

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

ON THE FOLLOWING MEASURE:

S.B. NO. 2730, S.D. 1, RELATING TO CRIMINAL JUSTICE REFORM.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY

DATE: Tuesday, March 3, 2026

TIME: 10:15 a.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**

(For more information, contact Mark S. Tom,
Deputy Attorney General, at (808) 586-1160)

Chair Rhoads and Members of the Committee:

The Department of the Attorney General (Department) opposes this bill.

The purpose of this bill is to reduce unnecessary arrests in criminal cases by: (1) amending the factors under which law enforcement officers may arrest and detain persons without a warrant for petty misdemeanors and violations, (2) requiring law enforcement officers to record the factors that justified a warrantless arrest for certain petty misdemeanors and violations, (3) amending the circumstances under which law enforcement officers may issue citations in lieu of arrest, (4) requiring law enforcement officers to issue citations in lieu of arrest for certain petty misdemeanors and violations, and (5) improving court appearance rates by redesigning the citation form and updating required information fields.

Limiting arrests to the seven criteria enumerated in the amendments to section 803-5(b), Hawaii Revised Statutes (HRS), would significantly impede law enforcement officers' ability to resolve the situations they encounter in the community. Arrest authority must be left to officer discretion to preserve public safety and the swift administration of justice. There are several petty misdemeanor offenses that may never meet the seven enumerated criteria that would therefore not be subject to arrest. These would include, but are not limited to: Harassment, section 711-1106, HRS, Disorderly Conduct, section 711-1101, HRS, Theft in the Fourth Degree, section 708-733, HRS,

Criminal Property Damage in the Fourth Degree, section 708-823, HRS, Criminal Trespass in the Second Degree, section 708-814, HRS, Indecent Exposure, section 707-734, HRS, and Criminal Contempt of Court, section 710-1077 (non-appearance for court as instructed), HRS. Law enforcement officers need discretion to de-escalate situations via arrest even when they cannot reasonably predict that "there will be further police contact . . . in the immediate future" or that the defendant "must be detained to prevent bodily injury." Page 4, lines 13-16.

Additionally, the initiation of a criminal action via an arrest secures positive identifications by way of the booking process and thereby ensures adjudication of the correct offender. These positive identifications are necessary to provide the foundation required for holding habitual offenders accountable via enhanced sentencing for repeat offenders. See Habitual Property Crime, section 708-803, HRS.

Arrest information is stored by the Hawaii Criminal Justice Data Center (HCJDC) and is accessible by law enforcement, prosecutors, the courts, and the various county Intake Service Centers (i.e., those who are tasked with the preparation of pre-trial bail reports), for purposes of assessing a person's dangerousness, likelihood to appear for court, risk of recidivism, or other considerations. HCJDC does not receive any information when citations are issued, and criminal history records are not updated with these charges. Such offenses are only reported to HCJDC following conviction and only if the court specifically orders the defendant to complete the identification and booking process that occurs upon arrest (and the defendant complies with that order).

Moreover, once these cases reach the court system, every petty misdemeanor arrest may be called into question. This may prompt an increase in court hearings to adjudicate motions to suppress evidence and/or dismiss cases based on an alleged illegal arrest, which might have nothing to do with the facts or merits of the case. Because the bill does not provide an appropriate remedy, when an arrest falls outside of the seven enumerated criteria, different courts could use different standards, leading to different remedies and inconsistent rulings. Inconsistent rulings by judges, with no appropriate remedy, will likely lead to unintended consequences such as key evidence being precluded from trial or dismissal of cases for failing to note which category formed

the basis for arrest. The Department is very concerned about these and other unintended consequences that will undoubtedly arise in other petty misdemeanor offenses as well.

Finally, the amendments to the citation form in section 803-6(e)(3), HRS, proposing the removal of the last four digits of the offender's social security numbers in a citation will contribute to identification issues in court and in the charging of subsequent cases involving the same offender, as discussed above. See page 8, lines 12-13. This information, when available, is necessary to ensure proper identification of offenders.

The potential repercussions of restricting law enforcement officers' discretion to arrest in petty misdemeanor cases would be detrimental to public safety and the welfare of our community.

Thank you for the opportunity to testify on this bill; we respectfully request that this bill be held.



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

Testimony to the Thirty-Third Legislature, 2026 Regular Session

Senate Committee on Judiciary
Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair

Tuesday, March 3, 2026 at 10:15 a.m.
State Capitol, Conference Room 016 & Videoconference

By

Michelle D. Acosta
Deputy Chief Court Administrator
District Court of the First Circuit

WRITTEN TESTIMONY ONLY

Bill No. and Title: Senate Bill No. 2730, Senate Draft 1, Relating to Criminal Justice Reform.

Purpose: Establishes factors under which officers may arrest and detain persons without a warrant for petty misdemeanors and violations, and requires officers to document the justification for the arrests. Amends the circumstances under which officers may issue citations in lieu of arrest. Requires officers to issue citations in lieu of arrest for certain petty misdemeanors and violations. Requires the Judiciary to promulgate a standardized citation form and updates the required information for citations. Effective 7/1/2050. (SD1)

Judiciary's Position:

The Judiciary takes no position on the intent of the proposed legislation and provides the following comments with respect to the impact of the bill on Judiciary operations.

The proposed legislation requires the Judiciary to disseminate a newly redesigned citation form for use by police no later than July 1, 2027. The legislative changes to the form of the citation will require time to research, design, and implement a new citation for effective data sharing between law enforcement agencies, the Criminal Justice Research Institute, and the court reminder system, as well as changes to the Judiciary Information Management System (“JIMS”). The Judiciary would also need to dispose of existing criminal citations and procure revised



citations. In light of the significant changes and additions required by the legislation, the Judiciary respectfully requests that the firm implementation date be delayed to no earlier than January 1, 2028.

Additionally, given the intent to require citations in most violation and petty misdemeanor cases and to encourage citations in misdemeanor cases, consideration should be given to whether a number of the proposed revisions to section 803-6 of the Hawai'i Revised Statutes (H.R.S.) in the newly numbered subsection (e) may have some unintended consequences. Operationally, the removal of the last four digits of the offender's social security number will likely result in the inability of the Judiciary to match offenders in JIMS resulting in cases not being linked to the same offender.

Further, inclusion of "options" for resolution and options for persons unable to afford fines and fees at the top of the citation could be misleading for offenders. Petty misdemeanors and misdemeanors are criminal in nature, and there are no "options" for resolution prior to arraignment and plea, also referred to as the initial court appearance. Unlike parking and traffic infractions – which allows for an offender to admit to the violation by paying the fine without ever appearing in court, and for which a request for reduction of a fine or conversion of a fine to community service can be made in writing and without a hearing – such "options" are not available in criminal cases without a court appearance or hearing.

In view of the legislature's interest in expanding the use of citations in lieu of arrest, and considering the growing use of technology by law enforcement agencies, the Judiciary would like to offer for consideration the idea of forming a working group to explore alternatives to traditional paper citations. Hand-held devices capable of printing citations—such as the e-citation tools already used by the Maui Police Department and the Honolulu Police Department in certain areas for parking and traffic infractions—are becoming increasingly common. Given this trend, it may be worthwhile to consider transitioning from a paper-based citation system to an electronic one before traditional paper citations become outdated.

Thank you for the opportunity to testify on this measure.



OFFICE OF HAWAIIAN AFFAIRS

‘Ōlelo Hō‘ike ‘Aha Kau Kānāwai

TESTIMONY IN SUPPORT OF SENATE BILL 2730 SD1

RELATING TO CRIMINAL JUSTICE REFORM

Ke Kōmike ‘Aha Kenekoa o ka Ho‘okolokolo

(Senate Committee on Judiciary)

Ke Kapitala ‘o Hawai‘i

(Hawai‘i State Capitol)

Malaki 3, 2026

10:15 AM

Lumi 016

Aloha e Chair Rhoads, Vice Chair Gabbard, a me Members of Ke Kōmike ‘Aha Kenekoa o ka Ho‘okolokolo:

The Office of Hawaiian Affairs (OHA) **SUPPORTS SB2730 SD1** which reduces unnecessary arrests for misdemeanors, petty misdemeanors, and violations by expanding the use of citations in lieu of arrest and requiring documentation when custodial arrest is used. The measure also improves court appearance rates through a redesigned citation form and clearer notice requirements.

OHA supports policies that promote fairness, proportionality, and effective use of public safety resources. Arrest is among the most serious forms of government intervention and carries immediate and lasting consequences, including loss of employment, housing instability, family disruption, and increased likelihood of deeper justice system involvement. These consequences may occur even when an individual is presumed innocent and ultimately not convicted. This measure appropriately reinforces citation in lieu of arrest as the default response for low-level offenses, while preserving law enforcement discretion to arrest when necessary to protect public safety or ensure court appearance. This balanced approach aligns with evidence-based practices that safely reduce unnecessary detention while maintaining accountability.

Reducing unnecessary arrests also supports more effective allocation of limited public safety resources. Custodial arrests require significant officer time, transportation, booking, and detention capacity, while citation-based approaches allow law enforcement to focus resources on serious offenses and community safety priorities. For Native Hawaiians who are disproportionately represented throughout Hawai‘i’s criminal legal system, reducing unnecessary custodial arrests is particularly important. Policies that limit avoidable justice system contact help reduce cumulative system involvement and support pathways to stability, employment, and community well-being.

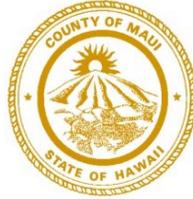
This bill represents a practical and evidence-based reform that strengthens proportionality, improves system efficiency, and supports fair and effective public safety practices. For these reasons, the Office of Hawaiian Affairs respectfully urges this Committee to **PASS SB2730 SD1**.

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

RICHARD T. BISSEN, JR.
Mayor

ANDREW H. MARTIN
Prosecuting Attorney

SHELLY C. MIYASHIRO
First Deputy Prosecuting Attorney



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

TESTIMONY ON
S.B. 2730 SD1
RELATING TO CRIMINAL JUSTICE REFORM

March 1, 2026

The Honorable Karl Rhoads
Chair
The Honorable Mike Gabbard
Vice Chair
and Members of the Committee on Judiciary

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

The Department of the Prosecuting Attorney, County of Maui respectfully submits the following comments **in opposition to S.B. 2730 SD1, Relating to Criminal Justice Reform**, and requests that the measure be deferred. This measure: 1) prevents police officers from making a warrantless arrest of a person for a petty misdemeanor or violation offense unless the officer is “reasonably satisfied” that the person meets one of seven specific criteria, and 2) requires that a person be cited instead of arrested for any petty misdemeanor or violation offense except Operating a Vehicle Under the Influence of an Intoxicant or Abuse of Family or Household Member.

We oppose this measure for a number of reasons. First, the mandatory citation requirement for petty misdemeanor and violation offenses does not contemplate scenarios where an arrest is necessary for public safety. Offenses such as Simple Trespass, Disorderly Conduct, Criminal Trespass in the Second Degree, Indecent Exposure and Theft in the Fourth Degree are all “non-violent” petty misdemeanor or violation offenses where, similar to the warning citations issued in Abuse of Family or Household Member cases, even the temporary removal of an offender from the scene of an incident via the arrest process reduces the likelihood of retaliation, confrontation and other after-the-fact incidents. Moreover, public confidence in law enforcement and the criminal justice system is increased when citizens can see that offenders are removed from the scene of the crime rather than issued a citation and immediately released.

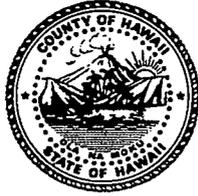
Second, we are concerned that adding an additional statutory analysis requirement to a potential arrest/citation scenario would result in additional pre-trial challenges requiring additional prosecution and judicial resources to litigate without any significant benefit. For example, every petty misdemeanor or violation arrest would potentially involve an evidentiary defense motion to suppress evidence on the grounds that the arresting officer lacked a sufficient statutory basis to arrest the defendant.

Third, the seven criteria authorizing a warrantless arrest are not flexible enough to handle scenarios that may not meet the proposed arrest criteria but would still require a person's arrest as a matter of public safety. Again, such non-violent offenses as Simple Trespass, Disorderly Conduct, Criminal Trespass in the Second Degree, Indecent Exposure and Theft in the Fourth Degree may have no explicit indication that an offender will fail to show up at court or continue to violate the law if cited and not arrested. However, even the temporary removal of an offender from the scene of an incident via the arrest process reduces the likelihood of retaliation, confrontation and other after-the-fact incidents.

For these reasons, the Department of the Prosecuting Attorney, County of Maui **opposes the passage of S.B. 2730 SD1 and requests that the measure 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.

C. Kimo Alameda, Ph.D.
Mayor



Reed K. Mahuna
Police Chief

William V. Brillhante Jr.
Managing Director

County of Hawai`i

POLICE DEPARTMENT

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February 25, 2026

Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair
And Members
Committee on Judiciary
State Capitol
415 South Beretania Street
Honolulu, HI 96813

Dear Senators Rhoads and Gabbard and Committee Members,

RE: SENATE BILL 2730 SD1 RELATING TO CRIMINAL JUSTICE REFORM
DATE: MARCH 3, 2026
TIME: 10:15 A.M.
PLACE: CONFERENCE ROOM 016 & VIDEOCONFERENCE

The Hawai`i Police Department respectfully submits this testimony in opposition to Senate Bill 2730, S.D.1, which proposes substantial changes to the conditions under which police officers may make warrantless arrests for petty misdemeanors and violations.

We understand and appreciate the Legislature's intent to reduce unnecessary arrests and the burdens that pretrial detention can impose on individuals and families. However, the bill would place new restrictions on officers that limit the department's ability to respond effectively to criminal activity and maintain public safety. Under current law, officers may arrest based on probable cause for felony, misdemeanor, petty misdemeanor, and violation offenses. SB2730 preserves arrest authority for felonies and misdemeanors but adds additional prerequisites before an officer may arrest for petty misdemeanors or violations. These added conditions will slow enforcement actions and reduce officers' ability to intervene promptly in situations where discretion and timely action are essential.

A key operational concern is offender identification. Although the bill allows arrest when a person does not provide satisfactory identification, many repeat-offender cases require the biometric confirmation that only occurs during the booking process. Habitual-offender prosecutions rely on precise identity verification, and citations issued in the field do not

SENATE BILL 2730 SD1 RELATING TO CRIMINAL JUSTICE REFORM

DATE: MARCH 3, 2026

TIME: 10:15 A.M.

PLACE: CONFERENCE ROOM 016 & VIDEOCONFERENCE

Page 2

provide the tools necessary to support these enhanced-penalty cases. This limitation increases the risk of misidentification and undermines accountability for individuals who repeatedly commit low-level property or quality-of-life crimes.

Public safety is also affected. While the bill maintains arrest authority in cases involving immediate danger—such as impaired driving or domestic abuse—officers routinely encounter recurring low-level offenses that contribute to community harm. In many of these situations, the ability to remove an offender from the area, even temporarily, is crucial to preventing continued victimization. When officers are required to issue a citation rather than make an arrest, the offender remains in the community, creating opportunities for repeated offenses and escalating behavior.

The bill also imposes new administrative burdens. Officers would be required to document which statutory factor justifies any petty misdemeanor or violation arrest, adding to the time already spent on incident reporting. These requirements reduce the amount of time officers can spend on patrol and responding to calls for service, further straining limited staffing and resources.

In addition, the bill modifies the language concerning the presentation of warrants, changing it to a requirement that an officer “shall show” the warrant at or before the time of arrest. In many real-world encounters—especially with uncooperative or combative individuals—attempting to physically display a warrant during the arrest process is unsafe and impractical. We request that any such requirement be clarified to ensure it applies only when it can be done safely.

Finally, although the bill calls for improved citation forms and updated procedures to increase court-appearance rates, these changes do not fully address the operational challenges that arise when officers are required to issue citations in lieu of arrest. Effective law enforcement requires flexibility, judgment, and tools that allow officers to balance fairness, community expectations, and public safety in real time. SB2730 would significantly limit that flexibility.

For these reasons, the Hawai'i Police Department respectfully opposes Senate Bill 2730, S.D.1. Thank you for the opportunity to provide testimony.

Respectfully,



SHERRY D. BIRD
ACTING POLICE CHIEF



JOHN PELLETIER
CHIEF OF POLICE

POLICE DEPARTMENT

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WADE M. MAEDA
DEPUTY CHIEF OF POLICE

March 2, 2026

LATE

Honorable Senator Karl Rhoads, Chair
Honorable Senator Mike Gabbard, Vice Chair
and Members
Judiciary Committee
The Thirty-Third Legislature
Hawai'i State Capitol
415 South Beretania Street
Honolulu, HI 96813

SUBJECT: Testimony in opposition of S.B. 2730 SD1, Relating to Criminal Justice Reform.

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

I respectfully submit this testimony in opposition to SB 2730 SD1.

While we recognize the desire to improve efficiency within the criminal justice system and reduce unnecessary custodial arrests, we have serious concerns about the structure and practical impact of this measure as currently drafted.

SB2730 SD1 requires officers to issue a citation instead of making an arrest for eligible offenses, with only limited exceptions. In effect, the bill creates a strong presumption in favor of citation and shifts policy toward citation as the default response, significantly limiting officer discretion in situations that often require immediate judgment based on evolving and unpredictable circumstances.

Police officers are trained to assess a multitude of situations on a daily basis. They must examine not only the offense itself, but also the totality of the situation they may be investigating to include a suspect's demeanor, prior history, victim safety concerns, risk of escalation, and overall safety factors. This mandate significantly narrows arrest authority and may hinder officers' ability to respond appropriately to real-world situations that are fluid, rapidly evolving, and often unpredictable. These standards may be difficult for officers to fairly and accurately assess in the field, which could result in inconsistent arrest vs citation decisions.

Additionally, the bill's mandatory citation requirement for petty misdemeanor and violation offenses is not sufficiently flexible for the dynamic situations officers regularly encounter. A citation relies heavily on an offender's voluntary compliance.

In certain circumstances, such as a repeat shoplifter or an intoxicated individual who refuses to leave an establishment, an arrest may be a more effective and immediate tool to safeguard public safety

The bill's mandatory citation requirement for petty misdemeanors and violations lacks flexibility for the dynamic situation's officers face, and because citations rely on voluntary compliance, arrest may at times be the more effective tool to continue protecting public safety.

By limiting warrantless arrests, the bill risks hesitation in situations requiring swift and immediate action. Citations can be appropriate in certain situations; however, they should remain an option, not a mandated default.

For these reasons, we respectfully oppose SB 2730 SD1.

Sincerely,

A handwritten signature in blue ink, consisting of a large, stylized 'J' followed by a series of loops and a final flourish.

Fon

JOHN PELLETIER
Chief of Police

KELDEN B.A. WALTJEN
PROSECUTING ATTORNEY

SHANNON M. KAGAWA
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OFFICE OF THE PROSECUTING ATTORNEY

TESTIMONY IN OPPOSITION TO SENATE BILL 2730, SD1

A BILL FOR AN ACT RELATING TO CRIMINAL JUSTICE REFORM

COMMITTEE ON JUDICIARY
Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair

Tuesday, March 3, 2026, at 10:15 a.m.
Via Videoconference
State Capitol Conference Room 016
415 South Beretania Street

Honorable Chair Rhoads, Vice-Chair Gabbard, and Members of the Committee on Judiciary: The County of Hawai‘i, Office of the Prosecuting Attorney respectfully submits the following testimony **in opposition** to Senate Bill 2730, SD1.

S.B. 2730, SD1, would prohibit police officers from making arrests for most petty misdemeanor offenses or violations, and instead require the issuance of a citation, unless the officer is “reasonably satisfied” that one or more statutory exceptions justify an arrest. The measure requires officers to document which exception was relied upon for each arrest.

Although our office appreciates the intent of this legislation to reduce arrest numbers and jail overcrowding, we do not believe that placing additional restrictions and burdens on police officers is the right way to address these concerns. S.B. 2730, SD1, would directly affect the ability of police and prosecutors to keep the peace and to enforce laws covering offenses against persons, property, and public order which have significant community impact, including but not limited to theft, shoplifting, criminal property damage, criminal trespass and simple trespass, disorderly conduct, harassment, indecent exposure, and open lewdness.

S.B. 2730, SD1, would not just restrict officers from arresting suspects based upon information gathered from citizens—it would also restrict officers from arresting suspects caught in the act of committing an offense within the officer’s presence.¹ Officers observing a covered crime would have less authority under law to arrest the perpetrator than a bystander.²

¹ The bill modifies arrests by police officers for offenses committed “whether in the officer’s presence or otherwise.”

² Compare HRS § 803-3 (allowing warrantless arrest of anyone in the act of committing a crime by anyone present).

We are concerned about unintended negative consequences this measure may have on public safety and order. It would restrict the authority under HRS § 803-5 for police officers to make warrantless arrests based upon probable cause that has existed in Hawai‘i for well over a century—changing a rule of law that is much older than statehood.³ This power is used responsibly by police officers to intervene and halt incidents that occur in our communities. It is an exception to the general rule and is already subject to significant limitations, including a “temporal restriction”⁴ that requires such an arrest to be made near in time to the offense.

We believe police officers need more tools, not fewer, to protect our communities. Officers already have the authority and discretion under current law to issue a citation in lieu of making an arrest where appropriate. We believe officers should retain the discretion to make arrests where they have developed probable cause, where appropriate. There is little reason to believe this tool is being overused in Hawai‘i. As former Justice Souter has noted, “it is in the interest of the police to limit petty-offense arrests, which carry costs that are simply too great to incur without good reason.”⁵

S.B. 2730, SD1, would also reduce the ability of prosecutors and courts to hold repeat offenders accountable. The process of arrest and booking allows police to use biometric identifiers to positively identify a suspect. To successfully prosecute repeat offenders, such as for Habitual Property Crime under HRS § 708-803, the prosecution must be able to prove the suspect’s identity beyond a reasonable doubt for each prior conviction. A suspect who is not positively identified through booking at the initiation of a criminal case must later be ordered by the court to voluntarily present themselves for ID processing, unnecessarily introducing the chance for noncompliance and doubt.

Proponents claim that other states have enacted similar laws, but a review of these shows important differences. For example:

- Alaska permits officers to make warrantless arrests for any crime involving violence or harm to another person or to property.⁶
- California permits warrantless arrests for any offenses committed in an officer’s presence, as well as for shoplifting.⁷ For offenses covered by its mandatory citation law, California allows officers to first book a suspect, either in the field or at the agency, before releasing them with a citation, or to require the suspect to provide a thumbprint or fingerprint on the citation for identity verification.⁸
- Florida permits warrantless arrests for any offenses committed in an officer’s presence, as well as for common-law battery (an unlawful touching, akin to the offense of

³ The language of HRS § 803-5 originated in the Penal Code of the Hawaiian Kingdom, which provided an even broader police power to arrest based upon reasonable suspicion. Penal Code of the Hawaiian Kingdom, c 49, §5 (1869).

⁴ *State v. Keawe*, 107 Hawai‘i 1, 108 P.3d 304 (2005).

⁵ *Atwater v. City of Lago Vista*, 532 U.S. 318, 352 (2001) (Souter, J.).

⁶ AK Stat § 12.25.180 (2025).

⁷ Cal. Penal Code § 836.

⁸ Cal. Penal Code § 853.6(a)(1), (d) & (g).

harassment), criminal mischief and graffiti, exposure of sexual organs, and trespass to schools and airports.⁹

- Georgia does not restrict warrantless arrests at all, unlike some advocates have claimed— Georgia courts have interpreted its statute as fully coextensive with federal constitutional law, allowing arrests upon probable cause for any offense.¹⁰ Georgia does allow ‘arrests by citation’ for criminal trespass, shoplifting, refund fraud, and drug offenses, but officers are required to first arrest the suspect, obtain their fingerprints, check their criminal record, and attempt to check their immigration status before finally releasing them with a citation.¹¹
- Kentucky allows warrantless arrests for shoplifting,¹² for misdemeanors committed in an officer’s presence involving assault, indecent exposure, possession of burglar’s tools, trespass to a domestic violence shelter, receiving stolen property, giving false information, or failing to follow an officer’s reasonable instructions, as well as for violations committed in an officer’s presence involving trespass or harassment.¹³
- Ohio only makes citations mandatory for “minor misdemeanors,” which it defines as offenses punishable by a maximum penalty of a fine of \$100 and not by any jail time,¹⁴ such as strict liability traffic infractions or jaywalking. (Akin to “violations” in Hawai‘i.)
- Vermont allows arrests for any offenses committed in an officer’s presence, as well as where necessary to prevent the continuation of criminal conduct, for stalking, for simple assault, for assault or threats against a health care worker, and for disorderly conduct that interferes with health care.¹⁵
- Washington State allows arrests for any offenses committed in an officer’s presence, as well as all offenses involving physical harm or threats of harm to person or property, the unlawful taking of property, underage possession of alcohol, criminal trespass, indecent exposure, and interference with a health care facility.¹⁶

We are also concerned that S.B. 2730, SD1, would create a wave of litigation in petty misdemeanor cases. The existence of probable cause to make a warrantless arrest under HRS § 803-5 is determined by an objective legal test that is consistently applied under the guidance of extensive case law. Under S.B. 2730, SD1, the legality of many arrests would instead depend on whether the arresting officer was “reasonably satisfied” of one of the factors providing an exception. The measure provides no standard for reasonable satisfaction, ensuring dispute.

For the foregoing reasons, the County of Hawai‘i, Office of the Prosecuting Attorney respectfully **opposes** the passage of Senate Bill 2730, SD1. Thank you for the opportunity to testify on this matter.

⁹ Fla. Stat. 901.15.

¹⁰ Trial Handbook for Georgia Lawyers § 28:10 (citing *Hight v. State*, 293 Ga. App. 254(1), 666 S.E.2d 678 (2008); *Durden v. State*, 250 Ga. 325, 297 S.E.2d 237 (1982)).

¹¹ Ga. Code § 17-4-23 (2024).

¹² Ky. Rev. Stat. § 433.236; *see also Burdette v. Commonwealth*, 495 S.W.3d 156 (Ky. App. 2015).

¹³ Ky. Rev. Stat. §§ 431.015 & 431.005.

¹⁴ Ohio Rev. Code §§ 2901.02; 2935.26.

¹⁵ Vt. R. Crim. P., R.3.

¹⁶ Rev. Code of Wa. Ann. 10.31.100.

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March 1, 2026

Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair
Committee on Judiciary
The Senate
33rd Legislature, State of Hawai`i

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

Dear Committee leadership and members,

Re: **SUPPORT FOR and COMMENTS ON SB2730, SD1 RELATING TO
CRIMINAL JUSTICE REFORM**

DATE: Tuesday, March 3, 2026
TIME: 10:15 a.m.
PLACE: Conference Room 016 & Videoconference
State Capitol
415 South Beretania Street

This bill proposes amendments to §803-5 ([Arrests] by officer without a warrant”) and §803-6 (“Arrest, how made”) by providing for circumstances by which police may arrest and detain and providing for those circumstances by which police shall issue a citation in lieu of making an arrest.

I write to comment on a matter *in pari materia* with §§ 803-5 and 803-6, therefore warranting this Honorable committee’s consideration, specifically § 805-1 (“Complaint; form of warrant”) in order to address the matter of warrantless arrests (or issuance of citations) that are based on alleged misconduct not witnessed by police.

When the Legislature acted to pass what became enacted as Act 2 (SLH 2022,) it removed the requirement that a complaint - the charge that the prosecution files when it decides to prosecute a warrantless arrest or citation issued for a violation, petty MISD, or MISD - is subscribed with a sworn statement from a complaining witness, including a witnessing police officer, substantiating probable cause for the arrest and the filing of the complaint.

As a result, today, the only way a person that has been wrongfully arrested for an alleged offense not witnessed by police may challenge probable cause is to refuse bail, stay in jail, and hope to be brought before a district court judge within the 48 hours, as provided in Hawai'i Rules of Penal Procedure. Even if this person were issued a citation in lieu or arrest, s/he still would appear before the district court judge charged via the same §805-1 unsubscribed form complaint, unable to request a probable cause hearing because s/he was never arrested and or remained in jail until presentment to the district judge.

I found the testimony submitted by the City and County Department of the Prosecuting Attorney in opposition to this bill and its companion, HB2494, shocking:

S.B. 2730 is unlikely to change the proportion of citations and arrests. **At present, all warrantless arrests must be reviewed by a judge for probable cause within forty-eight hours.** *Officers already attach a written declaration outlining the specific facts supporting probable cause. The reason for an arrest—rather than a citation—is almost always apparent from the factual circumstances recited in the declaration.*

Department testimony, dated February 3, 2026 (*emphases added*).

Maybe and hopefully that statement accurately describes district court criminal procedure in the First Circuit. Not so in the district courts of the Third Circuit, where I have appeared representing individuals subjected to warrantless arrests accused of petty misdemeanor and misdemeanor offenses. Act 2 made probable cause substantiating subscriptions (declarations) optional, and authorized that a complaint filed following a warrantless arrest may proceed to trial on the mere signature of a prosecuting attorney, without any judicial determination of probable cause.

This disagreement between the Circuits necessitates legislative attention. Accordingly, it is right and just that Act 2 (SLH 2022) is repealed and HRS § 805-1 is restored to its previously effective provision. Whereas the *in pari materia* matters §§ 805-1, 805-5, 805-6, are inextricable, it is right and proper that this committee act to do so now via appropriate amendment to this bill presently before you. Such provision must be made effective upon enactment.

The amendments proposed in this bill are well supported by the legislature's findings. The two amendments proposed by Maui Police Chief Pelletier in his testimony provide a procedural safeguard against profiling and should be adopted. This Honorable committee can address the concerns raised by the Attorney General by expressly providing in the bill that the 7 petty misdemeanors the AG identifies as not non-violent offenses are included with the 2 like offenses already recognized in the bill for which a citation in lieu of arrest is not mandated.

If there is any cause for pause on passage, it was expressed in the Judiciary's testimony regarding the proposed turnaround time of July 1, 2027 for its promulgation (aka rulemaking) of the proposed new citation form. The Judiciary reasonably has requested that the firm

implementation date of the proposed amendments to §§ 801-5 and 801-6 are delayed to no earlier than January 1, 2028.

Several testifiers have expressed opposition to the bill's proposed removal of the last four digits of a social security number on the proposed amended citation form. That is a legitimate concern for all the reasons stated in opposition. The bill proposes to replace that identifier with the accused's phone number and email address. But that implicates our State constitutional right to privacy and statutory protections of private, confidential, and protected information from public disclosure. Citation forms also include the individual's entire xx/xx/xxxx birthdate and driver's license number, the latter of which is federally protected from public disclosure. When the case is prosecuted, the citation gets filed into JEFS, and therefore is publicly accessible through eCourt Kokua and may or may not appear properly redacted.

If I may offer 2 cents on the new citation form, thank you, it is this: (1) it should have the serious matter appearance of a court order and not a mere traffic ticket, and appear on an 8x11 form with capacity to make duplicates, e.g., aka the existing triplicate court-issued Notice to Appear; and (2) include a statement prominently reminding prosecutors to make all appropriate redactions prior to filing.

Several testifiers address "law enforcement *discretion*." The bill before you adopts those words as well in the proposed amendment of § 803-6 with a new subsection (c), including the following: "Nothing in this section limits *law enforcement discretion* to issue a citation pursuant to subsection (b)." Please consider instead providing, "Nothing in this section limits law enforcement authority to issue a citation pursuant to subsection (b)." We do not commonly associate police as possessing "discretionary" power.

Thank you for your consideration of my testimony. Aloha.

/s/ Georgette A. Yaindl _____
GEORGETTE ANNE YAINDL



The Libertarian Party of Hawaii submits this testimony **in SUPPORT of SB2730**.

SB2730 establishes clear factors under which officers may arrest and detain persons without a warrant for petty misdemeanors and violations, while requiring officers to document the justification for any such arrest. It amends the circumstances for issuing citations in lieu of arrest and requires officers to issue citations instead of making arrests for certain petty misdemeanors and violations. The bill also directs the Judiciary to promulgate a standardized citation form and updates the required information for citations.

The Libertarian Party of Hawaii is committed to defending individual liberty, reducing unnecessary government overreach, and limiting the carceral state's impact on peaceful citizens. We view SB2730 as a positive step toward criminal justice reform by prioritizing citations over arrests for minor, non-violent offenses. This measure would prevent unnecessary detentions, jail bookings, and the cascade of consequences that can follow even petty infractions.

Requiring officers to issue citations in lieu of arrest for qualifying petty misdemeanors and violations reduces the risk of disproportionate punishment for low-level offenses that pose no immediate threat to public safety. Mandating documentation of justification for any warrantless arrest promotes accountability, transparency, and adherence to due process. These principles are essential to protecting individual rights from arbitrary police action, and should be a standardized practice already.

This approach aligns with evidence-based reforms that decrease unnecessary incarcerations, ease burdens on Hawaii's overcrowded jails, and save taxpayer resources while promoting public safety. By shifting from arrest-first policies to citation-only for petty matters, SB2730 reduces the over-criminalization of everyday conduct and helps prevent the lifelong collateral consequences that often stem from even brief custodial arrests.

Please pass SB2730. State power needs to be used judiciously and only when truly necessary, never as a default response to minor issues.

In Liberty,

Abbra Green | LPHI Secretary | LibertarianHawaii.com | (808)824-LPHI



POLICE DEPARTMENT COUNTY OF KAUA'I



DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

ELLIOTT K. KE, CHIEF OF POLICE
MARK T. OZAKI, DEPUTY CHIEF OF POLICE

March 2, 2026

LATE

The Honorable Senator Karl Rhoads, Chair
And Honorable Members of the Committee on Judiciary
Hawai'i State Capitol
415 South Beretania Street
Honolulu, HI 96813

RE: Testimony in Opposition to SB 2730 SD1, Relating to Criminal Justice Reform

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

On behalf of the Kaua'i Police Department, I am submitting testimony in **OPPOSITION** to SB 2730 SD1, which would require officers to issue citations in lieu of arrest for certain petty misdemeanor and violation offenses, unless specific statutory conditions are met.

While the intent of the bill is to reduce unnecessary arrests, it does so by imposing rigid conditions on arrest decisions which unduly restricts officer discretion, creates operational and liability concerns, and jeopardizes public safety.

SB 2730 SD 1 is based on the mistaken assumption that petty misdemeanor and violation arrests significantly contribute to jail overcrowding. However, correctional facilities primarily detain individuals for more serious offenses or repeated noncompliance with court orders. While well-intentioned, this measure introduces new risks to everyday policing without clear evidence that it will meaningfully reduce long-term detention populations.

Additionally, the bill overly limits officer discretion by requiring them to evaluate and justify arrest decisions based on a narrow set of statutory factors. These include determinations regarding likelihood of court appearance, risk of imminent bodily injury, and probability of continued unlawful conduct. These factors do not adequately account for the dynamic and often unpredictable circumstances officers face in the field, including rapidly evolving situations, crimes in progress, escalating behavior, or the need to immediately separate involved parties. Police intervention, which includes arrest, is often the most effective and appropriate tool to stop unlawful conduct, protect victims, and prevent further harm.

Several of the mandated considerations—such as whether an individual will appear in court, whether the individual is likely to engage in further unlawful conduct in the immediate future, or whether detention is necessary to prevent bodily injury—are inherently speculative. Officers must make real-time decisions based on limited information. SB 2730 SD 1 dangerously invites second-guessing of those decisions, rather than deferring to officers' training, experience, and on-scene judgment.

SB 2730 SD 1 also raises significant implementation and liability concerns. The bill does not clearly define how arrest decisions will be reviewed or what standards will be applied. It also creates

uncertainty regarding potential discipline or liability for officers who make arrest decisions that are later deemed inconsistent with the statute. This ambiguity may discourage lawful and necessary arrests, even when public safety clearly warrants detention.

Lastly, while citations are an important and appropriate tool in many circumstances, mandating their use removes essential flexibility from law enforcement officers who must tailor responses to the specific facts before them. Public safety and justice are not one-size-fits-all, and effective policing depends on the ability to exercise sound discretion.

For these reasons, I respectfully urge the Committee to **OPPOSE SB 2730 SD1**. Thank you for the opportunity to provide testimony.

Respectfully submitted,



Elliott K. Ke
Chief of Police
Kaua'i Police Department

Committee: Judiciary
Hearing Date/Time: Tuesday, March 3, 2026, at 10:15am
Place: Conference Room 016 & Via Videoconference
Re: **Testimony of the ACLU of Hawai'i in SUPPORT of SB2730 SD1 RELATING TO CRIMINAL JUSTICE REFORM**

Dear Chair Rhoads, Vice Chair Gabbard, and Committee Members:

The ACLU of Hawai'i **supports SB2730 SD1**, which establishes factors under which officers may arrest and detain someone without a warrant for petty misdemeanors and violations, and requires law enforcement officers to document the justification for the arrests. The bill also amends the circumstances under which officers may issue citations in lieu of arrest and requires officers to issue citations in lieu of arrest for certain petty misdemeanors and violations. Finally, the bill requires the Judiciary to promulgate a standardized citation form and update the required information for citations.

In December of 2018, the Hawai'i State Judiciary's Criminal Pretrial Task Force issued a report that suggested that the legislature "**revise HRS § 803-6 to reinforce that police and law enforcement officers have discretion to issue citations for traffic offenses, violations, petty misdemeanor and misdemeanor offenses, instead of effecting an arrest. In addition, discretion should be broadened for officers to issue citations in lieu of arrest for appropriate non-violent Class C felonies.**"

An arrest can significantly impact an individual as well as their family and community. Law enforcement should make such arrests only where absolutely necessary. Research shows that being arrested makes people more likely to have reduced income (and job prospects) over their lifetime,¹ more likely to drop out of school,² and more likely to experience trauma and mental health challenges.³ If an arrest leads to being detained pretrial, research shows that even one day in jail increases chances of future

¹ The Wall Street Journal. As Arrest Records Rise, Americans Find Consequences Can Last a Lifetime, August 18, 2014. <https://www.wsj.com/articles/as-arrest-records-rise-americans-find-consequences-can-last-a-lifetime-1408415402>

² Kirk, D. S., & Sampson, R. J. (2013). Juvenile Arrest and Collateral Educational Damage in the Transition to Adulthood. *Sociology of Education*, 86(1), 36-62. <https://doi.org/10.1177/0038040712448862>

³ Sugie, N. F., & Turney, K. (2017). Beyond Incarceration: Criminal Justice Contact and Mental Health. *American Sociological Review*, 82(4), 719-743. <https://doi.org/10.1177/0003122417713188>

recidivism.⁴ In contrast, studies show that young people given a citation instead of being arrested have lower recidivism rates.⁵ **Given that approximately 60% of our jail population is currently pretrial**, Hawai‘i is best served if individuals who do not need to be detained are kept out of jail facilities.

Use of citations also increases opportunities for police to de-escalate an encounter, rather than immediately relying on punitive options. This may lead fewer use-of-force incidents and improve relations with the community.⁶ Experience from other jurisdictions also suggests that use of citations instead of arrests does not increase crime. A study that looked at the impact of Washington DC’s citation in lieu of arrest policy noted: “*our findings suggest that the Washington, DC, MPD was able to implement the citation release program—reducing the jail population and transmission of COVID-19—without exacerbating crime.*”⁷ Those arguing that use of citations will somehow cause a spike in crime would do well to provide an example.

Citations in lieu of arrests are also commonly used by police, and potentially beneficial. **A 2016 study, the first of its kind, by the International Association of Chiefs of Police found that: “the use of citation in lieu of arrest is a widespread and longstanding tool in American law enforcement, with nearly 87% of agencies engaged in the practice; over 80% of those for ten years or more. Law enforcement agencies are using citation for nearly a third of all incidents, most often for disorderly conduct, theft, trespassing, driving under suspension, and possession of marijuana. Nearly two-thirds of law enforcement officials have a positive view of citation. Very few respondents (fewer than 2%) indicated a negative view of the practice.”**⁸

Relying on citations also saves officers time. A 2005 study in Gwinnet County, Georgia, found that an officer could issue a field citation and return to service, on average, in 35 minutes. An officer making a custodial arrest and obtaining an arrest warrant was out of service for 107 minutes (127 minutes if he or she needed to go all the way to the

⁴ The Hidden Costs of Pretrial Detention Revisited, 2022.

<https://craftmediabucket.s3.amazonaws.com/uploads/HiddenCosts.pdf>

⁵ Florida Department of Juvenile Justice, 2021

<https://www.djj.state.fl.us/content/download/23236/file/Civil%20Citation%20Best%20Practices%202021.pdf>

⁶ The International Association of Police Chiefs. Citations in Lieu of Arrest Project.

<https://www.theiacp.org/projects/citation-in-lieu-of-arrest>

⁷ Riddell, J. R., Jacobs, B. A., & Krajewski, A. T. (2024). Catch and release: Testing the effect of a citation release policy on crime in Washington, DC. *Criminology & Public Policy*, 23, 491–513.

<https://doi.org/10.1111/1745-9133.12659>

⁸ Ibid Note 6. A nationally representative sample of 1,300 law enforcement agencies was used, accounting for key variables such as region (Mountain Pacific, North Atlantic, North Central, and South) and size of population served (small, medium, and major)

courthouse to obtain it). Other studies, like one in Illinois, have confirmed similar findings.

Further, twenty-six states explicitly allow police to issue a citation instead of arrest for some or all offenses. Ten states – including red states like Louisiana, Kentucky, and Nebraska – enforce a presumption that officers will use a citation instead of an arrest for certain offenses.⁹

The ACLU of Hawai‘i asks that you support SB2730 SD1.

Mahalo,

Josh Frost

Josh Frost

Policy Advocate

ACLU of Hawai‘i

jfrost@acluhawaii.org

With more than 4,000 Hawaii-based members, the mission of the American Civil Liberties Union of Hawai‘i is to protect the fundamental freedoms enshrined in the United States and Hawai‘i State Constitutions through legislative, litigation, and public education work. The ACLU of Hawai‘i is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawai‘i has been serving our communities in Hawai‘i for over 60 years.

⁹ Citations In Lieu of Arrest. <https://dcjusticelab.org/library/policing/citation-in-lieu-of-arrest/>

SB-2730-SD-1

Submitted on: 2/25/2026 2:09:41 AM

Testimony for JDC on 3/3/2026 10:15:00 AM

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

Comments:

Aloha Senators Rhaods, Gabbard, and members of the Senate Committee on Judiciary,

I'm strongly opposed to SB2730 as it's another attempt to tilt the scales against the safety of the community for a naive perception that too many people are being arrested.

I've been studying in excess of 3,500 arrests in my portion of Waikiki during a five-year period and can assure you that:

-Police are extremely compassionate in using their discretion to arrest, and only do so when necessary.

-Taking away officer discretion and requiring them to write a citation instead of an arrest will likely backfire and create more arrests, as most people have horrific criminal records, failure to appear rates, and other criteria that will mandate an arrest instead of a citation.

-As a real-life example: There's a man in Waikiki with 556 career cases, most of which are criminal citations written instead of arrest. This individual, like most chronic offenders, has a horrific record for failure to appear. Under the proposed bill, an officer would feel compelled to arrest this person rather than write a citation due to the mandate that an officer investigate the person's likelihood of appearing.

-In my 24-month study of cases in which defendants were released on their own recognizance, there was a 73 percent failure to appear rate. Criminal reform advocates never seem to study or reveal this behavior. When someone fails to appear, a warrant is generated, and police need to arrest the person again.

-The failure to appear rate for citations is much higher, and multiple investigations by Civil Beat indicate that most citations are dropped, so no consequences are faced.

-There is a misconception that petty misdemeanors are "minor crimes," but when committed often in a geographic area by the same group of people, they become "a death by a thousand cuts" for a community.

-Unlike arrests, citations do not require fingerprinting and will nullify the ability for prosecutors to charge people for habitual offenses like habitual property crime. For

example, if a person commits shoplifting 30 times and is given 30 citations instead of arrests, prosecutors cannot count ANY of those cases in considering habitual charges because the person was not fingerprinted.

Mahalo

John Deutzman Waikiki

Dennis M. Dunn

Kailua, Hawaii 96734

dennismdunn47@gmail.com

Re: S.B. 2730, Relating to Criminal Justice Reform

Date: Tuesday, March 3, 2026

10:15 a.m., Room 016

To: Senate Committee on Judiciary

Karl Rhoads, Chair

Senator Mike Gabbard, Vice Chair

Good morning, Chair Rhoads, Vice Chair Gabbard, and members of the Committee.

My name is **Dennis Dunn**. I am the retired Director of **Victim Witness Kokua Services** in the Honolulu Prosecuting Attorney's Office, having served for **44 years**, and prior to that I was a volunteer **Victim Advocate with People Against Rape**. Based on that experience, I am testifying today in **strong opposition to S.B. 2730, S.D. 1**.

I. SB 2730 Creates Dangerous Barriers to Necessary Law Enforcement Action

S.B. 2730, S.D. 1 would impose **onerous new procedural requirements** on police officers making arrests for **petty misdemeanor offenses**. This broad-brush approach is deeply flawed because many so-called "petty" misdemeanors are **far from minor** and often involve individuals who pose an **immediate danger to victims and the community**.

For example:

- **Harassment**, a petty misdemeanor involving offensive touching, is frequently charged in cases where a **violent assault has occurred** but the evidence falls just short of proving Assault in the Third Degree, or where the charge has been **pled down**.
- Some harassment cases involve conduct that is essentially an **attempted sexual assault**, stopped only by intervention before it meets the legal threshold for Sexual Assault.
- Repeated **harassing telephone calls**, often sexual in nature, can severely **terrorize and traumatize victims**, yet may fall short of the evidence required to charge Terroristic Threatening.

Throughout my career, I have seen countless cases like these. In each instance, **arrest and bail are clearly warranted**. By adding unnecessary paperwork and justification requirements, this

bill risks **discouraging officers from making arrests**, thereby allowing dangerous individuals to remain at large and continue preying on the community.

II. New Procedural Requirements Will Lead to Improper Case Dismissals

Equally troubling is that SB 2730, S.D. 1 introduces **additional arbitrary procedural requirements** that invite **collateral legal challenges** based solely on technical defects.

In Hawai‘i’s already **under-resourced criminal justice system**, cases are frequently dismissed not because of a lack of evidence or witnesses, but because of minor procedural errors—an “uncrossed t or undotted i.” Thousands of cases are dismissed each year due to **HRPP Rule 48 deadlines**, only to be re-filed, further overwhelming our courts.

This bill will compound that problem by:

- Increasing dismissals for purely procedural reasons
- Encouraging failures to appear, leading to **bench warrants**
- Adding to the **thousands of unexecuted warrants** already backlogged
- Ultimately forcing courts to dismiss even more cases due to delay

The result will be the **untimely and inappropriate release of individuals who pose real and unjustifiable risks** to their victims and to public safety.

III. Reduction of Bail Harms Victims

Finally, the reduction of bail requirements under SB 2730, S.D. 1 will deprive victims of **one of the few effective means of restitution collection**. When bail is posted, it can be applied upon conviction to satisfy **restitution owed to victims**. Removing or weakening this mechanism further disadvantages victims who have already suffered harm.

Conclusion

For all these reasons, SB 2730, S.D. 1 will:

- Undermine effective law enforcement
- Increase procedural dismissals
- Overwhelm an already strained judicial system
- Place victims and the public at greater risk

I respectfully urge this Committee to **please defer S.B. 2730, S.D. 1**.

Mahalo for the opportunity to testify.