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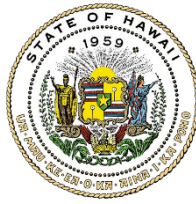
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**February 10, 2025**

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**LATE**

**SB283: RELATED TO BRIBERY**

**Chair Rhoads, Vice-Chair Gabbard, and Members of the Committee on Judiciary:**

The Office of the Public Defender (OPD) **opposes SB283**. This bill amends HRS § 710-1040, bribery, to add subsection (b)(5) which increases bribery from a Class B to a Class A felony when (1) the public servant is an elected or appointed official, (2) the value, aggregate value or pecuniary benefit involved exceeds \$20,000, or (3) the person commits three or more acts or bribery in any three-year period. This bill is part of the legislative package from the Honolulu Department of the Prosecuting Attorney who is alleging that increasing the penalties for these offenses would allow state prosecuting agencies to take the lead on such prosecutions instead of deferring to federal prosecutors due to higher penalties available under federal law and would create a more effective deterrence from engaging in bribery.<sup>1</sup>

The OPD disagrees that current penalties do not provide a sufficient deterrent or punish offenders appropriately. Under current law, bribery is a Class B felony offense, punishable by up to ten years in prison, fines of \$25,000, restitution and, in the case of public employees under the Employees' Retirement System, forfeiture of one half of the defendant's retirement benefits<sup>2</sup>. Further, persons charged with bribery are not eligible for

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<sup>1</sup> The option of pleading to lesser charges is still an option in federal prosecutions. In a recent federal prosecution, two for Honolulu city officials, former Corporation Counsel Donna Leong and former Honolulu Police Commission Chairman Max Sword pleaded guilty to misdemeanor charges in federal court and were sentenced to one year of supervised release and to pay \$100,000 in fines. The other defendant, former Managing Director Roy Amemiya signed a deferred prosecution agreement that involved two years of supervised release, a \$50,000 fine and community service.

<sup>2</sup> HRS § 88-74.8 (supp. 2021).

a deferral of their guilty or no-contest pleas.<sup>3</sup> Even if an offender is given probation instead of an open term of imprisonment, the stigma and effect of the conviction will have a significantly negative impact on the offender's personal and professional life. In regard to proposed subsection (5)(a) of the bill, the government has an interest in preserving the public's trust in all of its employees. There is no cognizable reason to punish public employees who are appointed or officials to any greater degree than other public employees for betraying the public's trust. In regard to proposed subsection (5)(b) of the bill, again, the civil and criminal penalties attendant to a Class B conviction are sufficient to deter and/or punish persons from committing this offense. In regard to proposed subsection (5)(c) of the bill, a person who committed three acts of bribery in three years would be subject to repeat offender sentencing under HRS § 706-606.5. In the case of a person with two prior bribery convictions (Class B felonies), the person would be subject to consecutive sentencing and sentencing as a repeat offender under HRS § 706-606.5.

Thank you for the opportunity to comment on this measure.

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<sup>3</sup> HRS § 710-1040(4) (supp. 2006).

**DEPARTMENT OF THE PROSECUTING ATTORNEY**  
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**THE HONORABLE KARL RHOADS, CHAIR**  
**SENATE COMMITTEE ON JUDICIARY**  
**Thirty-Third State Legislature**  
**Regular Session of 2025**  
**State of Hawai'i**

February 10, 2025

**RE: S.B. 283; RELATING TO BRIBERY.**

Chair Rhoads, Vice Chair Gabbard, and members of the Senate Committee on Judiciary, the Department of the Prosecuting Attorney for the City and County of Honolulu submits the following testimony in support of S.B. 283. This bill is part of the Department's 2025 legislative package, and we thank you for hearing it.

S.B. 283 increases the grade of offense for bribery from a Class B felony to a Class A felony when any of three aggravating circumstances is present:

- The offender was an elected or appointed official;
- The aggregated value involved exceeded \$20,000;
- The offense was comprised of three or more occurrences within a three-year period.

Federal prosecutors have historically taken the lead in prosecuting state and county officials involved in bribery. This is largely because federal laws are more effective in use and consequence. Stronger state-law penalties would better equip county prosecutors with the tools to prosecute public corruption—or better yet, deter offenders from bribery in the first place.

Under S.B. 283, these heightened offenses would not be eligible for probation or suspension of sentence. Imprisonment appropriately reflects both the serious breach of public trust and the scale of criminality. It also creates a meaningful deterrent. In the federal system, nearly all offenders receive prison sentences.<sup>1</sup> By contrast, because these offenders typically have no prior criminal record, they can expect probation in state court even if convicted.

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<sup>1</sup> See THE PEW CHARITABLE TRUSTS, *More Prison, Less Probation for Federal Offenders: Policy Changes Have Favored Incarceration over Community Supervision*, (Jan 2016) ("Nine in 10 federal offenders received prison sentences in 2014, up from less than half in

The Department believes the vast majority of Hawaii's state and county workers are dedicated public servants who work diligently and honorably every day. Their hard work and good reputation should not be marred by the few who would selfishly abuse the public's trust for personal profit. Given the numerous recent scandals that have shaken our community's trust in state and county government, the Department urges this Committee to send a strong message to would-be offenders, that this behavior will no longer be tolerated.

The Department strongly urges this Committee to pass S.B. 283.

Thank you for the opportunity to testify.

**SB-283**

Submitted on: 2/8/2025 1:10:38 PM

Testimony for JDC on 2/11/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Dara Carlin, M.A.	Individual	Support	Written Testimony Only

Comments: Standing in Support