



STATE OF HAWAII  
DEPARTMENT OF EDUCATION  
KA 'OIHANA HO'ONA'AUAO  
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HONOLULU, HAWAII 96804

**Date:** 02/12/2026

**Time:** 09:30 AM

**Location:** 309 VIA VIDEOCONFERENCE

**Committee:** LAB

**Department:** Education

**Person Testifying:** Keith T. Hayashi, Superintendent of Education

**Title of Bill:** HB2092, RELATING TO OFFENSES AGAINST PUBLIC SERVANTS.

**Purpose of Bill:** Elevates the offense of harassment to a misdemeanor when committed against certain public servants in connection with their performance of a governmental function.

**Department's Position:**

The Hawaii State Department of Education (Department) supports HB 2092, as it provides stronger protections to safeguard public servants and the effective functioning of government, by elevating the offense of harassment to a misdemeanor when committed against a public servant in connection with that public servant's performance of a governmental function. We believe this protection should be expanded to include all employees in the Department.

HB 2092 elevates harassment from a petty misdemeanor to a misdemeanor when committed against public servants while performing their duties. This provides a stronger legal deterrent against threatening behavior from the public. Current laws are often difficult to apply to constant threats and harassment, frequently resulting in lesser charges or no prosecution. Harassment often disrupts or interferes with school functions and administration. By increasing penalties, HB 2092 helps safeguard the effective functioning of government and, by expanding that protection to include all Department employees, will ensure educators can focus on student needs rather than managing hostile interactions. The measure complements efforts like the Department's Visitor Code of Conduct by providing a legal, state-level penalty for those who violate it.

Thank you for the opportunity to provide testimony on HB 2092.



*The Judiciary, State of Hawai‘i*  
*Ka ‘Oihana Ho‘okolokolo, Moku‘āina ‘o Hawai‘i*

**Testimony to the Thirty-Third Legislature, 2026 Regular Session**

**House Committee on Labor**

Representative Jackson D. Sayama, Chair

Representative Mike Lee, Vice Chair

Thursday, February 12, 2026 at 9:30 AM  
State Capitol, Conference Room 309 & Videoconference

By

Brandon Kimura

Administrative Director of the Courts

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**Bill No. and Title:** House Bill No. 2092, Relating to Offenses Against Public Servants.

**Purpose:** Elevates the offense of harassment to a misdemeanor when committed against certain public servants in connection with their performance of a governmental function.

**Judiciary's Position:**

The Hawai‘i State Judiciary strongly supports House Bill No. 2092, which is part of the Judiciary’s 2026 legislative package. This bill is needed to better protect judges, Judiciary staff, and other public servants who are increasingly targeted with threats and harassment for carrying out their official duties.

House Bill No. 2092 strengthens protections for public servants by creating a new offense, Harassment of a Public Servant, in Chapter 711, Hawaii Revised Statutes (HRS). The measure elevates harassment under HRS § 711-1106 from a petty misdemeanor to a misdemeanor when committed against certain public servants in connection with their performance of a governmental function.

The bill’s definition of “public servant” is drawn from the existing definition of “covered public servant” in HRS Chapter 92H (Restrictions on Publication of Certain Public Servants’ Personal Information), which provides an established list of public servants whose positions and duties have been recognized by the Legislature as involving heightened risks and responsibilities.



This bill's definition, however, could be expanded to include other public servants who are harassed in the performance of their official duties.

The harassment offense under HRS § 711-1106 includes communications made with the intent to harass, annoy, or alarm another person. For the Judiciary, these incidents often involve probation officers supervising high-risk offenders, or litigants upset with the progress or outcome of their cases. The Judiciary seeks law enforcement action only when productive discussion has ended and communications become unwelcome – serving only to taunt, insult, berate, pressure, or disrupt the work activities of Judiciary employees – or when communications threaten harm or appear to be escalating toward physical violence.

In the Judiciary's experience, these incidents encountered by our personnel – even those involving threats to kill an individual or their family members – are most often charged as petty misdemeanor harassment under HRS § 711-1106, rather than as felony terroristic threatening of a public servant under HRS § 707-716(1)(c) or as obstruction of justice or obstructing government operations under HRS §§ 710-1072.5(1)(b) and 710-1010(1)(a). This suggests that those felony or obstruction statutes might not fit the conduct at issue. By building on the existing harassment statute already commonly used, the bill takes the practical approach of increasing the grade of the harassment offense that is familiar in the criminal justice system.

This bill recognizes that public servants face unique and elevated safety risks and that threats and harassment against them have increased. Judiciary data show a sharp increase in threats and inappropriate communications toward court personnel, with reported incidents involving judges rising from 2 in 2012 to 98 in 2025, and incidents involving probation officers rising from 1 to 25 over the same period. This trend affects the entire state Judiciary: total reported threats and inappropriate communications toward all Judiciary employees increased from 7 in 2012 to 140 in 2025. These statistics demonstrate a real and escalating risk to public servants and underscore the need for the stronger, targeted deterrent that this bill would provide. Beyond volume, these threats and inappropriate communications are increasingly serious in nature.

Moreover, protecting Judiciary personnel -- from judges making difficult decisions to probation officers supervising offenders and staff managing court operations -- is essential to preserving judicial independence, the public trust and confidence in the rule of law, and maintaining effective court operations. The rise in harassment cases is harmful to staff and disrupts the delivery of government services, with negative consequences for communities across the State. This measure will enhance the security and well-being of public servants and help preserve the reliable delivery of government services.

We urge you to pass this important bill. Thank you for the opportunity to testify.

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**February 11, 2026**

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## **HB 2092: OFFENSES AGAINST PUBLIC SERVANTS**

### **Chair Sayama, Vice-Chair Lee, and Members of the Committee on Labor:**

The Office of the Public Defender (OPD) **submits the following comments** on HB 2092 which creates a new offense of “Harassment of a Public Servant” and elevates harassment under Hawai‘i Revised Statute (HRS) § 711-1106 from a petty misdemeanor to a misdemeanor when committed against a defined category of public servants in connection with their performance of a governmental function.

The OPD appreciates the Legislature’s concern for the safety of public servants and recognizes that threats and violence toward government officials undermine public trust and the functioning of our institutions. At the same time, we respectfully raise concerns regarding breadth, proportionality, and constitutional implications.

### **1. Existing Statutory Framework Already Addresses Serious Conduct**

As noted in the findings of the bill (page 2), Hawai‘i law already contains several statutes that address serious threats or interference with governmental operations, including:

- Terroristic threatening (HRS § 707-715),
- Obstruction of justice (HRS § 710-1072.5),
- Obstructing government operations (HRS § 710-1010), and
- Harassment by stalking (HRS § 711-1106.5).

The bill acknowledges that many cases are instead charged under the general harassment statute, HRS § 711-1106, because it only requires proof of intent to harass, annoy, or alarm and is graded as a petty misdemeanor.

Under current law, harassment under HRS § 711-1106 includes, among other things, repeated communications made with intent to harass, annoy, or alarm. Elevating the grading of this same conduct solely based on the identity of the recipient without altering the elements of the offense raises important concerns.

## **2. Most Listed Individuals Are Public Figures**

The definition of “public servant” in Section 2 of the bill includes many individuals who are public figures by definition. They are elected officials, high-ranking policymakers, or judges whose official decisions routinely affect large segments of the population.

Public figures necessarily receive a higher volume of communications, including complaints, criticism, and repeated inquiries. Criminal liability for “repeated contact” in this context must be applied with particular caution to avoid chilling constitutionally protected speech and petitioning activity.

The First Amendment protects not only polite discourse but also speech that is harsh, critical, persistent, or emotionally charged especially when directed at government officials about matters of public concern.

## **3. “Repeated Contact” and the Risk of Overbreadth**

HRS § 711-1106 includes provisions addressing repeated communications made with intent to harass, annoy, or alarm. In the context of public officials, the “repeated contact” component may be particularly problematic.

For example:

- A pro se litigant may repeatedly contact a judge’s chambers or clerk’s office seeking clarification.
- An individual may repeatedly email a legislator regarding a pending bill.
- A parent frustrated with a court order may persistently file complaints or letters.
- A constituent may contact an elected official multiple times demanding action.

While some of this conduct can cross the line into true harassment, much of it reflects confusion, frustration, advocacy, or attempts to seek redress.

If elevated automatically to a misdemeanor based solely on the status of the recipient, such conduct could result in criminal consequences for individuals attempting, however imperfectly, to access government or petition for change.

#### **4. Impact on Pro Se Litigants and Access to Courts**

The legal system regularly interacts with pro se litigants who:

- Lack counsel,
- Lack familiarity with procedural rules,
- Experience literacy or language barriers, or
- Have mental health conditions affecting communication style.

Repeated filings, repeated contacts, or emotionally charged communications are unfortunately common features of pro se litigation.

#### **5. Expansion of Status-Based Enhancements and the Risk of Subsuming the Base Offense**

The OPD is also concerned about the growing number of status-based enhancements within the Penal Code.

HRS § 711-1106 establishes a general harassment offense applicable to all persons. Over time, however, several statutes have been created or expanded that elevate offenses based on the status of the alleged victim. i.e., public servants, minors, elders, certain professionals, or other specifically designated groups.

While each category may have a rational justification when viewed in isolation, the cumulative effect risks subsuming the base offense entirely. When increasing numbers of individuals falling within specially protected classifications, the “exception” can begin to swallow the rule.

Criminal liability enhancements traditionally reflect either:

1. Increased culpability of the actor; or
2. Increased harm caused by the conduct.

Here, the elements of harassment under HRS § 711-1106 remain unchanged. The only variable is the identity of the recipient. From a structural standpoint, the Penal Code works best when base offenses are clearly defined, and enhancements are carefully limited.

We respectfully suggest that the Legislature consider whether repeated expansion of protected-status enhancements is the most coherent policy mechanism to address the concerns identified in the findings.

## **6. Possible Amendments:**

If the Legislature moves forward with this proposal, OPD respectfully suggests consideration of:

1. Explicit clarification that constitutionally protected petitioning and expressive activity is excluded.
2. Clearer standards for what constitutes actionable “repeated contact” in the public-official context.
3. Consideration of requiring proof that the conduct materially interfered with official duties or posed a credible safety concern.
4. Alignment with the “pattern of conduct” language used in HRS § 711-1106.5 (harassment by stalking), which provides more structured elements.

OPD fully supports protecting public servants from true threats, intimidation, and violence. However, because this bill elevates harassment based solely on the status of the recipient and because most listed individuals are public figures who routinely receive critical or repeated communications, we urge careful refinement to avoid unintended consequences.

Thank you for the opportunity to comment.

**DEPARTMENT OF THE PROSECUTING ATTORNEY**  
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**THE HONORABLE JACKSON D. SAYAMA, CHAIR**  
**HOUSE COMMITTEE ON LABOR**  
**Thirty-Third State Legislature**  
**Regular Session of 2026**  
**State of Hawai'i**

February 11, 2026

**RE: H.B. 2092; RELATING TO OFFENSES AGAINST PUBLIC SERVANTS**

Chair Sayama, Vice Chair Lee, and members of the House Committee on Labor, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following **comment** on H.B. 2092.

H.B. 2092 aggravates the crime of harassment when directed against certain public officials acting within the official scope of their duties. Under the current law, harassment is a petty misdemeanor regardless of who the victim is.<sup>1</sup> Some provisions cover the crime of common-law battery.<sup>2</sup> The remainder cover unprotected abuses of speech, such as fighting words or repeated unwanted communications.<sup>3</sup>

This bill would enhance the penalty for harassment directed to legislators and judges, including retired federal judges who own vacation homes in Hawaii. It covers the Governor, the Lieutenant Governor, and department heads. It does not apply to domestic violence survivors, sexual assault victims, elderly victims of abuse, children bullied and harassed in school, teachers facing screaming parents, nurses slapped in emergency rooms, retail workers subjected to racist tirades, or whistleblowers experiencing workplace retaliation.

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<sup>1</sup> See HRS § 711-1106(2).

<sup>2</sup> *Id.* § 711-1106(1)(a). See also Commentary to HRS § 711-1106 (describing the first subsection as “a restatement of the common-law crime of battery.”).

<sup>3</sup> See, e.g., HRS § 711-1106(1)(b) (fighting words). Cf. *Chaplinsky v. New Hampshire*, 315 U.S. 568, 571-72 (1942); *Saxe v. State College Area School Dist.*, 240 F.3d 200, 211 (3d Cir. 2001) (Alito, J.) (observing the lack of a “harassment exception” to the First Amendment).

Hawai‘i already makes it a felony to threaten any public official acting in an official capacity.<sup>4</sup> Consistent with the First Amendment, criminal threats must amount to “true threats.”<sup>5</sup> Unlike H.B. 2092, the terroristic-threatening statute defines “public servant” to include teachers, social workers, and ordinary civil servants, not simply some elected and appointed officials.<sup>6</sup>

Both harassment<sup>7</sup> and terroristic threatening<sup>8</sup> are crimes that do not warrant protection under the First Amendment. The Department remains committed to holding such offenders accountable. But as with defamation,<sup>9</sup> the threshold for harassment against public officials is heightened under the First Amendment. The Hawai‘i Supreme Court, for example, holds police officers to a higher standard when evaluating the “fighting words” doctrine.<sup>10</sup> Other jurisdictions have held that communications from disgruntled constituents—including coarse and vituperative invective—are incidental to public office and constitutionally protected.<sup>11</sup>

Finally, the Department notes that the evidentiary burden described in Section 1 of H.B. 2092 has not been imposed by the legislature or law enforcement. Those evidentiary burdens are not facts of nature. They reflect judicial decisions.

By way of example, we point to the prosecution undertaken by our office in *State v. Samson Souza*.<sup>12</sup> The defendant in that case was charged for disrespecting the Legislature after a disorderly interruption of the opening day. We appreciated the time taken by the House sergeant-at-arms, Mr. Tanonaka, to testify in that case. Despite the abundant evidence of disruptive conduct presented, the per diem judge, Jason Burks, refused to convict. The laws on the books are already sufficient if judges will follow the law. And if they do not, no freshly burnished statute will change that.

Mahalo for the opportunity to testify.

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<sup>4</sup> HRS § 707-716(1)(c).

<sup>5</sup> *Virginia v. Black*, 538 U.S. 343, 359 (2003); *Cohen v. California*, 403 U.S. 15, 20 (1971).

<sup>6</sup> HRS § 707-716(1)(c) (defining “public servant” to specifically include teachers).

<sup>7</sup> *State v. Calaycay*, 145 Hawai‘i 186, 200-04, 449 P.3d 1184, 1198-1202 (2019).

<sup>8</sup> *Counterman v. Colorado*, 600 U.S. 66, 72 (2023) (“True threats of violence, everyone agrees, lie outside the bounds of the First Amendment’s protection. And a statement can count as such a threat based on its objective content.”).

<sup>9</sup> *New York Times Co. v. Sullivan*, 376 U.S. 254, 279-80 (1964) (requiring “actual malice” to sustain damages for defamatory falsehood directed at the official actions of a public figure).

<sup>10</sup> *In re Doe*, 76 Hawai‘i 85, 95-100, 869 P.2d 1304, 1314-19 (1994).

<sup>11</sup> See *Commonwealth v. Bigelow*, 59 N.E.3d 1105, 1107, 1113 (Mass. 2016) (overturning harassment conviction for vulgar and demeaning letters repeatedly sent to town selectman); *State v. Drahota*, 788 N.W.2d 796, 799-800, 803-06 (Neb. 2010) (declining to find “fighting words” exception for harsh criticism of perceived foreign policy stance).

<sup>12</sup> Case No. 1DCW-23-0000579.



## UNITED PUBLIC WORKERS

AFSCME Local 646, AFL-CIO

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

**COMMITTEE ON LABOR**  
Rep. Jackson D. Sayama, Chair  
Rep. Mike Lee, Vice Chair

Thursday, February 12, 2026, 9:30 PM  
Conference Room 309 & Videoconference

**Re: Testimony on HB2092– RELATING TO OFFENSES AGAINST PUBLIC SERVANTS**

Chair Sayama, Vice Chair Lee, and Members of the Committee:

The United Public Workers, AFSCME Local 646, AFL-CIO (“UPW”) is the exclusive bargaining representative for approximately 14,000 public employees, which includes blue collar, non-supervisory employees in Bargaining Unit 1 and institutional, health, and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties.

UPW supports HB2092, which elevates the offense of harassment to a misdemeanor when committed against certain public servants in connection with their performance of a governmental function.

Given recent events and the apparent rise in incidents of harassment targeting public workers, it seems evident, unfortunately, that legislation like this is necessary to protect the rights and dignity of the hard-working employees who are dedicated to the providing essential government services.

While UPW does support this bill, we will note that the definition of “public servant” in this measure is inconsistent with other sections of the Hawaii Revised Statutes as it excludes rank and file employees.

**We humbly request that the committee amend this bill to also include all public employees of the State of Hawaii or any of its political subdivisions.**

Mahalo for the opportunity to testify in support of this bill.

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The House Committee on Labor  
February 12, 2026  
Room 309  
9:30 AM

RE: **HB 2092, Relating to Offenses Against Public Servants**

Attention: Chair Jackson D. Sayama, Vice Chair Mike Lee, Members of the  
Committee

The University of Hawaii Professional Assembly (UHPA), the exclusive bargaining representative for all University of Hawai'i faculty members across Hawai'i's statewide 10-campus system, **supports HB 2092 with amendments.**

We agree that public servants face unique safety risks and that existing penalties often fail to provide a sufficient deterrent to harmful behavior targeting those performing official duties. However, we respectfully request an amendment regarding the definition of "Public servant" to ensure this protection applies equitably to all who serve the state.

To ensure this measure provides comprehensive and equitable protection, we respectfully suggest that the Committee revise the definition of "public servant." We recommend referencing the established definition found in HRS §710-1000, which broadly covers "any officer or employee of any branch of government." Adopting this standard definition would ensure statutory consistency and automatically extend protection to faculty and other essential state employees without requiring a lengthy and exclusionary list.

However, we recognize that the definition in HRS §710-1000 applies specifically to state government and would not automatically cover all groups currently listed in the bill. Therefore, we urge the Committee to adopt the broad state definition found in the Penal Code while explicitly retaining the specific language in the bill that protects federal justices and election volunteers. This approach ensures that all state employees are covered consistently under Hawaii law, while preserving the Legislature's intent to protect these unique categories of officials who might otherwise fall outside the state's jurisdiction. This amendment would send a clear message that the safety of all public employees is valued equally under the law.

**With this amendment, UHPA supports the passage of HB 2092.**

Respectfully submitted,

Christian L. Fern  
Executive Director  
University of Hawaii Professional Assembly

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**HAWAII GOVERNMENT EMPLOYEES ASSOCIATION**

AFSCME Local 152, AFL-CIO

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The Thirty-Third Legislature, State of Hawaii  
House of Representatives  
Committee on Labor

Testimony by  
Hawaii Government Employees Association

February 12, 2026

H.B. 2092 — RELATING TO OFFENSES AGAINST PUBLIC SERVANTS

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO wishes to provide comments on H.B. 2092, which elevates the offense of harassment to a misdemeanor when committed against certain public servants in connection with their performance of a governmental function. **We respectfully request an amendment to broaden the definition of ‘public servant’ starting on page 4 line 3 to include all public employees employed within the State or any of its political subdivisions.**

Throughout the year, we receive numerous reports from our members working for the State who have experienced incidents of harassment during the course of their employment. Most of our members work on the front lines – handling walk-ins, answering calls, providing security, meeting with clients, and processing paperwork, so they are often the first to encounter threats, harassment, or violence directed toward public servants. We consider it shameful that the same level of protection proposed for the elected and appointed officials is not afforded to rank and file employees.

Considering the many incidents of harassment suffered by employees, including the high-profile assault suffered by an employee a few months ago, it would be truly shameful to move forward this version of the bill that would protect only a select few and not all public employees. Excluding your rank and file employees from this proposal is just plain wrong. Our amendment would ensure that all public employees, irrespective of position, would be included.

Thank you for the opportunity to provide comments on H.B. 2092.

Respectfully submitted,

Randy Perreira  
Executive Director