

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

**Testimony of the Office of the Public Defender,  
State of Hawai‘i to the Senate Committee on  
Public Safety, Intergovernmental, and Military Affairs**

March 22, 2022

H.B. No. 1567, H.D. 1: RELATING TO CRIMINAL PRETRIAL REFORM.

Chair Nishihara, Vice Chair Decoite, and Members of the Committee:

The Office of the Public Defender (“OPD”) strongly supports H.B. 1567, H.D. 1 which eliminates the use of money bail for traffic offenses, violations, nonviolent petty misdemeanor offense, and non-violent misdemeanor offenses, requiring release on own recognizance on the aforementioned offenses at arraignment & plea. Rather than creating a “rebuttable presumption for release”, H.B. 1567, H.D. 1 inserts the language “**shall** be ordered by the court to be released...” and requires release for those individuals that fall squarely into the criteria set forth. For these reasons, we applaud and **support H.B. No. 1567, H.D. 1** as a promising first step toward righting injustice and the OPD offers recommendations to strengthen it.

Hawai‘i should abolish money bail as a condition of release. It is a poor tool for achieving pretrial justice. The money bail system incarcerates poor people because they are poor, not because they have been convicted of a crime and not because they are a danger to others. Meanwhile, that same system allows dangerous but wealthy people to post their bond and be released.

Our current bail practice in Hawai‘i is not punishing the most guilty, but rather the people who cannot afford to pay for their release. As an attorney assigned to represent indigent clients, many of whom are in jail because they cannot afford to make bail; I have seen firsthand that some innocent people plead guilty just to get out jail, and people are more likely to be acquitted if they pay bail, in part because they are less likely to take plea deals just to get out of jail.

For these reasons, the OPD supports limiting pretrial detention and eliminating the use of monetary bail for low level, non-violent offenses. However, the OPD believes that certain portions of the bill are too restrictive and other portions lack clarity and specificity. These shortcomings may prevent consideration of certain individuals

who could otherwise be safely released into the community. The OPD offers a few suggestions to strengthen and clarify this measure for consideration.

**1. Require multiple convictions for Criminal Contempt of Court in violation of HRS Section 710-1077 in order to find a “history of non-appearance.”**

The current wording in proposed section (b)(2)(A) is vague and ambiguous and gives rise to legitimate questions: Is a single non-appearance defined as a conviction for Criminal Contempt of Court? If so, how many convictions will constitute a “history”? If a non-appearance does not require an actual conviction, how will a court determine whether a court appearance was missed purposefully and without a valid excuse?

The OPD recommends this section be amended to require an actual conviction under HRS Section 710-1077. It is wholly unacceptable that a court could make a finding of a “history of non-appearance” based on mere arrests for Criminal Contempt of Court and without an accompanying conviction. And while “history” suggests a pattern or “a past characterized by a particular thing”<sup>1</sup>, it would logically follow that the court could not find a “history” without first identifying at least two prior convictions for Criminal Contempt of Court during a specified period of twenty-four months.

**2. Require “significant” to qualify “risk of danger to any other person or to the community.”**

The current wording in proposed section (b)(2)(F) is similarly vague and ambiguous. As written, this section would prevent release on own recognizance for defendants that present “a risk of danger to any other person or to the community.” This section fails to define the quality of risk that would be necessary to detain an individual. Even someone of “minimal” risk, as opposed to “substantial” or “serious” risk of danger to another would not be eligible for release under the current proposal. Civil commitment hospitalization criteria under HRS section 334-60.2 requires a court finding that a person be *imminently* dangerous to others before a person can be committed. Hence, many of our mentally ill would be at risk of being jailed in a punitive setting under the proposed statutory language, even if they do not fit the criteria for hospital level civil commitment. This is clearly not the

---

<sup>1</sup> *Oxford English Dictionary*, 2nd ed. (Oxford: Oxford University Press, 2004), s.v. “History.”

intention of anyone. OPD recommends this section be amended as follows: “The Defendant presents a *significant* risk of danger to any other person or to the community.”

### **3. Delete “risk of recidivism” in subsection (F).**

The current wording in proposed section (b)(2)(F) adds “a risk of recidivism” as an additional factor in denying an individual release on own recognizance. Typically, assessments of the risk of recidivism include a close examination of prior criminal history, lifestyle instability, and negative peer associations. Here, “risk of recidivism” is vague and undefined, and the court will be challenged to make a finding that would ordinarily require a social study of the individual in order to properly assess the risk of recidivism.

### **4. Reinstate certain non-violent Class C felonies to the list of offenses that qualify for required ROR.**

The original version of HB 1567 included “nonviolent class C felony offenses” for which release on own recognizance was required at arraignment & plea. Many of the class C offenses that appear in Chapter 708 (Offenses Against Property Rights) including, but not limited to, Theft in the Second Degree, Unauthorized Control of Propelled Vehicle in the first degree, Unauthorized Entry into Motor Vehicle in the first degree (non-assault variety), and Forgery in the second degree, would meet the “non-violent” criteria under the proposed measure. Another non-violent class C felony meeting this “non-violent” criteria would be Promoting a Dangerous Drug in the third degree. None of these offenses involve the “elements” listed in subsection (b)(1), and while these offenses are felonies, with the additional wide-ranging safeguards that appear in subsection (b)(2) of the proposed measure, many defendants charged with non-violent class C felonies could be safely released back into the community.

## **In Summary**

The United States Supreme Court affirmed over thirty years ago that “[i]n our society, liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.”<sup>2</sup> In practice just the opposite is true. A 2018 report by the American Civil Liberties Union Hawai‘i (“ACLU Hawai‘i”) found that, overall,

---

<sup>2</sup> Salerno v. United States, 481 U.S. 739, 755 (1987).

judges in the State of Hawai‘i require bail as a condition of release in 88 percent of cases, with judges on Kaua‘i imposing bail in 98.5 percent of cases, and on O‘ahu in 93 percent of cases.<sup>3</sup>

The use of money bail is often justified on the grounds that it makes us safer by keeping dangerous people in jail. But the Hawai‘i Criminal Pretrial Reform 134 Task Force Report chaired by judge (now U.S. magistrate) Rom A. Trader stated, “There is virtually no correlation between the setting of a particular bail amount and whether the defendant will commit further crime or engage in violent behavior when released from custody.”<sup>4</sup> Thus, money bail is a poor method of assessing and managing a defendant’s risks.

Hawai‘i’s practice of making the payment of a money bond a condition for pretrial release discriminates based on wealth, exacerbates racial disparities, results in over-incarceration, and imposes unnecessary costs on individuals and society at large.<sup>5</sup> On February 1, 2021, 883 people were incarcerated throughout the State even though they have not been convicted of a crime. Feeding and caring for an incarcerated person costs \$198 a day in Hawai‘i.<sup>6</sup> Pre-COVID19 the State was spending approximately \$209,000 a day (\$76 million annually) of taxpayer dollars to incarcerate more than 1,000 people statewide simply because they were too poor to afford bail.<sup>7</sup> Data collected over the years tell us that 80 percent of these individuals are charged with relatively low-level offenses and many are homeless or living with mental illness or substance use disorders.<sup>8</sup>

---

<sup>3</sup> ACLU Hawai‘i, “As Much Justice As You Can Afford” (2018) at 23, <https://www.acluhi.org/sites/default/files/2018/01/aclu-of-hawaii-bail-report.pdf>

<sup>4</sup> Recommendations of the Criminal Pretrial Task Force to the Thirtieth Legislature of the State of Hawai‘i “HCR 134” (December 2018), [https://19of32x2y133s8o4xza0gf14-wpengine.netdna-ssl.com/wp-content/uploads/HCR134-Task-Force-on-Pretrial-Reform\\_Final-Report\\_12.14.18.pdf](https://19of32x2y133s8o4xza0gf14-wpengine.netdna-ssl.com/wp-content/uploads/HCR134-Task-Force-on-Pretrial-Reform_Final-Report_12.14.18.pdf).

<sup>5</sup> Final Report of the House Concurrent Resolution 85 Task Force on Prison Reform to the Hawai‘i Legislature 2019 Regular Session, “Creating Better Outcomes, Safer Communities” (December 2018), [https://19of32x2y133s8o4xza0gf14-wpengine.netdna-ssl.com/wp-content/uploads/HCR-85-Task-Force-on-Prison-Reform\\_Final-Report\\_12.28.18.pdf](https://19of32x2y133s8o4xza0gf14-wpengine.netdna-ssl.com/wp-content/uploads/HCR-85-Task-Force-on-Prison-Reform_Final-Report_12.28.18.pdf).

<sup>6</sup> State of Hawai‘i Department of Public Safety Annual Report FY 2019 at 16, <https://dps.hawaii.gov/wp-content/uploads/2019/11/PSD-ANNUAL-REPORT-2019.pdf>.

<sup>7</sup> HCR 85 Report at 64.

<sup>8</sup> HCR 85 Report at 65.

These costs come with trade-offs in other state spending priorities like education and healthcare. Between 1987 and 2007, corrections budgets rose by 127 percent while higher education funding increased by only 21 percent forcing the cost of attending higher education to increase each year. The cost of attending the University of Hawai‘i at Mānoa for the 2019-2020 school year, including tuition, room, board, books, supplies, and personal expenses, was \$30,000.<sup>9</sup> With the daily savings from bail reform we could pay all expenses for a full year of education for 7 students at U.H. Mānoa, and with the savings from a year of bail reform we could pay all expenses for more than 2,500 students.

Beyond the wasteful money, pretrial incarceration leads to devastating collateral consequences that can impact individuals for lifetime and families for generations. People who can't make bail stand to lose their job and with that the money that pays the rent and utilities and puts food on the table for their family. They may lose their house, their car, their health insurance, and after maxing out on their credit cards the family may end up deep in debt or even homeless. Holding people in jail who do not pose a significant safety risk of danger also exacerbates overcrowding, creates unsafe conditions, places a huge financial burden on taxpayers, and compromises public safety.<sup>10</sup>

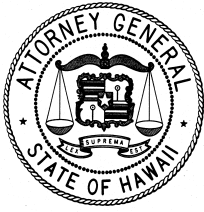
Mass incarceration is a result of many systems failing to support basic community needs people need to thrive. To end it, we must develop policies that better address inadequacies throughout our education, health care, and economic systems – to name a few. This Act is a step in the right direction to eliminate money bail.

We thank you for the opportunity to comment on H.B. No. 1567. H.D. 1.

---

<sup>9</sup> University of Hawai‘i at Mānoa, 2019-2020 Cost of Attendance, Accessed December 31, 2019, <https://www.collegesimply.com/colleges/hawaii/university-of-hawaii-at-manoa/price/>.

<sup>10</sup> National Institute of Corrections, “The Hidden Costs of Pretrial Detention” (2018) at 4, [https://craftmediabucket.s3.amazonaws.com/uploads/PDFs/LJAF\\_Report\\_hidden-costs\\_FNL.pdf](https://craftmediabucket.s3.amazonaws.com/uploads/PDFs/LJAF_Report_hidden-costs_FNL.pdf) (Finding the longer low-risk defendants are detained, the more likely they are to commit another low-level offense).



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
THIRTY-FIRST LEGISLATURE, 2022**

---

**ON THE FOLLOWING MEASURE:**

H.B. NO. 1567, HD1, RELATING TO CRIMINAL PRETRIAL REFORM.

**BEFORE THE:**

SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND  
MILITARY AFFAIRS

**DATE:** Tuesday, March 22, 2022                      **TIME:** 1:05 p.m.

**LOCATION:** State Capitol, Room 229 and Videoconference

**TESTIFIER(S):** Holly T. Shikada, Attorney General, or  
Lauren M. Nakamura, Deputy Attorney General

---

Chair Nishihara and Members of the Committee:

The Department of the Attorney General (Department) opposes this bill.

This bill would (1) eliminate the use of monetary bail and require defendants to be released on their own recognizance for traffic offenses, violations, nonviolent petty misdemeanor offenses, and nonviolent misdemeanor offenses; and (2) allow defendants the option to participate in a bail report interview via videoconference.

The Department opposes this bill because there has not been sufficient time since the Legislature made changes to the State's criminal pretrial system in 2019 to fully assess the effect of the changes. At this point in time, there is no determination about what metric properly measures the success or failure of the prior changes. Additionally, the Department is concerned that the bill may not adequately address a number of important interests, including the need to secure the appearance of defendants and to protect the public.

In 2017, pursuant to a request from the House of Representatives contained in House Concurrent Resolution No. 134, House Draft 1 (2017), the Hawaii State Judiciary convened a criminal pretrial task force to:

- (1) Examine and, as needed, recommend legislation and revisions to criminal pretrial practices and procedures to increase public safety while maximizing pretrial release of those who do not pose a danger or a flight risk; and

- (2) Identify and define best practices metrics to measure the relative effectiveness of the criminal pretrial system, and establish ongoing procedures to take such measurements at appropriate time intervals[.]

H.C.R. 134, 29th Leg., Reg. Sess. (2017).

On December 14, 2018, the criminal pretrial task force submitted its report to the Legislature, and based on its findings and recommendations, the Legislature passed House Bill No. 1552, which was enacted as Act 179, Session Laws of Hawaii 2019 (Act 179), to: (1) support best practices for an effective correctional system; and (2) implement certain recommendations of the task force. See Conf. Comm. Rep. No. 149, Reg. Sess. 2019. A substantial number of the criminal pretrial task force's recommended changes to the bail statutes were made in Act 179. In addition, Act 179 established the Criminal Justice Research Institute, which is responsible for, among other things, establishing and maintaining a centralized statewide criminal pretrial justice data reporting and collection system, and developing and tracking indicators that accurately reflect the effectiveness of the State's criminal pretrial system."

This bill approaches the State's criminal pretrial system from the perspective that "there is a need to address the substantial and continued overcrowding of facilities used to house pretrial defendants." (Page 1, lines 1-3). However, the State already has a robust and flexible criminal pretrial system that the Legislature only recently changed in 2019, when the Legislature passed House Bill No. 1552, which was enacted as Act 179. Given the brief amount of time since those changes were made and the extraordinary challenges to the criminal pretrial system brought on by the COVID-19 pandemic, the effects of Act 179's changes are unknown. Accordingly, the Department recommends this bill be deferred and that the Criminal Justice Research Institute established by Act 179 be given sufficient time to evaluate the effectiveness of the State's recently amended criminal pretrial system.

The new section being added to chapter 804, Hawaii Revised Statutes (HRS), by section 2 (page 1, line 13, through page 4, line 19) of the bill, requires that defendants charged with traffic offenses, violations, non-violent petty misdemeanor offenses, or

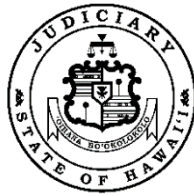
non-violent misdemeanor offenses be released on their own recognizance. On page 2, line 11, through page 3, line 21, the bill sets forth a number of exceptions that would allow the court to set bail pursuant to section 804-9, HRS. The mandate to release certain defendants is inconsistent with the court's discretion to determine the amount of bail pursuant to section 804-9, HRS, and to set conditions of bail or release pursuant to section 804-7.1, HRS, both of which are designed to assist the court in ensuring the appearance of the defendant and the protection of the public.

While the identified exceptions in the bill may appear to allow for some judicial discretion, the list of exceptions to the mandatory release on page 2, line 11, through page 3, line 21, does not provide for every scenario where release on recognizance may not be appropriate. This bill would require an automatic release of numerous defendants charged with offenses considered by this bill to be "nonviolent" and do not fall under any of the proposed exceptions, but nevertheless may pose a danger to the public. Existing offenses in the HRS, such as Violation of an Injunction Against Harassment (§604-10.5, HRS); Harassment (§711-1106, HRS); Hindering Prosecution in the Second Degree (§710-1030, HRS); Rendering a False Alarm (§710-1014, HRS); Impersonating a Law Enforcement Officer in the Second Degree (§710-1016.7, HRS), could be characterized as "nonviolent" and defendants charged with such offenses would be released under the bill. Currently, the court would have the discretion on a case-by-case basis to determine what amount of bail, if any, would be appropriate, hear argument regarding the circumstances that led to the arrest of the defendant, and weigh factors not considered by the wording of this bill (e.g., obstruction of justice, witness tampering, or other illegal activity).

Accordingly, the Department recommends deferring the bill and allowing the courts to retain the discretion and flexibility to set bail and conditions of bail or release to ensure both the continued appearance of defendants and the protection of the public.

Thank you for the opportunity to testify.





*The Judiciary, State of Hawai'i*

**Testimony to the Thirty-First State Legislature, Regular Session of 2022**

**Senate Committee on Public Safety, Intergovernmental, and Military Affairs**

Senator Clarence K. Nishihara, Chair

Senator Lynn DeCoite, Vice-Chair

Tuesday, March 22, 2022 at 1:05 P.M.  
Conference Room 229 & Videoconference

by

Shirley M. Kawamura

Deputy Chief Judge, Criminal Administrative Judge, Circuit Court of the First Circuit

**WRITTEN TESTIMONY ONLY**

---

**Bill No. and Title:** House Bill No. 1567, H.D. 1 Relating to Criminal Pretrial Reform

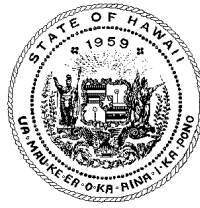
**Purpose:** Eliminates the use of monetary bail and requires defendants to be released on their own recognizance for certain nonviolent offenses, subject to exceptions. Requires PSD to take steps to provide videoconferencing to a defendant who chooses to participate in a bail report interview via videoconference. Effective 1/1/2222. (HD1)

**Judiciary's Position:**

The Judiciary supports the intent of the proposed legislation and offers only the following comments for the Committee's information and consideration. As the Committee is aware, the vast majority of the pretrial bail reforms passed by the Legislature and codified under Act 179 went into effect just prior to the global pandemic in 2020. Any pretrial bail reform should be tailored to the presumption of innocence, ensuring the appearance of the defendant, minimizing the risk of danger to the community, and ensuring the equal treatment of individuals regardless of race, wealth, or social class. The proposed legislation accomplishes these goals.

Thank you for the opportunity to testify on this measure.

DAVID Y. IGE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
1177 Alakea Street, 6th Floor  
Honolulu, Hawaii 96813

**MAX N. OTANI**  
DIRECTOR

**Maria C. Cook**  
Deputy Director  
Administration

**Tommy Johnson**  
Deputy Director  
Corrections

**Jordan Lowe**  
Deputy Director  
Law Enforcement

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

**WRITTEN TESTIMONY ONLY**

TESTIMONY ON HOUSE BILL 1567, HOUSE DRAFT 1  
RELATING TO CRIMINAL PRETRIAL REFORM.

by  
Max N. Otani, Director  
Department of Public Safety

Senate Committee on Public Safety, Intergovernmental, and Military Affairs  
Senator Clarence K. Nishihara, Chair  
Senator Lynn DeCoite, Vice Chair

Tuesday, March 22, 2022; 1:05 p.m.  
Via Videoconference

Chair Nishihara, Vice Chair DeCoite, and Members of the Committee:

House Bill (HB) 1567, House Draft (HD) 1 seeks to address overcrowding of pretrial defendants within the Department of Public Safety's (PSD) facilities by eliminating the use of monetary bail and requiring defendants to be released on their own recognizance for traffic offenses, violations, nonviolent petty misdemeanor offenses, or nonviolent misdemeanor offenses; and allow defendants the option to participate in a bail interview via videoconference.

PSD acknowledges that release on own recognizance is a viable option for defendants assessed to be at low risk for helping to achieve the objectives of HB 1567, HD 1 and offers the following comments regarding this measure. The Department's Intake Service Centers (ISC) work diligently to provide timely bail reports (within three days, as required by Act 179, SLH 2019) to the courts so that hearings may be conducted promptly. Pretrial bail reports utilize an objective, research-based, validated assessment tool that provides an assessment of the risks of recidivism and non-appearance.

ISC staff prefer to conduct bail evaluation interviews for pretrial detainees in person. This means that most interviews are conducted prior to defendants entering PSD facilities, i.e., at police department lockups or in Sheriffs' custody at courthouses. However, not all incoming detainees choose to participate, or circumstances, such as, an unknown COVID-19 vaccination status, may make in-person interviews unfeasible.

While the Department agrees with the objectives of HB 1567, HD 1 to help address overcrowding of PSD facilities, it is concerned with the measure's requirement to allow defendants to participate in a bail report interview via videoconferencing (VC). PSD suggests that consideration must be given to: 1) where the VCs will be located (County police departments, courthouses, or other; 2) whether the identified facility will allow videoconferencing to take place at its location; 3) whether the identified facility has an available secure space to accommodate the installation of the VC equipment; 4) secure access to the Internet; and 5) if all other conditions can be met, the costs of the equipment, its installation, security, and maintenance. It may be more reasonable to conduct in-person interviews at PSD facilities for the minority of pretrial detainees who initially refuse participation, provided that the ISCs can continue to complete the assessments within the three days required by Act 179.

PSD notes that Act 179 also requires a 90-day review of pretrial detainees to reassess whether new circumstances warrant reconsideration for release. Periodic reviews provide detainees a second opportunity to provide information, which then is transmitted to the courts for consideration of pretrial release or supervision.

Thank you for the opportunity to present testimony on HB 1567 HD 1.

DEPARTMENT OF THE PROSECUTING ATTORNEY  
**CITY AND COUNTY OF HONOLULU**

ALII PLACE  
1060 RICHARDS STREET • HONOLULU, HAWAII 96813  
PHONE: (808) 768-7400 • FAX: (808) 768-7515

STEVEN S. ALM  
PROSECUTING ATTORNEY

THOMAS J. BRADY  
FIRST DEPUTY  
PROSECUTING ATTORNEY



**THE HONORABLE CLARENCE K. NISHIHARA, CHAIR**  
**SENATE COMMITTEE ON PUBLIC SAFETY,**  
**INTERGOVERNMENTAL AND MILITARY AFFAIRS**  
**Thirty-first State Legislature**  
**Regular Session of 2022**  
**State of Hawai'i**

March 22, 2022

**RE: H.B. 1567, H.D. 1; RELATING TO CRIMINAL PRETRIAL REFORM.**

Chair Nishihara, Vice-Chair DeCoite and members of the Senate Committee on Public Safety, Intergovernmental and Military Affairs, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony in **opposition** to H.B. 1567, H.D. 1.

The Department appreciates the intent to improve upon current procedures, and supports the eventual elimination of the cash bail system, once a robust and well-funded process can be developed to allow suitable alternatives (such as signature bonds and adequate supervision by the Department of Public Safety's Intake Services Center Division). That said, H.B. 1567, H.D. 1, does not present such a system, but attempts to reconsider certain portions of H.B. 1552 (2019) that were previously removed, leading up to the passage of that bill as Act 179 (2019). We agree with the various committees from the 2019 Legislative Session, who removed the problematic portions of H.B. 1552 (2019), which are now contained in H.B. 1567, H.D. 1.

Although the Department appreciates that Section 2 of H.B. 1567, H.D. 1 (pg. 1-2, ln. 16-17, 1-4), no longer includes class C felony offenses, we still oppose that section, and caution the Committee that the broad range of eligible offenses stated (i.e. traffic offenses, violations, and non-violent misdemeanor or petty misdemeanor offenses), fails to account for the plethora of concerning charges that could be classified as non-violent misdemeanor or petty misdemeanor offenses. Even with the static list of excluded offenses (see pg. 2-3, ln. 13-21, 1-4), these are just a few example of charges for which a defendant could be automatically released, if H.B. 1567, H.D. 1, were to become law:

- Violation of an Injunction Against Harassment (§604-10.5, H.R.S.);
- Harassment by Stalking (§711-1106.1, H.R.S);

- Promoting Pornography for Minors (§712-1215, H.R.S.); and
- Solicitation of a Minor for Prostitution (§712-1209.1, H.R.S.).

Although the prosecution and defense may not always agree with judges' rulings pertaining to bail, the Department does believe that a judge more appropriately evaluates all of the factors permitted by statute, to make a case-by-case decision.

While the Department understands the Legislature's desire to lower the number of pretrial detainees, we urge the Committee to maintain the safeguards that are currently in place, and re-assess the inevitable risks associated with releasing pretrial detainees based on such sweeping generalities. In particular, the Department believes it is extremely important that courts be allowed to consider any potential dangerousness, obstruction of justice, witness tampering and other illegal activity—on a case-by-case basis—when determining if and how to release an individual back into the community.

As a final note, it appears that subsection (C) on page 3, line 11-12, is meant to exclude individuals from release without bail if a new offense is committed while pending disposition on a previous case (for which they were released). This fails to account for the time between the date of offense and the date the individual is arraigned on the original case, which can range from a few days to a few weeks for petty misdemeanor and misdemeanor offenses. Should the committee ultimately pass H.B. 1567, H.D. 1, it may want to add the word "arraignment" to page 3, line 11, to close this gap:

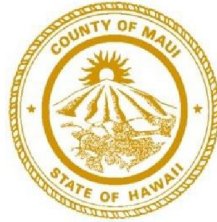
*“(C) the defendant was pending **arraignment**, trial or sentencing at the time of arrest.”*

That being said, the Department of the Prosecuting Attorney of the City and County of Honolulu **opposes** the passage of H.B. 1567, H.D. 1, and respectfully asks the Committee to defer this bill. Thank you for the opportunity to testify on this matter.

**MICHAEL P. VICTORINO**  
Mayor

**ANDREW H. MARTIN**  
Prosecuting Attorney

**MICHAEL S. KAGAMI**  
First Deputy Prosecuting Attorney



**DEPARTMENT OF THE PROSECUTING ATTORNEY**  
COUNTY OF MAUI  
150 SOUTH HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
PHONE (808) 270-7777 • FAX (808) 270-7625

TESTIMONY  
ON  
H.B. 1567 HD1 RELATING TO  
CRIMINAL PRETRIAL REFORM

March 21, 2022

The Honorable Clarence K. Nisihara  
Chair  
The Honorable Lynn DeCoite  
Vice Chair  
and Members of the Committee on Public Safety, Intergovernmental and Military Affairs

Chair Nisihara, Vice Chair DeCoite, and Members of the Committee:

The Department of the Prosecuting Attorney, County of Maui respectfully submits the following comments in opposition to H.B. 1567 HD1, Relating to Criminal Pretrial Reform, as drafted.

We share the concerns of the Department of the Prosecuting Attorney of the City and County of Honolulu regarding the effects of this bill. Although we appreciate the Legislature's efforts to address public safety concerns via specific exceptions to the proposed presumption of release for all non-felony offenses, in our view these exceptions do not adequately address public safety concerns. For example, certain Harassment offenses (a petty misdemeanor per HRS §711-1106) can involve striking, shoving, kicking or otherwise touching another person in an offensive manner, but it can also involve making repeated communications anonymously or at an extremely inconvenient hour. As drafted, it is unclear whether the bill's exception provision for "Any other crime of violence" would apply to both, either, or neither of these scenarios.

For these reasons, the Department of the Prosecuting Attorney, County of Maui requests that H.B. 1567 HD1 be deferred. Please feel free to contact our office at (808) 270-7777 if you have any questions or inquiries.



Hawai'i

Committees: Public Safety, Intergovernmental & Military Affairs  
Hearing Date/Time: Tuesday, March 21, 2022, at 1:05 P.M.  
Place: Via videoconference  
Re: Testimony of the ACLU of Hawai'i with Comments regarding H.B. 1567 HD1 Relating to Criminal Pretrial Reform and proposed amendments

Dear Chair Nishihara, Vice Chair DeCoite and members of the Committee:

The American Civil Liberties Union of Hawai'i ("ACLU of Hawai'i") offers **comments regarding HB1567 HD1** which would eliminate the use of monetary bail and requires defendants to be released on their recognizance for certain nonviolent offenses, subject to multiple exceptions.

The ACLU of Hawai'i envisions a criminal pretrial system consistent with equal protection and due process rights enshrined in our federal and state Constitutions - where people are considered innocent until proven guilty.<sup>1</sup> We strive to dramatically reduce the number of people in pretrial detention, eliminate wealth-based detention and combat bias and systemic racism, that disparately impacts Native Hawaiians, Pacific Islanders and African Americans (Blacks) in Hawai'i.<sup>2</sup>

While we support the intent behind this measure, we believe that this bill takes an incremental approach, rather than a systems change approach that is required. This bill does not go far enough to address the fundamental unfairness of detaining people because they are unable to afford cash bail even when they do NOT pose a risk of intentionally fleeing Hawai'i and/or are at serious risk of harming a specific person.

We encourage lawmakers to look closely at the criminal legal data in Hawai'i and meaningful bail reforms in other jurisdictions, and add the requested amendments to effectuate a fair and just criminal pretrial system.

**Hawai'i Lawmakers Have an Opportunity to Advance Fundamental Fairness in our Criminal Legal System and Eliminate Overcrowding in our Jails**

---

<sup>1</sup> The presumption of innocence until guilt is proven is a fundamental concept within our criminal legal system. This is in tension with the reality that only the U.S. and Philippines have a cash bail system that is dominated by commercial bail companies and where people who pose serious risks to public safety can be released if they have access to money.

<sup>2</sup> *A New Vision for Pretrial Justice in the United States*, ACLU Smart Justice, March 2019. See also, Ainsley Dowling, *As Much Justice as You Can Afford: Hawaii's Accused Face an Unequal bail System*, American Civil Liberties Union of Hawai'i (January 2018).

Our current system lets the size of a person’s wallet determine whether a person – who has been accused, but not convicted of a crime – can return home or stay locked up in jail while awaiting their day in court. This current pretrial system punishes those who are not wealthy even before they have a chance to defend themselves in court. Yet, lawmakers have a unique opportunity to effectuate changes to our criminal pretrial system that aligns with our shared value of fundamental fairness.

In addition to the unfairness of wealth-based detention, pretrial incarceration is one of the major drivers of incarceration and overcrowding in Hawai‘i jails.

- As of January 24, 2022, roughly **1003 out of 1736 people or 57% of all people imprisoned in Hawai‘i jails have not been convicted of any crime** and are merely awaiting trial, most often because they cannot afford the amount of bail in their case. **157 out of 322 people, or 49% of the population are pretrial status**
- Approximately **59% or 582 people incarcerated at Oahu Community Correctional Center (“OCCC”)<sup>3</sup> are presumed innocent**, yet are detained pending trial.
- At **Maui Community Correctional Center (“MCCC”), 157 people or 49% of the population are locked up while awaiting trial.**
- Hawai‘i Community Correctional Center (“HCCC”) has **192 out of 304 people or 63% of the incarcerated population deprived of their liberty while awaiting a trial date.** The operational capacity at HCCC is 226 and the design capacity is 206 people.
- On Kaua‘i, **56 people or approximately 44% of the population** have not been convicted of any crime and are awaiting trial.

### **Criminal Pretrial System Reforms will Save Taxpayer Dollars**

Hawai‘i tax payers bear the costs of incarceration. This is true even where presumptively innocent people who are not a flight risk nor a danger to others are held in jail because they cannot not make bail.

Hawai‘i currently **spends \$219 a day or nearly \$80,000 annually to incarcerate an adult in our jails and prisons.** Reducing the pretrial population between 30-50% through comprehensive criminal pretrial reforms will save costs to the taxpayers, without compromising community safety.

### **Pretrial Detention Should be the Exception, Not the Norm**

Bail, in any form, should never be used as a punitive tool and any conditions set for release should only be as restrictive as is absolutely necessary to ensure that the accused shows up at court. In *United States v. Salerno*, 481 U.S. 739, 755 (1987), the United States Supreme Court advised that “[i]n our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.” Yet, over the years, Hawai‘i has ignored that dictate.

---

<sup>3</sup> State of Hawai‘i Department of Public Safety, Weekly Population Report (January 24, 2022).



**The ACLU Recommends Amendments to Balance the Individual's Interest in Liberty and the State's Interest in Protecting Public Safety**

While we support the general intent behind this legislation, we have concerns that the broad exceptions are not carefully limited and reinforces an unbalanced system in which detention prior to trial is the norm.

We respectfully request the Committee to amend this bill to reflect the following recommended changes:

- (1) The standard for denying bail: Bail may be denied to any person charged with a criminal offense where the charge is for a serious crime<sup>4</sup>, and (1) there is a serious risk that the person will abscond; (2) There is a serious risk that the person will obstruct or attempt to obstruct justice, or injure or intimidate a prospective witness or juror with the purpose of obstructing or attempting to obstruct justice; (3) There is a serious risk that the person poses a significant danger to a specific person or reasonably identifiable persons or persons based on an articulable risk to a specific person, and (4) The risks cannot be mitigated by any set of release conditions. The burden of proof shall be upon the state to establish, by clear and convincing evidence that there is no condition or combination of conditions that will reasonably assure the appearance of the person when required or the safety of any other person or persons.
- (2) Throughout, see, e.g. Page 2, lines 9-10: References to nonappearance in court and “protect[ing] the public” should be amended. **As a matter of policy, the appropriate risks should be that of: (1) absconding, or intentional, willful flight; or (2) specific threat of significant harm to an identifiable person or persons.**
- (3) Page 2, lines 1-2: This provision should be amended to **include all petty misdemeanor offenders, misdemeanor offenses and class C felony offenses as eligible for release on recognizance unless a person presents a flight risk or specific threat of significant harm to a specific person.**
- (4) Page 2-3, **Delete page 2 lines 13-21 and page 3 lines 1-18.** The broad exemptions contravene the purported purposes of this bill to reduce the pretrial population at overcrowded conditions. **At minimum, delete page 2, lines 20-21 (Operating a vehicle under the influence of an intoxicant) and page 3, line 3 (Unauthorized entry into a dwelling).**
- (5) Page 3, lines 6-7. **This provision should be amended to clarify that the person has a history or pattern of absconding or intentional, willful flight, rather than non-appearance.** Some people do not appear in court because of child care, transportation, employment, or other issues, rather than a willful intent to flee the

---

<sup>4</sup> Serious crime means murder or attempted murder in the first degree, murder or attempted murder in the second degree, or a class A or B felony, except forgery in the first degree and failing to render aid under section 291C-12.

jurisdiction.

- (6) Page 3, lines 8-10: This provision excludes any person with a history of a violent misdemeanor or violent felony offenses with the past eight years. While this may seem reasonable on first pass, a person's actions eight (8) years ago does not automatically determine a person's present day flight risk or serious risk of danger to a specific person in the community. **This provision should be narrowed further if the standard articulated in the ACLU's recommendation #1 is not adopted.**
- (7) Page 3, lines 11-12: This provision could be used to justify detaining all houseless people who are arrested and are pending trial or sentencing at the time of arrest. For example, if a houseless person were to go back on the street and sleep on the sidewalk or in the park, this could be denied release due to this provision. This should be narrowed further.
- (8) Page 3, lines 13-14. **Between 20-25% of jail and prison admissions in Hawai'i are the result of persons having their probation or parole supervision revoked due to technical violations of community supervision rules. Given the intent of lawmakers to reduce overcrowding, people should not be detained merely because they are accused or found to have violated community supervision conditions that did not result in new convictions.** Therefore, delete section (D) ~~The defendant was on probation, parole or conditional release at the time of arrest.~~
- (9) Page 3, lines 19-21. Section F should be amended to read: "The defendant presents a significant danger to a specific person or persons based on an articulable risk to a specific person or persons." Delete (F) ~~The defendant presents a risk of danger to any other person or to the community, or a risk to recidivism<sup>22</sup> as both terms are too broad and vague.~~
- (10) Page 4, lines 2- 4. The proposed statute does not provide specific guidance to take "into consideration the defendant's financial ability to afford bail." This provision should be amended to include **"In the setting of bail, the following shall apply:**
  - i. **The Court shall exclude from consideration any income derived from public benefits; including supplemental security income, social security disability insurance, and temporary assistance for needy families, and any income below the federal poverty level:**
  - ii. **If the person has no income other than public benefits or is a member of a household income below the federal poverty legal, the court shall presume that the person is unable to pay any bail amount; and**
  - iii. **If the person's household income, exclusive of any income derived from public benefits, is above the federal poverty level, the court shall consider what the individual could reasonably pay within forty hours**

of arrest.

(11) Given that pretrial detention results in the deprivation of liberty, the Court should be required to enter on the record its written findings with respect to the detention decision when bail is denied.

In closing, our current system of wealth-based detention in Hawai'i devastates families and undermines public safety. We urge the State Legislature to enact comprehensive criminal legal pretrial reforms to promote fundamental fairness, reduce the incarcerated pretrial population, eliminate racial and socio-economic disparities, and save taxpayer dollars.

Thank you for the opportunity to testify.

Sincerely,

*Carrie Ann Shirota*

Carrie Ann Shirota  
Policy Director  
ACLU of Hawai'i  
[cshirota@acluhawaii.org](mailto:cshirota@acluhawaii.org)

*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 that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawai'i has been serving Hawai'i for over 50 years.*

American Civil Liberties Union of Hawai'i  
P.O. Box 3410  
Honolulu, Hawai'i 96801  
T: 808.522.5900  
F: 808.522.5909  
E: [office@acluhawaii.org](mailto:office@acluhawaii.org)  
[www.acluhawaii.org](http://www.acluhawaii.org)



## **HB1567 HD1 BAIL REFORM**

COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS

Senator Clarence K. Nishihara, Chair

Senator Lynn DeCoite, Vice Chair

Tuesday, Mar 22 2022: 1:05 : Videoconference

### **Hawaii Substance Abuse Coalition Comments HB1567 HD1:**

*ALOHA CHAIR, VICE CHAIR AND DISTINGUISHED COMMITTEE MEMBERS. My name is Alan Johnson. I am the current chair of the Hawaii Substance Abuse Coalition (HSAC), a statewide organization for substance use disorder and co-occurring mental health disorder treatment and prevention agencies.*

### **HSAC comments about Bail Reform by suggesting that bail reform may be more tenable with the following suggestions.**

Since many people arrested that don't have enough resources for bail suffer from mental illness, substance use disorders or both:

1. Provide behavioral health screenings for mental health and substance use disorders as a condition of reduced or no bail.
2. For those who are screened as having a mental health or substance use disorder offer a diversion to treatment option, provided they complete treatment, for a condition of reduced or removal of any charges.

We appreciate the opportunity to provide testimony and are available for questions.



## **Senate Committee on Public Safety, Intergovernmental, and Military Affairs**

Tuesday, March 22nd, 2022, 1:05p.m. Conference Room 229

### **Hawai'i Alliance for Progressive Action Supports: HB1567 HD1**

Aloha Chair Nishihara, Vice Chair DeCoite and Members of the Committee,

On behalf of the Hawai'i Alliance for Progressive Action (HAPA) I am submitting testimony in support of HB1567 HD1.

HAPA strongly supports HB1567 HD1, which would eliminate the use of monetary bail and requires defendants to be released on their own recognizance for certain nonviolent offenses, subject to exceptions. Requires PSD to take steps to provide video conferencing to a defendant who chooses to participate in a bail report interview via videoconference.

HAPA supports this measure and believes that it will help address inequality in our justice system. We believe that measures such as this benefit Native Hawaiians directly.

Native Hawaiians are overrepresented at every level of the criminal legal system including pre-trial detention due in part simply because of systematic oppression. Unsurprisingly, Hawaii's incarceration crisis has had a particularly severe impact on people of color, especially Native Hawaiians and Pacific Islanders. In 2018, this group made up 23 percent of adults in the state, but a reported 47 percent of people incarcerated under Hawai'i's jurisdiction. Further, incarceration is on the rise among Hawaiian women. Between 1990 and 2017, the number of women incarcerated in the state grew by 265 percent.<sup>1</sup>

Our jails should not serve as a holding pen for those who end up in our carceral system due to the crippling cost of living, lack of affordable housing, criminalization of poverty and/or lack of mental health services. HAPA believes that measures such as this will begin to address issues of equity in our carceral systems, while also reducing government spending.

---

<sup>1</sup> <https://50stateblueprint.aclu.org/states/hawaii/>

It costs approximately \$200 a day to house people in pretrial detention and the average stay is 29 days. Many are people who haven't had a day in court or been convicted of a crime, but are simply unable to afford bail.

Many times, people unable to afford bail and languishing in jail will take a plea deal which then may lead to further incarceration in the long run. Pretrial detention disadvantages a defendant's ability to prepare for trial and increases the likelihood that a defendant will plead at earlier stages of criminal proceedings, regardless of the merits of the defendant's case, to gain release from custody.<sup>2</sup>

To accommodate the high incarceration rates under our criminal legal system and the projected number of beds needed, the proposed new OCC is projected to cost \$1 billion.

A key decision point in the criminal justice system occurs when a person who has been arrested appears before a judge who determines whether the person should be released pending trial, or remain in custody until their case has been resolved. The pretrial release/detention decision is critically important to the defendant because studies have shown that “just a few days in jail can increase the likelihood of a sentence of incarceration and the harshness of that sentence, reduce economic viability, promote future criminal behavior, and worsen the health of those who enter—making jail a gateway to deeper and more lasting involvement in the criminal justice system at considerable costs to the people involved and to society at large.”<sup>3</sup>

For the disproportionately high number of people who enter jails from communities of color or who suffer from mental illness, addiction, and homelessness “time spent in jail exacerbates already difficult conditions and puts many on a cycle of incarceration from which it is extremely difficult to break free.” Defendants who cannot make bail are at risk of losing their jobs, and with it the income that supports their children, pays their rent and utilities and puts food on the table. In the long run they can also lose their house or apartment, health insurance and custody of their children. After maxing out their credit cards, a family may end up deep in debt or even homeless.<sup>4</sup>

In our society liberty is supposed to be the norm and detention prior to trial is supposed to be the exception, but in practice, just the opposite is true. A 2018 study by the ACLU-Hawaii found that overall judges in Hawaii required bail as a condition of release in

---

<sup>2</sup>HCR 134 Task Force on Pretrial Reform Final Report [https://19of32x2yl33s8o4xza0gf14-wpengine.netdna-ssl.com/wp-content/uploads/HCR134-Task-Force-on-Pretrial-Reform\\_Final-Report\\_12.14.18.pdf](https://19of32x2yl33s8o4xza0gf14-wpengine.netdna-ssl.com/wp-content/uploads/HCR134-Task-Force-on-Pretrial-Reform_Final-Report_12.14.18.pdf)

<sup>3</sup> HCR 85 Task Force. Getting It Right: Better Ideas for a New Jail; the section, Creating Off-Ramps to Reduce the Jail Population is particularly relevant to cash bail

<sup>4</sup> HCR 85 Task Force. Getting It Right: Better Ideas for a New Jail; the section, Creating Off-Ramps to Reduce the Jail Population is particularly relevant to cash bail

88% of cases, and in the majority of those cases it was set at a level the defendant could not afford.<sup>5</sup>

Almost half the people in OCCC are there because they cannot afford bail. In the six month period from April 1 to September 30, 2021 pretrial detainees at OCCC cost the State, on average, \$113,000 a day. If we include the pretrial detainees in neighbor island jails the cost goes up to \$200,000 a day.<sup>6</sup>

The use of money bail is often justified on the grounds that it makes us safer by keeping dangerous people in jail, but a report from the 2018 Criminal Pretrial Task Force chaired by Hawaii circuit judge (now U.S. magistrate) Rom A Trader found that “there is virtually no correlation between the setting of a particular bail amount and whether the defendant will commit further crime or engage in violent behavior when released from custody. Thus, money bail is a poor method of assessing and managing a defendant’s risks.”<sup>7</sup>

HAPA supports HB1567 HD1 and measures such as this that will provide better equality within our justice system.

Please PASS HB1567 HD1.

Mahalo for your consideration,



Anne Frederick  
Executive Director

---

<sup>5</sup> HCR 85 Task Force. Getting It Right: Better Ideas for a New Jail; the section, Creating Off-Ramps to Reduce the Jail Population is particularly relevant to cash bail

<sup>6</sup> HCR 85 Task Force. Getting It Right: Better Ideas for a New Jail; the section, Creating Off-Ramps to Reduce the Jail Population is particularly relevant to cash bail

<sup>7</sup> HCR 85 Task Force. Getting It Right: Better Ideas for a New Jail; the section, Creating Off-Ramps to Reduce the Jail Population is particularly relevant to cash bail

**Hawaii***Holding Power Accountable*Statement Before The  
**SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS**

Tuesday, March 22, 2022

1:05 PM

Via Video Conference and Conference Room 229

in consideration of

**HB 1567, HD1****RELATING TO CRIMINAL PRETRIAL REFORM.**Chair NISHIHARA, Vice Chair DeCOITE, and Members of the  
Senate Public Safety, Intergovernmental, and Military Affairs Committee

Common Cause Hawaii supports HB 1567, HD1, which (1) eliminates the use of monetary bail and requires defendants to be released on their own recognizance for certain nonviolent offenses, subject to exceptions and (2) requires PSD to take steps to provide videoconferencing to a defendant who chooses to participate in a bail report interview via videoconference.

Common Cause Hawaii is a nonprofit, nonpartisan, grassroots organization dedicated to reforming government and strengthening democracy - one that is equitable and works for everyone.

Cash bail – monetary bail – is rarely used in other nations besides the United States. Cash bail is to ensure that an individual charged with a crime will return to court for hearings or trial. If a person is unable to afford the bail amount set by the court, there are private bail bond companies that will “agree to be responsible for the defendant’s bail obligation in exchange for a nonrefundable fee, called a bond premium, that is generally 10 to 15 percent of the bail amount.” See <https://www.brennancenter.org/our-work/research-reports/how-cash-bail-works> (retrieved Jan. 31, 2022). However, the individual charged must have the requisite collateral to secure the services of the private bail bond companies.

If a person cannot afford bail or the bond premium, including collateral charged by private bail bond companies, she or he is then detained in jail. “Pretrial detention has dramatically [negative effects](#) on the outcome of a defendant’s case: those who are held pretrial are four times more likely to be sentenced to prison than defendants released prior to trial.” *Id.* Research clearly shows that cash bail discriminates against racial minorities and the poor. *Id.*

Illinois, New York, and New Jersey and the City of Philadelphia have all implemented some form of cash bail reform. *Id.*

Common Cause Hawaii advocates for the ending of unfair policies that do not result in any public gain, unfairly target BIPOC communities, and undermine the promise of a democracy that works for everyone. For these reasons, we support HB 1567, HD1. If you have questions of me, please contact me at [sma@commoncause.org](mailto:sma@commoncause.org).

Very respectfully yours,

Sandy Ma  
Executive Director, Common Cause Hawaii





**TESTIMONY OF TINA YAMAKI, PRESIDENT  
RETAIL MERCHANTS OF HAWAII  
MARCH 21, 2022**

**Re: HB 1567 HD1 RELATING TO CRIMINAL PRETRIAL REFORM**

Good afternoon, Chairperson Nishihara members of the Senate Committee on Public Safety Intergovernmental and Military Affairs. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii was founded in 1901, RMH is a statewide, not for profit trade organization committed to the growth and development of the retail industry in Hawaii. Our membership includes small mom & pop stores, large box stores, resellers, luxury retail, department stores, shopping malls, local, national, and international retailers, chains, and everyone in between.

While we understand the intent, RMH is **OPPOSED** to HB 1567 HD1 Relating To Criminal Pretrial Reform This measure eliminates the use of monetary bail and requires defendants to be released on their own recognizance for certain nonviolent offenses, subject to exceptions. Requires PSD to take steps to provide videoconferencing to a defendant who chooses to participate in a bail report interview via videoconference. Effective 1/1/2222.

We are very concerned as this bill essentially gives those who have been arrested for a non-violent crime and be released without much consequence or an assurance they will in fact show up for court. **It's a big win for the offenders especially career criminals and an even bigger loss for anyone in the community who is a victim of a crime including shop lifting, break ins of their home, car, or business. They know exactly how to steal our merchandise from our stores right under \$750 ensure that it is not a felony.**

Retailers have major concerns on this measure.

- **Many thieves know the exact value of what they are stealing and makes sure that what they are taking is valued right under the minimum threshold.** Retailers have been facing an upward increase in theft – from designer clothing to handbags to sunglasses to electronics to spam to cosmetics to liquor to tobacco to name a few.
- **Because there is NO monetary bail set and NO reporting or supervision of any type, the offenders that are caught and released will be back in our stores stealing once again within hours.** This bill highlights that there is no real consequence to those offenders of non-violent crimes including career criminals.
- **For organized retail criminals, they consider stealing from our stores their daily job.** The thieves are part of organized retail crime and come into the stores daily with a list of items, like your grocery list, of things that they are going to steal.
- **It is a losing battle for many retailers** where the police may or may not catch and arrest the thieves. When HPD does arrests them and lets them go after being processed, the thieves are right back into the stores stealing again. Then it is the prosecutors who may or may not prosecute them regardless of the number of priors they have. IF they don't prosecute, the thieves are right back in the stores stealing. If we are lucky to get a prosecution, the judges often let the thieves off easy with a slap on the wrist as it is a non-violent crime and within hours the thieves are back in the stores stealing again. **Bills like this give criminals the green light to do nonviolent illegal activities as there are no real consequences for their actions only a slap on the wrist.**
- **Although these crimes are not violent, they are still crimes, and the victims are not just the retailers but the community as well.** There is only so much a retailer can absorb before we must raise the prices of items to cover the loss. And there is a limit on how much we can raise our prices to remain competitive and in business. **When we raise our prices the cost of living in Hawaii also increases. The alternative we have is to let go hard-working law-abiding employees or close our doors for good.**

We urge you to hold this measure. Mahalo again for this opportunity to testify.

 3610 Waiialae Ave • Honolulu, HI 96816  (808) 592-4200  tyamaki@rmhawaii.org



## HB 1567, HD 1, RELATING TO CRIMINAL PRETRIAL REFORM

MARCH 22, 2022 · SENATE PUBLIC SAFETY,  
INTERGOVERNMENTAL, AND MILITARY AFFAIRS  
COMMITTEE · CHAIR SEN. CALRENCE NISHIHARA

**POSITION:** Support.

**RATIONALE:** Imua Alliance **supports** HB 1567, HD 1, relating to criminal pretrial reform, which eliminates the use of monetary bail and requires defendants to be released on their own recognizance for certain nonviolent offenses, subject to exceptions; and requires PSD to take steps to provide videoconferencing to a defendant who chooses to participate in a bail report interview via videoconference.

Imua Alliance is one of the state's largest victim service providers for survivors of sex trafficking. Over the past 10 years, we have provided comprehensive direct intervention services to over 160 victims, successfully emancipating them from slavery and assisting in their restoration, while providing a range of targeted services to over 1,000 victims in total. Each of the victims we have assisted has suffered from complex and overlapping trauma, including post-traumatic stress disorder, depression and anxiety, dissociation, parasuicidal behavior, and substance abuse. Trafficking-related trauma can lead to a complete loss of identity. A victim we cared for in 2016, for example, had become so heavily trauma bonded to her pimp that while under his grasp, she couldn't remember her own name. Yet, sadly, **many of the victims with whom we work are misidentified as so-called "voluntary prostitutes" and are subsequently arrested and incarcerated, with no financial resources from which to pay for their release.**

Hawai'i has approximately 5,500 inmates, over 1,500 of whom are incarcerated overseas, away from their families and homeland. According to a report by the American Civil Liberties Union released last year, pre-trial 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 money 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. Finally, while 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, money 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 was and remains 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 criminal (in)justice 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, importantly for this measure, harsher drug-related punishments than other ethnic groups. Therefore, passage this measure is a step toward reforming and preventing more people from becoming victims of our unjust and racially coded prison system.

**HB-1567-HD-1**

Submitted on: 3/19/2022 10:27:59 AM

Testimony for PSM on 3/22/2022 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Esther Geil	Individual	Support	Remotely Via Zoom

Comments:

I believe it would benefit the citizens of Hawaii to pass this bill. It would rectify some true injustices in our current system and get rid of some expenses to the state that are damaging as well as harmful. I believe the original bill was actually better than the version with the amendments, so I would approve of your removing the amendments placed on it and instead passing the original bill, but even with the amendments, it would still provide an important improvement over the current situation. Please pass this bill.

Thank you.

**HB-1567-HD-1**

Submitted on: 3/21/2022 8:03:06 AM

Testimony for PSM on 3/22/2022 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Lee Curran	Individual	Support	Remotely Via Zoom

Comments:

Aloha Chair Clarence K. Nishihara, Vice Chair Lynn DeCoite, and Members of the Senate Committee on Public Safety, Intergovernmental and Military Affairs,

My name is Lee Curran and I am testifying as an individual who is a co-facilitator of the Transformative Justice Task Force which is part of Faith Action for Community Equity, (FACE). I am testifying in SUPPORT with comments on HB1567 HD1. I am unequivocally in support of comprehensive bail reform and would like to comment and request that you restore the bill to its original intent prior to the amendments, specifically, amend the bill to include Class C non-violent felonies as listed in the original draft.

We need to put a FACE on the people of Hawai'i who are burdened and often traumatized by the unjust and inequitable cash bail system. This system impacts folks who are separated from their families, livelihoods, and community supports all under the false guise of safety. Cash bail doesn't just impact people accused of a crime, it impacts **ALL** of us.

Data shows that imposing monetary bail amounts can result in detaining defendants who cannot afford to post a commercial bail yet pose little danger to the public. Conversely, data also suggest that money bail can allow for the release of high-risk defendants who have the financial means to secure release yet should be detained without bail. From the U.S. Commission on Civil Rights Briefing Report's Executive Summary of The Civil Rights Implications of Cash Bail, January 2022 <https://www.usccr.gov/files/2022-01/USCCR-Bail-Reform-Report-01-20-22.pdf>

We can't assign a monetary value to safety but we can recognize that we are on a hamster wheel of bad outcomes in our current criminal legal system and the money we are spending for pretrial detention and often for additional incarceration because people take plea deals, is not keeping us safer.

It costs approximately \$200 a day to house people in pretrial detention and the average stay is 29 days. These are people who haven't had a day in court or been convicted of a crime. Their presumption of innocence has been denied because they are unable to afford cash bail.

To elaborate, according to Bob Merce's report, Getting It Right: Better Ideas for a New Jail: Almost half the people in OCCC are there because they cannot afford bail. In the six month period from April 1 to September 30 , 2021 pretrial detainees at OCCC cost the State, on

average, \$113,000 a day. If we include the pretrial detainees in neighbor island jails the cost goes up to \$200,000 a day. That is a whopping \$73 million a year!

Unlike what a member in a previous House committee hearing voiced, I believe that criminal legal reform that includes cash bail has a lot to do with building a new OCCC that has a projected cost of around \$1 billion. This is an opportunity to jump off that hamster wheel of bad outcomes, and embrace a new vision for our criminal legal system where we don't have to plan for substantial expansion and bed capacity because the hard truth is, build it and we will fill it.

Our collective humanity and well being is priceless. Instead of the laser focus on punishment to create a false sense of safety, we can create true safety. True safety looks like well resourced communities, families and individuals who are cared for by trauma-informed people who can facilitate the process of healing and health and stem the cycle of intergenerational trauma which the cash bail system perpetuates.

As I wrote in the beginning, cash bail impacts **ALL** of us. Even though only some people are faced with paying cash bail, we all need this reform. We can show compassion and empathy and engage in proactive and healing pathways for safety that impact **BOTH** people who commit crimes and their victims. If the money spent on massively over-utilized pretrial incarceration was shifted, we could begin to actually prevent future crimes and protect potential victims.

I am grateful for this opportunity to testify in support of with comments on HB1567 HD1 and ask that you restore the bill to its original intent and that this message of change, grounded in care, compassion and community, sits on your hearts and impacts your decision-making as you create laws that recognize the humanity and inherent dignity and worth of the people of Hawai'i now and in future generations.

Lee Curran,

Makaha, HI

**HB-1567-HD-1**

Submitted on: 3/21/2022 9:14:40 AM

Testimony for PSM on 3/22/2022 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Kristen Young	Individual	Support	Remotely Via Zoom

Comments:

Aloha Chair Clarence K. Nishihara, Vice Chair Lynn DeCoite, and Members of the Senate Committee on Public Safety, Intergovernmental, and Military Affairs,

Mahalo for hearing HB1567 HD1 which eliminates the use of monetary bail and requires defendants to be released on their own recognizance. I strongly support HB1567 with comments to restore the bill to its original form.

The cash bail system, in addition to being ineffective, is more harmful than helpful as it essentially punishes people for being poor and does nothing to address the root causes of why people get caught up in the criminal legal system in the first place. Incarceration is deeply traumatizing and creates inequities when needed to attain housing, education, employment, and child custody. Keeping people in pretrial detention, often for very minor and nonviolent offenses, derails their life and negatively impacts their loved ones and community. Native Hawaiians are overrepresented at every level of the criminal legal system, in addition to the myriad of racial disparities that perpetuate their inability to post bail.

On top of all that, it is extremely costly. We could use the money to invest in things like social services that bring about true public safety and health. We can invest in healing rather than harm. We must not hold ourselves prisoner to the false idea that jails and prisons keep our communities safe. Please support HB1567 HD1 with comments to restore the bill to its original form.

Mahalo for this opportunity to testify,

Kristen Young  
Honolulu resident  
House District 25

**HB-1567-HD-1**

Submitted on: 3/21/2022 12:08:40 PM

Testimony for PSM on 3/22/2022 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Peter Koulogeorge	Individual	Support	Remotely Via Zoom

Comments:

Dear Chair Nishihara and Vice Chair DeCoite,

I am writing to voice my support for meaningful cash bail reform, and to support HB 1567 under the condition that this committee include amendments offered by the ACLU of Hawaii. The cash bail system is unnecessary and unjust, for we can make sure that folks attend their hearings without incarcerating them based on their wealth level. No system of justice allows the rich to buy their freedom while the poor are left in cages.

In its current form, this bill does not do enough to promote justice for the huge sum of people who are wrongfully imprisoned each year. By adding the amendments proposed by ACLU, we can protect the rights of individuals to fair treatment and due process. By locking poor folks up on cash bail, we are doing tremendous harm to them and their communities while expending huge sums of cash from the state treasury. We can substantially reform this system to promote justice and re-allocate resources towards treatment, support, reentry, and other social programming.

Thank you for considering my testimony,

Peter Koulogeorge





**Testimony of Faith Action for Community Equity  
Comments on HB1567HD1, Relating to Criminal Pretrial Reform  
To the Senate Committee on Public Safety, Intergovernmental, and Military Affairs  
March 22, 2022 1:05pm via video conference**

Aloha Chair Clarence K. Nishihara, Vice Chair Lynn DeCoite, and Members of the Senate Committee on Public Safety, Intergovernmental, and Military Affairs,

We at Faith Action for Community Equity believe in the inherent worth and dignity of all. Our members work together to address the root causes of systemic injustices in our communities. We **SUPPORT** HB1567 HD1 and **request that the bill be amended to include Class C non-violent felonies as listed in the original draft.**

Eliminating the use of monetary bail and requiring defendants to be released on their own recognizance would address the substantial and continued overcrowding of facilities used to house pretrial defendants who are innocent until proven guilty. The monetary bail system criminalizes people based on their socioeconomic status and does not uphold a “presumption of innocence” as determined by past case precedents (Taylor v. Kentucky). Unsurprisingly, Kānaka Maoli are overrepresented at every level of the criminal legal system including pre-trial detention due to the detrimental impact of colonization.

Instead of spending millions of dollars on pre-trial detention we would like to see this invested in our communities: alternatives to policing, mental health and substance abuse services, education, and housing. We believe this necessitates a shift from punitive practices to community based solutions.

We thank you all for working hard to eliminate cash bail. “Continue to remember those in prison as if you were together with them in prison, and those who are mistreated as if you yourselves were suffering.” — Hebrews 13:3

If you have any questions, please contact the co-chairs of Faith Action’s Transformative Justice Task Force: Lee Curran at [dflcurran@gmail.com](mailto:dflcurran@gmail.com) or (808) 394-8792, and Kylie Akiona at [kylieakiona2@gmail.com](mailto:kylieakiona2@gmail.com) or (808) 347-8672.

Mahalo for this opportunity to testify.

Lee Curran, Makaha

Kylie Akiona, Mililani

**HB-1567-HD-1**

Submitted on: 3/18/2022 4:14:27 PM

Testimony for PSM on 3/22/2022 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Alice Caddow	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Clarence K. Nishihara, Vice Chair Lynn DeCoite, and Members of the Senate Committee on Public Safety, Intergovernmental, and Military Affairs,

Mahalo for hearing HB1567 HD1 which eliminates the use of monetary bail and requires defendants to be released on their own recognizance. I strongly support HB1567 with comments to restore the bill to its original form.

Incarceration is deeply traumatizing and creates inequities when needed to attain housing, education, employment, and child custody. Pre-trial detention permanently derails the trajectory of an incarcerated person’s life and the lives of their loved ones. Additionally, Native Hawaiians are overrepresented at every level of the criminal legal system, in addition to the myriad of racial disparities that perpetuate their inability to post bail.

In addition, pretrial detention is costing the state approximately \$73 million a year. Money that can be much better spent elsewhere.

Mahalo for this opportunity to testify,

Alice J. Caddow

Captain Cook, HI

**HB-1567-HD-1**

Submitted on: 3/19/2022 8:51:34 AM

Testimony for PSM on 3/22/2022 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Jessica Kawamura	Individual	Support	Written Testimony Only

Comments:

Dear Chair Clarence K. Nishihara, Vice Chair Lynn DeCoite, and Members of the Senate Committee on Public Safety, Intergovernmental, and Military Affairs,

Thank you for HB1567 HD1 which eliminates the use of monetary bail and requires defendants to be released on their own recognizance. I strongly support HB1567 with comments to restore the bill to its original form.

As a Christian pastor, citizen, and voter, I am deeply concerned both about the wellbeing of families impacted by unnecessarily pre-trial detention, as well the waste of taxpayer dollars spent incarcerating members of our community. I urge you to move this bill forward.

Best,

Rev. Jessica Kawamura, Wahiawa United Methodist Church  
Member of Faith Action

**HB-1567-HD-1**

Submitted on: 3/18/2022 2:20:07 PM

Testimony for PSM on 3/22/2022 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Ashleigh Loa	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Clarence K. Nishihara, Vice Chair Lynn DeCoite, and Members of the Senate Committee on Public Safety, Intergovernmental, and Military Affairs,

Mahalo for hearing HB1567 HD1 which eliminates the use of monetary bail and requires defendants to be released on their own recognizance. I strongly support HB1567 with comments to restore the bill to its original form.

Incarceration is deeply traumatizing and creates inequities when needed to attain housing, education, employment, and child custody. Pre-trial detention permanently derails the trajectory of an incarcerated person’s life and the lives of their loved ones. Additionally, Native Hawaiians are overrepresented at every level of the criminal legal system, in addition to the myriad of racial disparities that perpetuate their inability to post bail.

Mahalo for this opportunity to testify,

Ashleigh Loa, SD17  
Faith Action Member

**HB-1567-HD-1**

Submitted on: 3/18/2022 4:01:59 PM

Testimony for PSM on 3/22/2022 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Carla Allison	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Nishihara, Vice Chair Lynn DeCoite, and Committee Members.

My name is Carla Allison and I strongly support HB1567 HD1 relating to criminal pretrial reform, specifically eliminating the use of monetary bail for low level offenses. Please restore the wording of this bill to its original form.

I have 2 primary concerns about Hawaii’s use of monetary bail.

One: We are using the current bail system at a huge expense to our state budget, spending over \$200,000 a day housing pretrial detainees... over \$72 million a year.

Just imagine the services: community health centers, mental health & substance abuse programs, at-risk youth care, that we could provide with even a portion of \$72 million.

And Two: We are using monetary bail at a significant expense to the well being of our citizens, with almost half the people in OCCC living there because they cannot afford bail.

A person livin in jail is at risk of losing their job.

- They become unable to meet financial obligations
- Can’t care for their families,
- Their health deteriorates,
- And as their financial situation worsens they become more vulnerable to committing crimes.

Studies show that putting people in jail, even for a few days, increases the likelihood of lasting involvement in our carceral system.

Stopping the use of the monetary bail for low-level and non-violent offenses will allow those accused to resume their lives while awaiting trial.

As you know, our Federal Government and many states have already made the change. They’ve reduced their jail populations and without a rise in crime.

And people are showing up for trial.

So let's stop criminalizing our under resourced siblings...jailing folks who are not yet guilty of a crime... because they cannot afford bail

Let's stop spending millions to house them.

And with a potentially billion dollar new jail in the planning phase, let's do everything we can to reduce our jail population.

Please support HB1567 HD1 and restore it to its original wording.

My thanks to each of you for your consideration and your service to the people of Hawaii.

Carla Allison

Honolulu

**HB-1567-HD-1**

Submitted on: 3/18/2022 4:18:08 PM

Testimony for PSM on 3/22/2022 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Elizabeth Nelson	Individual	Support	Written Testimony Only

Comments:

Aloha Senator Nishihara and committee,

I strongly support this bill. Approximately 50% of the people in Hawaii's jails are innocent in the eyes of the law, yet remain imprisoned because they cannot afford cash bail. And many of these people are disproportionately Native Hawaiian, Pacific Islander and Black.

This bill is critical in being fair to all people who may have committed a low level offense. Please support this important bill.

Thank you, Elizabeth Nelson

**HB-1567-HD-1**

Submitted on: 3/18/2022 5:05:05 PM

Testimony for PSM on 3/22/2022 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
kevin landers	Individual	Support	Written Testimony Only

Comments:

Money bail is punitive and ineffectual from all data driven outcomes. The only testimony I have to add besides the clear moral imperative to drastically reform/eliminate the practice comes from your own House Finance Chair:

[Rep Sylvia] Luke said she has other concerns about the planning for a new jail. “We don’t think it’s timely yet,” she said.

She estimated that half of the people in OCCC are awaiting trial and have not been convicted of a crime. They are being held there because they cannot afford to post bail, she said.

“If we do significant bail reform — and there is a bail reform bill going through this year — we anticipate a lot of these pretrial detainees will not be in jail,” Luke said.

“Basically, you’re putting people in jail because they’re poor,” she said. “We’re actually housing indigent individuals who have not been convicted, and because of that we need to right size the prison population before they commit to a prison, and that’s been my criticism, and we’re far from that.”

Mahalo,

Kevin Landers



**HB-1567-HD-1**

Submitted on: 3/20/2022 6:13:34 PM

Testimony for PSM on 3/22/2022 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Rev Kyle Lovett	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Nishihara, Vice Chair DeCoite, and members of the Public Safety, Intergovernmental and Military Affairs Committee,

Mahalo for hearing HB1567 HD1, to eliminate the use of monetary bail and require defendants to be released on their own recognizance for low-level offenses.

My name is Rev. Kyle Lovett, a clergy member of the United Church of Christ.

I **strongly support** this bill, with encouragement to restore the bill to its **original form**.

I respectfully request that you consider amending the bill so that the original wording be reinstated: **include Class C non-violent felonies**.

Last summer the General Synod (biennial national meeting) of my denomination, the United Church of Christ, called on the whole church to work to reform cash bail.

I am so glad that Hawaii is taking up this critical issue of justice!

Here are some of the grim realities that inform my taking this opportunity to speak up:

- At any given time, roughly half of the people in Hawai'i's jails have not been convicted of the crime for which they are accused, at tremendous cost to the taxpayer.
- Defendants who cannot make bail are at risk of losing their jobs, and with it the income that supports their children, pays their rent and utilities, and puts food on the table. In the long run they can also lose their house or apartment, employment, health insurance, and custody of their children. After maxing out their credit cards, a family may end up deep in debt or even homeless.
- The current cash bail process rips apart the fabric of society and makes us all less safe.
- The exact thing that the justice system seeks to affirm and enable – a safe and just society – is being undone by pretrial cash bail practices.

And finally, for me as a Christian clergyperson, this text guides me:

- “Continue to remember those in prison as if you were together with them in prison, and those who are mistreated as if you yourselves were suffering.”  
— Hebrews 13:3

Mahalo for this opportunity to testify,

~Kyle

Rev. Kyle Lovett

HI Senate District 13

**HB-1567-HD-1**

Submitted on: 3/19/2022 3:50:02 PM

Testimony for PSM on 3/22/2022 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Kristen Alice	Individual	Support	Written Testimony Only

Comments:

Aloha,

My name is Kristen Alice and I am testifying in my personal capacity.

Mahalo for hearing HB1567 HD1 which eliminates the use of monetary bail and requires defendants to be released on their own recognizance. I strongly support HB1567 with comments to restore the bill to its original form.

Incarceration is deeply traumatizing and creates inequities when needed to attain housing, education, employment, and child custody. Pre-trial detention permanently derails the trajectory of an incarcerated person's life and the lives of their loved ones. Additionally, Native Hawaiians are overrepresented at every level of the criminal legal system, in addition to the myriad of racial disparities that perpetuate their inability to post bail.

Mahalo for this opportunity to testify,

Kristen Alice

Hilo

**HB-1567-HD-1**

Submitted on: 3/19/2022 8:22:39 PM

Testimony for PSM on 3/22/2022 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Cheryl Ogawa Ho	Individual	Support	Written Testimony Only

Comments:

Aloha, Chair Nishihara, Vice Chair Coite, and members of the Public Safety, Intergovernmental and Military Committee!

I wish especially to thank Sen. Nishihara for scheduling this hearing, which I hope will further the progress of this bill toward passage.

Hawai'i needs to shape its laws in such a way as to lead to just and fair consequences for members of our community who are charged with offenses against society. The economic disparities between Native Hawaiians, other Pacific Islanders, and the majority of our population, make it improbable that such offenders can raise the bail for pre-trial release.

Thus, inability to raise bail money while awaiting trial often results in unnecessary detention (essentially, early incarceration) with its attendant stressors upon family members. In the case of female offenders who have committed non-violent crimes, there are often young children involved. The separation of these children from their mothers is a traumatic event, and should be avoided or delayed for as long as possible. When it does happen, there is a need for support for family members or foster parents caring for the children.

I urge the members of this committee to pass HB1567 HD1 in its original form.

Sincerely,

Cheryl Ogawa Ho, Nu'uau

**HB-1567-HD-1**

Submitted on: 3/20/2022 4:45:56 PM

Testimony for PSM on 3/22/2022 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Carolyn Eaton	Individual	Support	Written Testimony Only

Comments:

Aloha, Chair Nishihara, Vice Chair DeCoite and members of the Committee,

My name is Carolyn Eaton and I support this bill. Yet this request remains: please amend the class of individuals covered by this reform to include any persons accused of a non-violent Class C felony. Unless this amendment is stipulated, many women will not benefit, as a majority of women being held have been accused of a Class C felony, for drug and property offenses.

Mahalo for hearing this important reform bill, our State will realize amazing savings by releasing indigent people before trial. These, working poor, often, will be spared the traumatic disruption of their lives caused by indeterminate incarceration. Moreover, each Hawai'i citizen will finally see the State practice "innocent until proven guilty," instead of lip-service to this American ideal. I appreciate this opportunity to testify.

**HB-1567-HD-1**

Submitted on: 3/20/2022 9:15:07 PM

Testimony for PSM on 3/22/2022 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Emily Fong	Individual	Support	Written Testimony Only

Comments:

Dear Chair Nishihara, Chair DeCoite, and members of the Committee,

My name is Emily Fong and I am testifying in strong support of HB 1567.

At the moment, individuals who do not have the funds to afford bail remain in jail after their arrest despite their presumed innocence under the eyes of the law. Not only does this highlight the unfairness of a system that punishes the poor, it also disproportionately affects Native Hawaiians and other people of color. Native Hawaiians are more likely than white people to remain in jail even in cases where they are charged with the same offense as a result of their inability to pay their bail. HB 1567 would thus aid in addressing an aspect of the system that unfairly affects people of color.

HB 1567 would not just serve in the interest of individuals who are arrested and are awaiting trial. It would also help reduce the population in Hawaii's correctional facilities as around half of the people in Hawaii's jails have not been convicted of a crime. This reduction would benefit Hawaii's taxpayers considering Hawaii spends nearly \$80,000 annually to incarcerate an adult in our jails and prisons. Thus, reforms to Hawaii's pretrial system would reduce costs for taxpayers without risking the community's safety.

My grandmother worked for many years as the assistant director of the Corrections Division giving her the chance to work directly with prisoners. Throughout the entirety of her career she aimed to help prisoners so that upon their release, they would find success. I believe that the help she aimed to provide can start from the moment a person is arrested through comprehensive pretrial reform. Individuals who pose no flight risk or safety risk to the community who await their trial in jail can ultimately face the loss of their jobs, homes, children, and more. These losses can have a significant effect on an individual's ability to be successful in their community and HB 1567 can help prevent them.

As a Native Hawaiian who has seen family members struggle with poverty, I ask that you please consider offering your support for HB 1567.

Thank you for your consideration,

Emily Fong

**HB-1567-HD-1**

Submitted on: 3/20/2022 11:40:42 PM

Testimony for PSM on 3/22/2022 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Rachel Tjoeng	Individual	Support	In Person

Comments:

**Aloha,**

**My name is Rachel Tjoeng. I am a former bedside nurse and a current masters student at University of Mānoa. During my nursing clinicals twenty years ago, I worked on a prison unit in a hospital, which fundamentally shaped my ideas about criminal justice. I am here today to ask the committee to support HB1567 because 57% of people in Hawai`i jails and prisons are awaiting trial. It is time to do away with the cash bail system that keeps many of these non-violent offenders in detention during an ongoing pandemic.**

**Public safety, especially right now, is very much about public health. We know that institutionalized populations are at high risk for rapid spread of disease, including COVID. Hawai`i jails and prisons have disproportionately high numbers of Native Hawaiians and Pacific Islanders— two groups that together make up 25% of the population in Hawai`i but make up 47% of the prison population in Hawai`i as of 2018. Additionally, these groups experience higher rates of chronic diseases, and Pacific Islanders experienced some of the highest rates of COVID and death related to COVID of any group. Currently, Europe and China are both experiencing surges of “Stealth Omicron,” or Omicron BA.2. Typically, the U.S. has experienced surges following Europe approximately two to four weeks later. Hawai`i jails and prisons have been epicenters for COVID spread in both August of 2020 and 2021. The state of Hawai`i pays \$219 per day per person to house healthy individuals who cannot pay for bail. This number must certainly go higher when individuals become sick with COVID, which can also exacerbate other chronic health conditions. Further, the U.S. and the Philippines are the only two countries in the world that continue to operate a cash bail system so there are many alternative global models we can draw on to craft a way forward that works for the people of Hawai`i. By getting people who are awaiting trial out of our jails and prisons, the state will save money, people can await trial as they support and are supported by their communities, and we keep our statewide community healthier and safer.**

**Hawai`i hospitals provide excellent medical treatment to people within our state and beyond— to the men and women who serve in the armed forces across the Indo-Pacific region as well as our Pacific region neighbors. However, COVID has stretched our state’s**



**healthcare system to the brink. It is essential that our Hawai`i healthcare system not become overburdened by preventable COVID infections and health conditions that have worsened as a result of COVID infections in institutionalized populations. The entire state's health relies on everyone doing their part to support our healthcare systems so they can continue to provide the same level of care they typically provide. Public health is a public safety issue. Please support HB1567.**

**Mahalo,**

**Rachel Tjoeng**

**HB-1567-HD-1**

Submitted on: 3/21/2022 9:57:49 AM

Testimony for PSM on 3/22/2022 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Kelsey Mills	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Clarence K. Nishihara, Vice Chair Lynn DeCoite, and Members of the Senate Committee on Public Safety, Intergovernmental, and Military Affairs,

Mahalo for hearing HB1567 HD1 which eliminates the use of monetary bail and requires defendants to be released on their own recognizance. I strongly support HB1567 with comments to restore the bill to its original form.

Incarceration is deeply traumatizing and creates inequities when needed to attain housing, education, employment, and child custody. Pre-trial detention permanently derails the trajectory of an incarcerated person's life and the lives of their loved ones. Additionally, Native Hawaiians are overrepresented at every level of the criminal legal system, in addition to the myriad of racial disparities that perpetuate their inability to post bail.

Mahalo for this opportunity to testify.

**HB-1567-HD-1**

Submitted on: 3/21/2022 11:37:48 AM

Testimony for PSM on 3/22/2022 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Luanna Peterson	Testifying for Weaving Our Stories	Support	Written Testimony Only

Comments:

Aloha Chair Clarence K. Nishihara, Vice Chair Lynn DeCoite, and Members of the Senate Committee on Public Safety, Intergovernmental, and Military Affairs,

Mahalo for hearing HB1567 HD1 which eliminates the use of monetary bail and requires defendants to be released on their own recognizance. I strongly support HB1567 with comments to restore the bill to its original form.

Incarceration is deeply traumatizing and creates inequities when needed to attain housing, education, employment, and child custody. Pre-trial detention permanently derails the trajectory of an incarcerated person’s life and the lives of their loved ones. Additionally, Native Hawaiians are overrepresented at every level of the criminal legal system, in addition to the myriad of racial disparities that perpetuate their inability to post bail.

Here are some additional points that are important to consider:

- Native Hawaiians are overrepresented at every level of the criminal legal system, including pre-trial detention.
- Due process is the only command mentioned twice in the U.S. Constitution (Fifth Amendment & Fourteenth Amendment). When pretrial detainees are coerced into accepting plea bargains (irrespective as to whether or not they actually committed a crime), they are "deprived of life, liberty or property without due process of law."
- The United States and the Philippines are the only two countries in the world with a legalized for-profit bail bond industry.
- “Continue to remember those in prison as if you were together with them in prison, and those who are mistreated as if you yourselves were suffering.” — Hebrews 13:3
- Incarcerating people in pre-trial detention is very costly; approximately 73 million per year including the cost of incarcerating people on the Neighbor Islands.
- These high costs combined with harmful results, hurts **ALL** of us..... we are spending a lot of money incarcerating people and are not safer because of it.

Mahalo for this opportunity to testify,

Luanna Peterson  
District 18

Faith Action Member

Testimony of Jacquie Esser to the Committee on Public Safety, Intergovernmental,  
and Military Affairs

H.B. No. 1567: RELATING TO CRIMINAL PRETRIAL REFORM

Chair Nishihara, Vice Chair DeCoite, and Members of the Committee:

I write in support of HB 1567 because it is a good first step toward righting injustice.

Hawai'i should abolish money bail as a condition of release. It is a poor tool for achieving pretrial justice. The money bail system incarcerates poor people because they are poor, not because they have been convicted of a crime and not because they are a danger to others. Meanwhile, that same system allows dangerous but wealthy people to post their bond and be released.

Hawai'i's practice of making the payment of a money bond a condition for pretrial release discriminates based on wealth, exacerbates racial disparities, results in over-incarceration, and imposes unnecessary costs on individuals and society at large.<sup>1</sup> On March 14, 2022, 910 people were incarcerated throughout the State even though they have not been convicted of a crime.<sup>2</sup> Feeding and caring for an incarcerated person costs \$198 a day in Hawai'i.<sup>3</sup> Just today, the State spent approximately \$180,000 (\$65 million annually) of taxpayer dollars to incarcerate those 910 people statewide simply because they were too poor to afford bail.<sup>4</sup> Data collected over the years tell us that 80 percent of these individuals are charged with relatively low-level offenses and many are homeless or living with mental illness or substance use disorders.<sup>5</sup> These costs

---

<sup>1</sup> Final Report of the House Concurrent Resolution 85 Task Force on Prison Reform to the Hawai'i Legislature 2019 Regular Session, "Creating Better Outcomes, Safer Communities" (December 2018), [https://19of32x2yl33s8o4xza0gf14-wpengine.netdna-ssl.com/wp-content/uploads/HCR-85-Task-Force-on-Prison-Reform\\_Final-Report\\_12.28.18.pdf](https://19of32x2yl33s8o4xza0gf14-wpengine.netdna-ssl.com/wp-content/uploads/HCR-85-Task-Force-on-Prison-Reform_Final-Report_12.28.18.pdf).

<sup>2</sup> Department of Public Safety Weekly Population Report, Mar. 14, 2022, <https://dps.hawaii.gov/wp-content/uploads/2022/03/Pop-Reports-Weekly-2022-03-14.pdf>.

<sup>3</sup> State of Hawai'i Department of Public Safety Annual Report FY 2019 at 16, <https://dps.hawaii.gov/wp-content/uploads/2019/11/PSD-ANNUAL-REPORT-2019.pdf>.

<sup>4</sup> HCR 85 Report at 64.

<sup>5</sup> HCR 85 Report at 65.

come with trade-offs in other state spending priorities like education, housing, and healthcare – all known reducers of crime.

Our current bail practice in Hawai'i is not punishing the most guilty, but rather the people who cannot afford to pay for their release. As an attorney assigned to represent indigent clients, many of whom are in jail because they cannot afford to make bail; I have seen firsthand that some innocent people plead guilty just to get out jail, and people are more likely to be acquitted if they pay bail, in part because they are less likely to take plea deals just to get out of jail.

For these reasons, I support limiting pretrial detention and eliminating money bail and believe that this bill, which eliminates the use of monetary bail, with certain exceptions, is a step in the right direction.

I agree with the suggestions offered by the OPD and the ACLU which will help strengthen and clarify the Bill for consideration.

Mahalo for the opportunity to testify.

**HB-1567-HD-1**

Submitted on: 3/21/2022 11:26:07 AM

Testimony for PSM on 3/22/2022 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Wendy Gibson-Viviani	Individual	Support	Written Testimony Only

Comments:

TO: COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS

RE: HB1567 (In Support)

Hearing: Tuesday, March 22, 2022, 1:00 PM Room 229

Dear Chair Nishihara, Vice-Chair DeCoite and Members of the Committee,

I am Wendy Gibson-Viviani, an RN who has lived and worked on Oahu for 29 years. I am writing in SUPPORT OF HB1567.

I agree that there is a need to address the substantial and continued overcrowding of facilities used to house pretrial defendants and that one way to address this issue is through bail reform.

Our current cash bail system divides our justice system into two sections: one for the people who can afford to pay bail and those who are too poor –and must stay locked up for months, awaiting trial.

Locking up people who have not (yet) been convicted of a crime destroys lives—as they are likely to lose their jobs, and other duties, such as parental duties—affecting the entire family.

Please support HB1567 towards the goals of eliminating the use of monetary bail; and requiring defendants be released on their own recognizance for traffic offenses, violations, nonviolent petty misdemeanor offenses, or nonviolent misdemeanor offenses; and allowing defendants the option to participate in a bail report interview via videoconference.

Thank you for this opportunity to testify,

Wendy Gibson-Viviani RN/BSN

Kailua



**HB-1567-HD-1**

Submitted on: 3/21/2022 12:58:46 PM

Testimony for PSM on 3/22/2022 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Ronald Ibarra	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Clarence K. Nishihara, Vice Chair Lynn DeCoite, and Members of the Senate Committee on Public Safety, Intergovernmental, and Military Affairs,

Mahalo for hearing HB1567 HD1 which eliminates the use of monetary bail and requires defendants to be released on their own recognizance for traffic offenses, violations, nonviolent petty misdemeanor, and nonviolent misdemeanor offenses with certain exceptions. I support HB1567 HD1 and respectfully request the bill be restored to its original form to include nonviolent class c felonies.

Incarceration traumatizes and creates inequities in obtaining housing, employment, child custody and other necessities in life. Pretrial detention affects not only the defendant but also its family and dependents.

The jail population consist of a large number of pretrial detainees who do not have the financial ability to post bail. HB1567 HD1 will allow those charged with certain nonviolent crimes to be considered in the same light as the wealthy.

Mahalo for this opportunity to testify,

**LATE**

Aloha Honorable senators,

My name is Tiana Williams. I am a student at the University of Hawai'i at Manoa. I come today to you in regards to the HB1567 bill. Which could alter the usage of cash bail and calls for defendants to be released for positive nonviolent offenses. I'm urging you to support HB1567 because cash bail can disrupt lives and I know personally just how it can do so. I am in strong support of this bill because Pretrial detention frequently results in devastating results which could have an effect on people along with their families for generations. The ACLU-Hawaii found that almost 70% of pretrial detainees who changed their pleas from innocent to guilty or no contest did so while in jail, primarily because they could not afford bail. Defendants who can't make bail are prone to losing their jobs, and along with the income that helps to support their children that can pay their rent, utilities and place food on the table. Oftentimes also leading families to be in debt and become homeless. I have experienced the effects of cash bail when my father was charged with a nonviolent offense. My father decided to stay in jail because he could not afford to pay bail knowing he had 4 children at home who needed that money to put food on the table. Which left my mother to try to make ends meet going in and out of shelters. For years to come after that my mother and father struggled to support and feed us. I felt the need to testify today in hopes that other families would not have to face the harsh effects of cash bail like my family has. By ending cash bail people will have a more equal opportunity and without the risks of debt, losing jobs, homelessness, and losing custody of their children.

Thank you for taking the time out of your day to hear my testimony.

**SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS**

Sen. Clarence K. Nishihara, Chair

Sen. Lynn DeCoite, Vice Chair

**LATE**

Tuesday, March 22, 2022 at 1305 HST

RE: Testimony in SUPPORT of HB1567 With Comments

Aloha Chair Nishihara, Vice Chair DeCoite, and the members of the Committee on Public Safety, Intergovernmental, and Military Affairs:

**I am submitting testimony in support of HB1567;** however, I do have a suggestion to restore the bill to its original form without the amendments.

**“Class C felonies are the least serious felony crimes.** Examples can include lower forms of theft, fraud, as well as obstruction of justice and damage to another person’s property.”<sup>1</sup> Although these offenses are nonviolent, they are treated otherwise when a person is forced to serve time while awaiting trial. Even if one can post bail and is found to be innocent, that arrest alone will permanently tarnish their reputation.

Additionally, one can easily be accused of any of these offenses or they can be committed unintentionally. Who does the “burden of proof” really burden?

“Tough on crime” doesn’t look so tough when someone is sitting in jail for forgetting to update their address or taking a pen from the bank. ***It just looks silly!***

**Please include Class C felonies as the bill originally intended.**

Speaking of silly, so is cash bail:

1. **The use of cash bail does not uphold or protect public safety.** As we’ve seen local headlines, the use of cash bail allows people to walk free if they have capital, even if they are violent offenders. Conversely, people who have little more than the clothing on their backs are assessed bail amounts for nonviolent offenses.
2. **The cash bail system is a huge inconvenience** full of unnecessary steps and red tape. It reduces our jails and prisons to nothing more than a revolving door where poor people cycle in and out.
  - a. A single day in jail can derail a person’s entire life;
  - b. They can lose their job and ultimately become homeless; or
  - c. Worse, lose custody of their children
3. Additionally, **it’s a waste of talent for the employees and staff** who could get more out of spending time with their family or investing in their professional development. Instead, they are pushing an endless stack of papers.
  - a. The intake process in corrections is tedious and time consuming
  - b. Posting and processing bail is time consuming
  - c. All of that was for nothing if they post bail and are free, or get the charges dropped respectively

---

<sup>1</sup> <https://www.bileckilawgroup.com/civilian-criminal-defense/state-court-criminal-defense/felony-cases/>

4. **It does not uphold the presumption of innocence.** Our jails and prisons APPEAR overcrowded; however, many people simply do not belong there. According to Prison Policy, 74% of people incarcerated in local jails are pretrial, not guilty of a crime, just too poor to post bail.
5. **It wastes more money than it generates.** Noting the aforementioned, the money spared by not building a new prison can fund programs or people thereby investing in our communities and economy. We can set a precedent for the rest of the nation to follow: a “post-Covid success story” where people who were physically, psychologically, and economically harmed by the pandemic can bounce back. Additionally, please consider:
  - a. How many hours do city and state workers (including law enforcement) spend processing papers?
  - b. How many of those hours result in overtime pay?
  - c. How much resources does one require upon entering the criminal legal system?
6. Finally, cash bail has not existed in the federal correction system since the 80s. Simply put, **it’s out of style.**

Imagine earning a 4-year degree or graduating from the police academy to push papers for 20-40 years. That’s silly too.

**Don’t be silly. Please pass HB1567 in its original form without the amendments.**

Mahalo for considering my testimony,

Soon Kim  
Senate District 15

**LATE**

Aloha Honorable Senators,

My name is Vanessa Khachik and I am testifying in support of HB1567.

The economic devastation caused by the COVID-19 pandemic, along with the unequal distribution of wealth, high cost of living, and Hawai'i's poverty rate above the national average have made it incredibly difficult for many families to come up with even \$500 in the case of an emergency. The current monetary bail system in place has created barriers to freedom that disparately affect varying socioeconomic classes and ethnic groups—specifically low to middle income families, Kanaka Maoli (Native Hawaiians), and other people of color.

Monetary bail punishes Americans for their inability to pay rather than the act they have committed. A 2018 study by the ACLU–Hawaii reported that the primary reason for nearly 70% of those detained pretrial who changed their plea from innocent to guilty did so because they were unable to afford bail. Constitutional protections guaranteed under the Eighth Amendment defend Americans from being required to pay excessive bail and fines. The Fifth Amendment declares one cannot be deprived of life, liberty, or property without due process of law. A person incarcerated, even for several days, is at risk of becoming unemployed, missing necessary payments (e.g. rent, child support), losing custody of their children, and eviction. Detainment before one can plead their case before a judge directly defies the American ideology of “innocent until proven guilty” and can have unconstitutional ramifications.

In addition, Kanaka Maoli are more likely to remain in jail after an arrest compared to white demographics, even in cases where they have been charged with the same offense and have similar prior histories. Kanaka Maoli and other Pacific Islanders are the most [over-represented](#) group in the homeless population, according to a 2019 comprehensive report prepared by Partners in Care Oahu. Article number [251](#) published in the American Journal of Community Psychology states that homeless individuals are at risk of committing low level and nonviolent offenses, but are also significantly less likely than housed individuals to be arrested for a violent crime. Furthermore, conviction rates for those detained pretrial are higher than for accused persons who were able to bail out. The criminalization of houselessness and imposition of monetary bail unfairly targets already struggling communities. These barriers could make it nearly impossible for a person to recover after an arrest.

This bill is a critical step in eliminating a wealth-based system of incarceration and removing inequitable barriers. Please support inserting ACLU Hawaii's amendments and vote yes on HB1567.

Mahalo for your time and consideration,  
Vanessa Khachik



**LATE**

Misimatoka Unutoa

## **HB1567 Testimony - 03.22**

Aloha Honorable Senator(s) here today,

I am here speaking today as a student of my American Studies Course on Social Movements from the University of Hawaii, as a witness of the negative effects of the cash/monetary bail, and as a supporter to pass this bill in the Hawaii state legislature.

It is well known that cash bail impacts people of color negatively than their white counterparts and there needs to be action now. I am of American Samoan decent and I have seen these negative effects of cash bail happen to my family members here in the state of Hawaii and on the US mainland. For too long has my people been affected by these outrageous and expensive cash bails that our government uses against defendants.

Overcrowded jails, mishandling of inmates, improper jail maintenance are all the after effects of cash bail implementation and I say we need to get rid of cash bail in its entirety.

I fully support the passing of bill HB1567 and I pray that the committee find it in their hearts to help past, current, and future defendants overcome and resolve the issues with implementing cash bails. Fa'afetai tele lava for this opportunity.

**LATE**

**HB-1567-HD-1**

Submitted on: 3/21/2022 11:19:53 PM

Testimony for PSM on 3/22/2022 1:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Tristan Yousuf-Leo	Individual	Support	Written Testimony Only

Comments:

My name is Tristan Yousuf-Leo. I am a citizen and current resident in the state of Hawaii and I am writing to testify in support of HB1567 on bail reform. Currently with our population growth, it is also inevitable that our jails will overcrowd to the point of no longer being tenable to maintain. In addition, our current bail system's reliance on cash money to determine whether a person awaiting trial will be able to return home or be required to stay in jail until the awaited court date heavily skews the system towards those who have more money than those less fortunate. This can devastate entire families who rely on the accused to bring food to the table and wipe out the savings of those who are in dire financial straits. I am therefore writing to ask that you consider supporting this bill so that we may have a more fair and just system for all.



**LATE**

Dear Chair Clarence Nishihara, Vice Chair Lynn DeCoite, and the Members of the Committee:

Mahalo for the opportunity to provide testimony in **STRONG SUPPORT** of **HB 1567**,  
RELATING TO CRIMINAL PRETRIAL REFORM.

My name is Haley Helton, and I am an undergraduate student at the University of Hawai'i at Mānoa.

This bill eliminates the usage of monetary bail for mostly low level, non-violent offenses. It also addresses the serious issue of overcrowding of facilities to house pretrial defendants. As it stands right now, Hawai'i's bail system perpetuates the idea that justice is bought and you can only get as much justice as you can afford. This is a huge threat to our criminal justice system because it prevents justice from being served. It tells our community that it does not matter if you commit a crime, you can get out of it (at least temporarily) because you are wealthy. On the other hand, even if you are innocent of a crime but are wrongly accused, if you are poor you are immediately disadvantaged and forced to sit in a jail cell because you cannot afford to pay your way out. This is a cruel and extremely unfair bail system. It often targets poor people of color who are already disenfranchised in many other areas of their lives. This bill would be a step in the right direction to try to make Hawai'i's bail system more just and equal for all.

I want to emphasize two points that I find to be the most meaningful: the first is a criticism of our bail system on a national level, and the second is a direct criticism of Hawai'i's bail system specifically.

While there are a plethora of reasons to support this important bill, there is one single statement that I believe speaks for itself and in a concise manner encompasses the absolute necessity of fixing the American bail system. There are only two nations in the entire world that allow for-profit bond companies to operate: America and the Philippines. In many other countries, agreeing to pay a defendant's bond in exchange for money is a serious crime, equivalent even to witness tampering or bribing a juror. The entire world, apart from the Philippines, has abolished our bail system. That is because it is wholly unfair, corrupt, classist, and racist. It needs to be reformed now.

I read one statistic submitted by the ACLU of Hawai'i over a year ago that has consistently remained in my exact memory: "69 percent of the arrestees who changed their pleas from innocent to guilty or no contest did so while held in jail, primarily because they could not afford bail." Furthermore, the ACLU also addresses in the same task report how the unfair pretrial system disproportionately impacts Native Hawaiians and Pacific Islanders. There are many justifications as to why Hawai'i's bail system needs to be reformed, but that shocking statistic alone should be reason enough to look toward the positive reforms that HB 1567 proposes. It is a

huge issue that such a large percentage of arrestees are pleading guilty merely because they do not have money, not because they actually committed the offense. It is even more of an issue that Native Hawaiians are being disproportionately represented in this statistic, considering that crime was hardly even an issue at all before the overthrow of the Hawaiian Kingdom.

Our criminal justice system is supposed to protect the innocent, but as it stands now, it is doing the exact opposite. This bill can be one of the many ways we can try to ensure that our bail system is actually fair for all people.

Please, I strongly urge you to support HB 1567.

Mahalo for this opportunity to testify.