



**Office of the Public Defender
State of Hawaii
Timothy Ho, Chief Deputy Public Defender**



**Testimony of the Office of the Public Defender,
State of Hawaii to the House Committee on Judiciary**

January 25, 2013, 2:00 p.m.

H.B. No. 31: RELATING TO DISORDERLY CONDUCT

Chair Rhoads and Members of the Committee:

This measure would add a subsection to §711-1101 of the Hawaii Revised Statutes, making sleeping at or near a bus stop shelter a petty misdemeanor offense of disorderly conduct. The Office of the Public Defender opposes H. B. 31.

The offense of disorderly conduct involves the proscription of bad conduct or behavior. The behavior described in the statute includes fighting, threatening, tumultuous behavior, offensively coarse behavior, and unreasonable noise, to name a few. The conduct that is being proscribed in this measure is sleeping at or near a bus stop, which is not conduct or behavior that is inherently bad or unacceptable.

Enforcement of this measure will be a problem. How do you differentiate between someone who fell asleep waiting for the bus and someone who is homeless and sleeping at the bus shelter? This measure prohibits sleeping on the ground at or near a bus stop or shelter. What happens if the person is sleeping on a cot, or beach chair, or if a group of people, living at the bus shelter, take turns sleeping and looking out for police officers?

While it is true that people sleeping at or near bus stops cause inconvenience to the public, criminalizing such behavior is not the answer. Have you ever heard anyone describe homelessness as a crime? Homelessness is not and should not be a crime. We have to look at solutions and answers to the homeless situation, which would in turn solve the problem of people living at or near bus stops.

We oppose the passage of H.B. No. 31. Thank you for the opportunity to be heard on this matter.



Committee: Committee on Judiciary
Hearing Date/Time: Friday, January 25, 2013, 2:00 p.m.
Place: Conference Room 325
Re: Testimony of the ACLU of Hawaii in Opposition to H.B. 31,
Relating to Disorderly Conduct

Dear Chair Rhoads and Members of the Committee on Judiciary:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in opposition to H.B. 31, which would make it unlawful to lie down on a bench, to recline on more than one seat, or to sleep on the ground near a bus stop in such a manner as to impede or obstruct a public transit rider’s entry onto or exit out of a public transit vehicle. This bill is poor public policy that unduly targets the homeless population and furthers the struggles of that community.

This proposal fails to address the underlying causes of homelessness. Criminalizing homelessness – by making it a criminal offense for the poor to engage in life-sustaining activities in public, forces the homeless to move away from social service providers and makes it more difficult for them to obtain employment and housing. Rather than passing punitive measures like H.B. 31, the Legislature should look towards constructive alternatives to combating the underlying causes of homelessness.

In sum, the ACLU respectfully requests that the Committee defer this measure and instead use its resources to develop constructive alternatives to combating homelessness.

Thank you for this opportunity to testify.

Sincerely,

Laurie A. Temple
Staff Attorney
ACLU of Hawaii

The American Civil Liberties Union of Hawaii (“ACLU”) has been the state’s guardian of liberty for 47 years, working daily in the courts, legislatures and communities to defend and preserve the individual rights and liberties equally guaranteed to all by the Constitutions and laws of the United States and Hawaii. The ACLU works to ensure that the government does not violate our constitutional rights, including, but not limited to, freedom of speech, association and assembly, freedom of the press, freedom of religion, fair and equal treatment, and privacy. The ACLU network of volunteers and staff works throughout the islands to defend these rights, often advocating on behalf of minority groups that are the target of government discrimination. If the rights of society’s most vulnerable members are denied, everyone’s rights are imperiled.

American Civil Liberties Union of Hawaii
P.O. Box 3410
Honolulu, Hawaii'i 96801
T: 808-522-5900
F: 808-522-5909
E: office@acluhawaii.org
www.acluhawaii.org

har2-Vincent

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, January 24, 2013 6:21 PM
To: JUDtestimony
Cc: joelboard8@hotmail.com
Subject: Submitted testimony for HB31 on Jan 25, 2013 14:00PM

HB31

Submitted on: 1/24/2013

Testimony for JUD on Jan 25, 2013 14:00PM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Joel Tomyl | Individual | Comments Only | No |

Comments: I agree with keeping transit stops clear for those using the transit stops. I would also suggest that language be added to keep the stops clear of those who have excessive luggage, back packs, shopping or personal carts that are too large for the transit type. Lastly, I would also suggest a section for people who defecate or urinate in public in areas are that not assigned for receiving human waste with the appropriate sewerage disposal. Thank you.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

har2-Vincent

From: mailinglist@capitol.hawaii.gov
Sent: Friday, January 25, 2013 9:27 AM
To: JUDtestimony
Cc: marantzl@stifel.com
Subject: Submitted testimony for HB31 on Jan 25, 2013 14:00PM

HB31

Submitted on: 1/25/2013

Testimony for JUD on Jan 25, 2013 14:00PM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Lila Marantz | Individual | Support | No |

Comments: The Bus Stop is meant for those that ride the bus. I ride the The Bus daily from Kahaluu to Downtown, frequently the elderly and handicapped ride with me. While I rarely sit on bus benches, others do. The elderly and the handicapped and parents with young children are among those utilizing bus benches. If there is a hobo sleeping on the bus bench they are taking the seat owned by the City of Honolulu, designated for the use of bus riders. At times the vagrant hobos I have seen sleeping on the bus benches have been drunk, drugged, filthy and or sleeping in their own urine. I have seen even more disgusting things happen at bus benches perpetrated by vagrants. We have safety nets for the people who wander the streets without a home. Many of those I see are mentally ill. We are a compassionate people, I believe we should enforce the laws we already have on the books. People that are mentally ill and unable to take care of themselves (bathe, use the restroom, eat or drink) should be incarcerated, living in hospital like situations with readily available medications, or placed in their own home with family members. We have the infrastructure to access and care for the hobos. It is cruel if we do not. Thank you for addressing this issue, and thank you for your time.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

Regarding HB No. 31

January 25, 2013

Dear Members of the House;

I voice my support for the revision of HB No. 31.

I am a daily bus rider. I am at the Beretania Bus Stop at Foodland weekday morning at 6:00am. At times half of the available seats cannot be used by people waiting for the bus as people are sleeping on the ground within feet of the seats. Typically, these vagrants are lying in their own filth.

The people standing at the bus stop in the morn include older citizens with canes.

Mahalo for your consideration,

A handwritten signature in black ink, appearing to read 'Tom Cook', with a horizontal line extending to the right.

Tom Cook
2740 Hillside Ave
Honolulu, HI 96822
(808)479-7536