



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

ON THE FOLLOWING MEASURE:

H.B. NO. 1611, RELATING TO LAW ENFORCEMENT OFFICERS.

BEFORE THE:

HOUSE COMMITTEE ON LABOR AND GOVERNMENT OPERATIONS

DATE: Tuesday, January 30, 2024 **TIME:** 9:30 a.m.

LOCATION: State Capitol, Room 309

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Adrian Dhakhwa, Deputy Attorney General

Chair Matayoshi and Members of the Committee:

The Department of the Attorney General (Department) provides the following comments on this bill.

The purposes of this bill are to (1) require law enforcement agencies and the law enforcement standards board to consult the National Decertification Index (Index) and ensure the reporting of officer misconduct to the Index; (2) require the reporting of certain domestic violence records to the Index, notwithstanding any contrary law or court order regarding the sealing of those records; and (3) provide that a law enforcement officer's conviction for promoting a detrimental drug in the third degree under section 712-1249, Hawaii Revised Statutes (HRS), or any substantially similar drug-related offense shall not serve as the sole reason to deny certification or employment to that officer.

The second new section of chapter 139, HRS, in section 2 of this bill, at page 3, lines 8-18, provides:

“§139- Certain drug offenses; certification; employment.

Notwithstanding any other provision of this chapter or other law to the contrary, a law enforcement officer's conviction for promoting a detrimental drug in the third degree under section 712-1249 or any substantially similar drug-related offense shall not serve as the sole reason for:

- (1) The board to deny, suspend, or revoke the law enforcement officer's certification; or

- (2) An employing law enforcement agency to deny employment to or terminate the employment of the law enforcement officer.”

When establishing the law enforcement standards board in 2018, the Legislature found that "the State must enact a law that certifies law enforcement officers to ensure the highest standards of professionalism, uniformity of standards, and accountability through our islands." Act 220, SLH 2018.

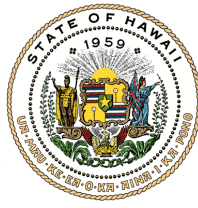
The proposed new section of chapter 139 cited above does not accomplish that, and in fact, it would diminish the law enforcement standards board's ability to deny certification or employment to law enforcement officers who do not meet those standards. We object to the new section because allowing a law enforcement officer with a background of promoting a dangerous drug in the third degree is inconsistent with the highest standards of professionalism needed to be certified.

We have additional concerns about the vagueness of what constitutes a "substantially similar drug-related offense" and whether deferred acceptances of guilty pleas would be treated differently from convictions.

The Department recommends deleting the second new section of chapter 139, HRS, at page 3, lines 8-18, from the bill, and amending the preamble accordingly.

Thank you for the opportunity to provide comments on this bill.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



JORDAN LOWE
DIRECTOR

MICHAEL VINCENT
Deputy Director
Administration

JARED K. REDULLA
Deputy Director
Law Enforcement

SYLVIA LUKE
LT GOVERNOR
KE KE'ENA

STATE OF HAWAII | KA MOKU'ĀINA O HAWAII
DEPARTMENT OF LAW ENFORCEMENT

Ka 'Oihana Ho'okō Kānāwai

715 South King Street
Honolulu, Hawaii 96813

TESTIMONY ON HOUSE BILL 1611
RELATING TO LAW ENFORCEMENT OFFICERS
Before the House Committee on Labor & Government Operations
Tuesday, January 30, 2024; 9:30 a.m.
State Capitol Conference Room 309, Via Videoconference
Testifiers: Michael Vincent, or Jared Redulla

Chair Matayoshi, Vice Chair Garrett, and members of the Committee:

The Department of Law Enforcement (DLE) **strongly opposes** House Bill (HB) 1611.

This bill seeks to give law enforcement agencies in Hawai'i tools to help ensure that law enforcement officers serving in our communities possess the highest moral standards and character by requiring the use of the National Decertification Index as part of a law enforcement agency's determination of an applicant's employment suitability. To that end, the DLE is supportive of this bill. However, the DLE notes that section 2 of the bill requires both the Law Enforcement Standards Board (LESB) and the employing law enforcement agency to consult, or report to, the National Decertification Index before employing any officer or when taking disciplinary action against an officer. The DLE reviewed the LESB's Annual Report to the 2024 Legislature and further notes that the LESB reported that it is currently in considerations for employing its own staff and infrastructure.¹ Consequently, the DLE is concerned that the effective date of this bill, July 1, 2024, may be too soon.

This bill also seeks to provide an employment opportunity for a law enforcement applicant convicted of promoting a detrimental drug in the third degree or "any substantially similar drug-related offense" the DLE believes that this provision in the bill is problematic for several reasons.

The phrase “any substantially similar drug-related offense” is vague. Often, the promotion of detrimental drugs in the third degree in Hawaii is related to the simple possession of a small amount of marijuana. However, the term “substantially similar drug-related offense” is so ambiguous that it is difficult to know whether to apply this term in other instances of drug “possession”, including possession cases involving more serious drugs, or whether it should be applied in cases where the drugs involved are within the same schedule of dangerousness and addiction risk as marijuana.

The DLE, like all other law enforcement agencies, seeks applicants that have job appropriate criminal histories indicative of a strong pattern of compliance with the law. Additionally, the DLE is seeking applicants with good judgement and decision-making skills. While the DLE understands that the community’s attitudes toward marijuana have evolved, the DLE also understands that marijuana is still illegal at the federal level and is still illegal in Hawaii, but for the narrow scope of Hawaii’s Medical Use of Cannabis Program. A conviction for a low-level drug related offense, as well as any recent involvement with illegal drugs, are both indicators of an applicant’s lack of judgement and decision-making skills. Consequently, the DLE does not support HB 1611’s provision that a law enforcement officer’s conviction for promoting a detrimental drug in the third degree under section 712-1249 or any substantially similar drug-related offense not be the sole reason to deny employment or terminate a law enforcement officer. Rather, the DLE, like other law enforcement agencies, must be able to investigate every instance of convictions for drug-related offenses in a law enforcement applicant or officer’s history and make situation-specific employment-related decisions that are tailored for that applicant or officer’s specific situation. Moreover, the DLE, like other agencies, already has employment procedures that consider the types of drugs that may have been involved, the types of activities the applicant did with illegal drugs (such as possession or sales), and the duration of time that has passed since they last used an illegal drug. As such, the DLE does not support this part of HB 1611.

Thank you for the opportunity to testify on this bill.

ⁱ Report on the Law Enforcement Standards Board submitted to the Thirty-Second Legislature, Page 4, subsection (4) “...concerns regarding consistency with Act 278 of the 2022 Legislative Session, future funding of the board, clarification of Board powers, deadlines for Board to meet statutory requirements, additional Board staffing...”

State of Hawai‘i
The Office of the Public Defender

H.B. No. 1611: RELATING TO LAW ENFORCEMENT OFFICERS

Chair Scot Z. Matayoshi
Vice Chair Andrew Takuya Garrett
Honorable Committee Members

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

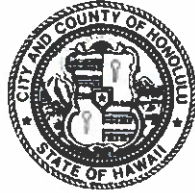
As police departments struggle to find more officers and create financial incentives to hire applicants, we still must scrutinize applicants.

This is a sensible bill that can go a long way in creating a safe and secure community. Employers often check a person’s background for egregious misconduct before hiring an applicant. Hiring law enforcement officers—who by law are allowed to carry firearms, enter private property, gather evidence, and use lethal force against civilians—should be no different.

This basic screening process also saves money. When law enforcement officers hurt others, kill people, and damage property, lawsuits follow. The State pays. Even if plaintiffs do not prevail, the State pays for government lawyers, court involvement, and all the other expenses associated with a lawsuit.

POLICE DEPARTMENT
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HOPE LUNA NUI MĀKA'I

OUR REFERENCE **PB-JK**

January 30, 2024

The Honorable Scot Z. Matayoshi, Chair
and Members
Committee on Labor and Government
Operations
House of Representatives
415 South Beretania Street, Room 309
Honolulu, Hawai'i 96813

Dear Chair Matayoshi and Members:

SUBJECT: House Bill No. 1611, Relating to Law Enforcement Officers

I am Parker Bode, Captain of the Human Resources Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD opposes House Bill No. 1611, Relating to Law Enforcement Officers.

The certification or hiring of a law enforcement officer who has been convicted of Promoting a Detrimental Drug in the Third Degree under Section 712-1249, Hawai'i Revised Statutes (HRS), or any similar drug-related offense appears to conflict with federal law under Title 18 of the United States Code, Subsection 922(g)(3).

This federal law prohibits the possession of a firearm by an "unlawful user" of any controlled substance, which still includes marijuana as a Schedule I drug. Therefore, any person convicted of Promoting a Detrimental Drug in the Third Degree under Section 712-1249, HRS, or any similar drug-related offense could be considered an "unlawful user."

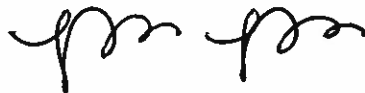
The Honorable Scot Z. Matayoshi, Chair
and Members
Page 2
January 30, 2024

In addition to federal law, Section 134-7, Subsection (a), HRS, mandates that individuals who are prohibited from possessing a firearm under federal law shall not own, possess, or control any firearm. In consideration of that federal law, individuals who have been convicted of Promoting a Detrimental Drug in the Third Degree under Section 712-1249, HRS, or any similar drug-related offense would be ineligible to be hired for an HPD sworn officer position.

The HPD urges you to oppose House Bill No. 1611, Relating to Law Enforcement Officers.

Thank you for the opportunity to testify.

Sincerely,



Parker Bode, Captain
Human Resources Division

APPROVED:



Arthur J. Logan
Chief of Police

HB-1611

Submitted on: 1/28/2024 10:44:57 PM

Testimony for LGO on 1/30/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Jacob Wiencek	Hawaii Young Republicans	Support	Written Testimony Only

Comments:

Aloha Representatives,

On behalf of Hawaii Young Republicans, we support this bill. Our police officers risk their lives every day to keep our communities safe. We should not put at risk the valiant officers performing that duty by allowing rotten/dirty cops into the ranks. Accurately reporting misconduct is crucial to a healthy police force and secure communities. We urge this committee to support this bill!



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January 29, 2024

H.B. No. 1611: RELATING TO LAW ENFORCEMENT OFFICERS

Chair Scot Z. Matayoshi
Vice Chair Andrew Takuya Garrett
Honorable Committee Members

I am a criminal defense attorney and I fully support this bill.

Police departments and law enforcement agencies in our State need to weed out people who have a history of violence. They have no business carrying a badge and gun patrolling our streets.

We have already seen the disastrous consequences that arise when the police engage in excessive force. It leads to unnecessary death, destruction, and loss. This bill is an easy way to take a look at the people who are applying to join the ranks of law enforcement.

I hope this much-needed bill becomes law.

Very truly yours,

/s/ Wendy A. Hudson

Wendy A. Hudson

SUPPORT FOR HB1611

I am enthusiastically writing to show my support for HB1611, a bill that, in my view, adds a much-needed sprinkle of accountability to our law enforcement agencies – affectionately known here as the Pig Pens – and the Law Enforcement Standards Board, or as I like to call them, the Thin Blue Line Gang Custodians.

HB1611 is a game-changer. It's like giving a much-needed bath to a muddy pig, ensuring our officers – our dedicated Oinkers – are squeaky clean when it comes to past misconduct. The National Decertification Index is our scrub brush, ready to scour away any dirt and make sure only the shiniest of pigs protect and serve our communities.

In reading HB1611, A Bill For an Act, The legislature finds that Oinkers with guns are authorized to use physical force to enforce laws and should be held to the highest standards to ensure that this authority is not abused. Now, you might think that's just common sense – don't let the pigs play in the mud with the big guns – but apparently, we need a bill for that. And why? Because some of our beloved Oinkers have been playing a little too fast and loose with our rights, like kids with water guns on a hot summer day, except it's not water in those guns and it's not all fun and games.

The Oinkers have one job, and one job only, protect and defend the Constitution of the United States of America; and yet, sometimes it seems like they're reading the Constitution with the same attention a pig pays to a ballet manual. We need to remove qualified immunity when Pigs with torture cuffs mistake the rule book for a frisbee. Qualified stupidity? More like unqualified for the badge if you ask me!

This Act is crucial in promoting accountability and transparency within the Thin Blue Line Gang. It's high time we start treating our law enforcement like we do our pets – love and cuddles when they're good, and a firm 'no' when they chew up the Constitution. Utilizing the National Decertification Index is like checking the pedigree of our Oinkers – only the best and brightest get the badge.

Particularly commendable is the Act's directive for the comprehensive reporting of all domestic violence records, regardless of any contrary law or court order. It's like saying, “Hey, if you're gonna wear that shiny badge, you can't play hide-and-seek with your skeletons.” This transparency is like installing a night light in a dark room – suddenly, all the monsters under the bed are visible and accountable.

However, I must emphasize a crucial aspect regarding drug-related offenses. If our boys in blue are found moonlighting as Breaking Bad extras, then surely that's a one-way ticket out of the pigpen. A law enforcement officer's conviction for promoting a detrimental drug in the third degree, or any similar drug-related offense, should not just ring alarm bells – it should start a whole parade. The “Say No to Drugs” ethos is not just a catchy slogan; it's the line in the sand. Cross it, and you're out of the club – no more donuts for you.

In conclusion, while HB1611 takes significant strides in enhancing the integrity and accountability of Oinker Statists, let's not forget the heart of the matter – we need our officers to be more Captain America and less Joker. It is imperative that we hold them to the highest standards, especially concerning drug-related offenses and any other Federal, State, and Local laws they violate. This stance is vital in preserving the honor and trustworthiness of our Pig Pen institutions. Let's clean up the sty,

one shiny badge at a time. I strongly urge support for this Act with the inclusion of stringent measures against drug-related offenses by the Thin Blue Line Gang.

Sincerely,

Billy R. Guthrie
A Free American

If the freedom of speech does not include the freedom to offend, then there is no freedom; freedom is dangerous!