



OFFICE OF HAWAIIAN AFFAIRS

TESTIMONY IN SUPPORT OF HOUSE BILL 1516

RELATING TO PRETRIAL RELEASE

Ke Kōmike Hale o ka Ho'okolokolo a me ke Kuleana

Hawai'i

Hawai'i State Capitol

Pepeluali 19, 2026

2:00 PM

Lumi 325

Aloha e Chair Tarnas, Vice Chair Poepoe, and Members of Ke Kōmike Hale o ka Ho'okolokolo a me ke Kuleana Hawai'i:

The Office of Hawaiian Affairs (OHA) **SUPPORTS HB1516** which clarifies the factors courts must consider when determining a defendant's financial ability to afford bail and helps ensure that bail is set in a reasonable and equitable amount.

OHA supports policies that promote fairness and proportionality in the pretrial process while maintaining public safety and court appearance requirements. This measure strengthens existing law by directing courts to more accurately assess a person's real ability to pay, including by excluding public benefits from income calculations and focusing on what a defendant can reasonably pay within a short period after arrest.

Cash bail systems that do not adequately account for ability to pay can result in individuals being detained pretrial solely due to poverty rather than risk. Short periods of pretrial detention are associated with increased likelihood of job loss, housing instability, and family disruption, which can in turn worsen long-term outcomes and increase system involvement.

Native Hawaiians are disproportionately represented in Hawai'i's criminal legal system and are more likely to experience economic vulnerability, making ability-to-pay clarity especially important to avoid inequitable pretrial detention outcomes for OHA beneficiaries and their families. HB1516 does not eliminate judicial discretion or remove consideration of offense severity or public safety; rather, it provides clearer guardrails so that bail functions as intended: to reasonably assure court appearance, without becoming an unintended driver of wealth-based detention.

For these reasons, the Office of Hawaiian Affairs respectfully urges this Committee to **PASS HB1516**.

Mahalo nui for the opportunity to provide testimony on this important measure.

JON N. IKENAGA
PUBLIC DEFENDER

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February 18, 2026

HB 1516: RELATING TO PRETRIAL RELEASE

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

The Office of the Public Defender (OPD) **supports HB 1516** which makes critical clarifying amendments to Hawai'i Revised Statutes §804-9 by requiring courts to meaningfully consider a defendant's actual financial ability to afford bail when setting bail amounts.

This measure addresses a long-standing and well-documented inequity in the pretrial system: the routine detention of low-income individuals solely because they cannot afford to pay bail, not because they pose a flight risk or danger to the community.

HB 1516 takes an important step toward ensuring that bail serves its intended function as a mechanism to ensure court appearance rather than as a punitive barrier that disproportionately impacts indigent defendants. Specifically, the bill clarifies that income derived from public benefits such as supplemental security income, social security disability insurance, and temporary assistance for needy families must be excluded from consideration when assessing a defendant's ability to pay. For the clients we represent, these benefits are often their sole means of subsistence and are not discretionary funds that can reasonably be used to secure release.

The bill further directs courts to consider whether a defendant's household income exceeds one hundred fifty percent of the federal poverty level for Hawai'i and what amount the defendant could reasonably pay within forty hours of arrest. This practical framework reflects the real-world circumstances of most pretrial

defendants and helps ensure that bail determinations are grounded in reality rather than assumption.

This measure preserves judicial discretion while providing clearer statutory guidance. It reinforces the principle, already reflected in existing law, that bail should not allow wealthier individuals to secure their freedom simply by paying a pecuniary penalty while rendering the right to bail meaningless for those without financial means.

From our daily experience representing indigent clients, we see firsthand how even short periods of unnecessary pretrial detention can destabilize employment, housing, family relationships, and access to medical or mental health care. These collateral consequences frequently occur before any adjudication of guilt and often increase the likelihood of deeper system involvement.

By promoting more individualized, fair, and equitable bail determinations, this measure advances both due process and public confidence in the justice system, without compromising public safety.

For these reasons, the OPD supports HB 1516.

Thank you for the opportunity to comment on this measure.

JOSH GREEN, M.D.
GOVERNOR



MARK PATTERSON
CHAIR

CHRISTIN M. JOHNSON
OVERSIGHT COORDINATOR

COMMISSIONERS
HON. R. MARK BROWNING (ret.)

HON. RONALD IBARRA (ret.)

MARTHA TORNEY

HON. MICHAEL A. TOWN (ret.)

STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION
E HUIKALA A MA'EMA'E NŌ
235 S. Beretania Street, 16th Floor
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TO: The Honorable David A. Tarnas, Chair
The Honorable Mahina Poepoe, Vice Chair
House Committee on Judiciary & Hawaiian Affairs

FROM: Mark Patterson, Chair
Hawai'i Correctional System Oversight Commission

SUBJECT: House Bill 1516, Relating to Pretrial Release
Hearing: Thursday, February 19, 2026; 2:00 p.m.
State Capitol, Room 325

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

The Hawai'i Correctional System Oversight Commission (HCSOC) **supports** House Bill 1516, relating to pretrial release which requires certain factors to be considered when determining a defendant's financial ability to afford bail.

This measure is an important step toward a fairer and more effective justice system. When bail is set without meaningful consideration of a person's ability to pay, individuals with limited financial resources may remain incarcerated solely because they cannot afford release, not because they pose a public safety risk or a flight risk. This practice undermines the presumption of innocence and creates unequal outcomes based on wealth rather than risk.

The consequences of unaffordable bail are not theoretical as they directly contribute to severe overcrowding in Hawai'i's jails, particularly at the Hawai'i Community Correctional Center (HCCC) where many individuals are confined not due to conviction, but due to financial hardship. Overcrowding at HCCC strains correctional staff, reduces access to rehabilitative programming, increases operational costs, and worsens health and safety conditions for both incarcerated individuals and employees. Reducing unnecessary pretrial detention is one of the most immediate and effective ways to alleviate jail overcrowding while maintaining community safety.

HB1516 supports evidence-based pretrial decision-making, encourages more proportionate release conditions, and aligns with broader goals of system efficiency, fiscal responsibility, and justice equity. For these reasons, the Commission supports this bill.

Should you have additional questions, the Oversight Coordinator, Christin Johnson, can be reached at 808-849-3580 or at christin.m.johnson@hawaii.gov. Thank you for the opportunity to testify.

KELDEN B.A. WALTJEN
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OFFICE OF THE PROSECUTING ATTORNEY

TESTIMONY IN OPPOSITION TO HOUSE BILL 1516

A BILL FOR AN ACT
RELATING TO PRETRIAL RELEASE

COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS
Representative David A. Tarnas, Chair
Representative Mahina Poepoe, Vice Chair

Thursday, February 19, 2026 at 2:00 p.m.
Via Videoconference
State Capitol Conference Room 325
415 South Beretania Street

Honorable Chair Tarnas, Vice-Chair Poepoe and Members of the Committee on Judiciary and Hawaiian Affairs: The County of Hawai'i, Office of the Prosecuting Attorney respectfully submits the following testimony **in opposition** to House Bill 1516, with comments.

Under current law, judges and officers are already required to consider a criminal defendant's financial ability to post bail. HRS § 804-9 directs judges and officers to set bail, if any, "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." Under current law, judges have discretion to consider an individual's circumstances and are directed to set bail so as "not to suffer the wealthy to escape by the payment of a pecuniary penalty, nor to render the privilege useless to the poor." HRS § 804-9.

HB 1516 would modify HRS § 804-9 by putting two specific limitations on how judges and officers can use their discretion to set bail. First, judges would be prohibited from considering any income derived from public benefits. Second, judges would be directed to determine whether a defendant's household income, minus any public benefits, was greater than 150% of the federal poverty level for Hawai'i.¹ If a judge or officer were to find that a defendant's household income is greater than this threshold, then the judge would be required to take a second consideration into account, namely "the amount the defendant could reasonably pay within forty hours of arrest." No guidelines are given for determining the amount of money a person could raise within forty hours. In recognition that much of this information may not be available to a judge or officer, HB 1516 limits the application of these considerations "to the extent known."

¹ Currently, 150% of the 2026 federal poverty level for Hawai'i would amount to \$2,295 per month for an individual or \$4,743.75 per month for a family of four. See <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>.

Although we appreciate the intent of this legislation, we believe this bill is unnecessary. Current law already provides judges and officers with discretion to consider a criminal defendant's ability to afford bail, and gives them the duty to set bail at a reasonable amount so as not to let the wealthy escape nor to render bail useless to the poor.

We are concerned that the proposed amendments do not identify how a criminal defendant's household income or public benefits are to be determined, who will be responsible for verifying any information received, or how to determine how much money a defendant above 150% of the poverty line could reasonably raise within forty hours. Given the time restrictions involved in setting bail after arrest or upon first appearance in court, it is likely that much if not all of this information would come from self-reporting from memory by defendants in custody, who would have an incentive to underreport income. We are concerned about the practical benefits of requiring judges and officers to apply a mathematical formula to unverified self-reported financial information, as opposed to simply using their discretion and judgment.

To minimize these concerns, one suggestion would be to require a declaration by defense counsel attesting to the financial status of their client(s), and to require that defense counsel petition the court by motion for a bail hearing with notice and an opportunity to respond.

The County of Hawai'i, Office of the Prosecuting Attorney strongly believes that judges and officers should continue to use all available information to set a reasonable bail amount in each given case. If the Legislature intends to amend HRS § 804-9 to add specific requirements, we suggest setting forth additional specific considerations such as the defendant's criminal history; past performance on pretrial supervision, probation, or parole; the status of the victim(s) (i.e., minor, elderly, handicapped, incapacitated, household member, vulnerable person, etc.); and mental health history (i.e., previously diagnosed by a psychologist or psychiatrist as a danger to the person or property of oneself or others).

For the foregoing reasons, the County of Hawai'i, Office of the Prosecuting Attorney **opposes** the passage of House Bill 1516. Thank you for the opportunity to testify on this matter.

COMMUNITY ALLIANCE ON PRISONS

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Today's Inmate; Tomorrow's Neighbor



COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Representative David Tarnas, Chair

Representative Mahina Poepoe, Vice Chair

Wednesday, February 18, 2026

2:00 PM

Room 325 and VIDEOCONFERENCE

STRONG SUPPORT for HB 1516 - PRETRIAL RELEASE

Aloha Chair Tarnas, Vice Chair Poepoe and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies in Hawai'i for almost three decades. This testimony is respectfully offered on behalf of the Hawai'i individuals living behind bars¹ and under the "care and custody" of the Department of Corrections and Rehabilitation on February 2, 2026. We are always mindful that 799 of Hawai'i's imprisoned male population are serving their sentences abroad -- thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Kanaka Maoli, far, far from their ancestral lands.

We appreciate this opportunity to express our **STRONG SUPPORT for HB 1516** that requires certain factors to be considered when determining a defendant's financial ability to afford bail.

Community Alliance on Prisons thanks the 14 legislators for being compassionate introducers of this important bill. Over the years we have heard horror stories of people incarcerated because they couldn't pay \$10 to \$50 bail

¹ DCR Weekly Population Report, February 2, 2026

<https://www.dcr.hawaii.gov/wp-content/uploads/2026/02/Pop-Reports-Weekly-2026-02-02.pdf>

amounts. This is unconscionable and punitive. We appreciate the bill's acknowledgement that so many of our neighbors are struggling to keep themselves and their families fed and housed. This has been more of struggle since the federal cuts and the challenges to our state's resources.

Mahalo nui for introducing and hearing HB 1516 and we urge the committee to support lifting up our neighbors in these uncertain and challenging times.

Mahalo for the opportunity to weigh in on this measure!



FEBRUARY 19, 2026

HOUSE BILL 1516

CURRENT REFERRAL: JHA

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Kris Coffield,
President

David Negaard,
Director

Mireille Ellsworth,
Director

Justin Salisbury,
Director

Eileen Roco,
Director

Beatrice DeRego,
Director

Corey Rosenlee,
Director

Amy Zhao,
*Policy and Partnerships
Strategist*

POSITION: SUPPORT

Imua Alliance supports the intent of HB 1516, relating to pretrial release, which requires certain factors to be considered when determining a defendant's financial ability to afford bail.

Imua Alliance is a Hawai'i-based organization dedicated to ending sexual exploitation and gender violence. We support this proposal on behalf of survivors of sex trafficking and gender abuse who have been incarcerated for acts committed because of their trauma, often without the monetary means to defend themselves or secure their release. This measure would implement important reforms to Hawai'i's pretrial incarceration practices, reduce unnecessary detention, and strengthen community safety.

Pretrial incarceration is a statewide issue with significant human and economic costs. According to the Vera Institute of Justice, Hawai'i's pretrial incarceration rate has been consistently above the national average. Per recent nationwide data (2022–2023), Hawai'i jails held individuals pretrial at a rate exceeding 470 per 100,000 residents, compared to the overall U.S. average of approximately 180–200 per 100,000. Many people remain in jail not because they pose a public safety risk, but simply because they cannot afford bail or lack access to community supervision options. These disparities exacerbate racial and economic inequity and place undue burdens on families and communities.

Pretrial detention destabilizes lives and undermines fairness. National research shows that people jailed pretrial are more likely to lose employment, housing, and custody of children than those released pretrial, even when charges are similar and risk levels are low. According to the Pretrial Justice Institute, individuals incarcerated pretrial are more likely to plead guilty—regardless of actual guilt—because detention limits their ability to prepare a defense, meet with counsel, or participate

meaningfully in their case. This dynamic pressures innocent or low-risk people into pleas that can have lifelong consequences.

This proposal keeps communities safer by focusing detention on real risk, not financial status. This bill aligns with best practices endorsed by national public safety advocates. The National Institute of Justice and the Council of State Governments Justice Center have documented that risk-based pretrial systems—those that assess danger and flight risk rather than ability to pay—reduce unnecessary detention, lower jail populations, and do not increase crime. Jurisdictions that have implemented evidence-based pretrial reforms, such as Kentucky and Washington State, report significant reductions in pretrial jail populations (20–40% or more) without increases in new criminal activity or failures to appear in court.

The economic and racial justice case for reform is strong. A 2024 analysis of Hawai'i's criminal justice system found that pretrial incarceration disproportionately affects Native Hawaiian, Pacific Islander, and low-income communities. People unable to post bail spend weeks or months in jail—even for non-violent offenses—while wealthier defendants are released. This creates two systems of justice and exacerbates inequality. Thus, this bill takes an important step toward remedying this disparity by reducing reliance on cash conditions of release, promoting pretrial services, and expanding non-custodial supervision that supports compliance and community connections.

Public safety and public confidence are improved with sensible pretrial policy. Evidence from multiple states shows that reducing unnecessary pretrial detention leads to better outcomes: fewer jail bookings, reduced recidivism among low-risk populations, and more resources for monitoring higher-risk individuals. According to the Vera Institute, jurisdictions with pretrial reform strategies have seen declines in jail populations by 15–40%, improved court appearance rates, and increased use of community support services. Pretrial reform represents a data-driven approach to public safety that aligns with Hawai'i's values and its commitment to equitable access to justice for all residents.

With aloha,

Kris Coffield

President, Imua Alliance



Committee: Judiciary & Hawaiian Affairs
Hearing Date/Time: Thursday, February 19, 2026, at 2:00pm
Place: Conference Room 325 & Via Videoconference
Re: **Testimony of the ACLU of Hawai'i in SUPPORT of HB1516 Relating to Pretrial Release**

Dear Chair Tarnas, Vice Chair Poepoe, and Committee Members:

The ACLU of Hawai'i **strongly supports HB1516**, which requires certain factors to be considered when determining a defendant's financial ability to afford bail.

This is an important step towards achieving a justice system that is blind to wealth inequality.

In *U.S. v. Salerno*, 481 U.S. 739 (1987), the U.S. Supreme Court held that “in our society, liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.”

Consider that currently over 54% of Hawai'i's jail population is pretrial¹. **69% of the people held at the OCCC jail are pretrial.**² These individuals have not been convicted of any crime but remain behind bars largely due to an outdated reliance on cash bail and a lack of alternative pretrial systems. Reducing the pretrial detention population also is a clear first step to address problems of overcrowding given that the total number of people incarcerated in Hawai'i is decreasing over time, but our pretrial population is increasing.

The evidence suggests that pretrial detention reforms do not have negative impacts on public safety and have little impact on court appearances.³ A study by the Prison Policy Initiative found that releasing individuals pretrial does not negatively affect public safety.⁴ The study considered pretrial reforms in New Jersey, New Mexico, Kentucky, and New York. It also considered local reforms in SF (CA), Washington (DC), Philadelphia (PA), Santa Clara (CA), Cook County (IL), Yakima County (Wash), New Orleans (LA), Harris County (TX), and

¹ Department of Corrections and Rehabilitation, End of Month Population Report, January 31, 2026. <https://dcr.hawaii.gov/wp-content/uploads/2026/02/Pop-Reports-EOM-2026-01-30.pdf>

² Ibid 1.

³ Insha Rahman, Undoing the Bail Myth: Pretrial Reforms to End Mass Incarceration, 46 Fordham Urb. L.J. 845 (2019). Available at: <https://ir.lawnet.fordham.edu/ulj/vol46/iss4/2>

⁴ Prison Policy Initiative, Releasing people pretrial doesn't harm public safety, July, 6 2023. <https://www.prisonpolicy.org/blog/2023/07/06/bail-reform/>

Jefferson County (CO). Re-offense or rearrest rates did not increase after pretrial reforms, and in some cases declined.

- Harris County, Texas: approximately tens of thousands of people charged with misdemeanors have avoided pretrial incarceration since the County ended cash bail (according to independent federal data).⁵
- New Jersey’s 2017 cash bail reform law “substantially reduced the pretrial population... without harming community safety.”⁶
- Cass County, Indiana: Prior to reform, the average jail population was nearly 50% over capacity, with approximately 70% of people pre-trial. In 2018 the county adopted several pre-trial diversion programs such as voluntary referrals to support services, decreased reliance on monetary bonds, and data transparency on pretrial outcomes. In 2022, the pretrial population had decreased by 80%, saving nearly \$1 million in detention costs.⁷

Holding people unnecessarily in pretrial detention **contributes to overcrowding, staffing issues, and worsening facility conditions**. Concerningly, it also has been found to have a criminogenic effect. One study from October 2024 found that pretrial detention increases the odds for someone to miss a court appearance or be arrested by roughly 50% and increases the odds of convictions by 36%.⁸

Other research has found that even a short period of pretrial detention can have “cascading effects” on an individual, including threatening employment, housing stability, child custody, and health care access. These may contribute to increased likelihood of further involvement with the criminal justice system.⁹

⁵ WBUR, Breaking the Bond: A look at bail reform in Harris County, Texas, September 16, 2024.

<https://www.wbur.org/hereandnow/2024/09/16/breaking-the-bond#>

⁶ Drexel News, New Jersey’s Cash Bail Reform Reduced Incarceration Without Increasing Gun Violence, May 30, 2024. <https://drexel.edu/news/archive/2024/May/New-Jersey-Cash-Bail-Reform-Reduced-Incarceration>

⁷ Advancing Pretrial Policy & Research, Small County. Big Results., October 24, 2023.

<https://www.advancingpretrial.org/story/small-county-big-results/>

⁸ DeMichele, Matthew and Silver, Ian and Labrecque, Ryan, Locked Up and Awaiting Trial: A Natural Experiment Testing the Criminogenic and Punitive Effects of Spending a Week or More in Pretrial Detention (June 2, 2023).

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4467619

⁹ See: Laura & John Arnold Foundation., *Pretrial Criminal Justice Research*

(2013), available at https://static.prisonpolicy.org/scans/ljaf/LJAF_Report_state-sentencing_FNL.pdf; Megan Stevenson, *Distortion of Justice: How the Inability to Pay Bail Affects Case Outcomes* 22 (Working Paper, 2016),

available at [https://www.law.upenn.edu/cf/faculty/mstevens/workingpapers/Distortion-of-Justice-April-](https://www.law.upenn.edu/cf/faculty/mstevens/workingpapers/Distortion-of-Justice-April-2016.pdf)

[2016.pdf](https://www.law.upenn.edu/cf/faculty/mstevens/workingpapers/Distortion-of-Justice-April-2016.pdf); Heaton et al., *The Downstream Consequences of Misdemeanor Pretrial Detention* 3 (July 2016), available at <http://ssrn.com/abstract=2809840>;

<https://vera-institute.files.svdcdn.com/production/downloads/publications/Justice-Denied-Evidence-Brief.pdf>

Adopting HB1516 will help ensure that the freedom of individuals is not determined by their ability to afford bail.

Mahalo,

Josh Frost

Josh Frost
Policy Advocate
ACLU of Hawai‘i
jfrost@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.



Dedicated to safe, responsible, humane, and effective drug policies since 1993

TESTIMONY IN SUPPORT OF HB 1516

TO: Chair Tarnas, Vice Chair Poepoe, and JHA Committee

FROM: Nikos Leverenz, DPFH Board President

DATE: February 19, 2026 (2:00 P.M.)

Drug Policy Forum of Hawai'i (DPFH) **strongly supports** HB 1516, which clarifies the factors courts must consider when determining a defendant's financial ability to afford bail and helps ensure that bail is set in a reasonable and equitable amount.

At a time when state policymakers are looking to commit over \$1 billion for a public-private partnership arrangement to construct and maintain a new jail facility on O'ahu, it is imperative to reduce the use of pretrial detention. Even short periods of incarceration strain an already overcrowded and overburdened system characterized by workforce challenges. Short term incarceration has lasting impacts for arrestees and their families, including disruption of care for children and older family members and potential loss of employment and access to housing. The impacts are even more acute for low-income persons and Native Hawaiians, each disproportionately represented in the criminal legal system.

Since 1993 DPFH has advanced public discussions and policy changes around Hawai'i's drug policies, which continue to advance severe criminal penalties and extended periods of criminal legal supervision. DPFH also supports policy changes around substance use and behavioral health issues that are anchored in harm reduction, public health, and human rights. These changes include broader access to community-based behavioral health treatment; the repeal of cannabis prohibition in favor of rational regulation; reducing the severity of sentencing laws, prosecutorial practices, penological practices, and criminal legal supervision; and advancing other changes to laws and policies to reduce the impact of the criminal legal system on individuals and families from under-resourced communities.

Mahalo for the opportunity to provide testimony.

HOUSE OF REPRESENTATIVES
THE THIRTY-THIRD LEGISLATURE
REGULAR SESSION OF 2026

COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Rep. David A. Tarnas, Chair
Rep. Mahina Poepoe, Vice Chair

Rep. Della Au Belatti	Rep. Jackson D. Sayama
Rep. Elle Cochran	Rep. Gregg Takayama
Rep. Mark J. Hashem	Rep. Diamond Garcia
Rep. Kirstin Kahaloa	Rep. Garner M. Shimizu

NOTICE OF HEARING

DATE: Thursday, February 19, 2026
TIME: 2:00 PM
PLACE: VIA VIDEOCONFERENCE
Conference Room 325
State Capitol
415 South Beretania Street

[HB 1516](#)
[Status](#)

RELATING TO PRETRIAL RELEASE.
Requires certain factors to be considered when determining a defendant's financial ability to afford bail.

TESTIMONY IN SUPPORT OF HB1516

With Suggested Clarifying Amendment
Submitted by James Waldron Lindblad

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

I respectfully submit testimony in support of HB1516.

This measure addresses an important guardrail in Hawai'i's pretrial framework: ensuring that a defendant's financial circumstances do not result in unnecessary or wealth-based detention. By requiring courts to consider specific factors—like excluding public benefits and household income thresholds— the bill promotes transparency, consistency, and fairness in bail determinations. That goal deserves support.

My comments are offered in the spirit of implementation refinement — not expansion — and focus on preserving judicial discretion while integrating financial ability considerations into Hawai'i's existing bail structure.

Financial Ability as a Required Factor — Within Judicial Discretion

Hawai'i courts have historically balanced several considerations when setting bail:

1. The nature and seriousness of the alleged offense
2. The defendant's financial ability
3. The availability of lawful conditions reasonably designed to ensure appearance and compliance

Judicial discretion has been the stabilizing force among these factors.

HB1516 appropriately directs courts to consider financial ability in a structured manner. That consideration serves as an essential safeguard against wealth-based detention.

At the same time, financial ability should inform bail determinations — not replace the broader judicial evaluation of risk, accountability, and lawful release mechanisms authorized under Chapter 804.

A well-functioning pretrial system avoids two unintended outcomes:

- Detention based solely on inability to pay
- Release decisions that unintentionally narrow judicial tools necessary to secure appearance

Preserving judicial discretion ensures that courts can evaluate the totality of circumstances in each case.

Relationship to Daily Bail and Practical Operation

The Legislature has strengthened Hawai'i's daily bail framework to ensure that authorized release decisions may be effectuated seven days a week. That reform promotes fairness by reducing unnecessary detention caused by court scheduling limitations.

For daily bail to function meaningfully in practice, the statutory framework must remain workable and predictable.

When a court determines — after considering financial ability and all statutory factors — that monetary bail or another lawful condition is appropriate, there must remain a clear and administrable pathway to effectuate that decision.

Financial ability considerations should therefore operate consistently with the broader purpose of bail: securing appearance while preserving fairness and judicial authority.

Suggested Clarifying Amendment

(Draft for Discussion Purposes Only)

To ensure clarity of legislative intent and preserve harmony within Chapter 804, the Committee may wish to consider adding language after the new provisions in §804-9: clarifying that:

Consideration of a defendant's financial ability to afford bail shall not limit the court's authority to impose lawful conditions of release authorized under Chapter 804, including sufficient surety or other conditions reasonably necessary to assure appearance and compliance.

For additional clarity, the Committee may also wish to reaffirm that, under HRS §804-1, bail in Hawai'i is defined as release upon "sufficient surety." Financial ability considerations should

therefore be applied consistently within that existing statutory framework and not be construed to narrow lawful release mechanisms already recognized under Hawai'i law.

This clarification would:

- Preserve full judicial discretion
- Not expand detention eligibility
- Not mandate monetary bail
- Not reduce consideration of financial ability
- Simply confirm that financial ability remains one required factor within a balanced statutory framework

Clear articulation of legislative intent in the Committee Report would further help ensure consistent statewide application and avoid unintended narrowing of judicial authority.

As the Committee considers HB2413 and related reforms today, HB1516—with this narrow clarification—can help Hawaii lead in equitable pretrial practices.

Closing

HB1516 advances fairness in Hawai'i's pretrial process. When implemented in harmony with existing daily bail procedures and longstanding principles of judicial discretion, it can strengthen the system without disrupting its practical operation.

Hawai'i's framework works best when courts retain the ability to evaluate the whole person, the totality of circumstances, and the full range of lawful release options authorized by statute.

I respectfully ask the Committee to support HB1516 with consideration of this narrow implementation clarification.

Respectfully submitted,
James Waldron Lindblad

James.Lindblad@gmail.com

808-780-8887

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

From: Veronica Moore, Individual Citizen

Date: February 18, 2026

RE: House Bill 1516
Measure Title: RELATING TO PRETRIAL RELEASE.
Report Title: Pretrial Release; Bail

To All Concerned,

My name is Veronica Moore and I support House Bill 1516. Thank you for introducing this bill.

Sincerely,

Veronica M. Moore

HB-1516

Submitted on: 2/18/2026 10:08:34 AM

Testimony for JHA on 2/19/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Cristina Holt	Individual	Support	Written Testimony Only

Comments:

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

I am submitting testimony in support of HB 1516.

Right now, bail is supposed to ensure someone shows up to court. But in practice it functions as something else entirely: a wealth test. Two people charged with the exact same offense can face the exact same bail amount, and one goes home that night while the other sits in a cell for weeks or months simply because they are poor. That is not justice. That is a two tiered system that punishes people for being broke before they have even been convicted of anything.

HB 1516 requires judges to actually consider what a defendant can afford when setting bail. It excludes public benefits income from that calculation, because counting someone's disability check or TANF assistance as ability to pay is not a realistic measure of anything. And it focuses on what someone could actually pull together within forty hours of arrest, which is the real world question.

The law already says bail should not be so high that it lets the wealthy escape consequences or renders the system useless to the poor. This bill makes that principle mean something in practice.

I urge the committee to pass HB 1516.

Mahalo for your time and consideration.

HB-1516

Submitted on: 2/18/2026 1:28:19 PM

Testimony for JHA on 2/19/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Cacique J Melendez	Individual	Oppose	Written Testimony Only

Comments:

I strongly opposed this bill. It is not reflective of the way people in Hawaii feel and it does nothing to help us feel safer by releasing the criminally accused prior to a trial with a lower or no bail. The criminals do not take into account the damage they do to law abiding citizens. They also do not think about how much they can afford for bail prior to committing a crime, therefore we should stick to th already established bail schedule that is fair and equal to everyone depending on the level of crime they committed, not on their ability to pay it.