



Office of the Public Defender State of Hawai'i

Testimony of the Office of the Public Defender, State of Hawai'i to the Senate Committee on Judiciary

February 16, 2019

S.B. No. 566: RELATING TO PENAL CODE

Chair Rhoads, Vice Chair Wakai, and Members of the Committee:

The Office of the Public Defender opposes S.B. No. 566.

This measure is simply another attempt to criminalize poverty and homelessness. Most of individuals targeted by this measure are not on the sidewalks by choice. They simply have nowhere else to go, especially since many of the parks and beaches are closed to the public at night. Many are unemployed, suffering from alcohol or drug abuse, or mentally ill. Some are employed but cannot afford to pay rent given the current housing prices. These are problems which our community must come to terms with. Before we criminalize attaching objects to buildings or fences, we as a society must provide alternative housing for these individuals. They should not be placed in jail (for up to thirty days on a second or subsequent offense) or be assessed fines which they obviously have no means to pay.

Moreover, the reason for attaching tents or structures to a fence, gate or a wall is simple -- to stabilize and secure structures from collapsing and/or being blown away. Structures that need to be secured cannot be anchored to a concrete sidewalk; therefore, they need to be secured to a stable structure -- whether it may be a pole, wall, fence, or gate. Detached or unsecured tents that collapse or get caught in the wind will indeed cause severe injuries and/or significant property damage.

Finally, the term "object" as used in the measure is simply too vague. According to Merriam-Webster Dictionary, "object" is defined as "something material that may be perceived by the senses." See <https://www.merriam-webster.com/dictionary/object>, last visited February 16, 2019). Thus, individuals placing posters, handbills, campaign signs without the permission of the owner will now be subject to criminal penalties.

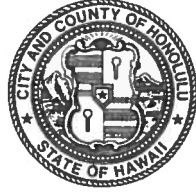
Thank you for the opportunity to comment on H.B. 703, H.D. 1.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulu.gov

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February 20, 2019

The Honorable Karl Rhoads, Chair
and Members
Committee on Judiciary
State Senate
Hawaii State Capitol
415 South Beretania Street, Room 16
Honolulu, Hawaii 96813

Dear Chair Rhoads and Members:

SUBJECT: Senate Bill No. 566, Relating to the Penal Code

I am Acting Major Aaron Farias of District 3 (Aiea/Pearl City/Waipahu) of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD opposes Senate Bill No. 566, Relating to the Penal Code.

Senate Bill No. 566 creates a new section under HRS Chapter 708, which essentially criminalizes the chronic nuisance associated with homeless persons attaching objects to adjacent property. This law may be viewed as another means to employ the resources of law enforcement and others in the criminal justice system as the answer to the societal problem of homelessness. In addition, HPD officers will spend an inordinate amount of time to investigate and detach, and will be liable for the removal of objects on private property.

The HPD respectfully opposes Senate Bill No. 566, Relating to the Penal Code.

Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron Farias".

for: Aaron Farias, Acting Major
District 3

APPROVED:

A handwritten signature in black ink, appearing to read "Susan Ballard".
Susan Ballard
Chief of Police