



UNIVERSITY OF HAWAII SYSTEM

‘ŌNAEHANA KULANUI O HAWAII

Legislative Testimony

Hō'ike Mana'o I Mua O Ka 'Aha'ōlelo

Testimony Presented Before the
Senate Committee on Judiciary
February 24, 2023 at 9:30 a.m.

By

Kalbert K. Young

Vice President for Budget and Finance/Chief Financial Officer
University of Hawai'i System

SB 353 SD1 – RELATING TO TRESPASS

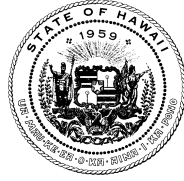
Chair Rhoads, Vice Chair Gabbard, and Members of the Committee:

Thank you for the opportunity to testify on this measure, which clarifies that either state or county law enforcement officers may enforce trespass violations on public lands regardless of whether that land is owned or controlled by the state or a county. The University of Hawai'i (UH) System supports this measure, because it will make government more effective and expedite the enforcement of trespass laws.

The UH can attest that there is a public benefit to clarifying this issue. It is already the case that law enforcement can enforce trespass under existing statutes, e.g., [HRS §708-814.7](#), entitled "Criminal trespass onto state lands." However, the UH and I have witnessed first-hand how jurisdictional uncertainties have limited the vigor, and thereby, cooperation at which county and state law enforcement officers have been able to effectuate removing trespassers from public property – even when those trespassers were explicitly preventing public agencies from providing public services.

Although this bill may only succeed in re-iterating the authority that is already codified in statutes, I believe that such restatement will serve to make clearer that either state or county law enforcement can enforce trespass violations regardless of which government entity owns or controls a parcel of public land. The bill will also further convey the legislature's intent that enforcing trespass statutes already on the books is important to ensuring the public's health, safety, and welfare as well as the proper management of public lands.

Thank you for the opportunity to testify on this measure.



STATE OF HAWAII
HAWAII STATE PUBLIC LIBRARY SYSTEM
'OIHANA HALE WAIHONA PUKE AUPUNI O KA MOKU'AINA O HAWAII
OFFICE OF THE STATE LIBRARIAN
44 MERCHANT STREET
HONOLULU, HAWAII 96813

SENATE COMMITTEE ON JUDICIARY

Friday, February 24, 2023

9:30 AM

Conference Room 016

**By Stacey A. Aldrich
State Librarian**

S.B. 353 S.D.1 RELATING TO TRESPASS

To: Sen. Karl Rhoads, Chair
Sen. Mike Gabbard, Vice Chair
Members of the Senate Committee on Judiciary

The Hawaii State Public Library System (HSPLS) **supports** S.B. 353 S.D.1 which clarifies that when trespass involves public land, all state and county law enforcement officers are authorized to and shall enforce trespass laws, without regard to whether the land is owned by the State or by a county. This bill clarifies the jurisdictional issues that can sometimes deter a response by law enforcement.

The HSPLS has 51 branches statewide, and access to the public libraries and facilities is key to carrying out our mission. There are times when access to the buildings, book-drop/pick-up boxes, staff, collections, and programs and services is hindered, and staff need assistance from law enforcement.

Current jurisdictional issues, particularly in the area near the Hawaii State Library, have resulted in an absence of enforcement and encouraged the continued encampment of houseless to live along the Likelike Mall entrance to Iolani Palace. Having individuals living along the Likelike Mall is dangerous and impacts the public's ability to access State property safely. We hope that this measure will help provide some resolution to this continuing problem.

Thank you for the opportunity to provide testimony on S.B. 353 S.D.1.



SB353 SD1
RELATING TO TRESPASS
Senate Committee on Judiciary

February 24, 2023

9:30 AM

Room 016

The Office of Hawaiian Affairs (OHA) offers **COMMENTS** on SB353 SD1, which would clarify that when trespass involves public lands, all state and county law enforcement officers are authorized to and shall enforce trespass laws without regard to whether the land is owned by the State or by a county.

Many Native Hawaiians currently engage in traditional and customary practices for subsistence, cultural, and religious purposes. The Hawai'i Constitution, Hawai'i Supreme Court, and this Legislature consistently protect the perpetuation of these practices as a living component of the Hawaiian culture. Native Hawaiians' cultural and spiritual identity derives from their relationship with the 'āina: the 'āina is part of their 'ohana, and accordingly, traditional Hawaiian customs and practices emphasize respect and care for the 'āina and surrounding resources.¹ Consequently, gathering practices traditionally and customarily exercised by Native Hawaiians have continued to the present. Members of hula hālau gather "ferns, maile, and lauhala necessary to make their ceremonies pono, proper." Practitioners of lā'au lapa'au (herbal medicine) gather the plants and herbs necessary for their practice. Finally, fishermen, hunters, gatherers, kalo planters, and farmers access and use the natural or cultural resources of an area for subsistence purposes.

Many Native Hawaiian cultural practitioners engage in practices on and through State and county lands. As such, OHA would encourage the inclusion of the following language to the bill to ensure that Native Hawaiian cultural practitioners engaging in their constitutionally protected gathering rights shall not have their rights unduly infringed upon:

Nothing contained in this section shall diminish, alter, or amend any existing rights, privileges or practices of the Native Hawaiian people; nor shall the obligations of the State to the Native Hawaiian people be absolved.

OHA appreciates the opportunity to provide COMMENTS regarding SB353 SD1 to share our concerns.

¹ Davianna Pōmaika'i McGregor, *An Introduction to the Hoa'āina and Their Rights*, 30 HAWAIIAN J. HIST. 1, 15-20 (1996).

SB-353-SD-1

Submitted on: 2/23/2023 10:23:56 PM

Testimony for JDC on 2/24/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Kamalani Keliikuli	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill