

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

ALII PLACE  
1060 RICHARDS STREET • HONOLULU, HAWAII 96813  
PHONE: (808) 768-7400 • FAX: (808) 768-7515 • WEBSITE: [www.honoluluprosecutor.org](http://www.honoluluprosecutor.org)

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



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

**THE HONORABLE CHRIS LEE, CHAIR  
SENATE COMMITTEE ON TRANSPORTATION AND CULTURE AND THE ARTS  
Thirty-Third State Legislature  
Regular Session of 2025  
State of Hawai'i**

January 28, 2025

**RE: S.B. 282; RELATING TO UNCREWED AIRCRAFT OFFENSES.**

Chair Lee, Vice Chair Inouye, and members of the Senate Committee on Transportation and Culture and the Arts, the Department of the Prosecuting Attorney for the City and County of Honolulu submits the following testimony in **strong support** of S.B. 282. This bill is part of the Department's 2025 legislative package, and we thank you for hearing it.

S.B. 282 increases the penalty for the use of a drone to commit a felony from a Class C offense to a Class A offense. Drones are highly accessible, lightly regulated, and permit remote operations at long distances.<sup>1</sup> Across the United States, creative and malicious criminals have already employed drones to further a wide range of felonies. Hawai'i cannot be caught by flat-footed by this emerging technology.

RAND recently warned of the increasing use of drones to deliver dangerous contraband into prisons.<sup>2</sup> In California, drones have reportedly been used to case homes before burglaries.<sup>3</sup> In North Carolina, a registered sex offender used a drone to evade legal restrictions on his access

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<sup>1</sup> See Vanessa Swales, *Drones Used in Crime Fly Under the Law's Reach*, N.Y. TIMES (online), Nov. 3, 2019, available at <https://www.nytimes.com/2019/11/03/us/drones-crime.html> (“Drones pose novel and difficult problems for law enforcement. They are widely available, lightly regulated and can be flown remotely by an operator far away from the crime scene. They have already been put to a host of nefarious uses, from smuggling contraband into prisons to swarming F.B.I. agents who were preparing for a raid.”).

<sup>2</sup> See Joe Russo, Dulani Woods, Michael J.D. Vermeer, & Brian A. Jackson, *Countering the Emerging Drone Threat to Correctional Security*, RAND CORPORATION, Mar. 13, 2024, available at [https://www.rand.org/content/dam/rand/pubs/research\\_reports/RAA100/RAA108-21/RAND\\_RRA108-21.pdf](https://www.rand.org/content/dam/rand/pubs/research_reports/RAA100/RAA108-21/RAND_RRA108-21.pdf)

<sup>3</sup> Aila Slisco, *California Burglars May Be Using a Drone in Recent Crime Spree: Sheriff*, NEWSWEEK (online), Nov. 26, 2024, available at <https://www.newsweek.com/california-burglars-may-using-drone-recent-crime-spree-sheriff-1992085>

to children.<sup>4</sup> And in Pennsylvania last summer, Thomas Crooks used a drone to scout the fairgrounds before he shot President Trump.<sup>5</sup>

HRS § 711-1123(1)(g) currently provides that the use of a drone to commit a felony is a Class C offense. Under the *Modica* rule, where two crimes have exactly the same elements, but different sentences, the more lenient penalty applies.<sup>6</sup> So by grading the use of a drone to commit a felony as a Class C offense, *all* felonies aggravated by the use of a drone receive a Class C sentence.

That means lighter sentencing even where the Legislature has specifically authorized stiffer penalties. For example, HRS § 711-1122(1)(c) makes it a Class B felony offense to commit second-degree assault with the use of a drone. But because second-degree assault is a felony and the use of a drone to commit a felony is a Class C offense, the lesser penalty controls.

S.B. 282 fixes this problem. By reclassifying the use of a drone in the commission of a felony as a Class A offense, it first provides a strong deterrent to criminal innovation with drones. And under the *Modica* rule, the Legislature could still designate a lighter sentence for specific felonies where it found a Class A sentence too harsh. To take the earlier example, if S.B. 282 passed, then HRS § 711-1122(1)(c) would become a Class B felony again—exactly as the statute says.

The Department strongly encourages this Committee to pass S.B. 282.

Thank you for the opportunity to testify.

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<sup>4</sup> Peter N. Borden, *The Peering Predator: Drone Technology Leaves Children Unprotected from Registered Sex Offenders*, 39 CAMPBELL L. REV. 167, 168-69 (2017).

<sup>5</sup> Edward Helmore, *Gunman at Trump Rally Flew Drone Over Fairgrounds Earlier on Day of Shootings*, THE GUARDIAN (online), July 20, 2024, available at <https://www.theguardian.com/us-news/article/2024/jul/20/thomas-matthew-crooks-drone-trump>

<sup>6</sup> *State v. Sasai*, 143 Hawai‘i 285, 295, 429 P.3d 1214, 1224 (2018) (“A defendant may not be convicted of an offense that carries a harsher penalty than another offense containing the same elements[.]”); *State v. Modica*, 58 Haw. 249, 250-51, 567 P.2d 420, 421-22 (1977).

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Jade K. Fountain-Tanigawa, County Clerk  
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Telephone: (808) 241-4188  
Facsimile: (808) 241-6349  
Email: [cokcouncil@kauai.gov](mailto:cokcouncil@kauai.gov)

**Council Services Division**  
4396 Rice Street, Suite 209  
Lihu'e, Kaua'i, Hawaii 96766

January 27, 2025

**TESTIMONY OF ADDISON BULOSAN**  
**COUNCILMEMBER, KAUAI COUNTY COUNCIL**  
**ON**  
**SB 282, RELATING TO UNCREWED AIRCRAFT OFFENSES**  
Senate Committee on Transportation and Culture and the Arts  
Thursday, January 30, 2025  
3:00 p.m.  
Conference Room 224  
Via Videoconference

Dear Chair Lee and Members of the Committee:

Thank you for this opportunity to provide testimony in SUPPORT of SB 282, Relating to Uncrewed Aircraft Offenses. My testimony is submitted in my individual capacity as a member of the Kaua'i County Council.

I wholeheartedly support the intent of SB 282, which would greatly affect the Kaua'i community.

Thank you again for this opportunity to provide testimony in support of SB 282. Should you have any questions, please feel free to contact me or Council Services Staff at (808) 241-4188 or via email to [cokcouncil@kauai.gov](mailto:cokcouncil@kauai.gov).

Sincerely,

**ADDISON BULOSAN**  
Councilmember, Kaua'i County Council

AAO:dmc

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

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TEL. NO. (808) 586-2300

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TEL. NO. (808) 586-2200

**FACSIMILE**  
(808) 586-2222



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

**LATE**

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 EIIWA 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 to Senate Committee on Transportation and Culture and The Arts re:

SB 282 Relating to Uncrewed Aircraft Offense

Chair: Senator Chris Lee, Vice Chair: Senator Lorraine R. Inouye and Members of the Committee:

The Office of the Public Defender respectfully **opposes SB 282** for the following reasons:

SB 282 seeks to amend HRS section 711-1121 (1) by adding subsection (g) to read: "Uses an uncrewed aircraft in furtherance of the commission of a felony", and seeks to strike the exact same language from HRS section 711-1123 (1)(g). This simple change would make the use of an uncrewed aircraft in furtherance of the commission of a felony a class A felony (punishable by 20 years in prison). Currently, the use of an uncrewed aircraft in the furtherance of a felony is a class C felony (punishable by 5 years in prison). The Office of the Public Defender believes this to be a gross deviation from the fair application of the criminal law based on the conduct of an individual defendant.

Currently, if a person commits the offense of using a drone to aid in the furtherance of the commission of a felony, they face, in addition to the felony itself, another class C felony for the use of the drone. Thus, if a person uses a drone to possess a dangerous drug in a small amount (they hide their drug pipe in their drone), they face the possibility of 5 years in prison for the possession of the dangerous drug, and 5 years in prison for the use of the drone to aid in said possession. With the proposed change in the law sought by SB 282, the same person would face a 5 year prison term for possessing the same amount of a dangerous drug, but then also face a **20**

**year prison** term for simply using the drone to aid in said possession, without there being any greater harm to the community. This creates a gross unfairness in treatment, merely for using a drone, without any justification in the law, or need to prevent the use of drones in the community. The best analogy would be to state that a person who commits a class C felony while parked in a car, should then also be charged with a class A felony simply because they used a car to aid in the commission of said felony offense.

This change in the law would give to the prosecution an unfair bargaining chip in plea negotiations, wherein a defendant would have to be concerned about a 20 year sentence if they chose to have a trial for a simple Class C felony, simply because a drone was involved.

Thank you for the opportunity to comment upon this measure.