

**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
KA 'OIHANA O KA LOIO KUHINA  
THIRTY-SECOND LEGISLATURE, 2024**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 1603, RELATING TO CRIMINAL JUSTICE REFORM.

**BEFORE THE:**

HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

**DATE:** Thursday, February 22, 2024      **TIME:** 2:00 p.m.

**LOCATION:** State Capitol, Room 325 and Videoconference

**TESTIFIER(S):** Anne E. Lopez, Attorney General,  
Mark S. Tom, Deputy Attorney General, or  
Tricia M. Nakamatsu, Deputy Attorney General

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Chair Tarnas and Members of the Committee:

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

The bill attempts to address concerns regarding prison overcrowding and the effects of incarceration on individuals by amending statutes involving pretrial release and bail. However, the Department has concerns about the effect it will have on public safety.

Section 3 of this bill, which would add a new subsection (e) to section 804-3, Hawaii Revised Statutes (HRS) (page 10, line 20, through page 11, line 15), provides criteria for a court to use when determining the amount of bail to set. The amount set would be based on a defendant's ability to afford the bail. Attempting to estimate an amount that a person can afford, based solely on self-reporting (via bail report, person's sworn affidavit, or testimony), may incentivize under-reporting of finances or excluding of undocumented streams of income and lead to unequal treatment among defendants. Given the expedited timeframe in which bail hearings are held and the fact that unreported income would not be considered, it would be nearly impossible for prosecutors to provide evidence contradicting a defendant's self-reported finances prior to a bail hearing, within this proposed system.

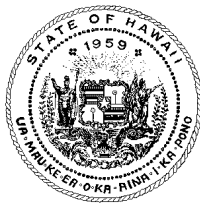
In section 4 of this bill, the proposed amendments to section 804-7.1, HRS (page 12, lines 4-12), would prevent courts from denying bail even if it is demonstrated that:

(1) the person previously convicted of or pending adjudication for another matter was unable to follow a court order to remain drug free; (2) the person has a persistent history of non-appearance in court; or (3) the person's release was previously revoked in the instant case or a prior case. Blanket restrictions such as those proposed by this bill would interfere with judicial operation and responsibilities and prevent the court from making determinations on a case-by-case basis.

Based on the Department's experience with Hawaii's criminal justice system, the court does not take its responsibilities lightly when considering whether to deny a person's release on bail, recognizance, or supervised release. While it would be extremely unusual for a court to deny release based solely upon one of the enumerated factors listed on page 12, lines 7-12 (a recent positive drug test, a prior criminal history of arrests, or a prior revocation of bail), it is possible that a situation could arise where release is reasonably denied based solely on one of these three factors. For example, a long history of arrests, with cases dismissed for procedural reasons—or still pending due to the defendant's absence--combined with a history of failure to appear for court hearings, could potentially be serious enough to justify denial of release. A denial of bail under those circumstances would also depend on the number and severity of charges for which the defendant is currently in custody. Because the possibility of serious criminal charges and surrounding circumstances exists—the Department strongly urges this Committee **not** to limit the court's discretion to deny bail in such a situation.

For all the foregoing reasons, the Department opposes the passage of this bill. Thank you for the opportunity to testify on this matter.

JOSH GREEN, M.D.  
GOVERNOR  
KE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII  
**DEPARTMENT OF CORRECTIONS  
AND REHABILITATION**  
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Pamela J. Sturz  
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Rehabilitation Services  
and  
Programs

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

TESTIMONY ON HOUSE BILL 1603  
RELATING TO CRIMINAL JUSTICE REFORM.

by

Tommy Johnson, Director  
Department of Corrections and Rehabilitation

House Committee on Judiciary and Hawaiian Affairs  
Representative David A. Tarnas, Chair  
Representative Gregg Takayama, Vice Chair

Thursday, February 22, 2024, 2:00 p.m.  
State Capitol, Conference Room 325 & via Videoconference

Chair Tarnas, Vice Chair Takayama, and Members of the Committee:

The Department of Corrections and Rehabilitation (DCR) **supports** the intent and offers comments on House Bill (HB) 1603, which proposes to introduce meaningful reforms to the manner of determining eligibility for pretrial release and promote greater fairness and equity in the criminal courts.

Section 2 (9) which proposes to amend Section 353-10, Hawaii Revised Statutes, to provide pretrial bail reports as soon as available. The Department's the Intake Service Centers do not control distribution of filed pretrial bail reports. Completed pretrial bail reports are electronically filed through the Judiciary's Electronic Filing and Service (JEFS) system which electronically distributes the documents. This established method is viewed to be the most efficient means to provide copies of pretrial bail reports.

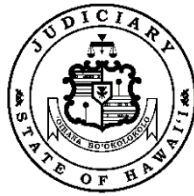
DCR offers further comments regarding Section 5 (d) which proposes to amend Section 804-7.2, Hawaii Revised Statutes, prohibiting an arrest solely because the defendant had one positive drug test. Whenever possible, the Intake Service Centers apply the risk-needs-responsivity model when defendants under supervised release test

positive for illicit substances. DCR agrees that defendants should be afforded the opportunity to enter substance abuse treatment, however, pretrial supervision is based on court-ordered conditions. When no condition exists that requires a defendant to seek and maintain substance abuse treatment, issuance of a warrant for revocation of release may be the only option for defendants testing positive for drug use.

Limiting revocation of pretrial release solely based on current illegal drug use, implies that illicit substance use is condoned and has the potential to restrict the ability to effectively manage defendants in the community, especially when treatment cannot be presented as an option.

While the Department agrees with the objectives of House Bill 1603, it is suggested that judicial discretion regarding issuance of warrants remain with the courts.

Thank you for the opportunity to provide testimony in **support** of the intent and relaying comments on HB 1603.



## *The Judiciary, State of Hawai'i*

### Testimony to the Thirty-Second State Legislature, 2024 Regular Session

#### House Committee on Judiciary & Hawaiian Affairs

Representative David A. Tarnas, Chair

Representative Gregg Takayama, Vice-Chair

Thursday, February 22, 2024 at 2:00 p.m.

Conference Room 325 and Via Videoconference

by

Ronald G. Johnson

Deputy Chief Judge, Criminal Administrative Judge

Circuit Court of the First Circuit

Melanie M. May

Deputy Chief Judge

District Court of the First Circuit

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**Bill No. and Title:** House Bill No. 1603, Relating to Criminal Justice Reform.

**Purpose:** Amends various provisions related to pretrial release.

#### **Judiciary's Position:**

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, and therefore their effectiveness has yet to be determined. 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. While the Judiciary established, was a participant in, and supported the work of the Criminal Pretrial Task Force convened pursuant to House Concurrent Resolution No. 134, HD1 (2017) and further supported the implementation of the Task Force recommendations as codified in Act 179 (2019), the Judiciary is not able to support the bill as it is directly in contradiction to the provisions codified in Act 179, and endangers public safety.

### Pretrial Bail Report Provisions

The amendments proposed to Section 353-10(b)(9) of the Hawai‘i Revised Statutes (“HRS”) in Section 2, page 7, line 3 of this measure are unnecessary as the pretrial bail reports are prepared by the Department of Corrections and Rehabilitation (formerly known as the Department of Public Safety), with electronic copies provided to the defendant or defendant's counsel and the prosecuting attorney immediately upon filing, or hard copies are provided to the defendant or defendant's counsel and the prosecuting attorney on the same day they are prepared and/or filed. However, should the amendment in line 3 remain, the Judiciary suggests further amendments to distinguish between the entities noted in HRS § 353-10(b)(9)(A) – (C), who receive the pretrial bail report as soon as it is available, from those noted in (D) – (F), who receive the pretrial bail report only in certain circumstances. The entities in subsections (D) – (F) are not provided a copy of the pretrial bail report as soon as it is available and typically are only provided a copy upon request.

### Pretrial Release Provisions

The Judiciary notes that Act 179 codified HRS § 804-7.5 which requires a prompt bail hearing<sup>1</sup> and, in combination with the current HRS § 804-3 **and HRS § 804-9**, as amended on January 1, 2020,<sup>2</sup> sets forth the determinations that must be made by the court relative to defendant’s release.

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<sup>1</sup> Haw. Rev. Stat. Ann. § 804-7.5, enacted January 1, 2020, states:

Right to a prompt hearing; release or detention

(a) For the purposes of this section, “prompt hearing” means a hearing that occurs at the time of the defendant's arraignment, or as soon as practicable.

(b) Upon formal charge and detention, a defendant shall have the right to a prompt hearing concerning:

(1) Release or detention; and

(2) Whether any condition or combination of conditions will reasonably ensure: (A) The defendant's appearance as required; and (B) The safety of any other person and the community.

(c) At the hearing, the defendant shall have the right to be represented by counsel and, if financially unable to obtain representation, to have counsel appointed. The defendant shall be afforded an opportunity to testify at the hearing. The defendant and the prosecution shall both be afforded an opportunity to present information by proffer or otherwise.

(d) The rules concerning the admissibility of evidence in criminal trials shall not apply to the presentation and consideration of information at the hearing.

(e) The defendant may be detained pending completion of the hearing.

<sup>2</sup> Haw. Rev. Stat. Ann. § 804-9 states:

The amount of bail rests in the discretion of the justice or judge or the officers named in section 804-5 and shall be set in a reasonable amount based upon all available information, including the offense alleged, the possible punishment upon conviction, and the defendant's financial ability to afford bail. The bail amount should be so determined as not to suffer the wealthy to escape by the payment of a pecuniary penalty, nor to render the privilege useless to the poor.

Section 3 of the bill, amends the criteria to be considered when a defendant is charged with a serious crime. Specifically, the court must find that there “is a serious risk that the person poses a **significant danger to a specific or reasonably identifiable person or persons, based upon an articulable risk to a specific person** or the community” in order to hold a defendant charged with a serious crime without bail as opposed to the current required finding that there “is a serious risk that the person poses a **danger to any person or the community.**” HB 1603, page 9, lines 9-13. This limitation on the court’s discretion will jeopardize public safety. For example, under this new calculus, a defendant who is on probation for a robbery charge and is arrested for a burglary charge, will be released because there will likely be no finding of significant danger to a **specific or reasonably identifiable person or persons, based upon an articulable risk to a specific person.** However they could be held under the current law if the court determined that they pose a danger to any person or the community. The current rebuttable presumption outlined in subsection (c) on page 9, lines 16-21 and page 10, lines 1-13, would apply to this situation. However, the rebuttable presumption is “that the person poses a serious danger to any person or the community” and is not a rebuttable presumption that the person “poses a **significant danger to a specific or reasonably identifiable person or persons, based upon an articulable risk to a specific person** or the community” as required by the measures proposed subsection (b). In essence, this change in subsection (b) makes this rebuttable presumption a nullity.

With respect to subsection (d) on page 10, lines 14-19, the court, in all other cases, is permitted to deny bail if, after a hearing, the court finds that no condition or combination of conditions will assure the defendant’s appearance or the safety of any other person, persons, or community, provided the court enters on the record its findings on the record. However, if a court decides to set bail in these cases, or in cases of **serious crimes**, the bill requires, under subsection (e) on page 10, line 20 through page 11, line 15, that any bail shall be in an amount that the person is able to afford based on information solely supplied by the defendant.

First, this provision severely limits the court’s discretion and the determinations to be made as currently set forth in HRS § 804-9, and indeed directly contradicts HRS § 804-9, which only became effective January 1, 2020, as part of Act 179. Second, as to the consideration of a defendant’s available funds, financial information, if any, would be garnered directly from the defendant and the court would have no ability to verify whether or not a defendant is receiving any form of public assistance, that the defendant’s household income is at, below, or above the federal poverty level, or what the defendant could reasonably afford to pay within forty hours of arrest. Thus, any defendant who does not qualify to be held without bail, which under this bill will be only those charged with a **serious crime** where the court finds one of the four criteria outlined in the proposed subsection (b) or those charged with a **non-serious crime** where the court finds that no condition or combination of conditions will assure the defendant’s appearance or the safety of any other person, persons, or community, will essentially set their

own bail amount regardless of all the information available, the offense alleged, and the possible punishment upon conviction.<sup>3</sup>

Section 4 of the bill, pages 11, line 18 through page 12, line 5, places additional restraints on the court's discretion to determine a defendant's potential dangerousness and/or risk of recidivism. Currently under HRS § 804-7.1, bail may be denied where there has been a showing that there exists a danger that the defendant will commit a serious crime, will seek to intimidate a witness, or will unlawfully interfere with the orderly administration of justice. However, the bill requires the additional provisions that any such denial cannot be based solely on 1) the defendant's positive drug use, 2) the defendant's prior criminal history, if that history is only for arrests and not convictions, or 3) a prior revocation of release. These measures, specifically the second and third, will endanger public safety and usurp judicial discretion as these two provisions will require repeated release of individuals who are at a high risk of recidivism. Regarding the prohibition on consideration of prior arrests that have not resulted in a conviction, this will permit repeat arrestees currently pending multiple cases from being held after allegedly committing another crime while awaiting trial.<sup>4</sup> If the defendant is currently pending another charge, that "arrest" will not yet have resulted in a conviction. For example, when a defendant who is pending multiple felony property crimes is charged with yet another, the court will not be able to use that information to hold the defendant in custody. Further, under proviso number 3, the court apparently cannot deny a defendant's re-release on bail, recognizance, or supervised release when they come before the court, even though the defendant has just violated the terms of that release. These two provisions would seemingly require a defendant to be immediately released again after that release has been revoked or the defendant has been arrested on a new charge.

In short, defendants who pose a serious risk of danger to the community are often not charged with "serious crimes." There are many multiple felony offenders, charged with both violent and property crimes, that would likely not be held without bail under this bill. Abolishing the court's discretion to detain such defendants endangers community safety. Among the most salient factors to assess the risk a defendant poses to the community are the defendant's current charges and the defendant's criminal history. The court should also take into account the risk that the defendant will engage in illegal activity. The provisions of Act 179 allow for such consideration. The bill, as proposed, eliminates these important factors.

Thank you for the opportunity to testify on this measure.

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<sup>3</sup> These three criteria are currently required to be considered by the court in setting the amount of bail under HRS § 804-9.

<sup>4</sup> It is also inconsistent with the rebuttable presumption outlined in HRS § 804-3(c)(2).



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H.B. No. 1603: RELATING TO CRIMINAL JUSTICE REFORM

Chair David Tarnas  
Vice Chair Gregg Takayama  
Honorable Committee Members

The Office of the Public Defender **supports** this bill.

Most people in jail in the State have pleaded not guilty, are presumed to be not guilty, and no judge or jury have found them guilty. The main reason why they live in jail is because they do not have the money to post a bond or give to the Judiciary to be released. This unfair treatment of the indigent is the norm across the country despite years of steadfast opposition to change our criminal legal system.

People charged with breaking the law should not be put in jail simply because they cannot afford to purchase their freedom. It does not take much time for a person in pretrial custody to lose everything. Passing time in an overcrowded jail means that a person is not working, paying rent, child support, or contributing to their family and community. Not only is living in jail at the expense of the State, but the additional expenses that accompany unemployment and eviction are borne by the State.

This bill takes the best pretrial practices used by states that have dramatically reduced their jailed population. Keeping more people who are not guilty out of jail is the first step toward ending mass incarceration and creates a more equitable criminal justice system.

**HB-1603**

Submitted on: 2/21/2024 10:29:14 AM

Testimony for JHA on 2/22/2024 2:00:00 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 Tarnas, Vice Chair Takayama and members of the Committee,

My name is Carolyn Eaton and this measure has my strong support. It's another example of compassionate reform which will benefit the State and the Department of Corrections and Rehabilitation and those like you and I, who have busy lives and sometimes miss an appointment.

Mahalo for your hard work on behalf of the betterment of our administration of justice.

**DEPARTMENT OF THE PROSECUTING ATTORNEY  
KA 'OIHANA O KA LOIO HO'OPI'I  
CITY AND COUNTY OF HONOLULU**

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HOPE MUA LOIO HO'OPI'I

**THE HONORABLE DAVID A. TARNAS, CHAIR  
HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS  
Thirty-Second State Legislature  
Regular Session of 2024  
State of Hawai'i**

February 22, 2024

**RE: H.B. 1603, RELATING TO CRIMINAL JUSTICE REFORM.**

Chair Tarnas, Vice Chair Takayama, and members of the House Committee on Judiciary and Hawaiian Affairs, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony, **in strong opposition** to H.B. 1603.

The proposed bill severely weakens protections for the victims of crimes through amendments to H.R.S. Section 804-3:

1. Redefines bail from its meaning under H.R.S. Section 804-1 to include non-bail release on one's own recognizance, supervised release, and conditional release." These changes create confusion with what is bail and non-bail.
2. A new sub-section "(e)" added to H.R.S. Section 804-3 ignores the primary purpose of bail which is to guarantee the defendant's appearance in court replacing it making bail "in an amount that the person is able to afford..." Bail in amounts greater than what a person can afford is often necessary to ensure that a person appears for their case.
3. Under the proposed bill a person cannot be denied release on bail, [own] recognizance, or supervised release based solely on having one recent positive test for drug use. This is an absurd amendment when applied to persons whose crime involves possession of illicit drugs or is related to the funding a drug addiction. These conditions of release are specifically added to individuals in these situations.
4. It limits no-contact orders to alleged offenses involving physical or sexual assault completely ignoring other crimes such burglary and identity theft.

For these reasons and more, the Department of the Prosecuting Attorney of the City and County of Honolulu **respectfully asks this Committee to not adopt H.B. 1603.**

Thank you for this opportunity to testify on H.B. 1603.



Committee: Judiciary & Hawaiian Affairs  
Hearing Date/Time: Thursday, February 22, 2024 at 2:00pm  
Place: Conference Room 325 & Via Videoconference  
Re: Testimony of the ACLU of Hawai'i with COMMENTS on HB1603  
Relating to Criminal Justice Reform

Dear Chair Tarnas, Vice Chair Takayama, and Members of the Committee:

The ACLU of Hawai'i provides **comments on HB1603**, which amends various provisions related to pretrial release.

Everyone should be treated equally under the law. How much money you have should not determine whether you find yourself stuck in a jail cell.

Unfortunately, our current pretrial system does precisely that. We have a cash bail system that is a particularly destructive form of wealth-based detention.<sup>1</sup> This system perpetuates cycles of poverty, ironically increases the likelihood of future criminal legal system involvement, and harms not just those who are detained but also their families and communities. Critically, this system disproportionately harms Native Hawaiians, Pacific Islanders, and communities of color.

This measure takes several concrete steps to remedy the system's problems. Among other things, it requires courts to enter "findings with respect to the detention decision," something that not all courts have robustly done. It narrows the scope of conduct that triggers the rebuttable presumptions that a defendant has done something that justifies the denial of bail. Most importantly, it requires that any bail set is "in an amount that the person is able to afford," thus moving the system one step closer to eliminating pretrial wealth-based discrimination.

**But this measure also does not go far enough. The ACLU of Hawai'i recommends the following amendments:**

1. Add a rebuttable presumption that a criminal defendant is entitled to release on recognizance.
2. Clarify that the burden of proof lies with the prosecution to establish that a criminal defendant is not entitled to pretrial release.
3. Clarify that a "clear and convincing" standard applies to such burden of proof.

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<sup>1</sup> See, e.g., Ainsley Dowling, *As Much Justice As You Can Afford: Hawaii's Accused Face An Unequal Bail System*, ACLU of Hawai'i (Jan. 2018), available at <https://www.acluhi.org/bailstudy> (study concluding that "the primary reason so many people wait in jail for months is because they just cannot afford to get out while waiting for trial").

4. Clarify that, when the court “enter[s] on the record its findings with respect to the detention decision” such findings are memorialized *in writing* in an order or in the minutes of the proceeding.

With these amendments, this measure would truly breathe life into the presumption of innocence that underpins our criminal legal system, and **effectuate the longstanding constitutional principle that “[i]n our society, liberty is the norm, and detention prior to trial . . . is the carefully limited exception.”**<sup>2</sup>

For the above reasons, the ACLU of Hawai‘i requests that the Committee consider the proposed amendments. Thank you for the opportunity to testify.

Sincerely,



Jongwook “Wookie” Kim  
Legal Director  
ACLU of Hawai‘i  
[wkim@acluhawaii.org](mailto:wkim@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.*

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



## TESTIMONY FROM THE DEMOCRATIC PARTY OF HAWAII

### HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

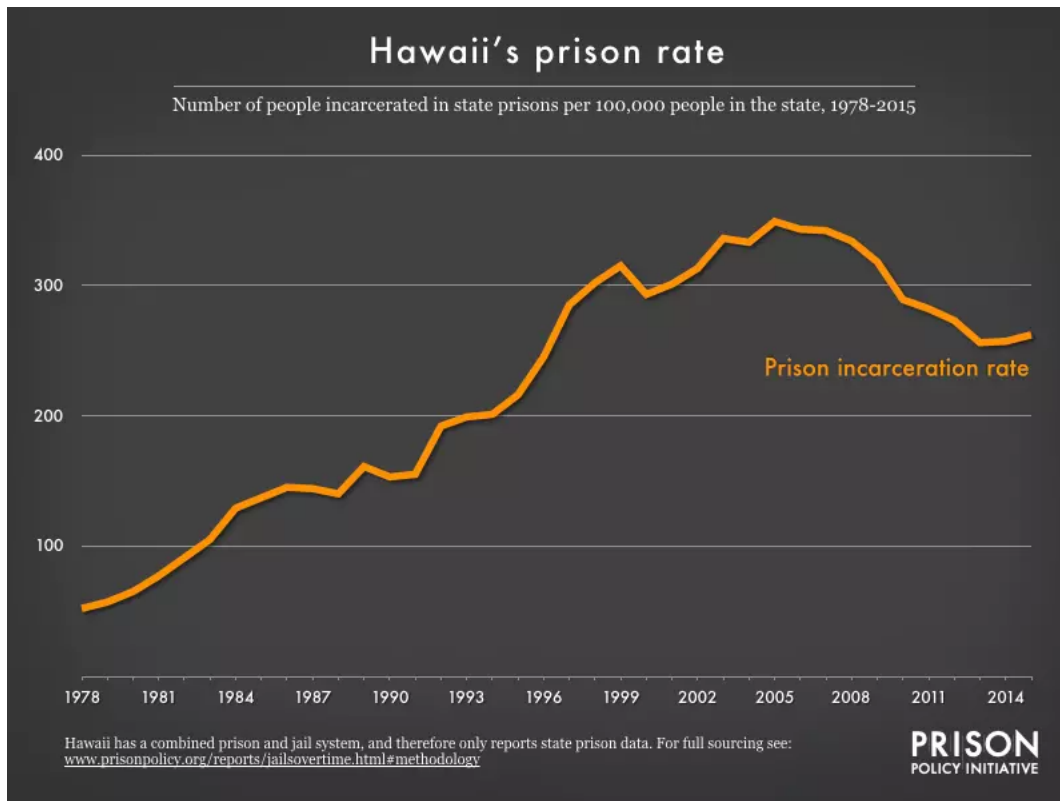
FEBRUARY 22, 2024

### HB 1603, RELATING TO CRIMINAL JUSTICE REFORM

### POSITION: SUPPORT

The Democratic Party of Hawai'i **supports** HB 1603, relating to criminal justice reform. Pursuant to the “Native Hawaiians and Hawaiian Culture” section of the official Democratic Party of Hawai'i platform, the party supports “reforming the criminal justice system to address the disparate treatment of Native Hawaiians, including bail reform and restorative justice which includes Ho‘oponopono.” Moreover, pursuant to the “Public Safety and Emergency Preparedness” section of the platform, the party “opposes racist policies and laws that cause disproportionate harm to communities of color. We believe incarceration should be used only when there are no alternatives to protect the public. We support rehabilitation, addiction services and other humane interventions that promote safe community reintegration as the ultimate goal.”

Hawai'i has approximately 5,100 inmates, hundreds of whom are incarcerated overseas, away from their families and homeland. The Prison Policy Initiative has found that our incarcerated population has grown dramatically since the 1970s and far surpasses that of the international community, with the islands incarcerating over 400 people per 100,000 residents, while nations like the United Kingdom, Canada, and France incarcerate roughly one-quarter of that amount.

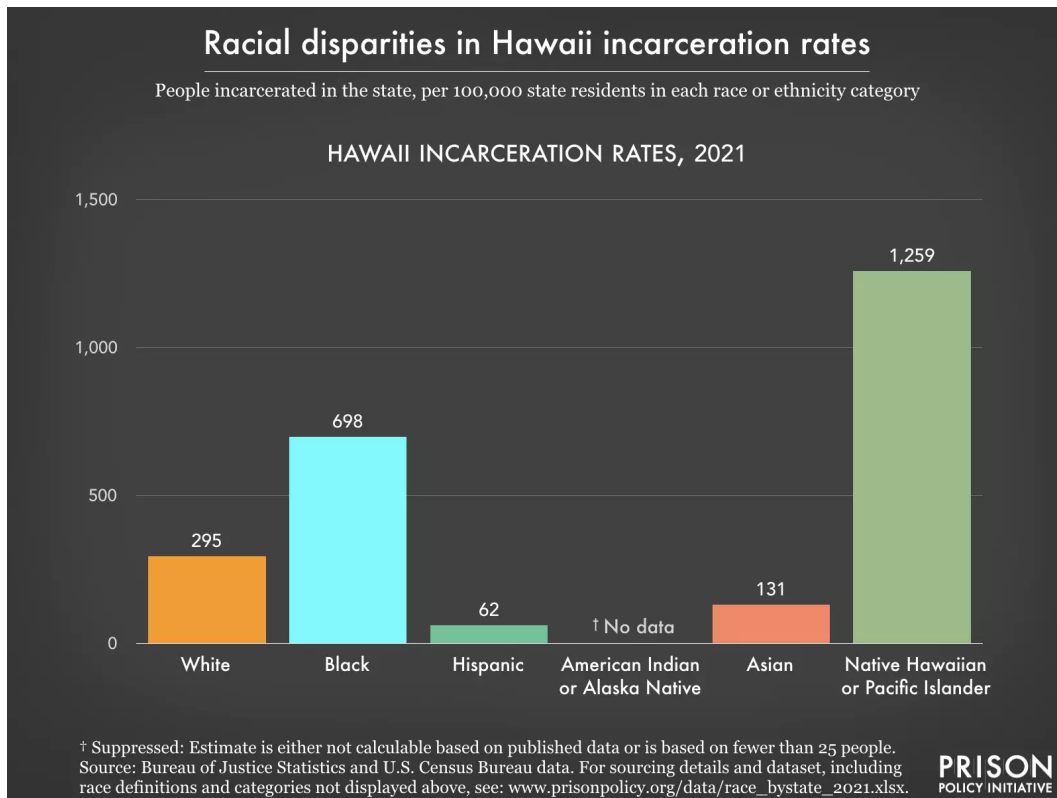


According to a report by the American Civil Liberties Union released in recent years, pretrial detainees in Honolulu wait an average of 71 days for trial because they cannot afford bail. Additionally, researchers found that circuit courts in Hawai'i set monetary bail as a condition of release in 88 percent 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. **While wealthy defendants can afford to pay for bail, impoverished defendants often cannot afford to pay even minimal amounts, leaving economically disadvantaged people languishing in our jail system for low-level offenses.** Though 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, monetary 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 penal 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 harsher drug-related punishments than other ethnic groups.



Accordingly, **we support efforts to reform Hawai'i's criminal justice system, including this measure's overhaul of pretrial release eligibility requirements and administrative procedures, such as ensuring that bail amounts are affordable for defendants who do not pose a serious risk to the community.** It is time to invest in restoration, rather than incarceration.

Mahalo nui loa,

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February 21, 2024

**VIA EMAIL**

The Honorable David A. Tarnas  
Chair  
The Honorable Gregg Takayama  
Vice-Chair  
House Committee on Judiciary & Hawaiian Affairs  
Hawaii State Capitol, Rooms 442, 404  
415 South Beretania Street  
Honolulu, HI 96813

Re: **HB 1603 - Relating to Criminal Justice Reform – Bail Reform**

Dear Chair Tarnas, Vice-Chair Takayama, and Honorable Committee members:

I serve as the President of the State of Hawaii Organization of Police Officers (“SHOPO”) and write to you on behalf of our Union in **strong opposition** to HB 1603. This bill seeks to overhaul pretrial release procedures. Rather than build a new prison, which would be a much more effective way to address prison overcrowding, the solution being offered thru this bill is to burden our prosecutors with legal fights that will only prolong the criminal justice process, and making it harder to quickly penalize criminal offenders who violate conditions of release.

In particular, the bill requires that copies of bail reports be provided to the parties, including defendant’s counsel as soon as possible and requires that any bail set by the Court be in an amount that the defendant can afford. This bill also requires the issuance of automatic no-contact orders in assaultive cases and prohibits a defendant from being arrested for violation of conditions of release solely because the defendant recently had one positive test for drug use. This bill also provides that with respect to sanctions for violations of conditions of release, prosecutors must prove, by a preponderance of the evidence, that the defendant *intentionally* or *knowingly* violated reasonable conditions of release. This bill would also require the Court to, in certain cases when revoking a defendant’s release, to enter findings that no conditions can be imposed that would ensure the defendant’s appearance and the safety of the public, and that the revocation is therefore necessary as an action of last resort.

This bill is troubling in many respects. Our officers are on the front lines battling crime 24 hours a day, seven (7) days a week, 365 days a year. We know who the habitual criminals and repeat offenders are who we arrest repeatedly, just to see them set free without any consequences. The rate of certain types of criminal activity, including violent crimes, have jumped over the last several years. Our community members and businesses are pleading for tougher consequences for brazen criminal acts that seem to be commonplace. Passing over the needs of victims of these crimes in our community, this bill arbitrarily emphasizes the need to address life disruption experienced by arrestees and positions bail reform as the way to address it and solve prison overcrowding. But we ask at what cost? Our community cannot afford the consequences of this bill.

For one, it makes it much easier for criminal defendants to violate the conditions of release on bail, recognizance, or supervised release without consequence by unreasonably burdening our prosecutors and judges with new hurdles and needlessly prolonging the criminal justice process, which is already harshly criticized as being too slow. For example, where revocation of release on bail, recognizance, or supervised release is sought, prosecutors will likely need to schedule evidentiary hearings just to show by a preponderance of the evidence that the defendant's violation was intentional or done knowingly. Shifting the burden to prosecutors in this manner, clogging our court system with unnecessary additional hearings, and creating more "findings" for judges to enter into the record just to keep a criminal defendant accountable will directly affect the safety of our communities and further decrease the public's trust and confidence in our criminal justice system.

We fully understand and appreciate the social issues involved with bail reform. However, we have laws in place for a reason, which is to protect our community from harm. We are police officers entrusted to enforce those laws. Many times, the same criminal offenders have numerous misdemeanor offenses on their records together with more violent offenses. Although they may be arrested today for a non-violent misdemeanor offense, they may have a long rap sheet that includes the commission of other violent and more heinous crimes on their records. The proposals in this bill will only compound the existing dangers our community already faces by having repeat offenders who violate their conditions of release walking freely in our neighborhoods and will constrain our hard-working officers and prosecutors from doing their jobs to keep our communities safe.

If the legislature is going to address the underlying social and economic issues related to bail reform, burdening our prosecutors and judges, and limiting our police officers' abilities to keep our streets safe by freeing arrested criminals through a revolving door is not the answer nor the approach we should take to address such issues. We thank you for allowing us to be heard and to share our concerns on this bill and hope your committee will unanimously reject this bill.

Respectfully submitted,

ROBERT "BOBBY" CAVACO  
SHOPO President

# Opportunity Youth Action Hawai‘i

February 22, 2024

House Committee on Judiciary and Hawaiian Affairs

Hearing Time: 2:00 PM

Location: State Capitol Conference Room 325

Re: HB1603, Relating to Criminal Justice Reform

Aloha e Chair Tarnas, Vice Chair Takayama, and members of the Committee,

On behalf of the Opportunity Youth Action Hawai‘i hui, we are writing in **strong support** of HB1603, relating to criminal justice reform. This bill amends various provisions relating to pretrial releases.

In consideration of the values of equal protection and due process rights, courts should presume that defendants in criminal cases who have not yet been found guilty of a crime should be entitled to release, unless that release would be inappropriate for the particular defendant. Pretrial incarceration is the primary cause of overcrowding in community correctional facilities, which becomes a health and safety issue for both defendants in custody as well as staff who work in those correctional facilities. This current system perpetuates systemic inequalities and imposes unnecessary hardships on individuals who have not yet been convicted of a crime.

Further, prolonged pretrial detention gives the illusion that justice is being serviced by keeping an alleged offender behind bars. However, this often unjustly results in a defendant pleading guilty, even if they may have prevailed at trial, in order to hasten their release from custody and return to a normal life.

A key provision of HB1603 is the implementation of risk assessment tools to guide pretrial release decisions. These tools provide judges with objective data to assess the likelihood of a defendant's appearance in court and the risk of re-offending while awaiting trial. By incorporating risk assessment tools into the pretrial release process, HB1603 ensures that decisions regarding bail and release are based on evidence rather than arbitrary factors such as wealth or social status.

Opportunity Youth Action Hawai‘i is a collaboration of organizations and individuals committed to reducing the harmful effects of a punitive incarceration system for youth; promoting equity in the justice system; and improving and increasing resources to address adolescent and young adult mental health needs. We seek to improve the continuity of programs and services for youth and young adults transitioning from minor to adult status; eliminate youth houselessness and housing market discrimination against young adults; and promote and fund more holistic and culturally informed approaches among public/private agencies serving youth.

**Please support HB1603.**

1099 Alakea Street, Suite 2530 | Honolulu, Hawaii 96813 | (808) 447-1840



## TESTIMONY IN SUPPORT OF HB 1603

**TO:** Chair Tarnas, Vice Chair Takayama, & JHA Committee Members

**FROM:** Nikos Leverenz  
Grants & Advancement Manager

**DATE:** February 22, 2024 (2:00 PM)

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Hawai'i Health & Harm Reduction Center (HHHRC) **strongly supports** HB 1603, which amends provisions related to pretrial release. We support a prohibition on denial of pretrial release based solely on a defendant's positive test for drug use.

Last month, HHHRC released a report on Hawai'i's [Sequential Intercept Model](#) (SIM), a tool developed by the federal Substance Abuse and Mental Health Services Administration to understand the relationship between criminal-legal agencies and behavioral health services and to identify opportunities for improving diversion away from justice systems and into more appropriate community settings. [[Click here to view the report.](#)] Reforming pretrial practices was among the specific needs identified by the report.

HHHRC invited Dan Mistak of [Community Oriented Correctional Health Services](#) to facilitate a conversation between 45 participants from across the behavioral health and justice sectors to prepare for the use of Medicaid dollars in carceral settings, help inform legislators about critical needs within the behavioral health and justice systems, and offer insights into how to improve diversion from justice settings. Participants included the state Department of Health, Department of Human Services, Department of Public Safety (PSD), Office on Homelessness and Housing Solutions, Public Defender's Office, two county prosecutors, and the Honolulu Police Department.

HHHRC's mission is to reduce harm, promote health, create wellness, and fight stigma in Hawai'i and the Pacific. We work with many individuals who are impacted by poverty, housing instability, and other social determinants of health. Many have behavioral health problems, including those relating to substance use and underlying mental health conditions. Many of our clients and participants have been deeply impacted by trauma, including histories of physical, sexual, and psychological abuse.

Thank you for the opportunity to testify on this measure.

**HB-1603**

Submitted on: 2/20/2024 10:38:08 PM

Testimony for JHA on 2/22/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Thaddeus Pham	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Tarnas, Vice Chair Takayama, and JHA Committee Members,

As a public health professional and concerned citizen, I write in **STRONG SUPPORT** of HB1603, which amends various provisions related to pretrial release.

Mahalo for your consideration.

Thaddeus Pham (he/him)

**HB-1603**

Submitted on: 2/21/2024 12:38:53 AM

Testimony for JHA on 2/22/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Greg Misakian	Individual	Oppose	Written Testimony Only

Comments:

I oppose HB1603.

Gregory Misakian

Kokua Council, 2nd Vice President

Waikiki Neighborhood Board, Sub-District 2 Vice Chair

**HB-1603**

Submitted on: 2/21/2024 11:05:24 AM

Testimony for JHA on 2/22/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Marilyn Mick	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Tarnas and Members of the Committee,

my name is Marilyn Mick and I live in Honolulu I'm testifying in support of HB1603 and asking to include ACLU Hawaii's requested amendments that respect the presumption of innocence. Jailing people before a trial should be rare.

The trouble is right now we are holding lots of people in jail who have not been convicted of a crime and are neither a flight risk nor a risk to public safety. We need to stop making bail and pretrial detention the default, which will make our system fairer and reduce the burden on taxpayers. Cost-savings from diverting people from our overcrowded jails should be invested in proven solutions to community safety - supportive housing, health care and treatment, education, job training, living wages and alternative crisis response systems.

Mahalo for the opportunity to testify.



**HB-1603**

Submitted on: 2/21/2024 11:14:23 AM

Testimony for JHA on 2/22/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Eric Keli'i Beyer	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Tarnas and Members of the Committee, my name is Eric Keli'i Beyer and I live in Volcano, Hawaii Island. I'm testifying in support of HB1603 and asking to include ACLU Hawaii's requested amendments that respect the presumption of innocence. Jailing people before a trial should be rare.

1. trouble is right now we are holding lots of people in jail who have not been convicted of a crime and are neither a flight risk nor a risk to public safety. We need to stop making bail and pretrial detention the default, which will make our system fairer and reduce the burden on taxpayers. Cost-savings from diverting people from our overcrowded jails should be invested in proven solutions to community safety - supportive housing, health care and treatment, education, job training, living wages and alternative crisis response systems.

Mahalo for the opportunity to testify.



WENDY HUDSON • ATTORNEY AT LAW  
44 N. MARKET STREET, WAILUKU, HI 96793  
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WENDYHUDSONLAW@GMAIL.COM  
WENDYHUDSONLAW.COM

February 21, 2024

RE: HB 1603

Aloha Chair Tarnas and Members of the Committee:

I have been practicing Criminal Defense in Hawaii since 1999. Bail reform is near and dear to my heart. I have had literally thousands of clients who could not afford to post bail – from people charged with minor trespassing to DUI's to drug possession and worse. Everyone should be treated equally under the law. Just a few days in jail can disrupt a person's entire life and family. That's why I understand the ACLU Hawai'i is requesting the following amendments to HB 1603, Relating to Criminal Justice Reform:

- Add a rebuttable presumption that a criminal defendant is entitled to release on recognizance.
- Clarify that the burden of proof lies with the prosecution to establish that a criminal defendant is not entitled to pretrial release.
- Clarify that a "clear and convincing" standard applies to such a burden of proof.
- Clarify that, when the court "enter[s] on the record its findings with respect to the detention decision" such findings are memorialized in writing in an order or in the minutes of the proceeding.

I fully support the bill with these amendments. People are presumed innocent, however, the Courts seem to forget that once someone is charged. There are SO MANY people arrested who are not a danger to the community and who should not sit in custody simply because they can't afford the bail set in their cases.

It's funny because the prosecutors often make offers that allow the defendant to get out of custody once they change their plea. As if something magical happens, once they no longer are requesting a trial and are now considered "eligible" for Supervised Released until they are sentenced.

Also, since it costs over \$40k a year to house someone in jail or prison in Hawaii, why not let the non-violent, low risk and otherwise eligible defendants stay out of custody to continue working to support themselves and others, adding to our economy instead of just draining the coffers?

Very truly yours,  
*/s/ Wendy A. Hudson*

Wendy A. Hudson

**HB-1603**

Submitted on: 2/21/2024 11:18:27 AM

Testimony for JHA on 2/22/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Kate Paine	Individual	Support	Written Testimony Only

Comments:

Devastating impact on less monied

**HB-1603**

Submitted on: 2/21/2024 11:24:47 AM

Testimony for JHA on 2/22/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Tadia Rice	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Tarnas and Members of the Committee,

My name is Tadia Rice and I live in Kailua, Oahu. I'm testifying in support of HB1603 and asking to include ACLU Hawaii's requested amendments that respect the presumption of innocence. Jailing people before a trial should be rare.

The trouble is right now we are holding lots of people in jail who have not been convicted of a crime and are neither a flight risk nor a risk to public safety. We need to stop making bail and pretrial detention the default, which will make our system fairer and reduce the burden on taxpayers. Cost-savings from diverting people from our overcrowded jails should be invested in proven solutions to community safety - supportive housing, health care and treatment, education, job training, living wages and alternative crisis response systems.

Mahalo.

**HB-1603**

Submitted on: 2/21/2024 11:39:44 AM

Testimony for JHA on 2/22/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Michael Maddux	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Tarnas and Members of the Committee, my name is Mike Maddux and I live in Hawi. I'm testifying in support of HB1603 and asking to include ACLU Hawaii's requested amendments that respect the presumption of innocence. Jailing people before a trial should be rare.

The trouble is right now we are holding lots of people in jail who have not been convicted of a crime and are neither a flight risk nor a risk to public safety. We need to stop making bail and pretrial detention the default, which will make our system fairer and reduce the burden on taxpayers. Cost-savings from diverting people from our overcrowded jails should be invested in proven solutions to community safety - supportive housing, health care and treatment, education, job training, living wages and alternative crisis response systems.

Mahalo for the opportunity to testify.

**HB-1603**

Submitted on: 2/21/2024 12:42:16 PM

Testimony for JHA on 2/22/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Ruth Robison	Individual	Support	Written Testimony Only

Comments:

*Chair Tarnas and Members of the Committee, my name is Ruth Robison and I live in Hilo. I am testifying in support of HB1603 and asking to include ACLU Hawaii's requested amendments that respect the presumption of innocence. Jailing people before a trial should be rare. Thank you for the opportunity to testify.*

**HB-1603**

Submitted on: 2/21/2024 12:58:40 PM

Testimony for JHA on 2/22/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Nanea Lo	Individual	Support	Written Testimony Only

Comments:

Hello Chair Tarnas and Members of the Committee, my name is Nanea Lo and I live in Mō‘ili‘ili, O‘ahu. I’m testifying in support of HB1603 and asking to include ACLU Hawaii’s requested amendments that respect the presumption of innocence. Jailing people before a trial should be rare.

The trouble is right now we are holding lots of people in jail who have not been convicted of a crime and are neither a flight risk nor a risk to public safety. We need to stop making bail and pretrial detention the default, which will make our system fairer and reduce the burden on taxpayers. Cost-savings from diverting people from our overcrowded jails should be invested in proven solutions to community safety - supportive housing, health care and treatment, education, job training, living wages and alternative crisis response systems.

me ke aloha ‘āina,

Nanea Lo

**HB-1603**

Submitted on: 2/21/2024 1:10:39 PM

Testimony for JHA on 2/22/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Elizabeth Winternitz	Individual	Support	Written Testimony Only

Comments:

*Aloha Chair Tarnas and Members of the Committee, my name is Elizabeth Winternitz and I live in Kula, Maui. I'm testifying in support of HB1603 and asking to include ACLU Hawaii's requested amendments that respect the presumption of innocence. Jailing people before a trial should be rare.*

*The trouble is right now we are holding lots of people in jail who have not been convicted of a crime and are neither a flight risk nor a risk to public safety. We need to stop making bail and pretrial detention the default, which will make our system fairer and reduce the burden on taxpayers. Cost-savings from diverting people from our overcrowded jails should be invested in proven solutions to community safety - supportive housing, health care and treatment, education, job training, living wages and alternative crisis response systems.*

*Mahalo for the opportunity to testify."*



**HB-1603**

Submitted on: 2/21/2024 1:25:37 PM

Testimony for JHA on 2/22/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
ANDREW ISODA	Individual	Support	Written Testimony Only

Comments:

*Aloha Chair Tarnas and Members of the Committee, my name is Andrew Isoda and I live in Lahaina . I'm testifying in support of HB1603 and asking to include ACLU Hawaii's requested amendments that respect the presumption of innocence. Jailing people before a trial should be rare.*

*The trouble is right now we are holding lots of people in jail who have not been convicted of a crime and are neither a flight risk nor a risk to public safety. We need to stop making bail and pretrial detention the default, which will make our system fairer and reduce the burden on taxpayers. Cost-savings from diverting people from our overcrowded jails should be invested in proven solutions to community safety - supportive housing, health care and treatment, education, job training, living wages and alternative crisis response systems.*

*Mahalo for the opportunity to testify.*

*Andrew Isoda*

*Lahaina, Mau'i*

**HB-1603**

Submitted on: 2/21/2024 2:36:59 PM

Testimony for JHA on 2/22/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Barbara Best	Individual	Support	Written Testimony Only

Comments:

I'm asking you to include ACLU Hawaii's requested amendments that respect the presumption of innocence. Jailing people before a trial should be rare. Bail and pretrial detention should not be the default action; that would make our system more fair and not cost taxpayers as much. A rebuttable presumption that a criminal defendant is entitled to release on recognizance; the burden of proof lies with the prosecution to establish that a defendant is not entitled to pretrial release.

Mahalo for supporting this bill

Bobbie Best

Wailuku (808) 242-9119

**HB-1603**

Submitted on: 2/21/2024 4:40:44 PM

Testimony for JHA on 2/22/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Vinayak Vinayak	Individual	Support	Written Testimony Only

Comments:

*Aloha Chair Tarnas and Members of the Committee, my name is Dr. Vinayak and I live in Kihei. I'm testifying in support of HB1603 and asking to include ACLU Hawaii's requested amendments that respect the presumption of innocence. Jailing people before a trial should be rare.*

*The trouble is right now we are holding lots of people in jail who have not been convicted of a crime and are neither a flight risk nor a risk to public safety. We need to stop making bail and pretrial detention the default, which will make our system fairer and reduce the burden on taxpayers. Cost-savings from diverting people from our overcrowded jails should be invested in proven solutions to community safety - supportive housing, health care and treatment, education, job training, living wages, and alternative crisis response systems.*

I am requesting the following amendments to HB 1603, Relating to Criminal Justice Reform:

- Add a rebuttable presumption that a criminal defendant is entitled to release on recognizance.
- Clarify that the burden of proof lies with the prosecution to establish that a criminal defendant is not entitled to pretrial release.
- Clarify that a “clear and convincing” standard applies to such a burden of proof.
- Clarify that when the court “enter[s] on the record its findings concerning the detention decision” such findings are memorialized in writing in an order or in the minutes of the proceeding.

*Mahalo for the opportunity to testify.*

**HB-1603**

Submitted on: 2/21/2024 4:43:52 PM

Testimony for JHA on 2/22/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Stephanie Austin	Individual	Support	Written Testimony Only

Comments:

Please support these important amendments.

**HB-1603**

Submitted on: 2/21/2024 4:44:28 PM

Testimony for JHA on 2/22/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kathy Shimata	Individual	Support	Written Testimony Only

Comments:

*“Aloha Chair Tarnas and Members of the Committee, my name is Kathy Shimata and I live in Honolulu. I’m testifying in support of HB1603 and asking to include ACLU Hawaii’s requested amendments that respect the presumption of innocence. Jailing people before a trial should be rare.*

*I believe that presently we are holding many people in jail who have not been convicted of a crime and are neither a flight risk nor a risk to public safety. We need to stop making bail and pretrial detention the default, which will make our system fairer and reduce the burden on taxpayers. Cost-savings from diverting people from our overcrowded jails should be invested in proven solutions to community safety - supportive housing, health care and treatment, education, job training, living wages and alternative crisis response systems.*

*Mahalo for the opportunity to testify.”*

**HB-1603**

Submitted on: 2/21/2024 5:48:21 PM

Testimony for JHA on 2/22/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Robert I Nehmad	Individual	Support	Written Testimony Only

Comments:

*“Aloha Chair Tarnas and Members of the Committee, my name is Robert Nehmad and I am a resident of the City & County of Honolulu. I’m testifying in support of HB1603 and asking to include ACLU Hawaii’s requested amendments that respect the presumption of innocence. Jailing people before a trial should be rare.*

*The issue is right now we are holding lots of people in jail who have not been convicted of a crime and are neither a flight risk nor a risk to public safety. We need to stop making bail and pretrial detention the default, which will make our system fairer and reduce the burden on taxpayers. Cost-savings from diverting people from our overcrowded jails should be invested in proven solutions to community safety - supportive housing, health care and treatment, education, job training, living wages and alternative crisis response systems.*

*Mahalo for the opportunity to testify.”*

**HB-1603**

Submitted on: 2/21/2024 9:21:42 PM

Testimony for JHA on 2/22/2024 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Kris Coffield	Individual	Support	In Person

Comments:

Hawai'i has approximately 5,100 inmates, hundreds of whom are incarcerated overseas, away from their families and homeland. The Prison Policy Initiative has found that our incarcerated population has grown dramatically since the 1970s and far surpasses that of the international community, with the islands incarcerating over 400 people per 100,000 residents, while nations like the United Kingdom, Canada, and France incarcerate roughly one-quarter of that amount.

According to a report by the American Civil Liberties Union released in recent years, pretrial 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 monetary 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. While wealthy defendants can afford to pay for bail, impoverished defendants often cannot afford to pay even minimal amounts, leaving economically disadvantaged people languishing in our jail system for low-level offenses.

Though 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, monetary 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 penal 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 Hawaiians receive longer sentences, more parole revocations, and harsher drug-related punishments than other ethnic groups.

Accordingly, I support efforts to reform Hawai'i's criminal justice system, including this measure's overhaul of pretrial release eligibility requirements and administrative procedures,

such as ensuring that bail amounts are affordable for defendants who do not pose a serious risk to the community. It is time to invest in restoration, rather than incarceration.



**HB-1603**

Submitted on: 2/22/2024 7:24:58 AM

Testimony for JHA on 2/22/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Emily Sarasa	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Tarnas and Members of the Committee,

My name is Emily Sarasa and I live in Kaimuki. I'm testifying in support of HB1603 and asking for this committee to include ACLU Hawaii's requested amendments that respect the presumption of innocence. Jailing people before a trial should not be the default.

The current system of pretrial detention and bail is unjust, expensive, and unnecessary. Recognizing this, some states have almost entirely eliminated their cash bail systems and rely instead on a fair, risk-based assessment. Affordable bail based on self-reporting is a small step in the right direction, and this bill ensures that individuals who pose a *serious threat* to community safety will be denied bail.

The current bail system casts too broad of a net and criminalizes those who do not pose a serious threat to the community. It does not truly make us safer, and it does not make me feel safer knowing that people are jailed merely because of an inability to pay bail or a single positive drug test. Please support HB1603 to make meaningful change to our carceral system.

Mahalo for the opportunity to testify,

Emily Sarasa