



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
KA 'OIHANA O KA LOIO KUHINA  
THIRTY-THIRD LEGISLATURE, 2026**

---

**ON THE FOLLOWING MEASURE:**

S.B. NO. 3142, S.D. 2, RELATING TO DANGEROUS INTOXICATION.

**BEFORE THE:**

HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

**DATE:** Wednesday, March 18, 2026      **TIME:** 2:00 p.m.

**LOCATION:** State Capitol, Room 325

**TESTIFIER(S):** Anne E. Lopez, Attorney General, or  
Michelle M.L. Puu, Deputy Attorney General

---

Chair Tarnas and Members of the Committee:

The Department of the Attorney General strongly supports this bill.

The bill establishes a new offense of dangerous intoxication. A person commits the offense if the person is under the influence of alcohol and/or drugs on public property and, due to substantial incapacitation, is unable to safely care for oneself, engages in conduct that creates an immediate and substantial risk of physical harm to the person or others, or obstructs the use of a public way. The bill classifies the offense of dangerous intoxication as a petty misdemeanor. However, the bill makes civil protective custody the default response and directs law enforcement officers, when reasonably able to do so, to transport the person for appropriate medical evaluation, including an emergency examination pursuant to chapter 334.

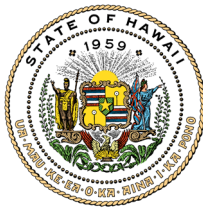
The bill preserves criminal enforcement in limited circumstances involving serious public safety concerns and also establishes the offense of habitual dangerous intoxication for repeat offenders. Together, these provisions would provide law enforcement with flexible tools to respond to intoxication-related safety risks while emphasizing early intervention, treatment, and accountability in a manner that promotes both individual safety and public welfare.

As part of the State's concerted efforts to provide additional pathways to medical evaluation and treatment for individuals suffering from substance use disorders, creating options that prioritize care will help ensure early and appropriate intervention

for those who need it most. When safety becomes an issue for these individuals or others around them, law enforcement officers need different tools to address different types of situations. This bill provides a tool that emphasizes diverting appropriate individuals to a medical setting, in lieu of sending them through the criminal justice system, while still preserving the possibility for criminal prosecution for more serious situations that call for judicial oversight.

The Department strongly supports, and respectfully requests the passage of, this bill.

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



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII  
**DEPARTMENT OF CORRECTIONS  
AND REHABILITATION**  
*Ka 'Oihana Ho'omalua Kalaima  
a Ho'oponopono Ola*  
1177 Alakea Street  
Honolulu, Hawai'i 96813

**TOMMY JOHNSON**  
DIRECTOR

**Melanie Martin**  
Deputy Director  
Administration

**Vacant**  
Deputy Director  
Correctional Institutions

**Sanna Muñoz**  
Deputy Director  
Rehabilitation Services  
and  
Programs

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

TESTIMONY ON SENATE BILL 3142, SENATE DRAFT 2  
RELATING TO DANGEROUS INTOXICATION.

by

Tommy Johnson, Director  
Department of Corrections and Rehabilitation

House Committee on Judiciary & Hawaiian Affairs  
Representative David A. Tarnas, Chair  
Representative Mahina Poepoe, Vice Chair

Wednesday, March 18, 2026; 2:00 p.m.  
State Capitol, Conference Room 325 & Via Video Conference

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

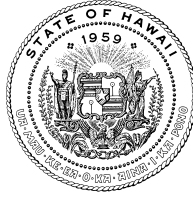
The Department of Corrections and Rehabilitation (DCR) **supports** Senate Bill (SB) 3142, Senate Draft (SD) 2, which proposes to 1) Establish the offenses of dangerous intoxication and habitual dangerous intoxication; 2) Provide for civil protective custody and transport for emergency examination under section 334-45, Hawai'i Revised Statutes (HRS), in lieu of arrest for dangerous intoxication in specified circumstances, and bar prosecution when civil protective custody is used; 3) Require probation with mandatory treatment for habitual dangerous intoxication, with incarceration only upon probation violation; and 4) Make conforming amendments to chapter 334, HRS.

DCR supports law enforcement's efforts that prioritizes diversion and deflection of individuals struggling with substance abuse and/or mental health challenges, to community-based treatment interventions, in lieu of incarceration. This bill balances public safety while it allows for timely interventions and promotes an appropriate health-oriented response rather than a punitive one.

Studies have shown that spending even brief periods in jail can make it more difficult for a person to keep or find a job or housing, as well as increase the likelihood of recidivism and future incarceration. This measure enhances safety, health, and equity by offering community-based alternatives to prosecution for people whose behavior stems from unmet needs related to substance use and/or mental health challenges.

DCR encourages practices that promote access to appropriate treatment in the community instead of being arrested or booked into jail, where a person's illness is generally exacerbated during their stay.

Thank you for the opportunity to provide testimony in **support** of SB 3142, SD 2.



EXECUTIVE CHAMBERS  
KE KE'ENA O KE KIA'ĀINA

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

**House Committee on Judiciary & Hawaiian Affairs**

Wednesday, March 18, 2026

2:00 p.m.

State Capitol, Conference Room 325 and Videoconference

**In Support**

**Senate Bill No. 3142, SD2, Relating to Dangerous Intoxication**

Chair Tarnas, Vice Chair Poepoe, and Members of the House Committee on Judiciary & Hawaiian Affairs:

The Office of the Governor strongly supports S.B. No. 3142, SD2, Relating to Dangerous Intoxication.

This bill establishes a narrowly defined offense of dangerous intoxication, focused not on intoxication itself, but on observable danger and substantial incapacitation in public spaces. When a person's intoxication creates an immediate risk of harm to themselves or others, the bill authorizes early, health-oriented intervention.

S.B. 3142, SD2, is explicitly health-first and diversion-oriented. It directs law enforcement, whenever reasonably possible, to use civil protective custody and transport individuals for medical stabilization and emergency examination under existing HRS Chapter 334 procedures. When this health-oriented pathway is used, the bill prohibits criminal prosecution, reinforcing diversion rather than punishment.

At the same time, the bill is firmly grounded in public safety. It applies only when there is observable danger, and it preserves arrest authority in cases involving felonies, violent crime, DUI, outstanding felony warrants, or situations that cannot be safely managed by medical personnel.

Foundationally, the bill prioritizes civil protective custody and medical or psychiatric evaluation over arrest whenever feasible. For individuals who demonstrate repeated dangerous behavior, the bill establishes a structured accountability mechanism that requires treatment and supervision, with incarceration used only as a last resort following probation violations. This ensures that public safety concerns are addressed without defaulting to unnecessary incarceration.

Testimony of the Office of the Governor  
S.B. No. 3142, SD2  
March 18, 2026  
Page 2

The Office of the Governor believes that S.B. 3142, SD2, reflects a humane and pragmatic approach to a complex issue. It provides a balanced solution by aligning public safety authority with Hawai'i's behavioral-health framework. It intervenes before tragedy occurs, prioritizes treatment over punishment, and strengthens public safety through clarity, accountability, and alignment with Hawai'i's behavioral-health goals.

For these reasons, The Office of the Governor strongly supports, and respectfully requests that the Committee pass S.B. 3142, SD2.

Mahalo for the opportunity to provide testimony on this measure.

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



**MIKE LAMBERT**  
Director

**ERNEST J. ROBELLO**  
Deputy Director  
Administration

**SYLVIA LUKE**  
LT GOVERNOR  
KA HOPE KIA'ĀINA

STATE OF HAWAII | KA MOKU'ĀINA O HAWAII  
**DEPARTMENT OF LAW ENFORCEMENT**  
*Ka 'Oihana Ho'okō Kānāwai*  
715 South King Street  
Honolulu, Hawaii 96813

**JARED K. REDULLA**  
Deputy Director  
Law Enforcement

TESTIMONY ON SENATE BILL 3142, SENATE DRAFT 2  
RELATING TO DANGEROUS INTOXICATION  
Before the House Committee on  
JUDICIARY & HAWAIIAN AFFAIRS  
Wednesday, March 18, 2026, 2:00 PM  
State Capitol Conference Room 325  
Testifier: Mike Lambert

Chair Tarnas, Vice Chair Poepoe, and members of the Committee:

The Department of Law and Enforcement (DLE) supports Senate Bill 3142, Senate Draft 2. This bill establishes the offenses of dangerous intoxication and habitual dangerous intoxication under Hawaii law. It provides for civil protective custody and transport for emergency examination under section 334-45, Hawaii Revised Statutes, in lieu of arrest for dangerous intoxication in specified circumstances, and bars prosecution when civil protective custody is used. The bill further requires probation with mandatory treatment for habitual dangerous intoxication, with incarceration only upon probation violation, and makes conforming amendments to chapter 334, Hawaii Revised Statutes.

DLE supports this bill as it represents a significant and necessary shift in how law enforcement responds to individuals who are dangerously intoxicated in our communities. For too long, law enforcement officers have faced a difficult and limited set of options when encountering individuals whose dangerous level of intoxication poses a risk to themselves or others. The traditional arrest-and-prosecution model,

while sometimes necessary, does not adequately address the underlying public health dimensions of dangerous intoxication, particularly for habitual offenders. This bill provides a meaningful and constructive alternative.

The provision allowing civil protective custody and transport for emergency examination in lieu of arrest is particularly valuable from a law enforcement perspective. Courts and legislative bodies have made it clear that our law enforcement officers are required to take a closer look when they arrive on scene, if they can safely do so, with the goal of better understanding any interaction, encounter, or response for the purpose of helping those who may be in crisis, suffering from some form of impairment whether physical, developmental, cognitive, psychological, mental health, or substance disorder influencing their behavior. This bill directly supports that mandate by giving officers a structured, health-oriented pathway that does not require criminal charges when civil protective custody is the appropriate and sufficient response.

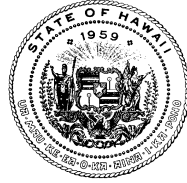
The establishment of the habitual dangerous intoxication offense, paired with a mandatory probation and treatment requirement rather than immediate incarceration, reflects an evidence-based approach to breaking the cycle of dangerous behavior. Incarceration alone has proven insufficient in addressing the root causes of habitual intoxication. By requiring treatment as a condition of probation and reserving incarceration for probation violations, this bill ensures accountability while prioritizing rehabilitation and public safety outcomes. This approach also reduces the burden on correctional facilities and the criminal justice system more broadly, allowing law enforcement resources to be directed where they are most needed.

DLE also recognizes that this bill works in concert with other legislative and administrative efforts to divert persons in crisis from the criminal justice system to the health care system, consistent with the goals of crisis intervention and diversion programs that the DLE has supported in prior legislative sessions. The conforming amendments to chapter 334, Hawaii Revised Statutes, further ensure that the civil

protective custody and emergency examination framework operates seamlessly within the existing mental health and public safety infrastructure.

The DLE supports Senate Bill 3142, Senate Draft 2, and encourages the committee to advance this measure.

Thank you for the opportunity to testify in support of this bill.



STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P. O. Box 3378  
Honolulu, HI 96801-3378  
doh.testimony@doh.hawaii.gov

**Testimony in SUPPORT of SB3142 SD2  
RELATING TO DANGEROUS INTOXICATION**

REPRESENTATIVE DAVID T. TARNAS, CHAIR  
REPRESENTATIVE MAHINA POEPOE, VICE CHAIR  
HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

Hearing Date: Wednesday, March 18, 2026 2:00 p.m. Room Number: 325 & Video

1 **Fiscal Implications:** Undetermined.

2 **Department Position:** The Department of Health (“Department”) supports this measure.

3 **Department Testimony:** The Adult Mental Health Division offers the following testimony on  
4 behalf of the Department.

5 The Department supports SB 3142, SD2, which establishes the offenses of dangerous  
6 intoxication and habitual dangerous intoxication and prioritizes a health-oriented, treatment-  
7 focused response to individuals whose substance use results in substantial incapacitation and  
8 immediate risk in public spaces. The bill focuses on dangerous conduct and inability to self-care,  
9 rather than intoxication alone, ensuring that intervention is triggered by observable risk and  
10 functional impairment.

11 SB 3142, SD2, recognizes that severe intoxication resulting in substantial incapacitation  
12 and immediate risk can be both a public safety concern and a medical and behavioral health  
13 issue. In cases of incapacitation and altered mental status, the standard of care is typically to  
14 first rule out medical causes and then conduct an emergency examination pursuant to HRS 334.

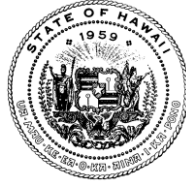
15 SB 3142, SD2, prioritizes civil protective custody in lieu of arrest whenever reasonably  
16 feasible. Law enforcement officers’ transporting individuals who are in crisis for emergency

1 examination aligns with best practices in crisis response. This approach promotes timely  
2 medical and psychiatric assessment, stabilization, and linkage to appropriate care during crises.

3 The Department recognizes the importance of patient motivation for successful  
4 substance use treatment and appreciates the increased utilization of court-ordered substance  
5 use treatment as a condition of probation. The Department also notes the need for increased  
6 capacity for substance use treatment statewide.

7 SB 3142, SD2, represents a balanced approach to complex public health and public  
8 safety issues. It enhances community safety and strengthens Hawaii's continuum of behavioral  
9 health care by ensuring that individuals experiencing dangerous intoxication receive timely  
10 intervention.

11 Thank you for the opportunity to testify.



**STATE OF HAWAII**  
**OFFICE OF WELLNESS AND RESILIENCE**  
OFFICE OF THE GOVERNOR  
415 S. BERETANIA ST. #415  
HONOLULU, HAWAII 96813

**Testimony on S.B. 3142 SD2**  
**RELATING TO DANGEROUS INTOXICATION**

Representative David Tarnas, Chair  
Representative Mahina Poepoe, Vice Chair  
House Committee on Judiciary and Hawaiian Affairs

March 18, 2026, at 2:00 p.m.; Room Number: 325

The Office of Wellness and Resilience (OWR) **SUPPORTS** S.B. 3142 SD2, Relating to Dangerous Intoxication and offers comments.

A trauma-informed approach recognizes that substance use disorders do not emerge in a vacuum—they are frequently rooted in adverse experiences. Research shows that individuals who experienced four or more categories of childhood adversity had a 4- to 12-fold increased risk of developing alcohol or drug abuse problems.<sup>1</sup> Substance Abuse and Mental Health Services Administration’s guidance on trauma-informed care identifies substance abuse as one of the most pronounced consequences of repeated or chronic trauma exposure.<sup>2</sup>

Research further demonstrates that incarceration alone has little impact on reducing recidivism among individuals with substance use disorders and may in fact produce criminogenic effects that worsen outcomes.<sup>3</sup> Individuals carrying trauma who encounter the

---

<sup>1</sup> Felitti, V. J., Anda, R. F., Nordenberg, D., et al. (1998). Relationship of childhood abuse and household dysfunction to many of the leading causes of death in adults: The Adverse Childhood Experiences (ACE) Study. *American Journal of Preventive Medicine*, 14(4), 245–258. [https://doi.org/10.1016/S0749-3797\(98\)00017-8](https://doi.org/10.1016/S0749-3797(98)00017-8)

<sup>2</sup> Substance Abuse and Mental Health Services Administration. (2014). *Trauma-Informed Care in Behavioral Health Services. Treatment Improvement Protocol (TIP) Series 57*. HHS Publication No. (SMA) 13-4801. Rockville, MD: SAMHSA.

<sup>3</sup> Substance Abuse and Mental Health Services Administration. (2014). *Trauma-Informed Care in Behavioral Health Services. Treatment Improvement Protocol (TIP) Series 57*. HHS Publication No. (SMA) 13-4801. Rockville, MD: SAMHSA.

criminal legal system without access to treatment risk compounding that trauma rather than resolving it.

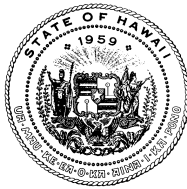
S.B. 3142 SD2 reflects establishes “habitual dangerous intoxication offender” in statute meaning a person who, within three years of the instant offence has three or more prior convictions and establishing it as a misdemeanor. The habitual dangerous intoxication provisions require courts to impose substance-use disorder treatment—including medication-assisted treatment and clinically indicated residential care—rather than defaulting to incarceration. This reflects the evidence that sustained, person-centered support is more effective than punishment alone.<sup>4</sup>

This measure takes a trauma-informed approach to substance-related crises by anticipating harm and creating a pathway to care. Mahalo for the opportunity to testify.

Tia L.R. Hartsock, MSW, MSCJA  
Director, Office of Wellness & Resilience

---

<sup>4</sup> Oliveira, C., Bastos, D., Faria, M., et al. (2023). Criminal reactions to drug-using offenders: A systematic review of the effect of treatment and/or punishment on reduction of drug use and/or criminal recidivism. *Frontiers in Psychiatry, 14*, 935755. <https://doi.org/10.3389/fpsy.2023.935755>



**STATE OF HAWAI'I**  
**DEPARTMENT OF HEALTH**  
**KA 'OIHANA OLAKINO**  
**STATE COUNCIL ON MENTAL HEALTH**  
*P.O. Box 3378, Room 256*  
*HONOLULU, HAWAII 96801-3378*

**STATE COUNCIL ON MENTAL HEALTH**  
**Testimony to the House Committee on Judiciary**  
**COMMENT ON S.B. 3142 SD2**  
**RELATING TO DANGEROUS INTOXICATION**  
**March 18, 2026, 2 p.m., Room 325 and Video**

Chair Rhoads, Vice Chair Gabbard, and Committee members:

**CHAIRPERSON**

Katherine Aumer, PhD

**1<sup>st</sup> VICE CHAIRPERSON**

Kathleen Merriam, LCSW CSAC

**2<sup>nd</sup> VICE CHAIRPERSON**

Forrest Wells, MSCP, LMHC, MBA

**SECRETARY**

Mary Pat Waterhouse, MHA MBA

**MEMBERS:**

Danielle Bergan

John Betlach

Tianna Celis-Webster

Lea Dias, MEd

Jon Fujii, MBA

Heidi Ilyavi

Jackie Jackson, CFPS

Christine Montague-Hicks, MEd

Ray Rice, MEd

Asianna Saragosa-Torres

Kristin Will, MA, CL, CSAC

**EX-OFFICIO:**

Marian Tsuji, Deputy Director  
Behavioral Health Administration

**WEBSITE:**

[scmh.hawaii.gov](http://scmh.hawaii.gov)

**EMAIL ADDRESS:**

[doh.scmhchairperson@  
doh.hawaii.gov](mailto:doh.scmhchairperson@doh.hawaii.gov)

Hawaii law, HRS §334-10, established the State Council on Mental Health (SCMH) as a 21-member body to advise on the allocation of resources, statewide needs, and programs affecting more than one county as well as to advocate for adults with serious mental illness, children with serious emotional disturbances, individuals with mental illness or emotional problems, including those with co-occurring substance abuse disorders. Members are residents from diverse backgrounds representing mental health service providers and recipients, students and youth, parents, and family members. Members include representatives of state agencies on mental health, criminal justice, housing, Medicaid, social services, vocational rehabilitation, and education. Members include representatives from the Hawaii Advisory Commission on Drug Abuse and Controlled Substances and county service area boards on mental health and substance abuse.

The Council supports the goal of this measure to create a more health-focused response for individuals experiencing dangerous intoxication.

This measure is an important step toward helping individuals access evaluation and treatment, rather than face criminal penalties when urgent safety concerns arise. This is especially important for adults with serious mental illness and youth with serious emotional challenges, many of whom also have co-occurring conditions.

The Council is concerned about increasing demand in an already strained system without corresponding investments in capacity. This could

make it more difficult for individuals to access timely and appropriate care. Successful implementation of SB3142 SD2 depends on the availability of a full continuum of behavioral health services. The measure may increase demand for emergency departments, crisis response teams, and behavioral health providers. However, existing gaps remain in crisis services, inpatient and residential treatment, step-down care, and community-based supports. Without addressing these gaps, individuals may experience delays in care and repeated crises.

The Council's discussion also highlighted challenges in rural and neighbor island communities, where behavioral health services, workforce capacity, and treatment facilities are more limited. Ongoing investment in workforce development, treatment infrastructure, and community-based services will be essential to support implementation and ensure equitable access to care across the state.

Thank you for the opportunity to provide testimony.

JON N. IKENAGA  
PUBLIC DEFENDER

**DEFENDER COUNCIL**  
1130 NORTH NIMITZ HIGHWAY  
SUITE A-254  
HONOLULU, HAWAII 96817

**HONOLULU OFFICE**  
1130 NORTH NIMITZ HIGHWAY  
SUITE A-254  
HONOLULU, HAWAII 96817

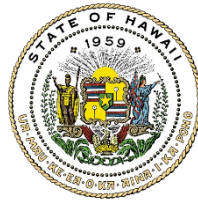
**APPELLATE DIVISION**  
TEL. No. (808) 586-2080

**DISTRICT COURT DIVISION**  
TEL. No. (808) 586-2100

**FAMILY COURT DIVISION**  
TEL. No. (808) 586-2300

**FELONY DIVISION**  
TEL. No. (808) 586-2200

**FACSIMILE**  
(808) 586-2222



STATE OF HAWAII  
**OFFICE OF THE PUBLIC DEFENDER**

**March 18, 2026**

HAYLEY Y. C. CHENG  
ASSISTANT PUBLIC DEFENDER

**HILO OFFICE**  
275 PONAHAHAWAI STREET  
SUITE 201  
HILO, HAWAII 96720  
TEL. No. (808) 974-4571  
FAX No. (808) 974-4574

**KONA OFFICE**  
75-1000 HENRY STREET  
SUITE #209  
KAILUA-KONA HI 96740  
TEL. No. (808) 327-4650  
FAX No. (808) 327-4651

**KAUA'I OFFICE**  
3060 EIWA STREET  
SUITE 206  
LIHUE, HAWAII 96766  
TEL. No. (808) 241-7128  
FAX No. (808) 274-3422

**MAUI OFFICE**  
81 N. MARKET STREET  
WAILUKU, HAWAII 96793  
TEL. No. (808) 984-5018  
FAX No. (808) 984-5022

## **SB3142 SD2: RELATING TO DANGEROUS INTOXICATION**

### **Chair Tarnas, Vice Chair Poepoe and Members of the Committee on Judiciary and Hawaiian Affairs**

The Office of the Public Defender **opposes SB3142 SD2** which seeks to amend Chapter 711 of the Hawai'i Revised Statutes (HRS) to create the petty misdemeanor offense of "Dangerous Intoxication" (HRS § 711-A) and the misdemeanor offense of "Habitual Dangerous Intoxication" (HRS § 711-B). The proposed amendment would also allow a law enforcement officer to place a person under "civil protective custody," in lieu of arrest or citation, upon probable cause that the person has committed the offense of dangerous intoxication and transport the person for an emergency examination to determine suitability for involuntary civil commitment or assisted community treatment. While the OPD supports the spirit of SB3142 SD2 to the extent that it would allow officers the discretion to seek treatment for a person in lieu of criminal charges, the OPD believes that the implementation of the dangerous intoxication statute will create issues.

The first issue is the term "under the influence." In DUI cases officers receive specific training and have objective bases to make the assessment that a person is under the influence of alcohol, including performance on the standardized field sobriety test, and breathalyzer or blood tests. In many DUI cases, the officer's determination of probable cause that a person is "under the influence" as defined by HRS § 291E-1 is based on a combination of driving performance, objective indicia of alcohol consumption (smell of alcohol on breath, bloodshot eyes, swaying, nystagmus) and the SFST results.<sup>1</sup> The determination of intoxication by drug use is

---

<sup>1</sup> See e.g. State v. Ferrer, 95 Hawai'i 409, 23 P.3d 744 (App. 2001) (finding that probable cause for arrest for OVUII existed where the defendant was traveling at an excessive rate of speed, had

even more complex and generally requires the testimony of a specially trained drug recognition expert.<sup>2</sup> By contrast, SB3142 SD2 would apparently allow an untrained officer to make the determination that a person is “under the influence” simply by the amorphous standard of “observable physical signs of impairment” caused by alcohol, a drug or both. The same untrained officer would also make a subjective determination that the signs that they observed were not attributed to physical, medical or psychological issues.<sup>3</sup> As “observable signs of impairment” could include indicia as innocuous and ambiguous as red, bloodshot eyes, issues with balance, speech issues, or behaviors, allowing a person to be cited, arrested or taken into “civil protective custody” base on less-than-expert opinion is troubling. The lack of specificity in the term “under the influence” is also ripe for a constitutional challenges to the statute for vagueness<sup>4</sup> or overbreadth<sup>5</sup>.

A second issue with SB3142 SD2 is the low, ambiguous and amorphous standards set by the Dangerous Intoxication statute. Under the low standard of “under the influence,” law enforcement officers could stop a moderately intoxicated person, ostensibly to determine whether they are “substantially incapacitated,” and search the person for contraband or arrest them to facilitate street sweeps of the homeless. Law enforcement officers could also use the statute as a pretext to detain and arrest a person and then conduct searches which could lead to felony charges or to conduct

---

red eyes, an odor of alcohol on his breath, his demeanor was slow, his speech was slurred in and he exhibited psychomotor discrepancies on the SFST).

<sup>2</sup> See e.g. State v. Coffee, 104 Hawai‘i 193, 86 P.3d 1002 (App. 2004) (officer was qualified as a Drug Recognition Expert by the court and testified to the 12-Step Drug Recognition Evaluation Matrix he used to recognize drug impairment).

<sup>3</sup> Under HRS § 334-42, Emergency Transportaton Initiated by a Law Enforcement Officer, the trained opinion of a mental health emergency worker or crisis intervention officer is necessary to detain the person for transportation to a facility for an emergency examination. Under SB3142, an untrained officer can detain the person and transport them to a facility for an emergency examination.

<sup>4</sup> A statute is unconstitutionally vague where it fails to describe with reasonable clarity the acts that it proscribes, fails to provide fixed standard for adjudging guilt, and fails to give a person of ordinary intelligence a reasonable opportunity to know what conduct is prohibited so that they may choose between lawful and unlawful conduct. State v. Kane, 87 Hawai‘i 71, 77, 951 P.2d 934, 940 (1998) (citation omitted).

<sup>5</sup> “The doctrine of overbreadth, although closely related to a vagueness claim, is distinct in that while a statute may be clear and precise in its terms, it may sweep so broadly that constitutionally protected conduct as well as unprotected conduct is included in its proscriptions.” Kane, 87 Hawai‘i at 77, 951 P.2d at 940 (citation omitted).

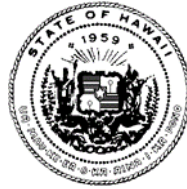
warrant checks. SB3142 SD2 also gives officers discretion in whether to arrest, cite or place a person in civil protective custody. While the default is civil protective custody in lieu of arrest or citation, this is only “if the law enforcement officer is reasonably able to do so.” This leaves an officer the ability to justify an arrest simply by stating that he did not think he was “reasonably able” to take the person into civil protective custody – there are no standards by which the officer is required to make this determination or justify their decision.

A third issue with SB3142 SD2 is that it morphs an arrest based on probable cause for a criminal offense with a emergency hospitalization. Initially, the officer must make a finding of probable cause that Dangerous Intoxication, a petty misdemeanor, has occurred. If the officer finds probable cause, then they may take the person into custody, then, at the discretion of the officer, the arrest can morph into “civil protective custody.” While the opinion of a trained mental health worker or crisis intervention officer that a person is imminently dangerous to self or others and needs to be detained for emergency examination is generally necessary to initiate an emergency examination (HRS § 334-42), SB3142 would substitute instead the opinion of an officer that there is probable cause that Dangerous Intoxication has been committed to detain the person for emergency examination. This mixing of standards between criminal custody and civil commitment raises constitutional due process concerns.

The OPD appreciates the good intentions behind SB3142 SD2. However, the reality is that it may be used to criminalize rather than assist homeless individuals. There is the distinct possibility that the low bar set by the statute will be used by law enforcement as a pretext to conduct searches or warrant checks and as a tool to facilitate homeless sweeps. The scheme used is also problematic because it allows untrained officers to make the determination of “substantial incapacitation” without clear, objective standards and mixes criminal custody and civil commitment. The OPD opposes SB3142 SD2.

Thank you for the opportunity to comment on this measure.

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



RYAN I. YAMANE  
DIRECTOR  
KA LUNA HO'ŌKELE

JOSEPH CAMPOS II  
DEPUTY DIRECTOR  
KA HOPE LUNA HO'ŌKELE

TRISTA SPEER  
DEPUTY DIRECTOR  
KA HOPE LUNA HO'ŌKELE

**LATE**

STATE OF HAWAII  
KA MOKU'ĀINA O HAWAI'I  
**DEPARTMENT OF HUMAN SERVICES**  
KA 'OIHANA MĀLAMA LAWELAWE KANAKA  
Office of the Director  
P. O. Box 339  
Honolulu, Hawaii 96809-0339

March 17, 2026

TO: The Honorable Representative David A. Tarnas, Chair  
House Committee on Judiciary & Hawaiian Affairs

FROM: Ryan I. Yamane, Director

SUBJECT: **SB 3142 SD2 – RELATING TO DANGEROUS INTOXICATION.**

**Hearing:** March 18, 2026, Time 2:00 p.m.  
Conference Room 325 & Via Videoconference, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) supports this administrative measure to establish the offenses of dangerous intoxication and habitual dangerous intoxication, and to authorize civil protective custody and transport for emergency examination. DHS defers to the testimony of implementing agencies.

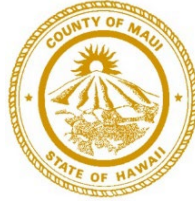
Providing immediate safety and medical care for intoxicated individuals exhibiting dangerous behavior or substantial incapacity is aimed at preventing further injury to themselves and members of the public. Substance use disorder (SUD) is identified as an Adverse Childhood Experience (ACE), as children growing up with a household member(s) with SUD are subject to unreliable caregiving, experience traumatic events if they witness abuse, violence, or neglect, and are at higher risk of developing a substance abuse disorder later in life. DHS Child Welfare Services reported for calendar year 2023 that alcohol abuse and drug abuse were precipitating factors of 12.6% and 32.7%, respectively, in confirmed child abuse cases. Preventing and mitigating the negative consequences of dangerous intoxication may reduce or stop generational trauma and addiction.

Thank you for the opportunity to provide testimony on this measure.

**RICHARD T. BISSEN, JR.**  
Mayor

**ANDREW H. MARTIN**  
Prosecuting Attorney

**SHELLY C. MIYASHIRO**  
First Deputy Prosecuting Attorney



**DEPARTMENT OF THE PROSECUTING ATTORNEY**  
COUNTY OF MAUI  
200 SOUTH HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
PHONE (808) 270-7777 • FAX (808) 270-7625

TESTIMONY ON  
S.B. 3142 SD1  
RELATING TO DANGEROUS INTOXICATION

March 17, 2026

The Honorable David A. Tarnas  
Chair  
The Honorable Mahina Poepoe  
Vice Chair  
and Members of the Committee on Judiciary & Hawaiian Affairs

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

The Department of the Prosecuting Attorney, County of Maui respectfully submits the following comments **in support of S.B. 3142 SD1, Relating to Dangerous Intoxication**. This bill enhances public safety by creating a new offense of dangerous intoxication, but allows for diversion from traditional criminal prosecution by making temporary diversion to civil protective custody the default law enforcement response in those scenarios.

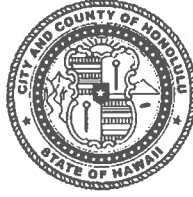
We support this bill not only because it enhances public safety by allowing the arrest of intoxicated individuals in the uncommon circumstance where their intoxication poses a danger to themselves or the public, but because it makes a temporary diversion to civil protective custody the default response rather than requiring all arrestees to be prosecuted criminally. Notably, this bill would help individuals with substance abuse or mental health issues whose behavior results in police contact to receive initial medical care and evaluation in appropriate scenarios without the fear of criminal prosecution.

For these reasons, the Department of the Prosecuting Attorney, County of Maui **supports S.B. 3142 SD1**. 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.

**LATE**

HONOLULU POLICE DEPARTMENT  
KA 'OIHANA MĀKA'I O HONOLULU  
**CITY AND COUNTY OF HONOLULU**

801 SOUTH BERETANIA STREET • HONOLULU, HAWAII 96813  
TELEPHONE: (808) 529-3111 • WEBSITE: [www.honoluluupd.org](http://www.honoluluupd.org)



RICK BLANGIARDI  
MAYOR  
MEJA

RADE K. VANIC  
INTERIM CHIEF  
KAHU MĀKA'I KŌIKAWA

AARON TAKASAKI-YOUNG  
BRANDON NAKASATO  
INTERIM DEPUTY CHIEFS  
NĀ HOPE LUNA NUI MĀKA'I KŌIKAWA

OUR REFERENCE TC-MO

March 18, 2026

The Honorable David A. Tarnas, Chair  
and Members  
Committee on Judiciary and Hawaiian Affairs  
House of Representatives  
415 South Beretania Street, Room 325  
Honolulu, Hawaii 96813

Dear Chair Tarnas and Members:

SUBJECT: Senate Bill No. 3142, S.D. 2, Relating to Dangerous Intoxication

I am Captain Thomas Chang of the Major Events Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports the intent of Senate Bill No. 3142, S.D. 2, Relating to Dangerous Intoxication, and offers the following concerns.

The HPD understands the intent of this bill but is concerned that more clarity is needed on how Civil Protective Custody (CPC) cases will be recorded, tracked, and enforced. Without clear access to CPC records, officers may struggle to identify repeat cases or know when an arrest is appropriate. Because CPC does not result in convictions needed for habitual dangerous intoxication, consistent application may be difficult. Responding to noncriminal CPC encounters can strain staffing, divert officers from public safety duties, and place added pressure on hospitals and agencies. Clear guidelines would help ensure consistent enforcement and better resource management.

The HPD appreciates the committee's consideration of our comments regarding Senate Bill No. 3142, S.D. 2, Relating to Dangerous Intoxication, and thanks you for the opportunity to testify.

APPROVED:

Sincerely,

Handwritten signature of Rade K. Vanic in black ink.

Rade K. Vanic  
Interim Chief of Police

Handwritten signature of Thomas Chang in black ink.  

for Thomas Chang, Captain  
Major Events Division



# Hawai'i Psychological Association

*For a Healthy Hawai'i*

P.O. Box 833  
Honolulu, HI 96808

[www.hawaiiopsychology.org](http://www.hawaiiopsychology.org)

Phone: (808) 521 -8995

## HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

Representative David A. Tanas, Chair  
Representative Mahina Poepoe, Vice Chair

Wednesday, March 18, 2026, 2:01 PM  
Conference Room 325 and Videoconference

### SUPPORT FOR SB 3142, RELATING TO DANGEROUS INTOXICATION

The Hawai'i Psychological Association (HPA) strongly supports SB 3142 which establishes civil and treatment-oriented mechanisms for individuals who are dangerously intoxicated, including provisions for habitual dangerous intoxication. HPA is deeply concerned about the increasing prevalence of severe substance use disorders (SUD) and the barriers individuals face in accessing timely intervention. SB 3142 addresses a critical gap by providing a structured, treatment-focused response for individuals whose substance use places themselves or others at immediate risk.

HPA supports this bill for the following reasons:

#### 1. Promoting Safety and Access to Treatment

Hawai'i faces significant challenges related to substance use and public safety. Individuals who are dangerously intoxicated often require immediate medical and behavioral health evaluation. SB 3142 allows law enforcement to place such individuals in civil protective custody for emergency examination under existing mental health statutes, ensuring they receive appropriate evaluation and care while avoiding unnecessary criminalization. This approach prioritizes health and safety over punitive measures, which aligns with best practices in behavioral health care.

#### 2. Addressing Severe and Habitual SUD

For individuals who exhibit habitual dangerous intoxication, the bill provides for probation with mandatory treatment, reserving incarceration only for violations of probation conditions. This pathway creates opportunities for individuals with severe SUD to engage in evidence-based treatment, potentially stabilizing their condition and reducing risk to themselves and the community. Research consistently shows that early and sustained treatment interventions improve outcomes for individuals with SUD and reduce the long-term burden on the emergency, judicial, and health systems.

#### 3. Behavioral Health Integration

SB 3142 integrates behavioral health expertise into public safety and judicial responses. By emphasizing civil evaluation, treatment, and supervision, the bill ensures that individuals are assessed by qualified mental health professionals and referred to appropriate services, reflecting contemporary models of harm reduction and interdisciplinary care.

In conclusion, SB 3142 represents an important step toward public safety, clinical intervention, and compassionate care for individuals affected by severe substance use disorders. By creating pathways for civil evaluation, emergency treatment, and structured probation with mandatory SUD care, the bill prioritizes health-focused solutions over criminalization while improving outcomes for individuals and communities.

For these reasons, the Hawai'i Psychological Association **strongly supports SB 3142** and respectfully urges the Committee to pass this measure.

Thank you for the opportunity to submit testimony and for your consideration of this important legislation.

Sincerely,

A handwritten signature in cursive script that reads "Alex Lichten, Ph.D." The signature is written in black ink on a light-colored background.

Alex Lichten, Ph.D.  
Chair, HPA Legislative Action Committee



## **SB3142 Dangerous Intoxication**

### COMMITTEE ON JUDICIARY

Rep. David Tarnas, Chair

Rep. Mahina Poepoe, Vice Chair

Wednesday, Mar 18, 2026: 2:00: Room 325 Videoconference

### **Hawaii Substance Abuse Coalition COMMENTS SB3142:**

*ALOHA CHAIR, VICE CHAIR, AND DISTINGUISHED COMMITTEE MEMBERS. My name is Alan Johnson. I am the ad hoc leader of the Hawaii Substance Abuse Coalition (HSAC), a statewide organization for substance use disorder and co-occurring mental health disorder prevention and treatment agencies and recovery-oriented services.*

#### **COMMENTS:**

Part of the reason that this population, including homeless and offenders, remains a continuing problem is that **this population gap is underserved**, despite that there are capable services that could be developed by building upon existing piloted models.

Complex patients with double or triple diagnostic burdens of substance use disorders and/or mental health disorders, coupled with chronic physical needs are underserved due to existing silos in funding. Most patients with multiple diagnosis only receive care if their severe mental illness (SMI) is forensic in nature.

Today, substance use disorder treatment agencies provide both substance abuse treatment and treatment for the severely mentally ill that are forensic, so **services' expertise exists within those substance abuse agencies** that could end silos to treat both conditions.

**Infrastructure already exists, but must be developed**, which can be done most economically. A substance abuse counselor can also treat mental health disorders under the guidance and support of an onsite psychiatrist and a few nurses in each agency, of which 2 agencies have pilot programs already: Hina Mauka and Aloha House on Maui.

With physician and nurse support, agencies like Hina Mauka and Aloha House also treat patients that have a diagnosis of physical chronic health conditions, as well as co-occurring disorders (substance abuse and mental health disorders).

**There are considerably more people with significant multiple disorders (54K) than those who are severely impaired SMI (21K). Both can be treated.**

This is **one of the most expensive populations** to our healthcare system. **We can change that by ending silos and employing evidence-based practices for complex patients with substance use disorders, mental health disorders, and chronic physical conditions, in one site.** We can expand this most economically by having one site treating all conditions utilizing the same staff trained to do so.

We urge the legislature to first create capacity in services for such a bill as this to succeed. We appreciate the opportunity to provide testimony and are available for questions.



[www.AlohaILHawaii.org](http://www.AlohaILHawaii.org)

Mar 18, 2026

#### MISSION

Aloha Independent Living Hawaii (AILH) dedicated to providing independent living programs and services for persons with disabilities in Hawaii.

We work together with the community and consumers to improve the quality of life through individual choices and access to services.

#### EXECUTIVE DIRECTOR

Roxanne U. Bolden

#### BOARD OF DIRECTORS

##### Chair / Sec

Valerie Yamada

##### Vice Chair

Zora Shove

##### Treasurer

Jonathan Yap

##### Member

Scott Suzuki  
Sheila Castaneda  
Jennifer Hartssock

The Honorable David A. Tarnas, Chair  
House Committee on Judiciary & Hawaiian Affairs  
The Thirty-Third Legislature  
State Capitol  
State of Hawaii  
Honolulu, Hawaii 96813

**SUBJECT:** SB3142 SD2 – Relating to Dangerous Intoxication

Chair and Members of the Committee:

Aloha Independent Living Hawaii (AILH) **would like to comment on SB3142 SD2**, which would establish the offenses of dangerous intoxication and habitual dangerous intoxication and provide for civil protective custody and transport for emergency examination under section 334-45, Hawaii Revised Statutes, in lieu of arrest in specified circumstances.

AILH is a federally funded Center for Independent Living (CIL) serving people with all types of disabilities statewide. Our mission is to support people with disabilities to live self-directed lives in their own homes and communities, consistent with the Independent Living philosophy and the spirit of the Olmstead decision.

We appreciate the bill's stated goal of reducing criminalization of people in crisis by directing law enforcement to use civil protective custody and emergency examination under section 334-45, instead of arrest or citation, when they have probable cause to believe a person has committed dangerous intoxication and are reasonably able to transport them. We also recognize the intent to avoid prosecution under section 711-A when civil protective custody is used, and to prioritize treatment and probation over incarceration for habitual dangerous intoxication under section 711-B.

At the same time, from a cross-disability and Independent Living perspective, we see several areas where SB3142 SD2 could be strengthened



[www.AlohaILHawaii.org](http://www.AlohaILHawaii.org)

## MISSION

Aloha Independent Living Hawaii (AILH) dedicated to providing independent living programs and services for persons with disabilities in Hawaii.

We work together with the community and consumers to improve the quality of life through individual choices and access to services.

## EXECUTIVE DIRECTOR

Roxanne U. Bolden

## BOARD OF DIRECTORS

### Chair / Sec

Valerie Yamada

### Vice Chair

Zora Shove

### Treasurer

Jonathan Yap

### Member

Scott Suzuki  
Sheila Castaneda  
Jennifer Hartssock

to prevent unintended harms to people with disabilities, including those with mental health, substance use, intellectual/developmental, and neurological disabilities, and to houseless community members who are disproportionately disabled.

First, the definitions in the new section 711-A may be overbroad in practice. “Dangerous intoxication” is defined to include being on public property while under the influence of alcohol or any drug and being unable to safely care for oneself due to “substantial incapacitation,” engaging in conduct that creates an immediate and substantial risk of harm, or obstructing public ways while substantially incapacitated after being asked to move. “Substantial incapacitation” includes extreme disorientation, severe impairment of motor coordination, inability to ambulate safely, and inability to respond appropriately to simple questions. Many of these observable signs can also result from disabilities, chronic health conditions, or acute medical events rather than intoxication, particularly in a noisy street environment. We are concerned that, in real-world practices, disability-related behaviors may be misinterpreted as “dangerous intoxication,” especially for people who are houseless, Native Hawaiian, or from other marginalized communities.

Second, the bill builds a direct bridge from law enforcement encounters on public property into the civil mental health system. When civil protective custody is used, the person is to be transported for an emergency examination pursuant to section 334-45 within twenty-four hours of being placed in custody (after any necessary medical stabilization), and the receiving facility must proceed under part IV of chapter 334. The bill also amends sections 334-45, 334-121.5, and 334-127.5 to ensure that individuals transported under section 711-A(4) are subject to emergency examination, assisted community treatment (ACT) screening before discharge, and broader sharing of treatment information for ACT petitions. Without careful safeguards and resources, this can increase the use of involuntary hospitalization and ACT orders based on a single police encounter, raising serious concerns about self-determination, informed consent, and the requirement to use the least restrictive, community-based alternatives.



[www.AlohaILHawaii.org](http://www.AlohaILHawaii.org)

## MISSION

Aloha Independent Living Hawaii (AILH) dedicated to providing independent living programs and services for persons with disabilities in Hawaii.

We work together with the community and consumers to improve the quality of life through individual choices and access to services.

## EXECUTIVE DIRECTOR

Roxanne U. Bolden

## BOARD OF DIRECTORS

**Chair / Sec**  
Valerie Yamada

**Vice Chair**  
Zora Shove

**Treasurer**  
Jonathan Yap

**Member**  
Scott Suzuki  
Sheila Castaneda  
Jennifer Hartssock

Third, the creation of a separate offense of habitual dangerous intoxication, with mandatory one-year probation and required participation in a substance use disorder treatment program, may lead to repeated court involvement for people with serious substance use disorders, who are recognized as people with disabilities under many civil rights frameworks. While incarceration is limited to probation revocations and must be at least ninety days if imposed, the combination of court-mandated treatment, possible residential placement, and the risk of jail upon noncompliance can still function as a coercive system for individuals who may face barriers to treatment engagement related to their disabilities, trauma histories, or lack of stable housing and supports.

Given these concerns, we respectfully offer the following suggestions for consideration:

### 1. Clarify protections for disability-related behaviors:

Consider adding explicit language that disability-related behaviors or symptoms, standing alone, do not constitute "dangerous intoxication," and require that observable signs of being "under the influence" be distinguished, as practicable, from characteristics of known or suspected disabilities or medical emergencies.

### 2. Require disability-focused training and guidance:

Require that law enforcement, emergency medical personnel, and receiving facilities receive robust training developed with people with disabilities and cultural experts on distinguishing intoxication from disability or medical conditions, de-escalation, communication access, and trauma-informed, culturally grounded approaches.

### 3. Strengthen safeguards and oversight around civil protective custody and ACT:

Ensure that individuals transported under section 711-A(4) have timely access to rights information, advocacy, and legal counsel in connection with emergency examination, involuntary hospitalization decisions, and any assisted community treatment petitions. Consider reporting requirements



[www.AlohaILHawaii.org](http://www.AlohaILHawaii.org)

## MISSION

Aloha Independent Living Hawaii (AILH) dedicated to providing independent living programs and services for persons with disabilities in Hawaii.

We work together with the community and consumers to improve the quality of life through individual choices and access to services.

## EXECUTIVE DIRECTOR

Roxanne U. Bolden

## BOARD OF DIRECTORS

### Chair / Sec

Valerie Yamada

### Vice Chair

Zora Shove

### Treasurer

Jonathan Yap

### Member

Scott Suzuki  
Sheila Castaneda  
Jennifer Hartssock

and data collection (including disability, race/ethnicity, housing status, and outcomes) so that the Legislature and community can monitor the impact over time.

#### **4. Prioritize voluntary, community-based supports and housing:**

Pair any expansion of civil protective custody and mandated treatment pathways with increased investment in voluntary, peer-driven, and culturally grounded substance use and mental health services, as well as housing and Independent Living supports, so that community-based options are the first and preferred response.

AILH appreciates the Legislature's attention to reducing reliance on arrest and incarceration for people who may be in crisis. We respectfully urge the Committee to ensure that SB3142 SD2 does not inadvertently expand coercive responses to disability or increase institutionalization, and instead moves Hawaii toward a more person-directed, community-based, and rights-respecting system of support.

Thank you for the opportunity to testify.

Aloha,

Roxanne Bolden  
Executive Director



## THE QUEEN'S HEALTH SYSTEMS

To: The Honorable Karl Rhoads, Chair  
The Honorable Mike Gabbard, Vice Chair  
Members, Senate Committee on Judiciary

From: Jace Mikulanec, Director, Government Relations, The Queen's Health Systems

Date: March 18, 2026

Re: Comments on SB3142 SD2 – Relating to Dangerous Intoxication.

The Queen's Health Systems (Queen's) is a nonprofit corporation that provides expanded health care capabilities to the people of Hawai'i and the Pacific Basin. Since the founding of the first Queen's hospital in 1859 by Queen Emma and King Kamehameha IV, it has been our mission to provide quality health care services in perpetuity for Native Hawaiians and all of the people of Hawai'i. Over the years, the organization has grown to four hospitals, and more than 10,000 affiliated physicians, caregivers, and dedicated medical staff statewide. As the preeminent health care system in Hawai'i, Queen's strives to provide superior patient care that is constantly advancing through education and research.

Queen's appreciates the opportunity to provide comments on SB3142 SD2, which establishes the offenses of dangerous intoxication and habitual dangerous intoxication and provides for civil protective custody and transport for emergency examination under section 334-45, HRS, in lieu of arrest for dangerous intoxication in specified circumstances, and bars prosecution when civil protective custody is used; and requires probation with mandatory treatment for habitual dangerous intoxication, with incarceration only upon probation violation.

We draw the Committee's attention to intended and unintended consequences of Section 1(4):

(4) ... [I]f the person requires emergency medical stabilization, the person shall be transported or caused to be transported to an appropriate medical facility for stabilization prior to any emergency examination pursuant to section 334-45.

Currently emergency medical stabilization takes place in two primary contexts – hospital emergency departments and behavioral health crisis centers. This bill will further direct persons to emergency departments that already operate at high-capacity by expanding examinations pursuant to HRS 334-45 (and associated 334-42, -43, -44). We question the benefit of this statutory change without first expanding community treatment programs and stabilization facilities; and evaluating the impact of the effectiveness of Act 219 (2025).

Thank you for allowing Queen's to provident comments on this measure.

*The mission of The Queen's Health System is to fulfill the intent of Queen Emma and King Kamehameha IV to provide in perpetuity quality health care services to improve the well-being of Native Hawaiians and all of the people of Hawai'i.*



**TO:** Honorable Representative David A. Tarnas,  
Chair, House Committee on Judiciary and Hawaiian Affairs

Honorable Representative Mahina Poepoe,  
Vice Chair, House Committee on Judiciary and Hawaiian Affairs

**FROM:** Connie Mitchell, Executive Director  
IHS, The Institute for Human Services, Inc.

**RE:** SB3142 SD2 - Relating to Dangerous Intoxication

**DATE:** March 17, 2026

**POSITION:** IHS supports SB3142 SD2 with amendments

IHS, The Institute for Human Services, has been providing emergency shelter services to adult men, women, and families with children on Oahu for nearly 48 years. Over the years, we have witnessed an increase in conflicts and threats of bodily harm in our community among homeless individuals with substance use disorders, especially alcohol dependency, which tends to disinhibit individuals. Greater intervention is needed for those who continue to use such substances to the point of dangerous intoxication, whether that be court-mandated treatment, longer detention in cell block (to sober up), or the courts take into consideration habitual offenses rather than individual arrests before issuing their determination or sentencing.

Many of our clients and guests have done the hard work of choosing to turn away from old habits to live a clean and sober life; they've fought through withdrawal and are working toward sustained housing, participating in inpatient and outpatient treatment programs. However, we have also seen that without real consequences, some individuals will not recognize the danger or harm they are causing themselves and/or others. That said, it is of paramount importance that the passage of this bill also be accompanied by the State's commitment to ensure that sufficient capacity for mandated treatment is available in the community, as its passage would likely increase the need for access to such treatment. Currently, there are few such venues for mandated treatment in the community, and the Hawaii State Hospital is overly full. **IHS requests amending the bill to include an additional funding allocation** to ensure beds are available for those who are mandated to substance use treatment, including inpatient and outpatient program beds for homeless individuals.

Passing this measure not only creates an avenue for critical intervention but also makes our community and public spaces safer for all; however, additional funding is necessary to provide opportunities for individuals subject to dangerous intoxication convictions to receive appropriate treatment in community-based settings.

Mahalo for the opportunity to testify.



Hawai'i

Committee: Judiciary & Hawaiian Affairs  
Hearing Date/Time: Wednesday, March 18, 2026, at 2:00pm  
Place: Conference Room 325 & Via Videoconference  
Re: **Testimony of the ACLU of Hawai'i OPPOSING SB3142 SD2 Relating to Dangerous Intoxication**

Dear Chair Tarnas, Vice-Chair Poepoe, and Members of the Committee:

The ACLU of Hawai'i (ACLU-HI) **opposes SB3142 SD2** Relating to Dangerous Intoxication, which establishes the offense of dangerous intoxication and habitual dangerous intoxication.

SB3142 SD2 creates the new criminal offense of dangerous intoxication and habitual intoxication which prohibits being intoxicated on public property and (a) being substantially incapacitated; (b) engaging in “affirmative conduct” that “creates an immediate and substantial risk of harm”; (c) exhibiting “signs of substantial incapacitation” while “obstruct[ing] or interfer[ing]” with the use of a public way. Multiple violations of “dangerous intoxication” statute results in a “habitual” offense, with mandatory probation and a mandatory 90-days incarceration for any probation violation (even technical ones).

As highlighted by The Queen's Health Systems, efforts should first be made to expand community treatment programs, and to ensure that our emergency departments and behavioral health crisis centers have the capacity to handle an influx of new patients brought in by law enforcement.

In its current form, the framing of new offenses and the resultant civil protective custody raise significant constitutional concerns.

### ***Criminalization of Status is Unconstitutional***

SB3142 SD2 criminalizes the status of being “dangerous[ly] intoxicated” and being “habitually” dangerously intoxicated. This is unconstitutional. In *Robinson v. California*, the United States Supreme Court held that criminalizing the status of being addicted to drugs violates the Eighth Amendment's prohibition on cruel and unusual punishment. *Robinson v. California*, 370 U.S. 660, 666 (1962). Moreover, “The Hawai'i Constitution often offers ‘greater protections’ than the federal constitution.” *State v. Wilson*, 154 Hawai'i 8, 13, 543 P.3d 440, 445, *cert. denied*, 145 S. Ct. 18, 220 L. Ed. 2d 266 (2024).

As the United States Supreme Court recently affirmed, under due process, commission of a crime has historically required both “proof of some act (or *actus reus*) undertaken with some measure of volition (*mens rea*).” *City of Grants Pass, Oregon v. Johnson*, 603 U.S. 520, 545 (2024). The criminalization of status raises due process concerns because it “require[s] proof of neither of those things.” *Id.*

### ***Void for Vagueness***

We also share the concerns raised by the Office of the Public Defender with regard to the wide discretion officers have to determine whether an individual is violating the new statutes. As the Hawai‘i Supreme Court explained, “Vague laws contravene the ‘first essential of due process of law’ that statutes must give people ‘of common intelligence’ fair notice of what the law demands of them,” and further, “[a] vague ordinance ‘impermissibly delegate[s] policy matters to the subjective and ad hoc decision making of police officers on the beat[.]’” *State v. Zowail*, 147 Haw. 242, 250-51, 465 P.3d 689, 697-98 (2020).

In its current form, SB3142 SD2 contains too many subjective and overly vague terms to be constitutional. “Observable signs of impairment,” “affirmative conduct” “obstructs or interferes” are not only undefined in SB 3142, but also subject to varying interpretations and “require[] the actor to view his or her conduct as a third person would, rather than informing the actor as to how to avoid violating the regulation.” *State v. Beltran*, 116 Hawai‘i 146, 154, 172 P.3d 458, 466 (2007) (holding anti-camping ordinance unconstitutionally vague).

### ***SB3142 SD2’s Requirement of Civil Protective Custody Will Violate Due Process and Equal Protection***

While SB3142 SD2 creates the criminal offense of “dangerous intoxication,” it also mandates “civil protective custody” for a violation. On one hand, for cases where civil commitment appropriate, it is admirable that SB3142 prohibits concurrent criminal prosecution. However, this mandatory protective custody also raises due process and policy concerns.

First, the criteria for civil protective custody in SB3142 SD2 sweeps far more broadly than the criteria necessary for civil commitment under HRS Chapter 334, raising constitutional concerns. Constitutionally, involuntary commitment can only occur if a person is dangerous to themselves or others. *O’Connor v. Donaldson*, 422 U.S. 563, 575 (1975). This constitutional standard is baked into our civil commitment statutes, which apply to substance abuse as well: Police may only detain a person for mental evaluation to determine whether the person is “imminently dangerous to self or others.” HRS

§ 334-42. And, to the extent practicable, police officers must consult with “a mental health emergency worker,” prior to detaining someone. But SB3142 SD2 waters-down the standard for anyone “substantially incapacitated” due to substance abuse, authorizing detention if an officer believes (without any medical consultation) that someone is “unable to safely care for oneself” or if they “[o]bstruct or interfere[]” with a public way.

The result is likely to be an influx of people detained under SB3142 SD2 who do not meet the civil commitment criteria of being imminently dangerous to themselves or others, particularly after being detained for the twenty-four-hour period SB3142 authorizes for an emergency examination.

This schema raises significant constitutional concerns of due process, as well as equal protection. It begs the question of how a police officer is supposed to know whether a person’s impairment is due to mental illness—in which case the higher standard under HRS § 334-42 would apply—or due to intoxication, in which case the lower SB3142 SD2 applies. And, it raises the equal protection question of why someone who is “substantially incapacitated” due to substance abuse should be afforded less process and protection than someone who is incapacitated due to mental illness.

The intent of SB3142 SD2 may be noble, but the content leaves much to be desired.

Mahalo,  
**Emily Hills**  
Emily Hills  
Senior Staff Attorney  
ACLU of Hawai‘i  
[EHills@acluhawaii.org](mailto:EHills@acluhawaii.org)

*With more than 4,000 Hawaii-based members, the mission of the American Civil Liberties Union of Hawai‘i is to protect the fundamental freedoms enshrined in the United States and Hawai‘i State Constitutions through legislative, litigation, and public education work. 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 our communities in Hawai‘i for over 60 years.*

**SB-3142-SD-2**

Submitted on: 3/16/2026 9:35:45 PM

Testimony for JHA on 3/18/2026 2:00:00 PM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b>            |
|---------------------|---------------------|---------------------------|---------------------------|
| Michael A. Cobb Jr  | Individual          | Oppose                    | Written Testimony<br>Only |

Comments:

I oppose this measure. We do not need new laws.