

**HB-818**

Submitted on: 2/7/2021 11:07:57 PM

Testimony for JHA on 2/9/2021 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jun Shin	Individual	Oppose	No

Comments:

Very concerned on this bill's impact on Native Hawaiian to access land for cultural practices, as well as this bill's impact on people's ability to protest projects.

DEPARTMENT OF THE PROSECUTING ATTORNEY  
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**THE HONORABLE MARK M. NAKASHIMA, CHAIR**  
**HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS**  
**Thirty-First State Legislature**  
**Regular Session of 2021**  
**State of Hawai`i**

February 9, 2020

**RE: H.B. 818; RELATING TO CRIMINAL TRESPASS ONTO STATE LANDS.**

Chair Nakashima, Vice Chair Matayoshi, and members of the House Committee on Judiciary and Hawaiian Affairs, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following comments regarding H.B. 818.

The purpose of H.B. 818 is to clarify that an offense under section 708-814, H.R.S. may be established by use of authenticated photographs, video recordings, or other recordings that show the commission of the offense being committed.

Although these proposed amendments are well-intended, they are unnecessary, as the rules of evidence already address what is competent evidence for purposes of trial and allow use of photographs and video recording. The Department is very concerned that the language proposed in H.B. 818 would confuse existing standards and create negative unintended consequences in court. Specifically, the Department notes that singling out specific offenses to specify when photographs and video recordings are allowed could create the opposite effect this bill intends. Courts may begin requiring similar language in all offenses rather than relying on the rules of evidence and established case law.

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu submits these comments regarding H.B. 818. Thank you for the opportunity to testify on this matter.

**STATE OF HAWAI‘I**  
**OFFICE OF THE PUBLIC DEFENDER**

**Testimony of the Office of the Public Defender,  
State of Hawai‘i to the House Committee on Judiciary & Hawaiian Affairs**

February 9, 2021

H.B. No. 818: RELATING TO CRIMINAL TRESPASS ONTO STATE LANDS

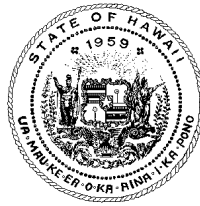
Chair Nakashima, Vice Chair Matayoshi, and Members of the Committee:

The Office of the Public Defender opposes H.B. 818.

This measure includes language that allows the use of photographs, video recordings, or other recordings that show the commission of the offense subject to authentication by one or more witnesses. The Hawaii Rules of Evidence that govern the admission of photographs, video records, or other recordings in any criminal trial already allow for this type of evidence to be used subject to authentication. This measure is unnecessary and provides no additional means of evidence not already anticipated in the Hawaii Rules of Evidence as codified in HRS Chapter 626.

Thank you for the opportunity to comment on this measure.

DAVID Y. IGE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**

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No. \_\_\_\_\_

TESTIMONY ON HOUSE BILL 818  
RELATING TO CRIMINAL TRESPASS ONTO STATE LANDS.

By  
Max N. Otani, Director

Senate Committee on Judiciary and Hawaiian Affairs  
Representative Mark M. Nakashima, Chair  
Representative Scot Z. Matayoshi, Vice Chair

Tuesday, February 9, 2021; 2:00 p.m.  
Via Video Conference

Chair Nakashima, Vice Chair Matayoshi, and Members of the Committee:

The Department of Public Safety (PSD) offers comments on House Bill (HB) 818 which would establish the facts and circumstances to be considered in constituting the offense of criminal trespass in the second degree and criminal trespass on state lands to include authenticated photographs, video recordings and other recordings that show the commission of the offense.

PSD is supportive of this measure, because it is consistent with the "Best Evidence" practice in proving a criminal offense.

Thank you for the opportunity to provide this testimony.