HCCC has not been able to open and house inmates in the Kaumana Unit pending final occupancy requirements.

Here, on Hawai'i Island, a need for additional Circuit and District Court judges and staff has existed for many years. Now to add to that concern, there is a significant shortage of available defense counsel resulting in continuances and sometimes the premature release of defendants because the Court has not been able to appoint counsel. In addition, the Office of the Public Defender, has had to triage scheduling, assign felony attorneys to non-felony matters, required Honolulu based public defenders to travel off island for coverage, and has been withdrawing from all DUI and class A felony cases in Kona citing staff and personnel shortages. Perhaps, these are the types of priorities that should be considered to advance efforts towards improving and restoring the public's trust in our criminal justice system.

Hawai'i Island is at a substantial disadvantage to address crime motivators such as substance abuse, mental health, and homelessness, given our limited community resources and funding, geographic restrictions, limitations of court supervision authorities, and shortage of direct service providers. In the alternative to prioritizing the release of defendants by creating additional burdens to the Judiciary, Hawai'i Intake Service Center, and law enforcement we believe that by supporting funding, staffing, and programs for supervision and reintegration services and prioritizing the utilization of alternative forms of supervision, such as electronic monitoring where appropriate, we will be able to ease overcrowding concerns, assist incarcerated persons reintegrating back into society, and reduce recidivism.

Our Office agrees that pretrial detention should be employed to ensure the safety of the public and the defendant's presence in court. To promote public safety a defendant's criminal history should be part of the assessment when setting appropriate bail amounts. As such, our Office proposes that if changes are made to § 804-9, the included verbiage be considered:

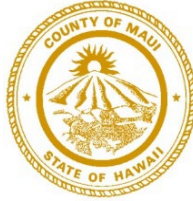
(a) The amount of bail rests in the discretion of the justice or judge or the officers named in section 804-5 and shall be set in a reasonable amount based upon all available information, including the offense alleged, the possible punishment upon conviction, **defendant's criminal history**, and the defendant's financial ability to afford bail.

For the foregoing reasons, the Office of the Prosecuting Attorney, County of Hawai'i, opposes House Bill No. 127 and submits the aforementioned comments for the Committee's consideration. Thank you for the opportunity to testify on this matter.

RICHARD T. BISSEN, JR.
Mayor

ANDREW H. MARTIN
Prosecuting Attorney

SHELLY C. MIYASHIRO
First Deputy Prosecuting Attorney



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TESTIMONY ON
H.B. 127
RELATING TO PRETRIAL RELEASE

February 6, 2025

The Honorable David A. Tarnas
Chair
The Honorable Mahina Poepoe
Vice Chair
and Members of the Committee on Judiciary and Hawaiian Affairs

Chair Tarnas, Vice Chair Poepoe, and Members of the Committee:

The Department of the Prosecuting Attorney, County of Maui respectfully submits the following comments **in opposition to H.B. 127, Relating to Pretrial Release**, and requests that the measure be deferred. This measure: 1) requires the court to enter written findings on the record for each defendant regarding the necessity of bail conditions, and 2) requires that bail amounts be set based upon a defendant's testimony at "the release hearing" subject to rebuttal evidence from the prosecution.

We oppose this measure for the following reasons. First, Hawai'i Penal Code is currently being reviewed by the advisory committee authorized by Act 245 of the 2024 Legislative Session. The advisory committee includes members from the Judiciary, prosecution and defense bars, civil practitioners and the ACLU. To our knowledge, this review includes a review of Chapter 804, which would seem to include the sections amended by this bill, and report of subsequent findings to the Legislature prior to the 2026 Legislative Session. We believe that the timelines and depth of the review process are the most fair and comprehensive way to amend the pretrial release statutes.

Second, Section 3 of H.B. 127 requires that a reviewing court consider bail amount arguments at a "release hearing" and allows rebuttal evidence by the State, but does not clarify the timelines for that hearing or allow for a reasonable amount of time for the State to obtain rebuttal evidence, especially when the State is likely unaware of a defendant's income or stated

position on bail prior to the release hearing. Without the opportunity to research and properly present this information, our ability to make bail arguments to protect the public as contemplated by HRS § 804-4(a) is impaired.

For these reasons, the Department of the Prosecuting Attorney, County of Maui **opposes the passage of H.B. 127 and requests that the measure be deferred.** Please feel free to contact our office at (808) 270-7777 if you have any questions or inquiries.

Thank you very much for the opportunity to provide testimony on this bill.

DEPARTMENT OF THE PROSECUTING ATTORNEY
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THE HONORABLE DAVID A. TARNAS, CHAIR
HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS
Thirty-Third State Legislature
Regular Session of 2025
State of Hawai'i

February 6, 2025

RE: H.B. 127; RELATING TO PRETRIAL RELEASE.

Chair Tarnas, Vice Chair Poepoe, and members of the House Committee on Judiciary and Hawaiian Affairs, the Department of the Prosecuting Attorney for the City and County of Honolulu submits the following testimony in opposition to H.B. 127.

Under H.B. 127, “[a]ny bail amount set, whether secured or unsecured, shall be in amount that the person is able to afford based on the person’s affidavit or testimony at the release hearing, subject to rebuttal evidence from the prosecution.”

Pretrial release conditions should prioritize public safety, the integrity of the court process, and the likelihood a defendant will comply with any conditions of release or bail. The current law allows judges to set a reasonable amount of bail, accounting for criminal history, the seriousness of the offense, the prospect or evidence of witness tampering, and other factors.

But “reasonable” is not a synonym for “affordable.” This bill replaces judicial discretion on the amount bail with a mandate for affordable bail. This allows every pretrial defendant to purchase release from custody, no matter the seriousness of the offense, the danger to the public, or the risk of flight.

This bill constrains the prosecution to presenting rebuttal evidence regarding the amount of bail a defendant can afford. That information is usually unavailable to the prosecution. Absent probable cause, police cannot compel information regarding the defendant’s finances. But the prosecution can often supply information on criminal history and the risk to the public—the priority factors in any decision on pretrial release of criminal defendants.

Thank you for the opportunity to testify.



Committee: Judiciary & Hawaiian Affairs
Hearing Date/Time: Friday, February 7, 2025, at 2:05pm
Place: Conference Room 325 & Via Videoconference
Re: **Testimony of the ACLU of Hawai'i in SUPPORT of H.B. 127
Relating to Pretrial Release**

Dear Chair Tarnas, Vice Chair Poepoe, and Committee Members:

The ACLU of Hawai'i strongly supports H.B. 127 1) requiring written findings on why conditions have been imposed upon a defendant and 2) setting standards for when an individual should be considered unable to pay bail. These are both important stepping stones towards achieving a justice system that is blind to wealth inequality, and instead carefully considers an individual's circumstances and actions rather than their bank accounts.

In *U.S. v. Salerno*, 481 U.S. 739 (1987), the U.S. Supreme Court held that “**in our society, liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.**”

Requiring written findings under H.B. 127 will safeguard against hasty and opaque decision-making relating to pretrial decisions in alignment with the *Salerno* decision. It also provides greater insight into *why* people are held in pretrial detention. Understanding if there are legitimate reasons for detention, rather than mere inability to pay, is important for helping individuals understand their own circumstances. The reasons for one's imprisonment should not be a black box. Further, the bill provides necessary information for making future reforms to the criminal justice system writ large, especially if decisions about release are not being made consistently or in the public interest.

Consider that currently over 56% of Hawai'i's jail population is pretrial¹. **In December 2024, over 71% of the people at the OCCC jail were pretrial.**² These individuals have not been convicted of any crime but remain behind bars largely due to an outdated reliance on cash bail and a lack of alternative pretrial systems. Reducing the pretrial detention population also is a clear first step to address problems of overcrowding given that the total number of people incarcerated in Hawai'i is decreasing over time, but our pretrial population is increasing.

The evidence suggests that pretrial detention reforms do not have negative impacts on public safety, and has little impact on court appearances.³ A study by the Prison Policy Initiative found that releasing individuals pretrial does not negatively affect public safety.⁴ The study considered

¹ Department of Corrections, January 13th 2025 report

² Department of Corrections, End of Month Population Report for December 2024.

³ Insha Rahman, Undoing the Bail Myth: Pretrial Reforms to End Mass Incarceration, 46 Fordham Urb. L.J. 845 (2019). Available at: <https://ir.lawnet.fordham.edu/ulj/vol46/iss4/2>

⁴ <https://www.prisonpolicy.org/blog/2020/11/17/pretrial-releases/>

pretrial reforms in New Jersey, New Mexico, Kentucky, and New York. It also considered local reforms in SF (CA), Washington (DC), Philadelphia (PA), Santa Clara (CA), Cook County (IL), Yakima County (Wash), New Orleans (LA), Harris County (TX), and Jefferson County (CO). Re-offense or rearrest rates did not increase after pretrial reforms, and in some cases declined.

- Harris County, Texas: approximately tens of thousands of people charged with misdemeanors have avoided pretrial incarceration since the County ended cash bail (according to independent federal data).⁵
- New Jersey's 2017 cash bail reform law successfully reduced the jail population by 20% and overall crime (including violent crime) decreased as well.⁶
- Cass County, Indiana: Prior to reform, the average jail population was nearly 50% over capacity, with approximately 70% of people pre-trial. In 2018 the county adopted several pre-trial diversion programs such as voluntary referrals to support services, decreased reliance on monetary bonds, and data transparency on pretrial outcomes. In 2022, the pretrial population had decreased by 80%, or 3,340 people, saving nearly \$1 million in detention costs.⁷

Holding people unnecessarily in pretrial detention **contributes to overcrowding, staffing issues, and worsening facility conditions.** Concerningly, it also has been found to have a criminogenic effect. One study from October 2024 found that pretrial detention increases the odds for someone to miss a court appearance or be arrested by roughly 50% and increases the odds of convictions by 36%.⁸ **Other research has found that even a short period of pretrial detention can have “cascading effects” on an individual, including threatening employment, housing stability, child custody, and health care access.** These may contribute to increased likelihood of further involvement with the criminal justice system.⁹

The ACLU of Hawai'i notes that the requirement to provide bail under the least restrictive conditions required for appearance and public safety are already present in §804-4 as currently written. This bill would serve to directly connect the right to bail under these least restrictive conditions with the obligation to enter written findings on these conditions. Further, the Hawai'i State Judiciary's Criminal Pretrial Task Force issued a report in December of 2018 emphasizing the need to rethink our pretrial practices “to increase public safety while maximizing pretrial release of those who do not pose a danger or a flight risk.” Many of the recommendations made

⁵ <https://www.wbur.org/hereandnow/2024/09/16/breaking-the-bond#>

⁶ <https://www.arnoldventures.org/stories/the-facts-on-new-jersey-bail-reform>

⁷ <https://www.arnoldventures.org/stories/small-county-big-results>

⁸ DeMichele, Matthew and Silver, Ian and Labrecque, Ryan, Locked Up and Awaiting Trial: A Natural Experiment Testing the Criminogenic and Punitive Effects of Spending a Week or More in Pretrial Detention (June 2, 2023).

⁹ See: Laura & John Arnold Foundation., *Pretrial Criminal Justice Research*

(2013), available at http://www.arnoldfoundation.org/wp-content/uploads/2014/02/LJAF-Pretrial-CJResearch-brief_FNL.pdf; Megan Stevenson, *Distortion of Justice: How the Inability to Pay Bail Affects Case Outcomes* 22 (Working Paper, 2016), available at <https://www.law.upenn.edu/cf/faculty/mstevens/workingpapers/Distortion-of-Justice-April-2016.pdf>; Heaton et al., *The Downstream Consequences of Misdemeanor Pretrial Detention* 3 (July 2016), available at <http://ssrn.com/abstract=2809840>;

<https://vera-institute.files.svdcn.com/production/downloads/publications/Justice-Denied-Evidence-Brief.pdf>

by this Task Force emphasize the need for proper information about financial circumstances and risk assessments of defendants.¹⁰ It is time to act upon these recommendations.

Adopting H.B. 127 will help ensure that the freedom of individuals is not determined by their ability to afford bail. This will help create a more intelligible decision-making process for pretrial detention that will protect the freedoms of incarcerated individuals. Importantly, the example of other states that have instituted even stronger bail reforms suggests that H.B. 127 will potentially decrease the criminogenic effect of pretrial detention without sacrificing public safety.

Sincerely,

Nathan Lee
Policy Legislative Fellow, ACLU Hawai'i

C: Carrie Ann Shirota, Policy Director

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 founded in 1965 that provides its services at no cost to the public and does not accept government funds.

¹⁰ As set forth fully above, federal courts have held that a defendant's financial circumstances and possible alternative release conditions must be considered prior to detention. Hawaii's statutes also instruct all officers setting bail to "consider [not only] the punishment to be inflicted on conviction, [but also] the **pecuniary circumstances of the party accused**." At present, little, if any, inquiry is made concerning the defendant's financial circumstances." Hawai'i Criminal Pretrial Reform Task Force report, Dec. 2018 Pg. 81



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Testimony from:
Lisel Petis, Senior Fellow, R Street Institute

Testimony in Support of HB 127: “Relating to Pretrial Release.”

February 7, 2025

Hawai‘i House Judiciary and Hawaiian Affairs Committee

Chairman Tarnas and members of the committee,

My name is Lisel Petis, and I am a senior fellow at the R Street Institute, a nonprofit, nonpartisan public policy research organization. R Street engages in policy research and analysis dedicated to common sense solutions that make government work smarter and more effectively. My work at R Street focuses specifically on criminal justice and civil liberties. Given our commitment to pragmatic policies that improve fairness, public safety, and government accountability, we have a strong interest in House Bill 127.

As a former prosecutor, I have seen firsthand how the current bail system disproportionately impacts low-income individuals who lack the financial resources to secure their release, leading to unnecessary pretrial detention that exacerbates social and economic instability.¹ In Hawai‘i, 40 percent of the jail population is homeless and 60 percent remain in custody due to inability to afford bail.² Meanwhile, Hawai‘i’s prisons are over capacity, forcing the state to house hundreds of inmates in private, out-of-state facilities.³ It is necessary to ensure pretrial detention is only used to protect public safety and guarantee court appearance—not as a penalty for poverty or a drain on public resources.

House Bill 127 establishes clear guidelines for determining a defendant’s ability to pay while recognizing that public benefits are a lifeline, not disposable income. It streamlines the bail process by presuming individuals earning less than 150 percent of the federal poverty level cannot afford bail, allowing judicial resources to focus on assessing risk. For those earning above that threshold, the bill ensures that bail is

¹ Lisel Petis, “Our current cash bail system isn’t keeping people in our out of jail based on lethality—and it should be,” R Street Institute, Dec. 10, 2021. <https://www.rstreet.org/commentary/our-current-cash-bail-system-isnt-keeping-people-in-or-out-of-jail-based-on-lethality-and-it-should-be>.

² Kevin Dayton, “Green Proposes Spending Another \$30 Million on a New O‘ahu Jail,” *Honolulu Civil Beat*, Dec. 30, 2024. <https://www.civilbeat.org/2024/12/green-proposes-spending-another-30-million-on-a-new-o%CA%BBahu-jail>.

³ Kevin Dayton, “Tough Choices on Hawaii’s Prisons and Jails Lie Ahead, Official Says,” *Honolulu Civil Beat*, Oct. 1, 2024. <https://www.civilbeat.org/2024/10/tough-choices-on-hawaiis-prisons-and-jails-lie-ahead-official-says>.

set at an amount they can reasonably pay within forty hours of arrest, reducing unnecessary pretrial incarceration and promoting fairness in the justice system.

Additionally, the bill requires the court to record written findings justifying the conditions imposed to ensure the defendant's appearance, protect the public, or both. This requirement increases transparency and accountability in pretrial decision-making, ensuring that conditions are justified based on individualized assessments rather than arbitrary financial thresholds. It also helps ensure that pretrial conditions serve their intended purpose rather than functioning as a form of punishment.

Pretrial detention should be reserved for those who pose a legitimate risk to public safety or are likely to abscond, not those who simply cannot afford to buy their freedom. Detaining individuals who are unable to pay bail has severe consequences, including loss of employment, housing instability, and disruption of family structures.⁴ For those already facing housing insecurity, unnecessary detention only deepens the cycle, making it even harder to regain stability.⁵ Furthermore, research demonstrates that even short-term pretrial detention increases the likelihood of future criminal behavior.⁶ By implementing policies that prevent the unnecessary detention of low-risk individuals, House Bill 127 strengthens public safety outcomes while maintaining judicial discretion for truly dangerous offenders.

Additionally, reducing unnecessary pretrial incarceration promotes fiscal responsibility by cutting costs associated with housing individuals in jail who do not need to be there.⁷ Taxpayer dollars should be allocated toward interventions like behavioral health issues, not wasted on detaining individuals who pose little to no risk. House Bill 127 aligns with best practices in criminal justice policy, ensuring a smarter use of resources that balances public safety with responsible government spending. It ensures that pretrial detention is used judiciously and that no one is incarcerated simply because they are poor.

I urge the committee to support this bill and take a critical step toward a more just and effective pretrial system. Thank you for your time and consideration.

Thank you,

Lisel Petis
Senior Fellow
R Street Institute
lpetis@rstreet.org

⁴ Lisel Petis, "Tools for Safe and Smart Bail System Changes," R Street Institute, June 7, 2023. <https://www.rstreet.org/commentary/tools-for-safe-and-smart-bail-system-changes>.

⁵ Lisel Petis, "Breaking the Cycle: Effectively Addressing Homelessness and Safety," R Street Institute, October 2024. https://www.rstreet.org/wp-content/uploads/2024/10/4_FINAL-r-street-policy-study-no-311.pdf.

⁶ Leon Digard and Elizabeth Swavola, "Justice Denied: The Harmful and Lasting Effects of Pretrial Detention," Vera Institute of Justice, April 2019. <https://vera-institute.files.svdcdn.com/production/downloads/publications/Justice-Denied-Evidence-Brief.pdf>.

⁷ Will Dobbie and Crystal S. Yang, "The economic costs of pretrial detention," Brookings Institute, March 24, 2021. <https://www.brookings.edu/articles/the-economic-costs-of-pretrial-detention>; Kevin Dayton, "Tough Choices on Hawaii's Prisons and Jails Lie Ahead, Official Says," *Civil Beat*, Oct. 1, 2024. <https://www.civilbeat.org/2024/10/tough-choices-on-hawaiis-prisons-and-jails-lie-ahead-official-says>.



HB 127, RELATING TO PRETRIAL RELEASE

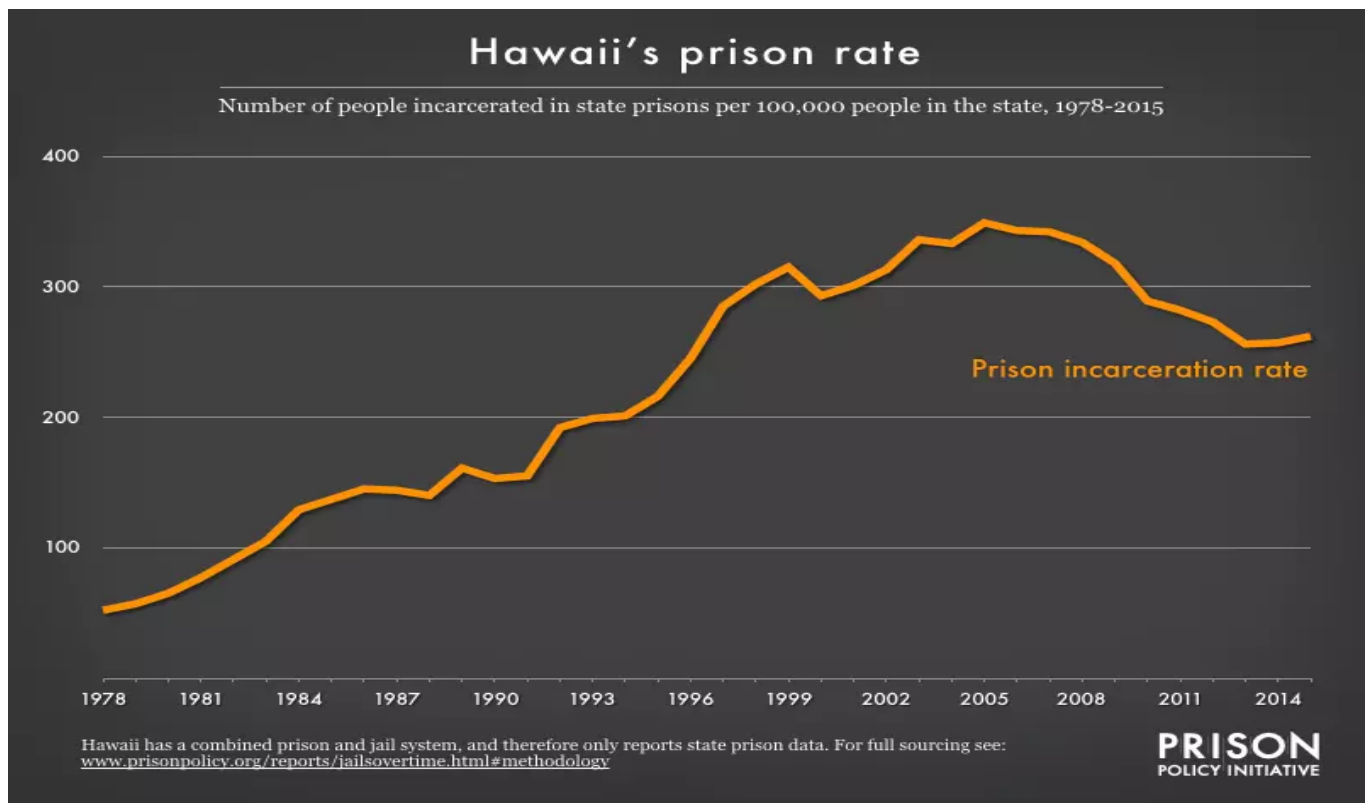
FEBRUARY 7, 2025 · JHA HEARING

POSITION: Support.

RATIONALE: Imua Alliance supports HB 127, relating to pretrial release, which requires the court to enter on the record its written findings regarding the necessity of the conditions imposed on a defendant's release; and requires bail to be set in an amount that the defendant can afford based on certain factors.

Wealth should not determine liberty, as the New York Civil Liberties Union states. Hawai'i has approximately 5,100 inmates, hundreds of whom are incarcerated overseas, away from their families and homeland. The Prison Policy Initiative has found that our incarcerated population has grown dramatically since the 1970s and far surpasses that of the international community, with the islands incarcerating over 400 people per 100,000 residents, while nations like the United Kingdom, Canada, and France incarcerate roughly one-quarter of that amount.

According to a report by the American Civil Liberties Union released in recent years, pretrial detainees in Honolulu wait an average of 71 days for trial because they cannot afford bail. Additionally, researchers found that circuit courts in Hawai'i set monetary bail as a condition of release in 88 percent of cases, though only 44 percent of those people managed to post the amount of bail set by the court. Moreover, the study found the average bail amount for a Class C felony on O'ahu is set at \$20,000. Even with help from a bail bonding agency, posting bond in such cases would require an out-of-pocket expense of roughly \$2,000.



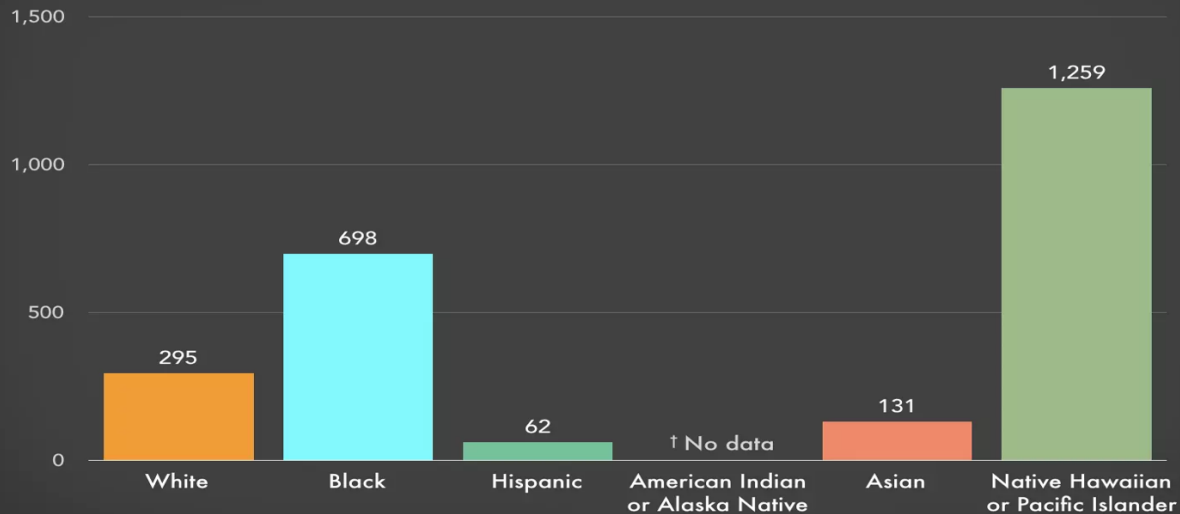
While wealthy defendants can afford to pay for bail, impoverished defendants often cannot afford to pay even minimal amounts, leaving economically disadvantaged people languishing in our jail system for low-level offenses. These irrational “public safety” policies are the reason our jails are overcrowded. Though officials claim that bail amounts are supposed to be based on a consideration of multiple factors—including flight risk, ability to pay, and danger to the community—researchers learned that in 91 percent of cases in Hawai‘i, monetary bail mirrored the amount set by police in arrest warrants, an amount based solely on the crime charged. These injustices led the ACLU to declare that our state’s pretrial detention system is unconstitutional.

Furthermore, people of Native Hawaiian ancestry, who comprise approximately 25 percent of the state’s population, continue to suffer the pangs of a biased penal system. Approximately 39 percent of incarcerated detainees are Hawaiian, according to a comprehensive study by the Office of Hawaiian Affairs, with the proportionality gap being even greater for Hawaiian women, who comprise 19.8 percent of the state’s female population, but 44 percent of the state’s female inmate population. Researchers also found that, on average, Hawaiians receive longer sentences, more parole revocations, and harsher drug-related punishments than other ethnic groups.

Racial disparities in Hawaii incarceration rates

People incarcerated in the state, per 100,000 state residents in each race or ethnicity category

HAWAII INCARCERATION RATES, 2021



† Suppressed: Estimate is either not calculable based on published data or is based on fewer than 25 people. Source: Bureau of Justice Statistics and U.S. Census Bureau data. For sourcing details and dataset, including race definitions and categories not displayed above, see: www.prisonpolicy.org/data/race_bystate_2021.xlsx.

PRISON
POLICY INITIATIVE

Accordingly, **we believe our state should invest in policies to reduce our high incarceration rate, including restorative justice and diversion initiatives, pretrial bail reform, mental health programs, cannabis legalization, and more.** Legal detainment also correlates most heavily with socioeconomic status, with poverty being the biggest driver of “crime” in our community as under-resourced areas lack the social infrastructure, public health programs, and economic opportunities that empower people to flourish. Instead of constructing more cages to detain our state’s residents, we should pass policies that deliver economic fairness to financially vulnerable families, which will break the cycle of intergenerational poverty that too often serves as the social determinant of incarceration.

Contact us at imuaalliance.org/contact.

HB-127

Submitted on: 2/6/2025 12:18:04 PM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Alika Valdez	The Hawai'i Democratic Party	Support	Written Testimony Only

Comments:

I support this bill.

COMMUNITY ALLIANCE ON PRISONS

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

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

Today's Inmate; Tomorrow's Neighbor



COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Representative David Tarnas, Chair

Representative Mahina Poepoe, Vice Chair

Wednesday, February 7, 2025

Room 325 & VIDEOCONFERENCE

2:05 PM

HB 127 STRONG SUPPORT with SUGGESTION - PRETRIAL RELEASE

Aloha Chair Tarnas, Vice Chair Poepoe 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 more than two decades. This testimony is respectfully offered on behalf of the 3,697 Hawai'i individuals living behind bars¹ and under the "care and custody" of the Department of Corrections and Rehabilitation on any given day. We are always mindful that 937 - 49% - of Hawai'i's imprisoned male population are serving their sentences abroad - thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Kanaka Maoli, far, far from their ancestral lands.

Community Alliance on Prisons appreciates this opportunity to express our **strong support for HB 127** that requires the court to enter on the record its written findings regarding the necessity of the conditions imposed on a defendant's release and requires bail to be set in an amount that the defendant can afford based on certain factors.

¹ DCR Weekly Population Report, January 20, 2025

<https://dcr.hawaii.gov/wp-content/uploads/2025/01/Pop-Reports-Weekly-2025-01-20.pdf>

Community Alliance on Prisons favors eliminating cash bail, however, if the court decides that bail is warranted, in the interest of justice, Community Alliance on Prisons **SUGGESTS** that

- court records must be complete and written in plain language that includes
 - how the court determined the need for the conditions set and
 - how the court determined that bail is set in an amount that the individual can actually afford
- a more complete court record in plain language would benefit everyone in understanding the court's reasoning.

We mahalo JHA for this bill and hope that the committee will support this step toward justice.

Mahalo nui!

HB-127

Submitted on: 2/7/2025 12:29:08 AM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Joanna Wheeler	Fathers and Mothers for Children Kauai Chapter	Oppose	Written Testimony Only

Comments:

Dear Sirs:

I am writing to express my opposition to HB127. Setting bail amounts based on an individual's ability to afford them, without considering the gravity of the offense, could lead to more criminals being released back onto the streets. This undermines public safety and the integrity of our judicial system. I urge you to vote against this bill to maintain a fair and just legal process.

Sincerely,
Joanna Wheeler
Registered Voter
Fathers and Mothers for Children Kauai Chapter



P.O. Box 352
Franklinville, NJ 08322
info@AmBailCoalition.org
www.AmericanBailCoalition.org

February 7, 2025

Representative David Tarnas
Hawaii House Committee on Hawaiian Affairs
Room 442, State Capitol
415 South Beretania Street
Honolulu, HI 96813

Delivered via Email: reptarnas@Capitol.hawaii.gov

RE: House Bill 127 / Relating to Pretrial Release - OPPOSE

Dear Chairman Tarnas and Members of the House Committee on Hawaiian Affairs:

I am writing to join the chorus of opposition to HB 127. While we agree that a renewed vigor for reducing the length and rate of pretrial detention in addition racial disparities is highly necessary, we unfortunately see this legislation as a very extreme version of New York's failed bail reform experiment. Allow me to explain.

First, the legislation creates what is known nationally as a right to an affordable bail. The U.S. Court of Appeals for the Eleventh Circuit rejected this concept that someone is entitled to a bail they can post.¹ The idea that bail is a third-party custodial transfer under a financial guarantee forms the definition of what black letter law is, having been discussed in William Blackstone's *Commentaries*.² The constitutional mechanism for pretrial jailing in fact, if we look it in terms of history and tradition, is that someone is unable to post a bail. Whether or not the bail is then "excessive" serves as a check on that process, and a court must assess a person's ability to post bail in addition to the availability of third-parties to post bail in order to properly conduct an excessive bail analysis appropriately respecting indigent rights. At common law, judges who set bails too high were themselves subject to penalties, a doctrine that perhaps should be revisited in terms of greater sunshine on the bail process itself.

This legislation entirely upends the settled bail process guaranteeing that the amount of bail is something that someone will be guaranteed to be able to post. That means there is no remaining detention net in Hawai'i. In fact, the right to an affordable bail language in this legislation comes from the Washington, D.C. and federal statutes. It is what we term the "release portion" of

¹ <https://law.justia.com/cases/federal/appellate-courts/ca11/18-13894/18-13894-2022-07-29.html> ("Cullman County, however, has chosen to place all arrestees on equal footing: all are released as soon as they are able to show that they are not a flight risk or danger to the community. The affluent satisfy this requirement by posting bail; the indigent do so by making what, in the eyes of the County, is an equal showing—appearing at a hearing where a judge determines their indigency, their danger level, and flight risk.")

² <https://press-pubs.uchicago.edu/founders/documents/amendVIII4.html> ("What the nature of bail is, hath been shown in the preceding book; viz. a delivery, or bailment, of a person to his sureties, upon their giving (together with himself) sufficient security for his appearance: he being supposed to continue in their friendly custody, instead of going to goal.")



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the alternative system of risk-based preventative detention. But what happens in such systems is that persons then remain in jail due to the prosecutors being given the power to move to deny bail altogether in certain charges (usually higher level) or certain circumstances (repeat). The problem there is that the federal system then turned into an absolute civil rights atrocity, increasing pretrial detention from 24% to 75%, and length of detention from 60-360 days.³ Maryland also went to this model, and the results were stunning—overall pretrial detention increased by 20%.⁴

To simply repeal the only constitutional mechanism that results in pretrial detention that balances the interests of the People and the defendants to their liberty, we think is not well advised. This is precisely what we saw in New York since 2019, and why the legislature rolled it back three times, and the so-called zero bail experiment in California, which was that when there is no possibility of pretrial detention *at all* in some crimes the system of criminal deterrence begins to break down. Which is important, because you can't jail your way out of a crime problem—the public and the suspects need to believe that the right people will be caught quickly and punished and the wrong, innocent people if ensnared will be exonerated in a timely fashion. We expect pretrial crime and failing to appear in court, especially in repeat misdemeanor cases, to spiral under the right to an affordable bail. Importantly, this right to an affordable bail could have been limited to say municipal ordinance misdemeanors, what we like to term “sleeping on park bench” type of cases. But here, *this right to an affordable bail will include the most violent defendants with the longest criminal records in Hawai'i*.

Recently, Hawai'i resident James Lindblad drafted an excellent piece that made what might seem like an obvious point: **the greatest societal opportunity at reducing pretrial detention in the fairest way to all involves reducing the amount of time persons are in pretrial status.**⁵ The solutions of course to that constant, mind-numbing constitutional quagmire are not easily obtained. But the true reality, as Mr. Lindblad points out, is that the system slowing down is keeping people in a version of bail purgatory, where the lives of the victims of the crimes and the person accused (but not convicted) remain upended and in complete limbo for far, far too long. Prosecutors blame the defenders. The defenders blame the prosecutors. The judges blame the prosecutors and the defenders, depending on the day. As practitioners and reformers, we sit on the sidelines and watch a general, growing and identifiable problem cause outrage as people sit for double or even triple the amount of time than what they did a generation ago. We don't at the same time hear the chorus of people cheering on a system that despite its delays is now somehow worth it because it is more accurate in terms of getting it right and thus worth the wait. For those out on bail, they have the cloud of a criminal charge hanging over their head. For victims, closure comes far too late if at all. For your local bail bondsmen, even his risk has more than doubled also for the same premium dollars.

Then the outrages of all of that lead to calls for bail reform, trying to blame a settled and flexible institution for being the cause. For all of our fancy computers and printers and clouds and texting

³ <https://freedomdenied.law.uchicago.edu/summary>

⁴ <https://baltimorebeat.com/after-bail-reform-effort-baltimore-residents-are-being-held-in-jail-at-higher-rates-than-before/> (the data set shows an overall detention rate increase of 20% over the time period, excluding any adjustments for length of detention).

⁵ <https://www.hawaiifreepress.com/Articles-Main/ID/42909/Reply-to-ACLU-Fixing-Hawaii-Bail-Problem-Requires-Return-to-Core-Constitutional-Principals>



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and everything else, we have made the criminal justice process so inefficient that it is no wonder that the public has lost faith in the system (44% of carjackings currently go unreported) and the persons who it is supposed to deter do not worry about it as much. Simply put, the time to get to the fork in the road of guilt or innocence takes too long, and it is not that judges are less fair or harsher during this new period in which our people are now actually being poisoned, which leads to their unfortunate criminality and jailing absent a cogent national strategy respond to the poisoning and more importantly the permanent human damage that is caused.⁶ This timeliness issue is a national epidemic unfortunately, and absent a significant boost in court funding and efficiency, we do not see this improving but in fact only getting worse.

As to the text of the legislation itself, there is one glaring problem that will all but guarantee that even the wealthy will be able to take greater advantage of the system—the amount of bail required to be set is only that amount that the defendant can post in cash in 48 hours, and the prosecutor must overcome any testimony of the defendant that say, he can only raise it in 53 hours. Very few estates can be liquidated in 48 hours. Even cars cannot necessarily be sold that quickly. It may take a day or two for a check to clear. Properties certainly cannot be sold and liquidated in 48 hours. Obviously, a defendant in custody cannot liquidate their own assets. Thus, by limiting the amount of funds only to the defendant and only that which can be brought in in cash within 48 hours, the legislation heavily favors the wealthy who will escape large bonds due to illiquidity but not poverty and creates a non-workable rule in practice.

In short, we do believe it is irresponsible as a matter of policy to pass the release-portion of the system of risk-based preventative detention (the so-called right to an affordable bail) *without offering the People some part of the detention system*. While we think a constitutional change would be required to get to such a system (it perhaps not being warranted in light of the Maryland experience), turning all suspects loose from all pretrial detention will most certainly upset that balance too far in favor of dangerous and repeat defendants. If it is that too many people are being held on bails that are excessive, greater due process remedies, as the Eleventh Circuit suggests, is the cure for the problem of indigency bail.

Regrettably, I will not be there to testify in person. I do travel to your state at least once a year, and usually twice. I most recently took my parents on a trip to celebrate 50 years of marriage, and I could not think of a better place to celebrate. If I may ever be of assistance to you or the great of State of Hawai'i, please let me know. We are all Americans, and we are all striving to make things better by cutting through the political rhetoric and focusing on the merits of issues in order to bring the right solutions to the problems we face.

Sincerely,

Signed by:

 A handwritten signature in blue ink, appearing to read "JJC", enclosed in a blue rectangular box.

45CB1FFA6278476
 Jeffrey J. Clayton, M.S., J.D.
 Executive Director
 American Bail Coalition

⁶ We contrast this with the war on drugs of a generation ago where those same drugs have been both decriminalized and legalized in a growing number of states, and where "use" has been entirely separated out from the concept of trafficking.



HAWAI'I HEALTH
& HARM REDUCTION CENTER
The New Chapter for Life Foundation and The CHOW Project

TESTIMONY IN SUPPORT OF HB 127

TO: Chair Tarnas, Vice Chair Poepoe, & JHA Committee Members

FROM: Nikos Leverenz
Policy & Advancement Manager

DATE: February 7, 2025 (2:00 PM)

Hawai'i Health & Harm Reduction Center (HHHRC) **strongly supports** HB 127, which reforms pretrial practices to require a court to enter on the record its written findings regarding the necessity of the conditions imposed on a defendant's release and requires bail to be set in an amount that the defendant can afford based on certain factors.

Last year HHHRC released a report on Hawai'i's [Sequential Intercept Model](#) (SIM), a tool developed by the federal Substance Abuse and Mental Health Services Administration to understand the relationship between criminal-legal agencies and behavioral health services and to identify opportunities for improving diversion away from justice systems and into more appropriate community settings. [[Click here to view the report.](#)] Reforming pretrial practices was among the specific needs identified by the report.

HHHRC invited Dan Mistak of [Community Oriented Correctional Health Services](#) to facilitate a conversation between 45 participants from across the behavioral health and justice sectors to prepare for the use of Medicaid dollars in carceral settings, help inform legislators about critical needs within the behavioral health and justice systems, and offer insights into how to improve diversion from justice settings. Participants included the state Department of Health, Department of Human Services, Department of Public Safety (PSD), Office on Homelessness and Housing Solutions, Public Defender's Office, two county prosecutors, and the Honolulu Police Department.

HHHRC's mission is to reduce harm, promote health, create wellness, and fight stigma in Hawai'i and the Pacific. We work with many individuals who are impacted by poverty, housing instability, and other social determinants of health. Many have behavioral health problems, including those relating to substance use and underlying mental health conditions. Many of our clients and participants have been deeply impacted by trauma, including histories of physical, sexual, and psychological abuse.

Thank you for the opportunity to testify on this measure.

HB-127

Submitted on: 2/4/2025 10:37:08 PM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Andrew Crossland	Individual	Oppose	Written Testimony Only

Comments:

I STRONGLY OPPOSE this Bill which would solely base the amount of bail on an amount which the criminal could afford. This will lead to more criminals on our streets as they await trial. I urge all members of the Committee to **VOTE NO** on this Bill.

HB-127

Submitted on: 2/6/2025 7:21:35 AM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Ryan Willis	Individual	Oppose	Written Testimony Only

Comments:

I Strongly oppose

HB-127

Submitted on: 2/6/2025 7:32:06 AM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Kanoe Willis	Individual	Oppose	Written Testimony Only

Comments:

I STRONGLY OPPOSE

HB-127

Submitted on: 2/6/2025 7:39:10 AM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Joelle Seashell	Individual	Oppose	Written Testimony Only

Comments:

This will weaken accountability and make us more crime ridden. Strongly opposed.

HB-127

Submitted on: 2/6/2025 7:41:38 AM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Yumi Moore	Individual	Oppose	Written Testimony Only

Comments:

Aloha Chair and Committee Members,

I am writing to strongly oppose HB127. This bill proposes that bail should be set based on what a defendant can afford, rather than on the severity of the crime or risk to the community. While financial fairness is important, public safety must remain the priority.

If bail is determined solely by a defendant's ability to pay, it could result in more repeat offenders being released, increasing crime and jeopardizing community safety. The bail system should consider both financial circumstances and the potential danger posed by individuals accused of crimes.

I respectfully urge you to reject HB127 in favor of policies that ensure both fairness and public safety.

Mahalo for your time and consideration.

Yumi Moore

HB-127

Submitted on: 2/6/2025 7:45:49 AM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Deven English	Individual	Oppose	Written Testimony Only

Comments:

I am in strong opposition of this bill, a bail amount should not be set according to what a person can afford, the bail should be based on the crime committed, to hold them accountable and to make sure they show up for court. All you are doing is enabling more crime to occur.

HB-127

Submitted on: 2/6/2025 8:06:38 AM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Dorinda Ohelo	Individual	Oppose	Written Testimony Only

Comments:

I OPPOSE THIS BILL.

HB-127

Submitted on: 2/6/2025 8:18:08 AM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Laurie West	Individual	Oppose	Written Testimony Only

Comments:

OPPOSE

HB-127

Submitted on: 2/6/2025 8:19:26 AM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Christopher Gouveia	Individual	Oppose	Written Testimony Only

Comments:

I oppose HB127. A person's bail should be based on the crime committed, NOT affordability.
The idea SHOULD be to get more criminals OFF OUR STREETS, not keep them there.

This bill will only allow more crime.

HB-127

Submitted on: 2/6/2025 8:21:41 AM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
James K. Rzonca	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill

HB-127

Submitted on: 2/6/2025 8:46:16 AM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Jessica Gellert	Individual	Oppose	Written Testimony Only

Comments:

Aloha Lawmakers,

HB127 seeks to reform the cash bail system by mandating that bail amounts align with a defendant's financial capacity. While the intention is to promote fairness, this approach raises significant public safety concerns, particularly regarding repeat offenders who may escalate to committing more serious crimes.

By setting bail amounts based solely on a defendant's financial situation, the proposed bill could inadvertently facilitate the release of individuals with a demonstrated propensity for reoffending. This is particularly concerning for those with histories of property crimes, who, as data suggests, have a significant likelihood of escalating to violent offenses, including assault and potentially more severe crimes.

Data from the Bureau of Justice Statistics (BJS) indicates that a substantial proportion of released prisoners reoffend. Specifically, a study tracking individuals released in 2012 found that 70% were rearrested within five years. Notably, individuals initially incarcerated for property crimes exhibited a high tendency to commit violent offenses upon release; 51.2% of such individuals were rearrested for violent crimes. [usafacts.org](https://www.usafacts.org)

Further research by the United States Sentencing Commission reveals that violent offenders are prone to recidivism for serious crimes. Approximately 28.4% of violent offenders who reoffended were charged with assault as their most serious new offense, followed by public order crimes (15.6%) and drug trafficking (11.1%). [ussc.gov](https://www.ussc.gov)

Moreover, the bill's emphasis on affordability may lead to the release of individuals who, despite facing serious charges, can secure low bail amounts due to limited financial means. This could compromise public safety, as it increases the risk of reoffending during the pretrial period.

While the goal of creating a more equitable bail system is commendable, it is crucial to balance this with the imperative of safeguarding the community. The proposed bill's focus on a defendant's financial capacity, without adequate consideration of their criminal history and the potential risk they pose, may lead to increased instances of recidivism and the escalation of

criminal behavior. A more layered approach that incorporates both the financial circumstances of defendants and a thorough assessment of their risk to public safety would be more prudent.

Please Vote NO on this bill.

Mahalo,

Jessica Gellert

HB-127

Submitted on: 2/6/2025 8:50:11 AM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
KELVIN AWAYA	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose HB127.

If any individual is willing to commit a crime, they know what the ramifications can/will be. An absurd bill such as this would actually condone criminals to commit crimes, knowing that they would be able to post bail, possibly even free of charge if they cannot afford to pay bail. Can't do the time/pay the fine, don't do the crime. SIMPLE.

HB-127

Submitted on: 2/6/2025 8:57:10 AM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
stacy diaz (Zoom display name SD)	Individual	Oppose	Remotely Via Zoom

Comments:

I, Stacy Diaz oppose bill HB127.

HB-127

Submitted on: 2/6/2025 8:58:21 AM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Monique Perreira	Individual	Oppose	Written Testimony Only

Comments:

OPPOSE. Bail should be set based on the crime, period! Let's start serving the hardworking honest people of Hawai'i instead of making it easier for criminals to commit crimes.

HB-127

Submitted on: 2/6/2025 8:59:32 AM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Alexandria A. Lum	Individual	Oppose	Written Testimony Only

Comments:

My name is Alexandria Lum and I am asking you to VOTE NO on HB127...

Really? You're willing to release on bond based on what someone is able to afford? \$2 to get out of jail for FREE card? As a law-biding citizen I'm appalled by this. You're making it easier for criminals to engage in criminal activity and it's NOT SUPPOSED TO BE EASY to do the crime but you're making it easy, more comfortable for criminals to commit crimes! Crime is at an all time high in Hawaii and I don't think you have watched the news lately let alone are connected to those who have been hit hard by crime, theft and other violations. This is an insult to the victims of crimes and an insult to us who do whatever we can to avoid crime happening to us. Stop being so out of touch with the people you claim to serve.

I'm mad about this, and rightly so. SO LITTLE HAS BEEN DONE TO PREVENT CRIMES and this only promotes it. What are you doing in even making this an issue? Hawaii is known to be one of the most politically corrupt states in the nation. This bill seems like it supports corruption by making it cheaper to get a "Jail Free Card" while doing it. A'ole!

Alexandria Lum

(Registered Vote on the island of Oahu)

HB-127

Submitted on: 2/6/2025 9:06:47 AM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Zac Nosugref	Individual	Oppose	Written Testimony Only

Comments:

I oppose any bail amount set to an individual's ability to pay. Enforce existing laws WRT bail.

HB-127

Submitted on: 2/6/2025 9:08:07 AM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Jeanine Acopan	Individual	Oppose	Written Testimony Only

Comments:

Unbelievable!!! 😡

HB-127

Submitted on: 2/6/2025 9:17:14 AM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Noela von Wiegandt	Individual	Oppose	Remotely Via Zoom

Comments:

Aloha,

I oppose HB127. This bill will allow illegals who are breaking the law being in the United States unlawfully to walk free among law abiding citizens. This is in Violation of Title 8 U.S.C.1324. The State of Hawaii should NOT facilitate helping these criminal lawbreakers in any way, shape or form. Thank you.

Noela von Wiegandt

HB-127

Submitted on: 2/6/2025 9:31:36 AM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Tina Pao	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill. Why even have bail if you want them to be set to let criminals out based on what they can afford.

HB-127

Submitted on: 2/6/2025 9:40:06 AM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Shari saiki Rodrigues	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill.

HB-127

Submitted on: 2/6/2025 9:57:16 AM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Robin D. Ganitano	Individual	Oppose	Written Testimony Only

Comments:

I oppose HB127 which would put more criminals on the streets by having any bail amount set, in an amount that the person is able to afford.

HB-127

Submitted on: 2/6/2025 10:17:09 AM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Kealohi Hanohano	Individual	Oppose	Written Testimony Only

Comments:

I oppose!!

HB-127

Submitted on: 2/6/2025 10:52:38 AM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
THOMAS KENT	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill.

HB-127

Submitted on: 2/6/2025 11:08:39 AM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Rosemarie Vailisale	Individual	Oppose	Written Testimony Only

Comments:

I oppose of this bill!!

HB-127

Submitted on: 2/6/2025 11:13:51 AM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Josh Fowler	Individual	Oppose	Written Testimony Only

Comments:

House Committee on Judiciary & Hawaiian Affairs**RE: Strong Opposition to HB127 – Relating to Pretrial Release****Chair, Vice-Chair, and Committee Members,**

My name is Joshua Fowler, and I strongly oppose HB127, which seeks to mandate that bail be set based on a defendant's financial situation rather than the severity of their offense. While I understand the goal of ensuring fairness in the legal system, this bill prioritizes affordability over public safety, reduces accountability for criminal behavior, and creates a system where individuals accused of serious offenses can be released simply because they cannot afford bail.

Reasons for Opposition:

- **Puts Public Safety at Risk**
 - Bail exists to ensure that those accused of crimes return to court and do not pose a danger to the community.
 - Setting bail based on a defendant's ability to pay rather than the severity of their crime allows potentially dangerous individuals to be released simply because they claim financial hardship.
 - Other states that have experimented with similar bail reform measures, like New York, have seen repeat offenders immediately reoffend upon release, endangering communities.
- **Encourages a Two-Tier Justice System Favoring Criminals Over Victims**
 - The focus should be on the severity of the crime, not the financial status of the accused.
 - Requiring judges to set bail based on income rather than risk level unfairly disadvantages victims who have suffered from crime.
 - Wealthier defendants may still afford their bail, but this bill makes it easier for habitual offenders with lower incomes to walk free, with little incentive to return to court.
- **Undermines Law Enforcement and the Justice System**
 - Hawaii already struggles with repeat offenses, homelessness-related crime, and drug-related violations. Making it easier for offenders to be released immediately only increases the burden on law enforcement and communities.

- Many people fail to show up for court after being cited or released on low bail. This bill does nothing to address those who repeatedly ignore the legal process.
- **Fails to Address Root Issues Like Rehabilitation and Diversion Programs**
 - If the goal is to reduce overcrowding and support nonviolent offenders, Hawaii should invest in better diversion programs, mental health services, and substance abuse treatment—not create loopholes that allow repeat offenders to avoid accountability.
 - Addressing systemic issues in the correctional system is important, but allowing people accused of crimes to simply walk free due to their financial status is not the solution.

A Smarter Approach for Hawaii:

- ✓ Keep bail decisions based on public safety and flight risk, not affordability.
- ✓ Expand rehabilitation and diversion programs for nonviolent first-time offenders.
- ✓ Provide resources for public defenders and case reviews to ensure fairness in pretrial detention.

Public safety should be the priority, and this bill fails to protect communities from repeat offenders. I strongly urge you to reject HB127.

Mahalo for your time and consideration.

Joshua Fowler
Hawaii Resident

HB-127

Submitted on: 2/6/2025 11:14:50 AM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
kamakani de dely	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill.

HB-127

Submitted on: 2/6/2025 11:16:16 AM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Mallory De Dely	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill.

HB-127

Submitted on: 2/6/2025 11:17:32 AM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Yvonne Alvarado	Individual	Oppose	Written Testimony Only

Comments:

I, Yvonne Alvarado Oppose Bill HB127

HB-127

Submitted on: 2/6/2025 11:17:37 AM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Susan Dedely	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill.

HB-127

Submitted on: 2/6/2025 11:33:17 AM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Darian	Individual	Oppose	Written Testimony Only

Comments:

I am writing to express my strong opposition to HB127, which mandates that any bail amount set must be in an amount the defendant can afford, as determined by their affidavit or testimony at the release hearing. While I understand the intent behind bail reform, this bill presents serious public safety concerns and may inadvertently lead to an increase in crime.

The primary purpose of bail is to ensure that defendants return to court while also considering the safety of the community. By allowing individuals to dictate their own bail affordability, HB127 undermines the judicial system's ability to assess risk adequately. Criminals, including repeat offenders, may exploit this system to secure their release with little to no financial accountability, resulting in more offenders on the streets and increased risks for law-abiding citizens.

Additionally, HB127 lacks safeguards to address cases where defendants are a flight risk or pose a danger to the community. While economic disparities should be considered in bail determinations, eliminating meaningful financial consequences for release undermines the justice system's effectiveness and fails to balance fairness with public safety.

Rather than enacting HB127, I urge the Legislature to consider alternatives that provide fair bail determinations while maintaining accountability. Solutions such as risk-based assessments, improved pretrial services, and judicial discretion in setting bail amounts should be prioritized over blanket affordability mandates that may compromise community security.

For these reasons, I respectfully urge you to oppose HB127.

HB-127

Submitted on: 2/6/2025 11:33:51 AM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Dawn O'Brien	Individual	Oppose	Written Testimony Only

Comments:

Aloha Committee Representing Hawai'i,

Mahalo for your hard work for the people, by the people of HAWAII!

I strongly oppose this bill as it is asinine that legal / penal system is dependent on the ability to pay. Since when was this a great idea to coddle criminals into a consequence that will not be punitive? Isn't that the point?!

In conclusion, I strongly oppose this asinine proposal as it against the well-being of the tax-paying residents of Hawai'i, of whom I am one. This is a bad idea all the way around and illogical, illegal and immoral. Thank you for your time as I have given you mine.

Mahalo & Aloha Always,

Dawn O'Brien

Lifelong, tax-paying resident of the State of Hawai'i

President, HOPE HI, Inc.

HB-127

Submitted on: 2/6/2025 11:44:34 AM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
David Ruiz	Individual	Oppose	Written Testimony Only

Comments:

No

HB-127

Submitted on: 2/6/2025 11:56:46 AM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Wendy	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill!

HB-127

Submitted on: 2/6/2025 12:01:28 PM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Kerwin Canionero	Individual	Oppose	Remotely Via Zoom

Comments:

Subject: Strong Opposition to HB127 – A Dangerous Threat to Public Safety

Dear Legislator's,

I am writing to express my unequivocal opposition to HB127, a bill that proposes bail amounts be set solely based on what a defendant can afford. This misguided approach endangers public safety, undermines the judicial process, and places an unfair burden on the law-abiding citizens of Hawaii.

HB127 effectively guarantees that dangerous individuals will be released back onto our streets, free to reoffend with little to no deterrent. By allowing criminals to dictate their own bail amounts based on self-reported financial hardship, the justice system will no longer serve as a mechanism for accountability. Instead, it will create a revolving door for repeat offenders, further straining our law enforcement agencies and endangering our communities.

Public safety is not a privilege—it is a right that the people of Hawaii expect and deserve. HB127 disregards this fundamental principle and instead prioritizes criminals over the well-being of our citizens. Our neighborhoods, businesses, and families should not have to live in fear because of reckless legislation that weakens the judicial process.

Furthermore, this bill is a disgraceful abdication of responsibility by lawmakers who should be working to protect their constituents, not empower criminals. It is unconscionable to shift the burden of crime onto innocent, hardworking residents who will bear the consequences of lenient bail policies. This bill will encourage more crime, more victims, and more chaos, all while eroding trust in the justice system.

I urge you to reject HB127 in its entirety. If public safety is truly a priority for this legislature, then this bill has no place in our legal framework. Instead of coddling criminals, we must focus on policies that hold offenders accountable and protect the innocent.

I will be closely monitoring this issue and will ensure that my fellow citizens are aware of how our representatives choose to act on this dangerous proposal. The people of Hawaii deserve leaders who prioritize safety, justice, and order—not policies that make our communities more vulnerable to crime.

Sincerely,

Kerwin Canionero

HB-127

Submitted on: 2/6/2025 12:36:47 PM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Noel Baker	Individual	Oppose	Written Testimony Only

Comments:

Lets criminals go free.

HB-127

Submitted on: 2/6/2025 12:43:52 PM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Emiko Baker	Individual	Oppose	Written Testimony Only

Comments:

This HB127 is subject to what a person can afford. What if they can't afford any bail because they are criminals? Will they allow them back on the street to harm innocent citizens?

I oppose the passing of this bill.

Sincerely,

Emiko Baker

HB-127

Submitted on: 2/6/2025 12:55:36 PM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Sarah Barientos	Individual	Oppose	Written Testimony Only

Comments:

House Bill 127 is a dangerous step toward prioritizing criminals over law-abiding citizens. By requiring courts to justify in writing why a defendant must follow certain release conditions and ensuring bail is set based on what the defendant can afford, this bill undermines public safety and weakens the justice system.

Imagine a violent offender being released because the court must jump through bureaucratic hoops to justify basic conditions for their release. Or worse—bail being set so low that dangerous criminals can walk free simply because they claim financial hardship. If a lawmaker's own family were victims of crime, would they want their attacker released with minimal restrictions simply because they "couldn't afford" higher bail?

The Constitution guarantees law-abiding citizens the right to life, liberty, and security. This bill ignores those rights in favor of protecting criminals. Bail exists to ensure accountability, not to cater to a defendant's financial situation. Public safety should never take a backseat to an offender's wallet.

Lawmakers have a duty to protect the people they serve—not to create loopholes that let criminals roam free. House Bill 127 is reckless and should be rejected.

HB-127

Submitted on: 2/6/2025 1:08:56 PM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
TiaLynn Coryell	Individual	Oppose	Written Testimony Only

Comments:

Reduction of bail - to something they can afford??? How ridiculous--should've thought bout it before doing the crime!

Totally Opposed

HB-127

Submitted on: 2/6/2025 1:12:00 PM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Lorna Cockett	Individual	Oppose	Written Testimony Only

Comments:

No! No! No! There is no need to be putting potential criminals on the streets to endanger the law abiding citizens of Hawaii. Until an individual suspected of any crime has been tried in the justice system, government ought not make it easy to be released and roaming on the streets. Crime is often repetitive and we don't need this to be the case in Hawaii.

Please vote NO to HB127.

HB-127

Submitted on: 2/6/2025 1:16:41 PM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
David Williams	Individual	Oppose	Written Testimony Only

Comments:

Strongly oppose

HB-127

Submitted on: 2/6/2025 1:27:36 PM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Katty Arnow	Individual	Oppose	Written Testimony Only

Comments:

Don't agree with this bill

HB-127

Submitted on: 2/6/2025 1:47:17 PM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Alex Akui	Individual	Oppose	Written Testimony Only

Comments:

Strongly opposed

HB-127

Submitted on: 2/6/2025 2:42:16 PM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Lesha Mathes	Individual	Oppose	Written Testimony Only

Comments:

This is ridiculous. The bail should be set according to the heinous nature of the crime, how many crimes this person has committed, how much of a flight risk they are and how much of a danger they are to the public. Not how much money they have or don't have!

HB-127

Submitted on: 2/6/2025 2:44:35 PM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Susan Chang	Individual	Oppose	Written Testimony Only

Comments:

Oppose bill

HB-127

Submitted on: 2/6/2025 3:22:35 PM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Ronelle Andrade	Individual	Oppose	Written Testimony Only

Comments:

I oppose HB127

HB-127

Submitted on: 2/6/2025 3:41:51 PM

Testimony for JHA on 2/7/2025 2:05:00 PM

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

Comments:

I strongly support HB127. We need to stop incarcerating folx who cannot afford bail. This bill's requirement that bail to be set in an amount defendants can afford based on their circumstances makes sense. We can reduce the space, cost and danger of incarcerating folx just because they don't have resources. Please support HB127.

Thank you,
Carla Allison

HB-127

Submitted on: 2/6/2025 4:37:26 PM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Dayna Matsumura	Individual	Oppose	Written Testimony Only

Comments:

Oppose

HB-127

Submitted on: 2/6/2025 9:11:29 PM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Malia Lau	Individual	Oppose	Written Testimony Only

Comments:

If a homeless person kills someone and has no money they should be set free? No! I oppose this bill. We are not going to become like California where murders go free because they are poor. That's so dangerous to society.

HB-127

Submitted on: 2/6/2025 9:15:51 PM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Eric Apaka	Individual	Oppose	Written Testimony Only

Comments:

A standard bail schedule enhanced with the severity of the crime should be standard. Why are we pandering to criminals? What will the bail be for a broke person who murders someone? 5 bucks? Rediculous!!

HB-127

Submitted on: 2/6/2025 10:14:09 PM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Reina Loughlin	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill

HB 127 Testimony Oppose 2-7-25
Submitted by James Waldron Lindblad.
Bail Agent and Former Pretrial Release Officer.

TESTIMONY IN OPPOSITION TO HOUSE BILL NO. 127
A BILL FOR AN ACT
RELATING TO PRETRIAL RELEASE
COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS
Representative David A. Tarnas, Chair
Representative Mahina Poepoe, Vice Chair
Friday, February 7, 2025 at 2:05 p.m.
Via Videoconference
State Capitol Conference Room 325
415 South Beretania Street

Dear Chair Tarnas, Vice Chair Poepoe, and Members of the Committee,

My name is James Waldron Lindblad. I was born in Honolulu and have worked as both a pretrial release officer and a bail agent. I have participated in the legislative process since at least 1977. My wife, Evelyn, is also a bail agent and a former pretrial release officer. Together, we have followed discussions of pretrial fairness in Hawaii since 1980 and have provided secured surety bonds for at least 25,000 individuals.

I respectfully submit this testimony in strong opposition to HB 127, which seeks to reform Hawaii's pretrial release system in a way that undermines accountability and public safety. While I support fair and equitable reforms, this bill moves in a direction that will exacerbate existing problems rather than solving them.

1. HB 127 Undermines Public Safety

The bill seeks to impose bail amounts based on a defendant's ability to pay rather than an objective assessment of risk. This approach ignores the fundamental purpose of bail: to ensure the defendant's appearance in court and protect the community from harm. Judges should retain discretion to set bail based on the severity of the charges, the defendant's criminal history, and the likelihood of reoffending—not just financial status.

2. The Bill Ignores the Role of Surety in the Bail Process

A proper bail system does not need to rely on a defendant's personal wealth alone. The existing bail system allows third-party sureties, such as bail bondsmen and family members, to assume responsibility for the defendant's appearance. By eliminating or weakening the surety process, HB 127 removes an important layer of accountability that helps ensure defendants return to court and comply with release conditions.

3. Increased Failures to Appear and Cost to the Public

Jurisdictions that have removed or significantly reduced cash bail have seen increased rates of failure to appear (FTA) in court. When defendants do not show up for trial, it creates additional costs for law enforcement, delays in the judicial process, and further burdens on taxpayers. Given that Hawaii's pretrial population already contributes to jail overcrowding, releasing more defendants without sufficient oversight could lead to increased crime and recidivism.

4. The Financial Argument is Misleading

Supporters of HB 127 argue that reducing pretrial incarceration will save money, citing the high cost of jailing individuals. However, they fail to consider the long-term economic costs of increased crime, repeat offenses, and re-arrests that may arise from releasing defendants without adequate safeguards. True reform should focus on balancing fiscal responsibility with public safety, not just reducing incarceration numbers at any cost.

5. Disproportionate Impact Claims Are Misguided

The bill argues that pretrial detention disproportionately affects certain racial and socioeconomic groups. While disparities exist in the criminal justice system, the solution is not to remove bail conditions entirely but to ensure that judicial discretion is exercised fairly and equitably. Risk-based assessments—rather than income-based bail settings—are the appropriate way to address concerns of fairness without compromising safety.

Conclusion

HB 127 fails to provide a balanced solution to pretrial justice reform. While no one should be detained solely due to poverty, the answer is not to impose a system that disregards the safety of the community. Instead, we should focus on reforms that ensure fair bail determinations while maintaining accountability mechanisms like sufficient surety and judicial discretion.

I strongly urge this committee to hold or kill HB 127 and instead pursue balanced approaches that address pretrial fairness without sacrificing public safety.

Thank you for your time and consideration.

Respectfully,
James Waldron Lindblad

Bail Agent and Former Pretrial Release Officer

Jim@808Bail.Com

808-780-8887

HB-127

Submitted on: 2/7/2025 12:31:35 PM

Testimony for JHA on 2/7/2025 2:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Jeffrey F Mizuno	Individual	Oppose	Written Testimony Only

Comments:

Text