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February 18, 2026

HB 2413: RELATING TO PRETRIAL REFORM

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

The Office of the Public Defender (OPD) **strongly supports HB 2413 with amendments.**

The purpose of HB 2413 is to aid in the fulfillment of the goals laid out by the Criminal Pre-Trial Task Force of 2018 and the hope of Act 179 of 2019. As stated in the preamble, regardless of past efforts, little change has occurred for those that are currently being held pre-trial and thus HB 2413 needs to be passed to rectify these past oversights. The OPD can verify that statutory help is needed to compel the pre-trial release of those defendants covered by HB 2413. Furthermore, the safeguards listed in HB 2413 would ensure public safety and at the same time secure release for those that do not need to be punished before adjudication. HB 2413 ensures the pre-trial release of those charged with violations of law, traffic offenses, nonviolent petty misdemeanor, and misdemeanor offenses and non-violent class C felony offenses. It is important for the legislature to use the language "shall be ordered by the court to be released" so that the intent of said legislation is clear and unambiguous, and allows judges to state, on the record, that the ***law*** compels the release when all conditions are met.

However, the OPD does have suggested amendments to the proposed language. We would suggest that after the word "shall" in proposed 804(a) it should read: "with the defendant's consent" as well as in (3)(e) after the word "apply" it should read: "or if the defendant does not consent to release". These suggested amendments are for the following reason:

If a defendant is already being held in custody on a charge for which they cannot secure release and is subsequently charged with another offense for which the defendant would be entitled to release under HB 2413, it would not make legal sense for the defendant to be released on one charge but not the other. Thus, a defendant would need a mechanism by which they can refuse release on a charge covered by HB 2413.

The OPD feels that HB 2413 is a major step in the right direction to end pre-trial incarceration for those presumed innocent and can be safely released into the community. Furthermore, HB 2413 allows for the court to exercise some level of discretion by listing exceptions to release to protect the public from possible harm or non-appearance at subsequent court hearings.

HB 2413 would be a first occasion wherein pre-trial release would be the default, and pre-trial incarceration the exception.

Thank you for the opportunity to comment on this measure.

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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(808) 587-4160

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 2413, Relating to Pretrial Reform
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 2413, relating to pretrial reform which requires courts to release most people charged with low-level, nonviolent offenses without bail unless there is a clear risk to public safety or flight, while ensuring judicial oversight, prompt hearings if bail cannot be paid, and victim notification.

The consequences of unnecessary incarceration and 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 public safety risk, 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. HB2413 addresses this by prioritizing release on recognizance for eligible nonviolent offenses, ensuring detention is reserved for cases involving genuine safety or flight risks rather than financial limitations.

Reducing unnecessary pretrial detention is one of the most immediate and effective ways to alleviate jail overcrowding while maintaining community safety. This approach promotes more efficient use of correctional resources, allowing facilities and staff to focus on individuals who pose greater risks. HB2413 also maintains important safeguards by preserving judicial discretion to impose detention when warranted and requiring ongoing review of those decisions.

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.

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

Thursday, February 19, 2026 at 2:00 p.m.
State Capitol, Conference Room 325

by
Jennifer Awong
Staff Attorney, First Circuit Criminal Administrative Division and Judiciary Administration

Bill No. and Title: House Bill No. 2413, Relating to Pretrial Reform

Purpose: Requires release on recognizance for defendants charged with violations, traffic offenses, nonviolent petty misdemeanors, nonviolent misdemeanors, and nonviolent class C felonies, subject to conditions. Establishes exclusions for specified offenses, threats to public safety, and wilful flight. Requires findings when bail or detention is imposed, ongoing review of continued detention or conditions, and a prompt hearing if bail cannot be posted. Requires prosecutors to notify victims of pretrial decisions.

Judiciary's Position:

The Judiciary supports the intent of the proposed legislation and notes that any pretrial bail reform should be tailored to the presumption of innocence, ensuring the appearance of the defendant, minimizing the risk of danger to the community, and ensuring the equal treatment of individuals regardless of race, wealth, or social class. The legislation seeks to ensure the release at arraignment of defendants who were initially arrested and held for violations, traffic offenses, and nonviolent petty misdemeanors, misdemeanors, and class "C" felony offenses subject to certain conditions. The Judiciary offers the following comments for the Committee's additional information and consideration

First, there are numerous occasions not contemplated by this bill where a defendant may be held in custody on another charge (or case) that is not covered by the provisions of the proposed new section outlined in Section 2 of the proposed measure. Prohibiting the court from

setting monetary bail in those situations will result in defendants remaining in custody due to the other charge(s) or case(s) but receiving no custodial credit for the instant offense. The Judiciary respectfully suggests amending the proposed measure on page 6, line 3, to remove the period at the end of subsection (b)(3), adding a semicolon and an "or," and adding a subsection (b)(4) that states:

> (4) One or more of the following apply:
> (A) The defendant was pending trial or sentencing at the time of arrest;
> (B) The defendant was on probation, deferral, parole, or conditional release at the time of arrest;
> (C) The defendant was arrested, charged, or held on another offense, not otherwise subject to this section, arising from the same or a separate incident;
> (D) The defendant is charged with a petty misdemeanor and is pending an examination under sections 704-404 or 704-421; or
> (E) The defendant, or their counsel, requests monetary bail to be set.

This additional language will ensure that a defendant who will continue to be held in custody due to a violation of conditions of release, probation, or parole, due to being charged with a serious crime, or due to a violation of federal law, will receive credit for the time in detention under Section 706-671, of the Hawai'i Revised Statutes (H.R.S.) for the instant offense. Subsection (4)(D) will ensure that the provisions of H.R.S. §§ 704-404 and 704-421 are able to address those defendants who are likely unfit to proceed and suffering from a serious mental illness can be expeditiously diverted to treatment.

Second, the release decision contemplated by the new proposed statute in Section 2, will actually occur at the prompt bail hearing outlined in H.R.S. § 804-7.5. Therefore the language in the last sentence of subsection (e) on page 6, lines 16-18 may be misleading. Given the language in subsection (f) (page 7, lines 3-7) contemplating a review of a defendant's bail status at every hearing and the already present ability of defendants to file a motion with the court to address matters of bail at any time, it would appear that the noted language of subsection (e) is not necessary to the intent of the measure.

Third, subsection (f)[1] requires the consideration of bail at every subsequent appearance of the defendant after arraignment without the necessity of the filing of a motion by the defendant. The Judiciary would note that, absent a motion from the defendant, a pretrial bail report from the Intake Service Center will not be available to the court for those defendants who remained in custody after arraignment. The court will likely have to rely solely on the prior bail report, if any, and any additional evidence produced by the State and defense. Regarding the language of subsection (f) on page 7, lines 6-7, the Judiciary respectfully suggests that the language be amended to state: "to any other person or to the community, or to ensure defendant's appearance

[1] The first line of subsection (f) implies that the court can detain a defendant without bail under subsection (e), however subsection (e) only permits the court to set monetary bail.

in court." This language mirrors the language of subsections (a)(2)(A) (page 5, line 5) and (f) (page 7, line 2) and is more consistent with the language used throughout Chapter 804 regarding the purpose of bail and conditions on bail.[2]

Fourth, the Judiciary respectfully suggests that the definition of "wilful flight" in subsection (h) be amended to include the failure to maintain contact with counsel and to address good cause for failures to appear. Specifically, the Judiciary proposes that subsection (h) state (changes are underlined):

> (h) For the purposes of this section, "wilful flight" means intentional conduct undertaken with the purpose of thwarting the judicial process to avoid prosecution. This can be evidenced by recurring or patterned conduct to evade prosecution or by a failure to take affirmative steps to communicate with counsel, including regarding court dates or remedying missed court dates. "Wilful flight" does not include isolated instances of nonappearance in court where good cause is shown by the defendant for the nonappearance.

Finally, the Judiciary respectfully notes that the requirement in subsection (f) that the court enter written findings as opposed to placing its findings on the record, as it currently does, during the HRS § 804-7.5 hearings may negatively impact the efficient operation of the courts, may cause undue delay in all bail proceedings, and may ultimately require additional judicial resources for each circuit. The issue is particularly significant in the District Court of the First Circuit where there are approximately 170 initial appearances and/or arraignments for defendants held in custody every week.[3] A bail hearing is held for each of these defendants and determinations of bail are made on the record.[4] This bill will require the district court to draft and file a significant number of written orders every week when the findings and determinations were already made on the record in the presence of the defendant and their counsel, and even in cases where those defendants are being held for other offenses. Currently, in the Circuit Court of the First Circuit arraignments are held in felony cases on Monday and Thursday mornings with anywhere between 10 to 35 defendants. The drafting of written findings in these instances would have little impact on the case when oral findings are already made on the record and the later portion of subsection (f) requires a review and determination of bail at all subsequent hearings. Further, should the Committee adopt the language the Judiciary is proposing as subsection (b)(4) above, the current language set forth in subsection (f) regarding the findings that must be made ("the court shall make written findings explaining why less restrictive conditions would not reasonably assure: (1) The safety of any person or the community; or (2) The defendant's appearance in court.") would not fully encompass those additional exclusions.

Thank you for the opportunity to testify on House Bill No. 2413.

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[2] *See, eg.* H.R.S. §§ 804-1, 804-3(d), 804-4(a), 804-5, 804-7.1, 804-7.4(2), 804-7.5(b), and 804-9.5(a).

[3] There were 8859 initial appearance hearings and/or arraignments in the District Court of the First Circuit in 2024 where the defendant was in custody.

[4] These rulings on matters of bail are immediately appealabe.

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

ON THE FOLLOWING MEASURE:
H.B. NO. 2413, RELATING TO PRETRIAL REFORM.

BEFORE THE:
HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

DATE: Thursday, February 19, 2026 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 325

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

Chair Tarnas and Members of the Committee:

The Department of the Attorney General respectfully opposes this bill.

This bill purports to create a pretrial release standard for criminal courts "that is fairer to the arrestee and focuses on ensuring safety and compliance, rather than penalizing an isolated failure to appear" (page 4, lines 5-8), by eliminating the use of monetary bail and generally requiring defendants to be released on their own recognizance for all traffic offenses, violations, nonviolent petty misdemeanor offenses, nonviolent misdemeanor offenses, and nonviolent class C felonies. While the bill creates exceptions for a defendant who presents a "specific, real, and present threat" (page 6, lines 1-2), or high likelihood of "wilful flight" (page 6, line 3; page 7, line 7; and definition on page 7, lines 15-21), it is unclear what these terms mean.

2025 PENAL CODE REVIEW COMMITTEE

The Department opposes this bill as it proposes sweeping changes to the pretrial bail system, with no indication that such changes were desired or contemplated by the 2025 Penal Code Review Committee.

Act 245, Session Laws of Hawaii (SLH) 2024, requested the Judicial Council to appoint a committee to examine revisions to the Hawaii Penal Code. Thereafter, the Hawaiʻi State Judiciary convened a Penal Code Review Committee (PCRC) comprised of over sixty representatives from the Office of the Public Defender, Prosecutors,

members of the Legislature, and various other stakeholders, divided by cross-sections into eight sub-committees.

Notably, one of the subcommittees was dedicated solely to reviewing chapter 804, HRS, which contains the bail provisions. That subcommittee and the larger PCRC took a more measured approach, rather than making broad amendments, and only proposed two specific revisions to sections 804-7 and 804-7.1, HRS,[1] which are now contained in H.B. No. 2414 (2026), part X (see page 38, line 1, to page 41, line 21). Given the comprehensive membership of these committees, awareness of the prior pretrial bill passed by the 2022 Legislature in H.B. No. 1567, H.D. 1, S.D. 1, C.D. 1, which was similar to the present bill, was likely. However, the PCRC gave no indication of the need for the type of extensive changes being proposed in this bill.

UNCLEAR EFFECT OF 2019 CHANGES

To date, there has been no report, study, audit, or other formal assessment of any data or changes resulting from Act 179, SLH 2019. In 2019, the Legislature passed changes to Hawaii's bail system under H.B. No. 1552 (2019), which was enacted as Act 179, SLH 2019. These changes were derived from recommendations made by a criminal justice pretrial task force convened by the Hawaii State Judiciary. The creation of that task force was prompted by House Concurrent Resolution No. 134 (2017), which directed the task force to:

(1) Examine and, as needed, recommend legislation and revisions to criminal pretrial practices and procedures to increase public safety while maximizing pretrial release of those who do not pose a danger or a flight risk; and

(2) Identify and define best practices metrics to measure the relative effectiveness of the criminal pretrial system, and establish ongoing

[1] See "Final Report of the 2025 Advisory Committee on Penal Code Review," pp. 54-56, and 65-65. Available online at https://www.courts.state.hi.us/wp-content/uploads/2025/12/RPT-2025-Penal-Code-Review-Committee-FINAL.pdf; last accessed February 17, 2026. Although there was a contemplated need to define "least restrictive conditions," on page 64, this bill does not attempt to define that term and goes far beyond defining any existing terms found in chapter 804.

> procedures to take such measurements at appropriate time intervals[.]

H.C.R. 134, 29th Leg., Reg. Sess. (2017).

Among other major changes, the resulting Act 179, SLH 2019:

- Amended sections 804-5 and 804-7.1, HRS, to expressly require that courts "impose the least restrictive [financial and/or non-financial] conditions required **to ensure the defendant's appearance and to protect the public.**" See Act 179, sections 17 and 19 (emphasis added);
- Created section 804-9.5, HRS, which allows courts to release defendants upon the execution of unsecured financial bonds; and
- Created the Criminal Justice Research Institute (CJRI), which is responsible for, among other things, establishing and maintaining a centralized statewide criminal pretrial justice data reporting and collection system, and developing and tracking indicators that accurately reflect the effectiveness of the State's criminal pretrial system.

While this bill asserts that "Defendants [should be] released based on the risks they present for non-appearance and recidivism, rather than their financial circumstances" (page 3, lines 3-5), there is no clear indication that the courts are making pretrial release decisions based on anything other than the risks that people present for non-appearance and recidivism (i.e., if recidivism equates to "protect[ing] the public," as required by sections 804-5, and 804-7.1, HRS. And while financial circumstances are still considered by the courts, this is being done at the express instruction of the Legislature, which amended section 804-9, HRS, under Act 179 (2019), to provide that bail "shall be set in a reasonable amount based upon all available information, including . . . the defendant's financial ability to afford bail."

ENSURE THE DEFENDANT'S APPEARANCE AND PROTECT THE PUBLIC

Finally, mandating that anyone arrested for a "nonviolent" petty misdemeanor, misdemeanor, or class C felony offense be released on their own recognizance, undermines the court's ability to thoughtfully "ensure the defendant's appearance and to protect the public" under sections 804-5 and 804-7.1, HRS. Although the bill provides

exceptions for certain enumerated offenses, there is no consideration given to other important factors, such as arrestees who were:

- Pending prosecution for another criminal offense at the time of arrest;
- Already on probation, parole, or conditional release at the time of arrest;
- Known to have a history of non-appearance;
- Concurrently charged with a violent offense arising from the same or separate incident; or
- Convicted offenders with a history of violent crimes.

Currently, courts have the discretion to review the totality of circumstances and consider all relevant information in making a determination that they are imposing the least restrictive conditions required to ensure a defendant's appearance and to protect the public. Removing that discretion presents a risk of non-appearance and a risk to public safety, that the Department cannot support.

In addition, there is some confusion as to whether it is the bill's intent to excuse "an isolated failure to appear" (page 4, line 7-8), or multiple "isolated instances of nonappearance in court" (page 7, lines 20-21).

Rather than rushing to impose such sweeping changes to the bail system, without any apparent support or recommendation for such changes from the Penal Code Review Committee, without sufficient data to support such changes, and without appropriate safeguards to ensure public safety and the appearance of defendants at court, the Department strongly recommends that this bill be held.

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JOHN PELLETIER
CHIEF OF POLICE

WADE M. MAEDA
DEPUTY CHIEF OF POLICE

February 17, 2026

Representative David A. Tarnas, Chair
Representative Mahina PoePoe, Vice Chair
and Members
Judiciary and Hawaiian Affairs
The Thirty-Third Legislature
Hawai'i State Capitol
415 South Beretania Street
Honolulu, HI 96813

SUBJECT: Testimony in opposition of H.B. 2413, Relating to Pretrial Reform

I am submitting this testimony in opposition to HB 2413, which would limit judges' discretion in setting bail for individuals charged with minor offenses and mandate pretrial release without consideration of ability to pay, except in certain circumstances.

While the bill focuses on reducing pretrial detention for minor offenses, it risks releasing individuals who may pose a danger to the community. Determining "minor offense" does not always account for situational factors, such as prior criminal history, or patterns of behavior that indicate risk of reoffending. Mandatory pretrial release will lead to an increase in the number of offenders who "no-show" for their court appearances, even for nonviolent offenses. H.B. 2413 undermines the effectiveness of the judicial process and will call for additional law enforcement resources to track and apprehend individuals who fail to appear.

H. B. 2413 will increase administrative workload on courts, prosecutors, and law enforcement agencies. Requiring judges to provide written justifications for bail decisions, and restricting judicial discretion in setting bail based on circumstances beyond the statutory exceptions does away with Judges must having the flexibility to consider unique case factors, including history of compliance, risk to victims, and other relevant details. For these reasons, we respectfully urge the committee to oppose HB 2413.

Sincerely,

For JOHN PELLETIER
Chief of Police

KELDEN B.A. WALTJEN
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OFFICE OF THE PROSECUTING ATTORNEY

TESTIMONY IN OPPOSITION TO HOUSE BILL 2413

A BILL FOR AN ACT
RELATING TO PRETRIAL REFORM

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 submits the following testimony **in opposition** to House Bill 2413.

Although our office appreciates the intent of this legislation and acknowledges the need to address overcrowding concerns at our jails, we are concerned about the potential effects of this legislation on community safety and crime victims. We believe that judges should continue to have discretion to set bail based upon all available information in each individual case.

HB 2413 was drafted with the intent to require release on recognizance and prohibit courts from setting monetary bail for pretrial criminal defendants charged with nonviolent class C felonies, misdemeanors, petty misdemeanors, traffic offenses, and violations. The measure would establish exceptions to this rule allowing bail for offenses involving assault, terroristic threatening, sexual assault, abuse of family or household members, violations of a temporary restraining order, of an order for protection, or of another restraining order or injunction, OVUII, or negligent homicide. HB 2413 would create an exception allowing bail for any defendant that the court finds presents a “specific, real, and present threat” to any other person or to the community, and for any defendant that has “a high likelihood of wilful flight,” defining “wilful flight” as “intentional conduct undertaken with the purpose of thwarting the judicial process to avoid prosecution” but not “isolated instances of nonappearance in courts.”

HB 2413 would also create additional requirements for courts and prosecutors in every criminal case. HB 2413 would require judges to make written findings to support their decision any time they set monetary bail or otherwise detain a defendant. HB 2413 also would require courts to reconsider bail and/or release conditions at every single subsequent court hearing. HB 2413 also directs courts to reconsider bail and to release a defendant or change conditions of release “at any time without requiring new information or changed circumstance.” HB 2413

would override Chapter 801D concerning the rights of victims in criminal cases and place the responsibility entirely on the prosecutor to "notify any victim of decisions made in the case."

We are concerned that HB 2413 requires categorically different treatment of "violent" and "nonviolent" offenses without regard to the nature or facts of the offense. Some arguably "nonviolent" class C felony or misdemeanor offenses by their nature or by the specific facts of the offense indicate a likelihood of risk of harm to individual victims, a threat to public safety, or of interference with the justice system that may amply justify the imposition of bail. Some examples of these are offenses related to unlawful possession of firearms, unlawful possession of ghost guns or explosives, possession of child pornography, electronic enticement of a child, extortion, endangering the welfare of a minor, escape from a jail or prison, promoting prison contraband, bail jumping on a felony offense, bribery of witnesses or jurors, and juror intimidation.[1] HB 2413 may make setting monetary bail in such cases difficult or impossible, even where the individual facts of the case would otherwise justify bail.

We are also concerned that HB 2413 would apparently operate without regard to the wealth or poverty of an individual criminal defendant, and may unintentionally mandate release on recognizance to those who profit from crime, including organized criminal enterprises, or to the wealthy who could easily post bail or bond without hardship.

We are particularly concerned about the potential interaction of HB 2413 with the standards governing when a judge can deny release on bail, recognizance, or supervised release under HRS § 804-7.1. Those standards allow a denial of release upon a showing of "a danger that a defendant will commit a serious crime or will seek to intimidate witnesses, or will otherwise unlawfully interfere with the orderly administration of justice." It is not clear whether HB 2413 is intended to overrule this provision, but it appears that it would, making the denial of release impossible for any defendant charged with an offense covered by HB 2413. Even for offenses that fit within exclusions under HB 2413, a court could not deny bail entirely as currently allowed by HRS § 804-7.1 and would be limited to setting reasonable bail. This is especially concerning because the offenses covered by HB 2413 include many "nonviolent" offenses related to interference with the justice system.

We have further serious concerns regarding the provision of HB 2413 that directs judges to reconsider release status and release conditions "at any time without requiring new information or changed circumstances." This provision would appear to allow judges to act on their own initiative, *ex parte*, without the necessity of notice or an opportunity to be heard. The criminal justice system is an adversarial system, and the prosecution plays an irreplaceable role in bringing important facts about a case to the attention of the court. The prosecution also plays an important role in bringing voice to the concerns of crime victims. We are concerned that by overriding Chapter 801D and allowing *ex parte* reconsideration of release status and release conditions, HB 2494 would negatively impact the rights of crime victims.

For the foregoing reasons, the County of Hawai‘i, Office of the Prosecuting Attorney **opposes** the passage of House Bill 2413. Thank you for the opportunity to testify on this matter.

[1] HRS §§ 134-7; 134-8; 134-10.2; 707-752; 707-757; 707-766; 707-767; 709-903.5; 710-1021; 710-1023; 710-1024; 710-1070; 710-1071; 710-1073.

RICHARD T. BISSEN, JR.
Mayor

ANDREW H. MARTIN
Prosecuting Attorney

SHELLY C. MIYASHIRO
First Deputy Prosecuting Attorney

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TESTIMONY ON
H.B. 2413
RELATING TO PRETRIAL REFORM

February 18, 2026

The Honorable David A. Tarnas
Chair
The Honorable Mahina Poepoe
Vice Chair
and Members of the Committee on Judiciary and 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 opposition to H.B. 2413, Relating to Pretrial Reform, and requests that this measure be deferred**. This bill would, *inter alia*, require the release on recognizance of persons arrested for violation, nonviolent petty misdemeanor, nonviolent misdemeanor and nonviolent class C felony offenses.

Although we appreciate the Legislature's efforts to address public safety concerns via offense-specific exceptions to the requirement of release on recognizance, in our view these exceptions and the bill's language do not adequately address public safety concerns. For example, the bill does not define "nonviolent" or "threat" and thus may not cover certain types of conduct that would ordinarily result in bail being set. Harassment offenses (a petty misdemeanor per HRS §711-1106) can involve striking, shoving, kicking or otherwise touching another person in an offensive manner, but it is unclear whether offensive touching that doesn't cause pain or other bodily injury (such as an unwanted shoulder massage) is considered "nonviolent" or constitutes a "threat". Similarly, the lack of a clear definition of "threat" makes it unclear whether an offender that shoplifts alcohol twice from two different stores constitutes a "threat" to the community.

We would also note that the 2025 Penal Code Review Committee established by Act 245 of the Session Laws of Hawaii had the opportunity to recommend these types of changes to

Chapter 804, but does not appear to have done so or given any clear indication of a need for such an amendment. In the absence of such a recommendation, we believe that the proposed amendments are currently unnecessary.

For these reasons, the Department of the Prosecuting Attorney, County of Maui **opposes H.B. 2413 and requests that it be deferred**. 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.

DEPARTMENT OF THE PROSECUTING ATTORNEY
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HOPE MUA LOIO HOʻOPIʻI

THE HONORABLE DAVID A. TARNAS, CHAIR
HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS
Thirty-Third State Legislature
Regular Session of 2026
State of Hawaiʻi

February 18, 2026

RE: H.B. 2413; RELATING TO PRETRIAL REFORM.

Chair Tarnas, Vice Chair Poepoe, and members of the House Committee on Judiciary and Hawaiian Affairs, the Department of the Prosecuting Attorney for the City and County of Honolulu submits the following testimony in **strong opposition** to H.B. 2413.

H.B. 2413 mandates release on recognizance for defendants arrested, charged, or detained for most traffic offenses and property crimes, including some felonies. The bill might permit burglars,[1] habitual thieves,[2] swindlers,[3] and vandals[4] to continue preying on the general public before a court can fairly adjudicate the offenses. While it would permit the court to set bail pon finding a "specific, real, and present threat" posed by the defendant, written findings must issue regarding the inadequacy of less restrictive conditions.

While violent crimes are clearly a priority for prosecution, property crimes are not trivial. Financial services company Capital One estimates that in 2022, Hawaiʻi retailers lost around $2.63 billion dollars in revenue to theft.[5] Combined with return fraud, that accounted for almost a quarter billion dollars in lost sales tax dollars.[6] That does not include the costs criminals levy on hard-working, law-abiding members of the public through vandalism, burglaries, and scams.

The Department further notes that President Trump last year signed an executive order requiring the United States Attorney General to report "a list of State and local jurisdictions that have, in the Attorney General's opinion, substantially eliminated cash bail as a potential pretrial release from custody for crimes that pose a clear threat to public safety and order, including

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[1] *See* HRS § 708-811(2) (second-degree burglary a class C felony).
[2] *See* HRS § 708-803(4) (habitual property crime a class C felony).
[3] *See* HRS § 708-839.8 (third-degree identity theft a class C felony); § 708-852 (second-degree forgery a class C felony).
[4] *See* HRS § 708-821 (second-degree criminal property damage a class C felony).
[5] CAPITAL ONE SHOPPING RESEARCH, *Retail Theft (Shoplifting) Statistics* (updated December 3, 2025), *available at* https://capitaloneshopping.com/research/shoplifting-statistics/#hi.
[6] *Id.* (total lost state sales tax dollars in 2022 estimated at $220 million).

offenses involving violent, sexual, or indecent acts, or burglary, looting, or vandalism."[7] The order requests federal executive departments identify federal funds, grants, and contracts for suspension or termination in the targeted jurisdictions.[8]

Thank you for the opportunity to testify.

[7] Executive Order 14,342, 90 Fed. Reg. 42,129 (Aug. 25, 2025).
[8] *Id.*

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NĀ HOPE LUNA NUI MĀKA'I KŪIKAWĀ

OUR REFERENCE VL-RZ

February 19, 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, Hawai'i 96813

Dear Chair Tarnas and Members:

SUBJECT: House Bill No. 2413, Relating to Pretrial Reform

I am Vince Legaspi, Captain of the Criminal Investigation Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD opposes House Bill No. 2413, Relating to Pretrial Reform.

This bill requires release on recognizance for defendants charged with violations, traffic offenses, nonviolent petty misdemeanors, nonviolent misdemeanors, and nonviolent Class C felonies, subject to certain conditions.

Public safety should be the priority. Hawai'i's close-knit communities can experience amplified effects from repeat offending. Mandatory release increases the likelihood that defendants return to the same victims and/or neighborhoods. Nonviolent does not mean nonharmful — repeat theft, harassment, and property crimes seriously affect the quality of life. Releasing defendants quickly without accountability increases the risk of repeat victimization. This bill also conflicts with the Safe and Sound and Weed and Seed programs, which have proven effective in enhancing community safety.

This bill will replace judicial judgment with statutory presumptions. Judges are best equipped to assess criminal history, escalating behavior, and victim concerns. Risk tools are imperfect and often fail to capture real-world warning signs. A "one-size-fits-all" release policy does not work in our close-knit community. Bail exists to ensure court appearance. This bill harms victims awaiting resolution and clogs already strained courts.

Victims are not adequately protected with this bill. Elders and small business owners, in particular, may feel unsafe, overlooked, and less likely to report future crimes. Public confidence declines when offenders are repeatedly released with little consequences.

Cashless bail does not eliminate costs; it shifts expenses to increased police time for rearresting defendants which leads to a greater demand for supervision infrastructure.

Mainland results are mixed. Claims that cashless bail reduces crime are not supported by clear evidence. Several jurisdictions have walked back or modified their reforms after public concern (New York, Washington, D.C., Georgia, and Indiana). Illinois banned commercial bail bondsmen in 2023, the same year they implemented the no-cash bail reform.

The HPD urges you to oppose House Bill No. 2413, Relating to Pretrial Reform.

Thank you for the opportunity to testify.

Sincerely,

Vince Legaspi, Captain
Criminal Investigation Division

APPROVED:

Rade K. Vanic
Interim Chief of Police

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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 2413 – PRETRIAL REFORM,

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 bars[1] 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 2413** that requires release on recognizance for defendants charged with violations, traffic offenses, nonviolent petty misdemeanors, nonviolent misdemeanors, and nonviolent class C felonies, subject to conditions. The bull also establishes exclusions for specified offenses, threats to public safety, and wilful flight, requires findings when bail or detention is imposed, ongoing review of continued detention or conditions, and a prompt hearing if bail cannot be posted, and requires prosecutors to notify victims of pretrial decisions.

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[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

We reviewed DCR's February 2, 2026 Weekly Population Report and found that Hawai`i has 107 individuals incarcerated for pretrial misdemeanors. At $307 a day for 107 pretrial misdemeanors the costs to taxpayers is $32,849 a day, $229,943 a week, and $985,470 a month! We did not include pretrial felonies since we don't know the details of how many Class C felonies would apply.

We believe that Page 4, Section 2, lines 14 through 20 and Page 5, lines 1-6 protect the public.

"8O4 – Pretrial release; nonviolent offenders. (a) Except as otherwise provided in this section, any defendant arrested, charged, and held for a violation, traffic offense, nonviolent petty misdemeanor offense, nonviolent misdemeanor offense, or nonviolent class C felony offense shall be ordered by the court to be released on the defendant's own recognizance at arraignment and plea, conditioned upon: (1) The general conditions of release on bail set forth in section 804—7.4; and (2)Any other least restrictive, non-monetary condition necessary to: (A) Ensure the defendant's appearance in court; and (B) Protect the public.

Page 6 of the bill, Sections 3(c) and (d) reads: *"(c) If the court releases the defendant on personal recognizance, the court may require the defendant to sign a written acknowledgement agreeing to comply with the conditions of release, including the general conditions of release on bail set forth in section 804-7.4. The defendant's address shall remain a matter of public record with the clerk of the court. (d) Failure to appear as required shall constitute an offense subject to punishment at the court's discretion for violation of pretrial release conditions."*

We believe that (d) makes the individual sufficiently accountable for failure to show up in court.

We appreciate the introduction of HB 2413 since eliminating bail for some individuals struggling with daily living expenses for themselves and their families. As the bill notes, there have been bail reform collaboratives in 2018 and 2024[2] yet Hawai`i has not been able to reform our punitive bail system for some of our most vulnerable neighbors.

We hope that the JHA committee will pass HB 2413 especially since national crime numbers are down.

Mahalo for this opportunity share our thoughts on this measure.

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[2] **HCR 23 Task Force: The Council of State Governments Justice Center Memorandum to the Chair, Hawai'i Correctional System Oversight Commission** December 5, 2024 https://hcsoc.hawaii.gov/wp-content/uploads/2025/01/HCR-23-Task-Force-Memorandum_FINAL.pdf

HB-2413
Submitted on: 2/16/2026 4:14:21 PM
Testimony for JHA on 2/19/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jillian Anderson	Waikiki Neighborhood Board	Oppose	Written Testimony Only

Comments:

The Waikiki Neighborhood Board OPPOSES HB2413, and on behalf of our community, urges its deferral by the House Committee on Judiciary and Hawaiian Affairs.

The Waikiki Neighborhood Board appreciates the intent of this measure and the careful analysis and studies from which it was based. Nonetheless, the bill's language ***requiring*** a defendant's release on recognizance, overtaking a judge's discretion, causes for concern in a community such as ours which struggles with habitual offenders.

While this bill excludes violent offenses, it still would impact those who inflict harm upon people and property, including cases involving theft, shoplifting, vandalism, credit card fraud, reckless driving, and harassment.

Mahalo for your consideration of this measure's potential negative effects and for seeking ways to improve our justice system without blanket requirements.

FEBRUARY 19, 2026

HOUSE BILL 2413

CURRENT REFERRAL: JHA

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Kris Coffield,
President

David Negaard,
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Mireille Ellsworth,
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Eileen Roco,
Director

Beatrice DeRego,
Director

Corey Rosenlee,
Director

Amy Zhao,
Policy and Partnerships Strategist

POSITION: SUPPORT

Imua Alliance supports the intent of HB 2413, relating to pretrial reform, which requires release on recognizance for defendants charged with violations, traffic offenses, nonviolent petty misdemeanors, nonviolent misdemeanors, and nonviolent class C felonies, subject to conditions; establishes exclusions for specified offenses, threats to public safety, and willful flight; requires findings when bail or detention is imposed, ongoing review of continued conditions, and a prompt hearing if bail cannot be posted; and requires prosecutors to notify victims of pretrial decisions.

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

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Free Markets. Real Solutions.
www.rstreet.org

Testimony from:
Lisel Petis, Policy Director, R Street Institute

Testimony in Support of HB 2413: "Relating to Pretrial Reform."

February 19, 2026

Hawai'i House Judiciary and Hawaiian Affairs Committee

Chairman Tarnas and members of the committee,

My name is Lisel Petis, and I am the policy director of criminal justice and civil liberties at the R Street Institute, a nonprofit, nonpartisan public policy research organization. R Street engages in policy research and analysis dedicated to common sense solutions that make government work smarter and more effectively. Given our commitment to pragmatic policies that improve fairness, public safety, and government accountability, we have a strong interest in House Bill 2413.[1]

Pretrial policy must balance two compelling interests. The first is protecting public safety and ensuring people return to court.[2] The second is upholding constitutional rights, including the presumption of innocence, due process, and protection against excessive bail.[3] Hawai'i's current overreliance on cash bail does not consistently uphold those goals. Over time, cash bail has become a stand in for risk, setting a price to obtain freedom. In practice, that means low-risk people may remain detained simply because of an inability to pay, while allowing quick release of people with greater means, even when they face more serious charges. This simply does not promote safety or fairness in pretrial detention.

H.B. 2413 is not an elimination of cash bail and it does not remove judicial discretion. Instead, it creates a presumption of release for nonviolent, low-risk defendants and prioritizes the use of nonmonetary conditions when needed. Failure to appear remains an offense, and judges retain full authority to respond to violations. For serious offenses—such as violent crimes or sexual assault—as well as high-risk defendants, cash bail and existing preventive detention laws remain in place.

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[1] Hawaii House Bill 2413. https://www.capitol.hawaii.gov/session/measure_indiv.aspx?billtype=HB&billnumber=2413&year=2026.
[2] "Modern Doctrine on Bail," Constitution Annotated, *last accessed Feb. 18, 2026*. https://constitution.congress.gov/browse/essay/amdt8-2-2.
[3] "Presumption of Innocence," Legal Information Institute, *last accessed Feb. 18, 2026*. https://www.law.cornell.edu/wex/presumption_of_innocence**;** "Due Process," Cornell Law School, *last accessed Feb. 18, 2026*. https://www.law.cornell.edu/wex/due_process.

Maintaining the status quo of jailing low-risk people for non-violent crimes before trial is both costly and inefficient for Hawai‘i. Housing one person in custody can cost the state more than $300 per day, while pretrial supervision and other noncustodial options are typically far less expensive.[4] Reducing reliance on unnecessary pretrial detention can free up scarce state resources for higher-priority public safety needs and services that strengthen community stability. Hawai‘i’s jails are increasingly being asked to manage problems they were never designed to solve. State reporting indicates that nearly 40 percent of people incarcerated in Hawai‘i’s correctional facilities were homeless prior to incarceration.[5] Using jail as a stand-in housing system is among the most expensive, and least effective, responses to homelessness.

There is also a cost to the individuals detained. In many low-level cases, people spend a night or a few days in jail only to be released with “time served,” absorbing the harms of incarceration—missed medications, lost housing or jobs, interrupted appointments, and broken communication—without any meaningful chance to connect to services to remedy the behavior underlying their criminality.[6]

H.B. 2413 is a measured way to realign the system with what it is intended to do, reserving beds and staff attention for higher-risk cases, while allowing limited dollars to be redirected toward housing stability and behavioral health supports in the community.

Research shows that cash bail does not reliably produce better pretrial outcomes.[7] Moreover, many people do not post bail themselves, and instead pay a nonrefundable fee to a commercial bail bond agent.[8] This results in a fee lost regardless of whether the person appears in court which limits the practical incentive that cash bail is assumed to create.

I urge the committee to support House Bill 2413 and take a critical step toward a more just and effective pretrial system. Thank you for your time and consideration.

Thank you,

Lisel Petis
Policy Director
R Street Institute
lpetis@rstreet.org

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[4] Sergio Alcubilla, “Reimagining Public Safety Coalition Delivers Community Petition Urging Governor Green to Veto Money for New Super Jail,” ACLU Hawaii, June 5, 2025. https://www.acluhi.org/press-releases/reimagining-public-safety-coalition-delivers-community-petition-urging-governor-green/.

[5] Sarah Staudt, “RE: O‘ahu Community Correctional Center jail expansion plans and population forecast report,” Prison Policy Initiative, Feb. 19, 2025. https://www.prisonpolicy.org/scans/PPI_OCCC_Memo.pdf.

[6] Kimberly Kessler Ferzan, “The Trouble with Time Served,” *BYU Law Review* 48:7 (Summer 2023). https://digitalcommons.law.byu.edu/cgi/viewcontent.cgi?article=3452&context=lawreview.

[7] Aurélie Ouss and Megan Stevenson, “Does Cash Bail Deter Misconduct?” *American Economic Journal: Applied Economics* 15:3 (July 2023). https://www.aeaweb.org/articles?id=10.1257%2Fapp.20210349.

[8] Wendy Sawyer, “All profit, no risk: How the bail industry exploits the legal system,” Prison Policy Initiative, October 2022. https://www.prisonpolicy.org/reports/bail.html.

PRISON POLICY INITIATIVE

Testimony in Support of HB 2413: Relating to Pretrial Reform
Sarah Staudt, Director of Policy and Advocacy, Prison Policy Initiative
February 18, 2026

My name is Sarah Staudt, and I am the Director of Policy and Advocacy at Prison Policy Initiative. Prison Policy Initiative is a national non-profit research and advocacy organization that has produced extensive research on the various individual and public harms of incarceration. It is with this extensive experience that we write to offer this testimony in support of HB 2413: Relating to Pretrial Reform.

HB 2413 represents an important step forward for Hawai'i towards a more just, evidence-based pretrial system. By decreasing the use of money bond for low-level offenses, the act will help ensure that people are not stranded in jail pretrial simply because they are poor, and that money is not being extracted from vulnerable poor communities to pay money bonds. There is no evidence that money bond is an effective way to ensure public safety or appearance in court. On the contrary, because it often leads to unnecessary incarceration, money bond creates a public safety risk. Even a day spent in jail increases the likelihood that someone will be arrested in the future.

I. Money Bond is counterproductive and unjust

Money bond is meant to be a condition of release, not a mechanism to hold people in custody. However, in practice, requiring the payment of a money bond often leads to short-term, and sometimes long-term, detention in jail. Even if overall jail populations do not show a large proportion of their population as people who cannot afford bond, most people who are assessed a money bond, even a small one, spend short amounts of time in jail, and these short stays can be incredibly damaging. Meanwhile, money bond does nothing to improve public safety or encourage court appearance.

Multiple studies have concluded that financial conditions do not make people any less likely to be rearrested, nor do they assure appearance in court. A landmark 2014 study in Jefferson County Colorado found that judges who used more monetary bails in their courtrooms saw statistically similar public safety, court appearance, and compliance with supervision rates as

judges who did not use many monetary bonds[1]. A 2023 study found no evidence that monetary bond improved failure to appear or re-arrest rates[2].

The experience of the jurisdictions that have abolished money bond bears out the idea that a safe and effective court system can exist without monetary bond. In Washington D.C., which has not used money bond for cases (felonies or misdemeanors) since 1992, 88% of people released in Fiscal Year 2025 remained arrest-free, and 88% made all their court appearances[3]. In New Jersey, which eliminated monetary bail in 2017, re-arrest rates have remained stable (around 13%) and the court appearance rate has also remained stable (around 90%)[4].

Money bonds provide no benefit, but lead to many harms. First, we know that many people who are given even relatively low bonds are not able to post them immediately. Even a few days in jail can have massive impacts on someone's employment, housing, family cohesion, and ultimately, their re-arrest rate[5].

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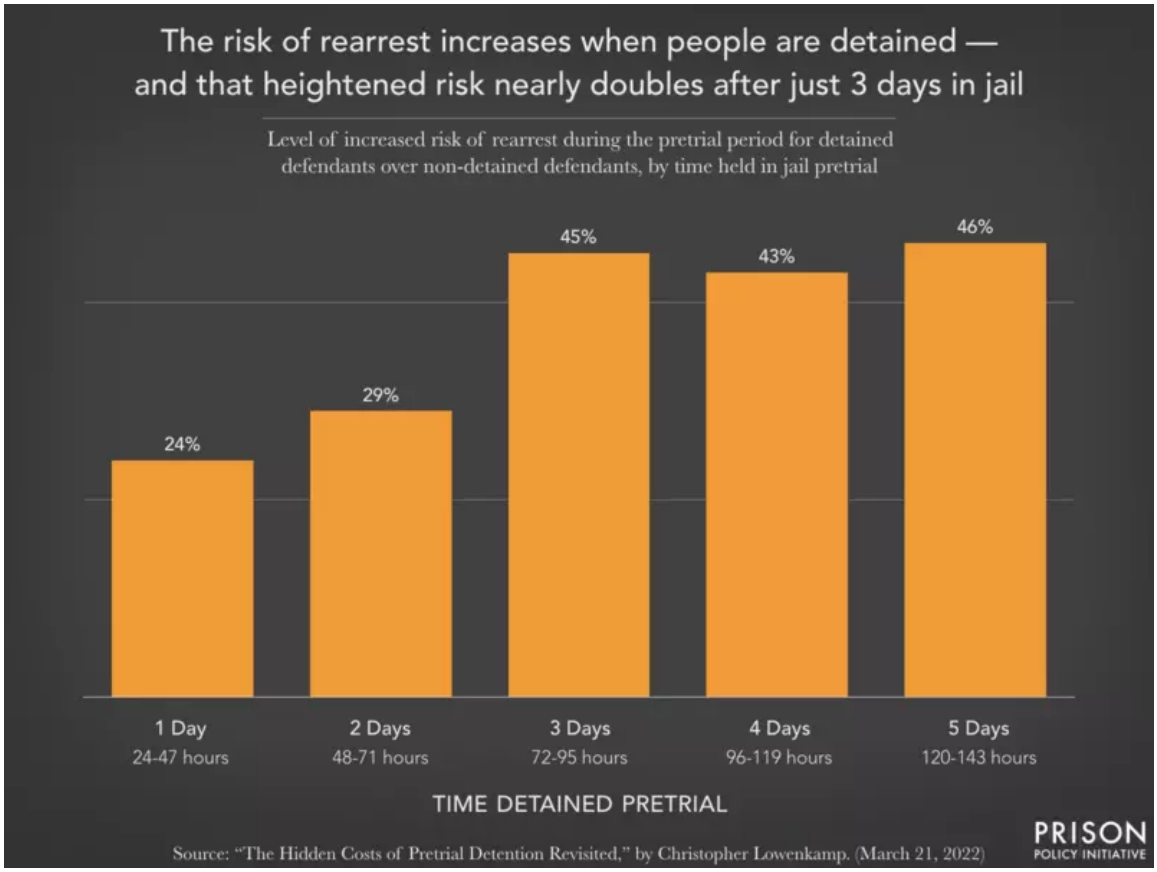
[1] Pretrial Justice Institute, "The Jefferson County bail project: Impact study found better cost effectiveness for unsecured recognizance bonds over cash and surety bonds". June 2014, available at http://clebp.org/images/Jeffersion_County_Bail_Project-_Impact_Study_-_PJI_2014.pdf

[2] Ouss, Aurélie, and Megan Stevenson. 2023. "Does Cash Bail Deter Misconduct*?" American Economic Journal: Applied Economics 15 (3):* 150–82.

[3] Pretrial Services Agency for the District of Columbia, PSA Performance Outcomes FY 2021-2025, available at: https://www.psa.gov/sites/default/files/2026-01/PSA%20Performance%20Outcomes%20FY%202021-2025-1-23-26_0.pdf

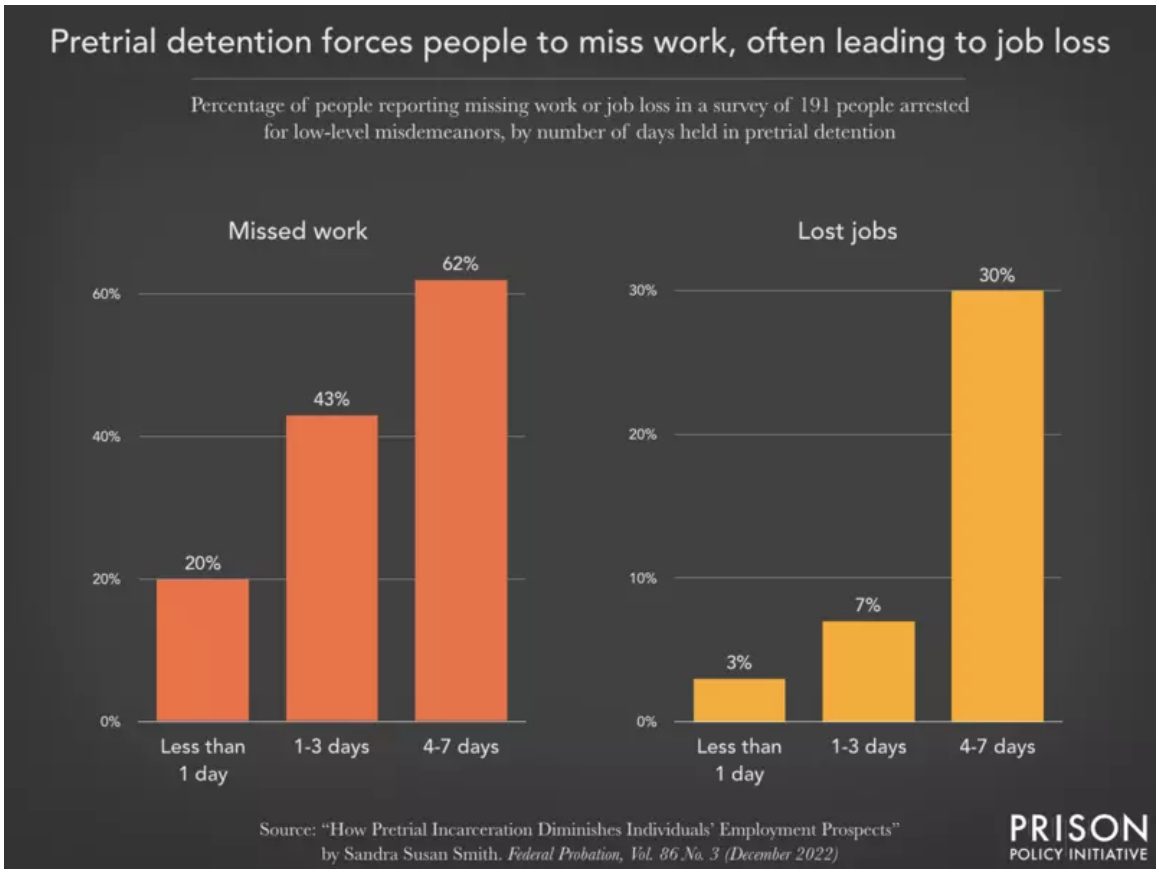
[4] New Jersey Courts, Annual Report to the Governor and the Legislature, 2022-2024, available at: https://www.njcourts.gov/sites/default/files/courts/criminal/criminal-justice-reform/cjrreport2025.pdf

[5] Brian Nam-Sonenstein, Prison Policy Initiative, "Research roundup: Evidence that a single day in jail causes immediate and long-lasting harms" August 2024, available at: https://www.prisonpolicy.org/blog/2024/08/06/short_jail_stays/; citing Christopher Lowenkamp "The hidden costs of pretrial detention revisited", March 2022, available at https://static.prisonpolicy.org/scans/HiddenCosts.pdf



People who are detained are likely to miss work and lose their jobs after even very short stays in jail, destabilizing their lives and their families' incomes[6]. In turn, this makes it harder for them to provide for their families and meet the requirements of court supervision and the pretrial process, like getting to court.

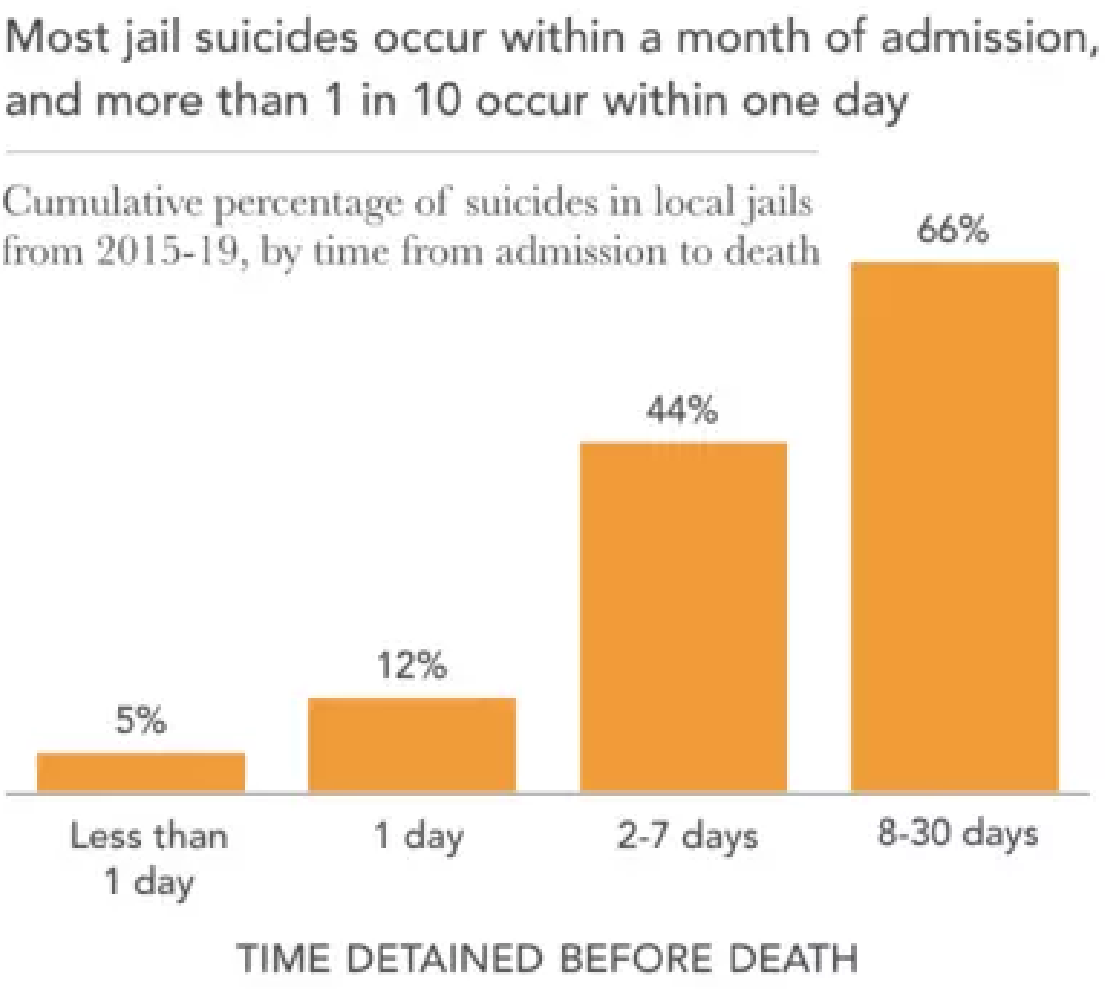
[6] Sandra Susan Smith, "How pretrial incarceration diminishes individuals' employment prospects" *Federal Probation*, December 2022, available at: https://www.uscourts.gov/sites/default/files/86_3_3_0.pdf.



Jail is also a uniquely dangerous place in the first few days of incarceration. For people with mental health or substance use disorders, a few days in jail can disrupt access to medication and community-based treatment. For people in crisis who have been arrested, the results can be deadly. Most jail suicides occur within a month of admission, and more than 1 in 10 occur within one day[7]. This is particularly important to know in Hawai'i, where deaths from suicides and overdoses make up an unusually high percentage of the deaths in custody[8].

[7] Bureau of Justice Statistics, Suicide in Local Jails and State and Federal Prisons, 2000–2019 – Statistical Tables, October 2021, available at https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/sljsfp0019st.pdf

[8] US News and World Report, Hawaii Corrections Officials Seeking Millions in Funding to Improve Mental Health Services in Prison, February 17 2018, available at https://www.usnews.com/news/best-states/hawaii/articles/2026-02-17/hawaii-corrections-officials-seeking-millions-in-funding-to-improve-mental-health-services-in-prison.



II. HB 2413 provides important safeguards to ensure that people are not jailed unnecessarily because of a history of unintentional non-appearance in court

There are a few key features of HB 2413 that put it in line with nationwide best practices for pretrial releases. One of the most important language details is the inclusion of a "willful flight" standard. Money bond can only be used in cases where the defendant has a high likelihood of willful flight. This language mirrors Illinois' recent law change that eliminated money bail.

It is vital that courts consider *intentional* failures to appear, rather than *all* failures to appear, when assessing whether someone should be held pretrial. Most people who fail to attend court do so not because they intend to evade justice, but because their competing responsibilities and logistical challenges make it impossible for them to attend[9]. The best way to address these challenges is to provide supportive services. For example, court reminders

[9] Brian Nam-Sonenstein, "High stakes mistakes: How courts respond to failure to appear" Prison Policy Initiative, August 2023, available at: https://www.prisonpolicy.org/blog/2023/08/15/fta/

are among the most effective ways to raise failure to appear rates, and don't require jailing anyone[10].

III. The experience of Illinois in eliminating money bond shows that HB 2413 will not negatively impact public safety and will likely reduce jail populations

HB 2413's proposed reforms are extremely modest in comparison to two other states (Illinois and New Jersey) that have fully eliminated the use of monetary bond for both felonies and misdemeanors. The results in Illinois, the most recent state to eliminate cash bail through a piece of legislation called the Pretrial Fairness Act, are extremely promising.

In Illinois, which eliminated monetary bail starting in September 2023, the percentage of people detained more than three days after their initial court hearing decreased markedly for all case types – for non-detainable misdemeanors[11], it decreased from 16% to 1%[12]. Jail populations also decreased in the first year after reform, falling 25% in rural counties and 14% in urban counties[13]. Two years after implementation, jail populations have rebounded slightly but still remain 7% lower than pre-reform levels[14]. In addition, overall failure to appear rates in 22 counties studied fell from 13.5% to 11.5%. The drop was even more dramatic for non-detainable misdemeanors, where it fell from 17.2% to 12.7%[15]. Violent and property crime in Illinois have also continued to decline after the implementation of the Pretrial Fairness Act[16].

Hawai'i's proposed reform is much more modest than Illinois' and thus is likely to have less dramatic effects. Still, Illinois' example shows that substantial changes can be made to the pretrial system without harming public safety and while maintaining high court appearance rates. We hope that Hawai'i will take the first step into following that example by passing HB 2413.

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[10] Ideas42, "Improving court attendance: the essential guide to court reminder programs" May 2025, available at https://www.ideas42.org/wp-content/uploads/2025/05/i42-1530_RemindersRpt_Final.pdf.
[11] Illinois allows pretrial detention for some misdemeanors, most importantly domestic violence.
[12] Patrick Griffin, Brandon DuPont, Don Stemen, and Dave Olsen, "The First Year of the Pretrial Fairness Act" September 2024, available at: https://pfa-1yr.loyolaccj.org/
[13] Id.
[14] Dvae Olson, Don Stemen, Patrick Griffin, Amanda Ward, "Pretrial Detention and Supervision Under the PFA, October 2025 https://loyolaccj.org/blog/pretrial-detention-and-supervision-under-the-pfa
[15] "The First Year of the Pretrial Fairness Act" https://pfa-1yr.loyolaccj.org/
[16] Id.

February 18, 2026

Chair Tarnas and Members of the Committee on Judiciary & Hawaiian Affairs:

Our names are Josh Mitman, Senior Policy Counsel at The Bail Project, and Adrian Rocha, Director of Policy at The Last Prisoner Project. We write today in support of HB 2413.

The Bail Project is a national nonprofit organization that provides cash bail assistance and court return support like free transportation and court date reminders to low-income people across the country. Since 2018, we have supported nearly 40,000 people who return to 92% of their court dates. We have seen first hand the benefit to pretrial systems when cash bail is taken out of the process.

The Last Prisoner Project is a non-profit organization dedicated to cannabis criminal justice reform. As the United States moves away from the criminalization of cannabis, giving rise to a major new industry, there remains the fundamental injustice inflicted upon those who have suffered criminal convictions and the consequences of those convictions.

Safety and evidence, not wealth, should determine who is held in jail before trial. But with cash bail, people with money can bail themselves out regardless of context, while those without end up detained simply because they can't afford their freedom. This puts a price tag on the presumption of innocence, the bedrock of the American legal system.

HB 2413 takes an important step toward a more fair, effective, and safe pretrial system. It removes the significant impact of personal finances on case processes, in a time when many Americans cannot afford an emergency expense over $400. For many lower level charges, it asks judges to look at the individual circumstances of a person's case, making pretrial decisions based on thorough consideration of the risk posed. Under HB 2413, these determinations would be grounded in the facts of each case and the relevant law rather than the amount of money each defendant's bank account.

Cash bail is often touted as a public safety feature, but this is a common misconception. A defendant's ability to afford a cash payment tells us nothing about their risk, and public safety is eroded when outcomes are driven by money. Cash bail also leads to unnecessary detention that destabilizes lives, drives up recidivism, and threatens long-term community safety.

Research shows the likelihood of a future arrest jumps from 24% after one day in jail to 45% after three days. People charged with pretrial misdemeanors in Hawai'i had an average length of stay of 11 days in 2023. Moreover, cash bail is costly – every day a person sits in jail awaiting trial, taxpayers are billed for their housing, food, and security.

States across the country have recognized that limiting cash bail benefits both fairness and safety. In recent years alone, states as diverse as Illinois, Mississippi, Oregon, and West Virginia have enacted legislation directing judges to release people charged with lower level offenses, or more, without cash bail.

Where change has taken place, research across the board shows that bail reform is not linked to an increase in crime or missed court appearance. In the first year after Illinois replaced cash bail with a safety-based system, violent crime dropped 7% and property crime dropped 14%. Other jurisdictions like Harris County, Texas; New Jersey; and more have shown similar outcomes: smart bail reform supports safety, not harm. A broad 2024 study from the Brennan Center for Justice found "no statistically significant relationship between bail reform and crime rates."

Importantly, HB 2413 also improves the standard that courts use when evaluating someone's risk of missing court appearance. By focusing on an individual's likelihood of "willful flight" rather than simple nonappearance, judges can more precisely target actual concerns in the pretrial process. This means pretrial decisions are based on actionable behavior rather than guesswork about things outside of individuals' control. More often, states are looking to incorporate willfulness in these pretrial determinations, including a recent constitutional amendment in Texas and legislation in Virginia.

People detained pretrial simply because they cannot afford bail are at an increased risk of losing their jobs, their homes, and custody of their children, and are more likely to become justice-involved again in the future. This bill reduces these harms, upholds efficiency and fairness in the pretrial system, saves taxpayer dollars, and promotes safer communities.

I urge you to vote yes on HB 2413.

Thank you for your time.

Sincerely,

Joshua Mitman
Senior Policy Counsel
The Bail Project

Adrian Rocha
Director of Policy
Last Prisoner Project

ACLU Hawai'i

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 HB2413 Relating to Pretrial Reform**

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

The ACLU of Hawai'i **strongly supports HB2413**, which requires release on recognizance for defendants charged with violations, traffic offenses, nonviolent petty misdemeanors, nonviolent misdemeanors, and nonviolent class C felonies, subject to certain conditions. The bill also establishes exclusions for specified offences and requires findings when bail or detention is imposed, ongoing review of continued detention or conditions, and a prompt hearing if bail cannot be posted.

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 pretrial[1]. **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 has 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]

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[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 Note 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/

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 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]

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[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-

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Adopting HB2413 will help ensure that the freedom of individuals is not determined by their ability to afford bail.

Mahalo,

Josh Frost

Josh Frost
Policy Assistant
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.

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

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the Drug Policy Forum of hawai'i

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

TESTIMONY IN SUPPORT OF HB 2413

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 Hawaiʻi (DPFH) **strongly supports** HB 2413, which requires courts to release most persons charged with low level, nonviolent offenses without bail unless there is a clear risk to public safety or flight, while ensuring judicial oversight, prompt hearings if bail cannot be paid, and victim notification.

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 Oahu, 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.

Since 1993 DPFH has advanced public discussions and policy changes around Hawaiʻi's drug polices, 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 that reduce the impact of the criminal legal system on individuals and families from under-resourced communities.

Mahalo for the opportunity to provide testimony.

HB-2413
Submitted on: 2/13/2026 4:43:36 PM
Testimony for JHA on 2/19/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
John Deutzman	Individual	Oppose	Written Testimony Only

Comments:

Aloha Chair Tarnas, Vice Chair Poepoe, and members of the House Committee on the Judiciary and Hawaiian Affairs,

I'm strongly opposed to HB 2413 as it ignores the safeguards and filters already in place in Hawaii that assure only the worst of the worst are detained pre-trial.

Judges currently routinely release defendants on their own recognizance who have horrific criminal records and habitually fail to appear in court. Setting guidelines that meddle with a judge's discretion would force judges to follow those guidelines and is likely increase the number of people held pre-trial.

Most importantly, this bill implies that all "non-violent" crimes are not a big deal when, in fact, almost every crime is dangerous: Shoplifting, harassment, and breaking into cars are just a few examples of crimes that can be dangerous but are not necessarily "violent". The cumulative effect of so-called "minor non-violent crimes" can be a death by a thousand cuts to the community.

I've been studying every arrest made in my Waikiki neighborhood for the past five years, I've attended court dozens of times, and I've been both a victim and a witness on many cases. Some observations:

-In a 24 month peroid 74% of misdemeanor defendants released on their own recognizance failed to appear in court.

-In 2023, there were 6,000 criminal contempt charges for missing court among those arrested by HPD. Each count of contempt has a potential sentence of 30 days. However, no one did any jail time for contempt. By policy, most judges take "no further action" on the contempt charge.

-The pre-trial bail report that supposedly guides judges on the risk of release is confidential. In the so-called "open court," the public, including criminal justice advocates do not have access to the tools a judge uses to determine release.

-If judges actually used the scientific guidelines to determine the risk of release, hardly anyone arrested in my Waikiki neighborhood would be released. Almost everyone would

fail the Ohio Risk Assessment System, which uses factors like: number of failure to appear warrants in the past 24 months, three or more prior jail incarcerations, employment at the time of arrest, lived at the same arrest for 6 months, illegal drug use in the past six months, etc

Seems like we already have criminal justice reform in place.

Mahalo

John Deutzman

Waikiki

Dear Committee Members,

I am a retired law enforcement police chief with 44 years of service. I live in Honolulu and continue to support best practices in policing nationwide. I have served as a policing expert for the U.S. Department of Justice in several cities and received the Police Executive Research Forum Leadership Award.

Based on my experience, HB2413 deserves your support. This legislation eliminates cash bail and requires defendants to be released for most nonviolent misdemeanor offenses and certain Class C felony offenses. There are many reasons to support this bill:

- **PRETRIAL RELEASE SHOULD NOT DEPEND ON WEALTH.** When freedom hinges on the ability to pay cash bail, people with financial means go home while low-income defendants remain behind bars. Many states instead base release decisions on whether someone poses a danger to the community or is a flight risk—not on their financial resources.
- **LIMITED LAW ENFORCEMENT RESOURCES MUST BE USED WISELY.** Jailing low-risk persons for non-violent, minor offenses consumes time, space, and taxpayer dollars needed to deal with offenders who pose genuine threats to public safety. Risk-based assessment systems, rather than reliance on cash bail, can protect communities without increasing violent crime.
- **EVEN BRIEF STAYS IN JAIL CAN DESTABILIZE FAMILIES AND NEIGHBORHOODS.** A short period of incarceration can cause someone, especially if they have fewer resources, to lose their job and put their housing at risk. This instability harms families and increases the likelihood of future crimes, ultimately making our communities less safe.
- **ENDING CASH BAIL IS CONSISTENT WITH EFFECTIVE COMMUNITY POLICING.** When community members see their friends and neighbors locked up for low-level non-violent offenses simply because they can't afford bail, it undermines trust. Pretrial reforms, such as those proposed in HB2413, can enhance police legitimacy and foster stronger police-community engagement and cooperation.

Pretrial reform is not a "liberal" or "conservative" issue. *Right on Crime*, a conservative criminal justice reform initiative founded in Texas and now active in more than three dozen states, has taken a leadership role in addressing bail reform. In addition, as a police chief in a politically diverse city, I joined more than 80 police chiefs and prosecutors from 33 different states who filed an amicus brief in a U.S. Court of Appeals case challenging the constitutionality of cash bail.

HB2413 offers an opportunity to improve Hawaii's criminal justice system. Enacting this legislation demonstrates public safety leadership grounded in sound principles, informed by successes in other states, and guided by the recognition that needlessly cycling low-level offenders through jail creates immediate and long-term harm.

Thank you for considering my testimony.

Chris Magnus

Chris Magnus

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 2413 Status	RELATING TO PRETRIAL REFORM. Requires release on recognizance for defendants charged with violations, traffic offenses, nonviolent petty misdemeanors, nonviolent misdemeanors, and nonviolent class C felonies, subject to conditions. Establishes exclusions for specified offenses, threats to public safety, and wilful flight. Requires findings when bail or detention is imposed, ongoing review of continued detention or conditions, and a prompt hearing if bail cannot be posted. Requires prosecutors to notify victims of pretrial decisions.

Testimony is comments, cautions, and concerns submitted by James Waldron Lindblad.

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

Thank you for the opportunity to submit testimony on HB 2413.

I appreciate the intent behind this measure. Protecting the presumption of innocence and ensuring that individuals are not unnecessarily detained before trial are important principles in any fair system of justice. Hawaii's Constitution reflects that commitment by providing that the court may dispense with bail if reasonably satisfied that the defendant will appear when

directed. That language preserves liberty while centering the single constitutional question of appearance. It also preserves judicial discretion to make individualized determinations based on the facts of each case.

My concern with HB 2413 is not about the value of liberty. Rather, it is about the structural shift the bill creates. The measure establishes a statutory default of release on recognizance for broad categories of offenses, including certain nonviolent class C felonies, and then permits exceptions through written findings. In doing so, it moves from a system in which judicial discretion comes first to one in which categorical release comes first, with discretion operating only as an exception.

Hawaii already releases the overwhelming majority of defendants pre-trial. With about 15,000 arrests in Honolulu annually and fewer than 700 individuals held pretrial at OCCC on a typical day, our system is not one of mass, categorical detention. Recent Data from the Criminal Justice Research Institute (CJRI) 2025 report: ~59% of misdemeanor defendants and ~58% of Class C felony defendants were released at least once pretrial. While the bill includes exceptions, the default presumption risks eroding individualized assessments in borderline cases, where data shows prior FTA and history predict outcomes best.

Judges currently have the authority to release defendants on their own recognizance, impose non-monetary conditions, or set reasonable bail tailored to ensure appearance. The data suggest that courts are already sorting cases on an individualized basis.

If jail numbers have not significantly decreased since prior reforms, that may indicate that those remaining in custody pose a higher risk of non-appearance or repeated offending. National experience consistently shows a strong correlation between prior failures to appear, criminal history, and new criminal conduct while on release. Judges are presently able to consider those factors. A categorical default risks reducing the weight given to individualized history in closer cases.

There is also a constitutional dimension to consider. The Hawaii Constitution does not mandate monetary bail, nor does it mandate release for specific offense categories. It requires courts to dispense with bail when reasonably satisfied that the defendant will appear. That language is individualized and case-specific. When the legislature creates statutory release categories that operate as a default rule, it risks shifting the constitutional balance from individualized

assessment to categorical presumption. That structural change may invite legal challenges and blur the lines between legislative policy guidance and judicial function.

If the goal of this measure is to reduce unnecessary detention and address inequities, there are alternative approaches that would preserve judicial discretion while strengthening fairness. These could include requiring explicit ability-to-pay findings, ensuring prompt review hearings when bail cannot be posted, improving pretrial services support, expanding access to daily bail procedures, and enhancing transparency in bail-setting decisions through better reporting of appearance and reoffense outcomes. Those steps would move the system toward greater equity without replacing discretion with rigidity.

Hawaii's constitutional framework has long balanced liberty and accountability. It avoids the federal model of broad preventive detention while also avoiding an automatic release regime. Before altering that structure, the Legislature should require clear evidence that the current system systematically detains low-risk individuals solely because of their inability to pay. Based on publicly available information, that showing has not been clearly demonstrated.

A substantially similar proposal was enacted by the Legislature in 2022 and vetoed. The concerns raised at that time focused on constitutional alignment and implementation risks. Those concerns have not materially changed.

For these reasons, I respectfully urge caution with respect to HB 2413 and encourage continued efforts to improve fairness through measures that preserve individualized judicial discretion.

Preserving judicial discretion honors Hawaii's unique balance of aloha and accountability.

Thank you for your consideration.

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 2413
Measure Title: RELATING TO PRETRIAL REFORM.
Report Title: Bail; Pretrial Release; Nonviolent Offenders

To All Concerned,

My name is Veronica Moore and I support House Bill 2413. Thank you for introducing this bill.

Sincerely,

Veronica M. Moore

HB-2413
Submitted on: 2/18/2026 1:24:47 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 am strongly opposed to this bill and know that offenders who are not afraid of consequences will be less afraid of doing crimes. This does not protect Hawaii law abiding citizens and will do much more harm to them. Non violent crimes are also traumatic to citizens and offenders should be held accountable for them. Not just released to commit more crimes and victimize citizens.

Law Office of Georgette A. Yaindl, LLLC
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February 18, 2026

Rep. Ravid A. Tarnas, Chair
Rep. Mahina Poepoe, Vice Chair
Committee on Judiciary and Hawaiian Affairs
House of Representatives
33rd Legislature, State of Hawai`i

via: http://www.capitol.hawaii.gov

Dear Committee leadership and members,

Re: **SUPPORT FOR SB2413 RELATING TO PRETRIAL REFORM**

DATE: Wednesday, February 19, 2026
TIME: 2:00 p.m.
PLACE: Conference Room 325 & Videoconference
State Capitol
415 South Beretania Street

This bill proposes amending chapter 804 by requiring release on own recognizance at arraignment and plea proceedings persons arrested and held for a violation, traffic offense, nonviolent petty misdemeanor, nonviolent misdemeanor, or nonviolent Class C felonies, while also setting forth specific appropriate exceptions.

As a practicing criminal defense attorney in the Third Circuit, I support this proposed legislation as consonant with the requirements of the State Constitution's due process requirements as eloquently stated in the bill's statement of intent and legislative findings. Passage of the bill is also compelled by insidious of jail overcrowding, ACO understaffing/underfunding, and jail conditions described by ret. Judge Robert D.S. Kim after a visit to HCCC in March 2023 as "atrocious" and "shocking." See "'*Seeing Is Believing' When It Comes To 'Atrocious' Conditions At The Hilo Jail*", Honolulu Civil Beat, *available at:/* **https://www.civilbeat.org/2023/03/judge-seeing-is-believing-when-it-comes-to-atrocious-conditions-at-the-hilo-jail/.**

Thank you for your consideration of my testimony. Aloha.

/s/ Georgette A. Yaindl
GEORGETTE ANNE YAINDL

Dennis M. Dunn

Kailua, Hawaii 96734

dennismdunn47@gmail.com

Re: HB 2413, Relating to Pre-Trial Reform

Date: February 19, 2026, 2:00 p.m.

To: House Committee on Judiciary and Hawaiian Affairs

Representative David A. Tarnas, Chair

Representative Mahina Poepoe, Vice Chair

Good afternoon, Chair Tarnas, Vice Chair Poepoe, and Members of the House Committee on Judiciary and Hawaiian Affairs. My name is Dennis Dunn, and I am the retired Director of the Victim Witness Kokua Services in the Honolulu Prosecuting Attorney's Office. It is through the lens of my 50 years of assisting crime victims that I am testifying **in strong opposition to HB 2413, Relating to Criminal Justice Reform.**

The provisions of HB 2413 would require that individuals charged with violations, traffic offenses, nonviolent petty misdemeanors, nonviolent misdemeanors, and nonviolent Class C felonies be released on recognizance at the time of their arraignment and plea, subject to the General Conditions of Release on Bail, as enumerated in H.R.S. Section 804-7.4. Judging from the language of Section 1 of the H.B. 2413 it is clear that this measure is predicated upon the belief that the number of pretrial releases is not sufficient due to a failure by Hawai'i judges to properly apply Act 179, Session Laws of Hawai'i and that Legislature therefore needs to enact further dictates to the Judiciary requiring the release without bail of a large swath of offenders. These releases appear to be without an adequate opportunity to examine the merits of each individual case and each individual defendant. Failure to follow the dictates of this Bill will subject the Court to the onerous requirement of preparing written findings in each case.

My basic concern about this Bill is that it essentially mandates the release of most defendants without bail within a timeframe that virtually insures that there will be inadequate time to adequately understand and consider both the nature of the facts of the case and the defendant's prior conduct before rendering a decision on bail, its amount, and attendant conditions of their release. This is clearly a very bad idea. My initial concern is simply that many offenses covered by this measure could involve criminal acts that consist of acts of domestic violence, sexual assault, stalking, and terroristic threatening but where the crime charged is less serious, such as Harassment, a petty misdemeanor. Although the underlying conduct may be much more serious than the charge, an even greater concern is the context of the offense, including the relationship

between the victim and the offender and any record of prior offenses of a similar nature. Of equal concern is the fact that many criminals with histories of acts of domestic abuse, sexual violence, and stalking may have committed many prior offenses involving these types of acts and that bail could be critical in preventing further harm to specific victims as well as the general public. Undue haste in the process would deprive law enforcement of the ability to properly scrutinize and assess the past behavior of individuals and may put all of us at risk. Although the Bill appears to exclude application of its provisions to certain categories of offenses, the lack of specificity as to whether the language refers to specific statutory offenses or to a generally understood but undefined crime category leaves this provision open to widely varying interpretations. Equally concerning is the failure to include offenses such as Harassment by Stalking where ongoing risks to victims is inherent to the crime.

This simply makes no sense to me. We must retain the ability to accurately assess offenders and make individual decisions based on the facts and circumstances of a particular criminal incident. In addition, release on recognizance is clearly not indicated for a wide variety of criminals where victim safety is a priority. The Intake Service Center is already struggling to keep up with accelerated timelines for bail reports, and it is difficult to imagine that current resources would permit an even further contracted process to be successfully implemented. A flawed mechanism for evaluating offender risks is inviting tragic circumstances to result.

While the process outlined in this Bill gives a nod to victim safety by requiring notification by the prosecutor of any "victim of decisions made in the case" it includes no mechanism to ensure that victim safety concerns are considered before a bail or release decision is made. Without even commenting on the word construction of this provision ("victims of the decisions made"), this clearly sounds like closing the barn door after the cows have already been let out. Similarly, another common adage comes to mind, "an ounce of prevention is worth a pound of cure". It also appears that the language of the Bill requires prosecutors to notify all victims at all stages of a defendant's pretrial case, a vast expansion over the current requirements of Chapter 801D, which the language excludes from application in this requirement. The current statutes only apply to victims of certain types of crimes and require the Department of Corrections and Rehabilitation to provide release notification, assuming a defendant is in their custody. However, as it appears that the main purpose of this H.B. 2413 is to prevent an individual from ever reaching custody status with DCR, they would have no role in victim notifications, thus placing the entire burden on the Prosecutor's Offices. And in an added irony for victims (as I have pointed out many times in the past) the SAVIN system which can automatically provide notification to victims is not connected to either the Judiciary or police cellblocks meaning that all notifications must be done manually. Clearly this provision will require a dramatic increase in staffing for the Prosecutors' Victim Witness Assistance Programs, and I do not see any appropriation attached to this Bill.

For the above stated reasons, I urge the Committee to hold HB 2413. Thank you for your time and consideration.

Mahalo!

HB-2413
Submitted on: 2/19/2026 11:30:51 AM
Testimony for JHA on 2/19/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Carrie Ann Shirota	Individual	Support	Written Testimony Only

Comments:

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

I am writing in support of **HB2413 Relating to Pretrial Reform,** which requires release on recognizance for defendants charged with violations, traffic offenses, nonviolent petty misdemeanors, nonviolent misdemeanors, and nonviolent class C felonies, subject to conditions.

While I support cash bail elimination as adopted in Illinois and New Jersey, this measure is an incremental step in the right direction for the following reasons:

1. It aligns with pretrial best practices driven by data, not failed "tough on crime" rhetoric;

2. It aligns with the presumption of innocence in our criminal legal system;

3. It reduces reliance on the use of money bond for low-level offenses, and perpetuation of an unjust two-tiered criminal legal system based on wealth;

4. It will contribute to reducing the pretrial population in our jails. In turn, this will reduce overcrowding in most of our jails, due to alarmingly high rates of pretrial detention based on an unjust two-tiered legal system that allows people with wealth to buy a "get out of jail" card while awaiting their day in court;

5. It recognizes the priceless value of liberty and freedom, and the harms that result from pretrial detention - whether for a day or longer periods of time. Pretrial detention harms and punishes people who are innocent until proven guilty, as well as their loved ones; and

6. This measure makes fiscal sense. Hawai'i spends over $112,000 to lock up one adult annually. If an individual has complex medical needs, the cost to the Department of Corrections and taxpayers increases to an average of $600,000 to $900,000 annually.

For these aforementioned reasons, I urge you to pass **H.B. 2413 Relating to Pretrial Reform.**

Thank you for your consideration.

Sincerely,

Carrie Ann Shirota, Esq.

Honolulu, Hawai'i