

STATE OF HAWAI‘I
OFFICE OF THE PUBLIC DEFENDER

**Testimony of the Office of the Public Defender,
State of Hawai‘i to the House Committee on Finance**

March 29, 2021

S.B. No. 412, H.D. 1: RELATING TO OPERATING A VEHICLE UNDER THE INFLUENCE OF AN INTOXICANT

Chair Rep. Sylvia Luke
Vice Chair Rep. Ty J. K. Cullen
Honorable Committee Members:

The Office of the Public Defender strongly opposes S.B. No. 412, H.D. 1 because it will dismantle a key part of our implied consent law that has deescalated police encounters for more than fifty years.

In 1966, the Supreme Court of the United States held that when the police obtain a sample of a suspected drunk driver’s blood, they are conducting a “search” for purposes of the Fourth Amendment to the United States Constitution. *Schmerber v. California*, 384 U.S. 757 (1966). The Court was nevertheless concerned about the “unjustified element of personal risk and pain” that may arise from nonconsensual blood draws. *Id.* at 772. One justice observed that a nonconsensual blood draw “over protest, is an act of violence.” *Id.* at 779 (Fortas, J., dissenting).

In response to these concerns, the Legislature promulgated Hawai‘i’s implied consent law in 1967, which mandates that once an arrested driver refuses to submit to testing, “none shall be given.” The Legislature found that requiring consent “avoid[s] violent police-citizen confrontations and . . . use[d] the threat of revocation of a driver’s license to encourage submission to the search as an *alternative* to the use of force.” *Rossell v. City and County of Honolulu*, 59 Haw. 173, 181, 579 P.2d 663, 669 (1978). This mandate has never changed.

Accordingly, once a police officer informs a person suspected of drunk driving about his or her rights under the implied consent law and once that person refuses to submit to testing, the police are bound to respect that refusal. Hawai‘i Revised Statutes §§ 291E-11 and 291E-15. For decades this law has promoted non-violence and cultivated positive encounters between law enforcement officers and the people in their custody.

S.B. No. 412, H.D. 1 is a fundamental and radical amendment to our implied consent law. It allows the police to ignore a person's objection to the invasion of his or her body and authorizes forced extractions of blood in any case and whenever they feel like it. This blatant disregard of our implied consent law has already started on Maui.

Over the last year, the Maui Police Department has thwarted the black letter law and used search warrants to forcibly extract a person's blood when that person refuses to consent. This circumvention of the implied consent law was recently challenged in Court. Although a Maui judge prevented the prosecution from using a blood sample taken in violation of HRS § 291E-15, the prosecution sought further review and the case remains unresolved in our appellate courts. *State v. Higheagle*, CAAP No. 20-720. The Maui Police Department in cooperation with local prosecutors remain undeterred, abuse search warrant procedures, and continue to undermine the implied consent law.

Predictably, violent confrontations between the police and the public have increased. In another case from Maui, four police officers handcuffed a nonconsenting suspect to a chair and conducted a painful wrist lock maneuver in order to extract the blood from his veins. This violence is not only harmful to ordinary citizens, but endangers the lives of officers in the line of duty who restrain arrestees in order to execute a search warrant and remove bodily fluids.

S.B. No. 412, H.D. 1 will result in more violent confrontations, traumatize people, and endanger the police. As we near a national consensus in confronting and eliminating police brutality, we should promote and encourage positive encounters between the police and the public they are sworn to serve and protect.

Our State Constitution expressly protects the privacy rights of Hawai'i's people. Haw. Const. Art. I, Sec. 6 & Sec. 7. Let HRS § 291E-15 continue to strengthen our constitutional rights, protect both the public and on-duty officers, and promote decency between the public and the police. This bill should not become law.

Mahalo for this opportunity to oppose S.B. No. 412, H.D. 1.



Subject: **Support SB412 HD1**

Dear Chair Sylvia Luke, Vice Chair Ty J.K. Cullen, and members of the House Committee on Finance.

My name is Kari Benes, and I am the Chair of the Hawaii Strategic Highway Safety Plan (SHSP). Hawaii Strategic Highway Safety Plan (SHSP) asking for your **support of SB412 HD1**.

Decisions with the United States Supreme Court and the Supreme Court of Hawaii have presented challenges to law enforcement and the courts from appropriately addressing drivers who have had habitual impaired driving offenses. SB412 HD1 would help close the gap for drivers who demonstrate they desperately need to separate their drinking behaviors from their driving.

The Hawaii Strategic Highway Safety Plan's vision is that all of Hawaii's road users arrive safely at their destinations. You can help us achieve our goal of reducing yearly fatalities, by supporting this measure.

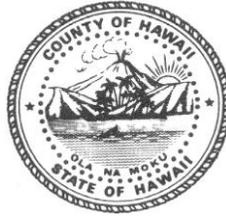
To view the Strategic Highway Safety Plan, go to <https://hidot.hawaii.gov/highways/shsp/>

Strategic Highway Safety Plan Mission

Save lives and reduce injuries on Hawaii's roadways through strategic partnerships and implementation of the Strategic Highway Safety Plan.

KELDEN B.A. WALTJEN
PROSECUTING ATTORNEY

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OFFICE OF THE PROSECUTING ATTORNEY

TESTIMONY IN SUPPORT TO SENATE BILL 412 HD1

A BILL FOR AN ACT RELATING TO OPERATING A VEHICLE UNDER THE INFLUENCE OF AN INTOXICANT

COMMITTEE ON FINANCE

Rep. Sylvia Luke, Chair
Rep. Ty Cullen, Vice Chair

Wednesday, March 31, 2021, 2:30 p.m.

Via Videoconference & State Capitol, Conference Room 308

Honorable Chair Luke, Honorable Vice Chair Cullen, and Members of the Committee on Finance, the Office of the Prosecuting Attorney, County of Hawai'i submits the following testimony in support to Senate Bill 412 HD1.

The purpose of Senate Bill 412 is to prohibit deferred pleas for the offense of Habitually Operating a Vehicle Under the Influence of an Intoxicant. A deferred plea is an opportunity that should be earned. To allow an offender an opportunity to qualify for a deferred plea after two prior convictions for Operating a Vehicle Under the Influence of an Intoxicant is unconscionable. As such, these offenders should be held accountable for their actions.

The Office of the Prosecuting Attorney, County of Hawai'i remains committed to the cause of making our community a better and safer place.

For the foregoing reasons, the Office of the Prosecuting Attorney, County of Hawai'i, Support the passage of Senate Bill No. 412 HD1. Thank you for the opportunity to testify on this matter.

Mitchell D. Roth
Mayor



Paul K. Ferreira
Police Chief

Kenneth Bugado, Jr.
Deputy Police Chief

County of Hawai`i

POLICE DEPARTMENT

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March 29, 2021

Representative Sylvia Luke
Chairperson and Committee Members
Committee on Finance
415 South Beretania Street, Room 308
Honolulu, Hawai`i 96813

RE : SENATE BILL 412, HD 1, RELATING TO OPERATING A VEHICLE UNDER THE
INFLUENCE OF AN INTOXICANT
HEARING DATE : March 31, 2021
TIME : 2:30 P.M.

Dear Representative Luke:

The Hawai`i Police Department **supports** the passage of Senate Bill 412, HD 1, which excludes habitually operating a vehicle under the influence of an intoxicant from qualifying for deferred acceptance of guilty plea or nolo contendere plea.

Any person who has been convicted two or more times for operating motor vehicle under the influence of an intoxicant poses a serious danger to citizens walking, riding, or driving on roadways they travel. Those drivers who have been deemed habitual offenders have had mandatory education and multiple opportunities to change their driving habits. They have shown a propensity to continue to the dangerous behavior of driving under the influence of an intoxicating substance. Additional deferrals for OVUII offenses only pose a danger to the population traveling the roadways.

Deferrals are intended as a benefit for those drivers who take the opportunity to make necessary changes to their behavior and decisions they make that place innocent people in danger. These drivers who use the opportunity the deferral provides will not likely reoffend.

It is for these reasons, we urge this committee to approve this legislation. Thank you for allowing the Hawai`i Police Department to provide comments relating to Senate Bill 412, HD 1.

Sincerely,

PAUL K. FERREIRA
POLICE CHIEF

Justin F. Kollar
Prosecuting Attorney



Rebecca Vogt Like
Second Deputy

Jennifer S. Winn
First Deputy

Diana Gausepohl-White
Victim/Witness Program Director

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THE HONORABLE SYLVIA LUKE, CHAIR
THE HONORABLE TY J.K. CULLEN, VICE CHAIR
HOUSE COMMITTEE ON FINANCE
THIRTY-FIRST STATE LEGISLATURE

Regular Session of 2021
State of Hawai'i

March 29, 2021

**RE: S.B. 412 HD1 – RELATING TO OPERATING A VEHICLE UNDER THE
INFLUENCE OF AN INTOXICANT**

Chair Luke, Vice Chair Cullen, and members of the House Committee on Finance, the Office of the Prosecuting Attorney of the County of Kaua'i SUPPORTS S.B. 412 HD1.

The purposes of S.B. 412 HD1 are 1) to prohibit deferred acceptance of pleas for the felony offense of Habitually Operating a Vehicle Under the Influence of an Intoxicant (HRS § 291E-61.5) (“Habitual OVUII”), by adding this offense to the list of deferral-precluded offenses enumerated in HRS § 853-4, and 2) to clarify that a person’s refusal to submit to breath, blood, or urine test pursuant to HRS § 291E-15 does not preclude sample collection with a lawful search warrant.

Chapter 853 allows for courts to defer acceptance of a defendant’s plea if the court finds that a “defendant is not likely again to engage in a criminal course of conduct; and [t]he ends of justice and the welfare of society do not require that the defendant shall presently suffer the penalty imposed by law.” HRS §853-4 provides for exceptions where a deferral is specifically not applicable. The list of exclusions includes numerous crimes, abuse of family or household members, jury tampering, solicitation of prostitution, all Class A felonies, and many more. The common nexus in these exclusions is that we deem these crimes to be particularly dangerous and harmful to the community as a whole.

This bill will add to the list, Habitual OVUII the felony of driving while intoxicated after having previously been convicted of OVUII (HRS § 291E-61) on at least two separate occasions, within the 10 years prior. We believe Habitual OVUII should specifically be excluded because it is similarly dangerous and harmful to the community as those other crimes enumerated in HRS 853-4, and a Habitual OVUII offender displays a level of callousness to the law that must not be rewarded.

An offender who operates a vehicle on our roadways while impaired puts innocent lives at risk. Those offenders convicted one or two times, are given the opportunity to rehabilitate themselves and ordered to partake in education on the dangers of driving while impaired. A Habitual OVUII offender, in order to commit the crime (at least) a third time, must consciously disregard the dangers of which they have been made aware. Such offenders willingly continue to put other people's lives at risk. As such, we must ensure that habitual OVUII offenders will not be eligible for deferred acceptance of their guilty or no contest pleas.

This Bill will also clarify the intent of HRS § 291E-15, to indicate that though a person suspected of Operating a Vehicle Under the Influence of an Intoxicant has a right to refuse toxicological testing (with administrative penalties), such suspects are not immune to the subsequent acquisition of a lawful search warrant on probable cause.

For these reasons, the Office of the Prosecuting Attorney supports the passage of S.B. 412 HD1. Thank you for this opportunity to testify.



MICHAEL P. VICTORINO
MAYOR

OUR REFERENCE
YOUR REFERENCE

POLICE DEPARTMENT

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March 29, 2021



TIVOLI S. FAAUMU
CHIEF OF POLICE

DEAN M. RICKARD
DEPUTY CHIEF OF POLICE

Representative Sylvia Luke, Chair
Representative Ty J.K. Cullen, Vice Chair
Committee on Finance
Thirty-First Legislature 2021
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

**RE: SENATE BILL 412 RELATING TO OPERATING A VEHICLE UNDER
THE INFLUENCE OF AN INTOXICANT**

Dear Chair Luke and Committee Members:

The Maui Police Department SUPPORTS the passage of SB412, which will exclude habitually operating a vehicle under the influence of an intoxicant from qualifying for a deferred acceptance of guilty plea or no contest pleas and also add language to clarify the implied consent law.

An offender who has been charged with habitually operating a vehicle while under the influence of an intoxicant would have already had two prior convictions and an opportunity to change their behavior. Deferrals are for those who are unlikely to re-offend, which would not apply to these offenders.

Impaired driving puts everyone else's lives at risk. The repeated nature of the offense of habitual impaired driving does not meet the criteria for a deferral plea and should be excluded. This act will help to close potential loopholes in the law for these offenders.

Clarifying the intent of implied consent not only ensures law enforcement will retain another tool in its enforcement efforts and not allow the offenders to hinder the investigation but will also protect the constitutional rights of the offenders as well.

Accordingly, the Maui Police Department request SB 412 be PASSED. Thank you for the opportunity to testify.

Sincerely,

TIVOLI S. FAAUMU
Chief of Police

MICHAEL P. VICTORINO
Mayor

ANDREW H. MARTIN
Prosecuting Attorney

MICHAEL S. KAGAMI
First Deputy Prosecuting Attorney

ROBERT D. RIVERA
Second Deputy Prosecuting Attorney



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TESTIMONY ON
S.B. 412, H.D. 1
RELATING TO OPERATING A VEHICLE UNDER
THE INFLUENCE OF AN INTOXICANT

March 30, 2021

The Honorable Sylvia Luke, Chair
The Honorable Ty J.K. Cullen, Vice Chair
and Members of the Committee on Finance

Chair Luke, Vice Chair Cullen, and Members of the Committee:

The Department of the Prosecuting Attorney, County of Maui submits the following comments concerning S.B. 412, H.D. 1. Relating to Operating a Vehicle Under The Influence of an Intoxicant. Specifically, we would like to express our strong support for the bill. S.B. 412 does the following: 1) clarifies the legislature's intent behind Hawai'i's Implied Consent law (Chapter 291E, Part II) to confirm that it was never intended to supercede or replace a blood alcohol content test that was obtained pursuant to a valid search warrant or any other basis permissible under the Constitution of the State of Hawaii, and 2) excludes the offense of habitually operating a vehicle under the influence of an intoxicant from qualifying for deferred acceptance of a guilty plea or nolo contendere plea.

A blood alcohol content test is a "search" which, like all other searches under the Fourth Amendment, requires police to either 1) obtain the suspect's consent to search, 2) obtain a warrant from a judge, or 3) establish a legally-recognized exception to the warrant, such as exigency (i.e, a serious emergency). The proposed amendment to Hawaii's Implied Consent Law clarifies that in the event an OUI suspect refuses to consent to a breath, blood or urine test after being given the option to consent, a law enforcement officer may apply to a judge for a search warrant for an OUI suspect's blood alcohol and/or drug sample in order to conduct chemical testing.

The proposed amendment is needed to clarify the legislature's intent behind the statutory language of HRS § 291E-15. Some defense attorneys have recently argued in the Second Circuit District and Circuit Courts that police should not be able to apply for a valid search warrant from a Judge if an OUI suspect refuses to give their consent to a test after being arrested. At least one Second Circuit Judge has recently agreed with this interpretation of the law, an issue which is currently on appeal and may take years to resolve.

The defense attorneys' interpretation of the Implied Consent law is not supported by the original legislative intent of Implied Consent - which is to facilitate the prosecution and convictions of impaired drivers, not to be used as a shield by OUI suspects to prevent lawful police investigations. The Implied Consent statute only deals with one specific area of search and seizure law - a suspect's consent to a warrantless search. The law was never intended to prevent police from obtaining a valid warrant to procure evidence of drunk driving. This interpretation would severely limit law enforcement's ability to investigate and prosecute alcohol and drug-impaired drivers, including our most dangerous felony Habitual OUI drivers, who often refuse to consent to testing to avoid prosecution and conviction.

The proposed amendment ensures that police must follow the same constitutional safeguards that are required to search a person's property or person. If a suspect refuses to consent to a blood alcohol search, then the officer must honor the suspect's refusal and cannot conduct a warrantless search. An officer must then provide probable cause under oath to a Judge for review to determine if a warrant is justified. Blood samples are already required by law to be extracted by a qualified physician, RN, or licensed phlebotomist under HRS § 291E-12 in a hospital-like setting, and this amendment would not change that requirement.

In addition, the proposed bill amends HRS § 853-4 to explicitly exclude Habitually Operating A Vehicle Under The Influence of an Intoxicant (HRS § 291E-61.5) offenders from qualifying for deferred acceptance of a guilty or no contest plea. Offenders who are charged with a felony Habitual OUI have at least two prior convictions for Operating a Vehicle Under the Influence of an Intoxicant. These underlying petty misdemeanor convictions already do not qualify under existing law for a deferred acceptance plea. An offender who operates a vehicle on our roadways while impaired puts innocent lives at risk. Those who suffer first and second-time convictions are given the opportunity to rehabilitate themselves in a manner that, in part, educates them on the dangers of driving while impaired. The habitual OUI offender's conscious disregard of such dangers, specifically their willingness to continue to put other people's lives at risk, is intolerable. Under such circumstances, the ends of justice and the welfare of society demands that such offenders "suffer the penalty imposed by law."

This bill supports the overall goal of reducing the senseless deaths and injuries on our roadways that are caused by impaired drivers every year. For these reasons, the Department of the Prosecuting Attorney, County of Maui supports the passage of S.B. 412, H.D. 1.

Please feel free to contact our office at (808) 270-7777 if you have any questions or inquiries. Thank you very much for the opportunity to provide testimony on this bill.

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LATE

**THE HONORABLE SYLVIA LUKE, CHAIR
HOUSE COMMITTEE ON FINANCE
Thirty-First State Legislature
Regular Session of 2021
State of Hawai`i**

March 31, 2021

**RE: S.B. 412, H.D. 1; RELATING TO OPERATING A VEHICLE UNDER THE
INFLUENCE OF AN INTOXICANT.**

Chair Luke, Vice-Chair Cullen and members of the House Committee on Finance, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony in strong support of S.B. 412, H.D. 1. This bill is part of the Department's 2021 legislative package, and we thank you for hearing it.

The purpose of S.B. 412, H.D. 1, is to prohibit deferred pleas for the offense of Habitually Operating a Vehicle Under the Influence of Alcohol (HRS §291E-61.5) ("Habitual OVUII"), by adding this offense to the list of deferral-precluded offenses and to clarify the use of valid search warrants during a OVUII arrest.

Generally speaking, deferred pleas allow someone to "put off" entering an official plea for a specific length of time—commonly known as the deferral period—during which time they have to meet certain terms and conditions set by the court (e.g. remain arrest-free and conviction-free, etc); the length of the deferral period varies, based on the severity of the offense. If the defendant abides by all terms and conditions of their deferral, through the end of their deferral period, then the case will be dismissed and no conviction will ever appear on the person's record (for that particular offense). This is essentially an opportunity for someone to show the court that they have "learned their lesson"—even without a formal conviction—and will not reoffend; each person is typically allowed only one deferred plea in their lifetime. Depending on the individual, a deferral could be used to keep a person's criminal record totally clean, or it could be used to keep a felony off of their record, or for other reasons.

Section 853-4, Hawaii Revised Statutes (“HRS”), explains the process and parameters of getting a deferral, and also lists specific offenses for which deferral is not allowed (e.g. abuse of family or household member, solicitation of prostitution, all class A felonies, etc). If enacted, S.B. 412, H.D. 1 would add Habitual OVUII to that list, thus prohibiting deferral of these offenses.

Those who repeatedly continue to drive under the influence—especially after they have already been convicted of OVUII in the past—clearly present a grave risk to public safety and welfare, and strong measures must be taken to address this type of behavior. By statute, even first-time OVUII offenders are not permitted to defer their pleas, so it simply does not make sense that a third-time offender would be permitted to do so.

Additionally, the Department appreciates the House Committee on Judiciary and Hawaiian Affairs adopting our amendments in S.B. 412, H.D. 1. As previously stated in testimony, the adopted amendments would merely clarify that the use of a search warrant is permitted, even after a suspected offender refuses to provide a breath or blood sample, following an OVUII arrest. The Department does not believe the implied consent law was ever intended to preclude courts from granting search warrants that meet all applicable legal standards, nor shield suspects from lawful investigation. In fact, implied consent laws were intended to facilitate the investigation and prosecution of impaired drivers. Under *State v. McNeely*¹, a well-known case regarding OVUII prosecution, the U.S. Supreme Court indicated that “States have a broad range of legal tools to enforce their drunk driving laws and to secure BAC evidence without undertaking warrantless nonconsensual blood draws,” such as implied consent or search warrants. The implied consent statute does not bar the State from obtaining a valid warrant to procure evidence of impaired driving – the framework is in fact complementary to that goal. The amendments would not only clarify what the Department believes was already intended by the legislature, as it relates to implied consent laws; it would also significantly strengthen Hawaii’s OVUII laws.

For these reasons, the Department of the Prosecuting Attorney strongly supports the passage of S.B. 412, H.D. 1. Thank you for this opportunity to testify.

¹Missouri v. McNeely, 569 U.S. 141, 160-61 (2013)

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OUR REFERENCE CT-LC

March 31, 2021

The Honorable Sylvia Luke, Chair
and Members
Committee on Finance
House of Representatives
Hawaii State Capitol
415 South Beretania Street, Room 308
Honolulu, Hawaii 96813

Dear Chair Luke and Members:

SUBJECT: Senate Bill No. 412, H.D. 1, Relating to Operating a Vehicle Under the Influence of an Intoxicant

I am Calvin Tong, Major of the Traffic Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD is currently in the very early stage of starting an electronic search warrant program with the specific intent to combat impaired driving and those offenders that refuse to submit to testing. Inserting language into the implied consent law will clearly inform the arrestee that he or she will be mandated to submit to mandatory testing upon the issuance of a search warrant signed by a judge.

The HPD supports the proposal to exclude the charge of Habitually Operating a Vehicle Under the Influence of an Intoxicant (HOVUII) from qualifying for a deferred acceptance of a guilty plea or nolo contendere plea. Impaired driving is a serious problem and is the leading cause of traffic fatalities, which impacts the lives of innocent people. A person facing a charge of HOVUII clearly has not changed their irresponsible behavior and should be subject to the normal provisions set forth for prosecution.

The HPD urges you to support Senate Bill No. 412, H.D. 1, Relating to Operating a Vehicle Under the Influence of an Intoxicant.

The Honorable Sylvia Luke, Chair
and Members
March 31, 2021
Page 2

Thank you for the opportunity to testify.

Sincerely,



Calvin Tong, Major
Traffic Division

APPROVED:



Susan Ballard
Chief of Police

Hawai'i Association of Criminal Defense Lawyers

Testimony of the Hawai'i Association of Criminal Defense Lawyers to
House Committee on Finance

S.B. 412, H.D. 1: RELATING TO OPERATING A VEHICLE
UNDER THE INFLUENCE OF AN INTOXICANT

Chair Sylvia Luke
Vice-Chair Ty J. K. Cullen
Honorable Committee Members

The Hawai'i Association of Criminal Defense Attorneys (HACDL) is an organization comprised of members of the bar practicing criminal defense in state, federal, and appellate courts throughout the State of Hawai'i. HACDL members include public defenders, private counsel, and other attorneys asserting the rights of the accused in criminal cases.

HACDL **OPPOSES** S.B. 412, H.D. 1. Authorizing individual police officers to apply for search warrants and forcibly remove a person's blood after he or she has refused will make the implied consent law meaningless. This bill empowers the police to override a person's consent by applying for a search warrant, gather evidence at whatever cost and without any consequences for noncompliance with the officers' statutory duties under the implied consent law.

When a person is arrested under suspicion of driving under the influence of an intoxicant and is taken to a police station, the arresting officer is required to inform the person about the right to refuse testing. HRS § 291E-11(b). If the person consents to testing and is over the legal limit, his or her driver's license is immediately taken and revoked by the Administrative Driver's License and Revocation Office (ADLRO). If the person refuses, no test shall be given. HRS § 291E-15. The refusal, however, carries the consequence of a lengthy driver's license revocation period from the ADLRO. HRS § 291E-41.

S.B. 412, H.D. 1 allows the police to disregard their statutory obligation to inform arrestees about the implied consent law by obtaining evidence through other means. It encourages the police to get a search warrant and gather evidence without bothering to inform

arrestees about their rights under the implied consent law. The bill also does not address the warnings required to be given to arrestees about refusing or submitting to take the test. People will rightfully think that when they are warned by the police that if they refuse to test, none shall be given. This bill allows officers to mislead the public and surprise arrestees with search warrants and forced blood draws.

Officer noncompliance with the statute will not result in the suppression of evidence, but merely an unrevoked driver's license. If an officer obtains a search warrant without apprising arrestees about their statutory right to refuse, their license is not revoked. An arrestee who bails out will be able to lawfully drive and operate vehicles while awaiting lengthy court proceedings. The ADLRO will be abandoned procedures and repeated and frequent drunk driving will increase.

The implied consent law recognizes that forcible blood extraction and testing is an unwanted and highly invasive procedure that should only be reserved for extreme cases in which people have been injured or property damaged. *See* HRS § 291E-21. This bill will normalize extreme police conduct.

HACDL strongly opposes S.B. 412, H.D. 1.