



**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. 3072, RELATING TO THEFT.

BEFORE THE:
SENATE COMMITTEE ON JUDICIARY

DATE: Wednesday, February 18, 2026 **TIME:** 9:05 a.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Mark S. Tom, Deputy Attorney General

Chair Rhoads and Members of the Committee:

The Department of the Attorney General (Department) strongly supports this bill.

The purpose of this bill is to require a mandatory minimum period of incarceration of twelve months for the offense of Theft in the First Degree when the value of the property or services stolen exceeds \$250,000.

Under current law, theft of property or services exceeding \$20,000 is treated the same whether the amount taken is slightly above or hundreds of thousands of dollars more than this threshold. Therefore, even in cases involving exceptionally large losses, courts may still impose only probation, restitution, and fines.

Thefts that exceed \$250,000 are rarely impulsive. This conduct typically results from prolonged, repeated acts, involving concealment and profound exploitation.

The circumstances in *State v. Nitta*, Criminal Number 1CPC-23-0000268 (Haw. 1st Cir. Ct. 2023), clarify the intent behind this bill and highlight the systemic issues the bill is designed to address. Nitta served as the Athletic Director and President of the Mililani High School Athletic Booster Club for Mililani High School for twenty years. Nitta ended up pleading no contest to multiple theft and tax offenses involving \$406,000 stolen from the school's booster club. Despite the prosecution's argument for incarceration, he was placed on probation for four years, ordered to repay the \$406,000 he took in restitution, and pay a \$155,000 fine. He was not ordered to serve any jail time.

This outcome exposes a fundamental inequity in the current theft laws. A white-collar offender who steals hundreds of thousands of dollars may avoid incarceration, arguably because of their ability to reimburse the victim. Conversely, a petty thief without resources charged with Habitual Property Crime under section 708-803(1)(c), Hawaii Revised Statutes, if convicted for three or more times for far lower-value thefts, faces a mandatory minimum period of incarceration of not less than twelve months regardless of the total value of the property stolen. This disparity undermines public confidence in the justice system and sends the wrong message about the significance of large-scale white-collar theft.

This bill enhances deterrence, promotes fairness, and better reflects the gravity of harm inflicted on victims.

The Department respectfully requests the passage of the bill. Thank you for the opportunity to provide testimony.

JON N. IKENAGA
PUBLIC DEFENDER

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HONOLULU OFFICE
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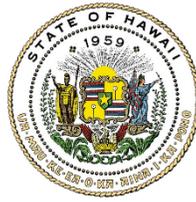
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February 16, 2026

SB 3072: RELATING TO THEFT

Chair Rhoads, Vice-Chair Gabbard, and Members of the Committee on Judiciary:

The Office of the Public Defender (OPD) **opposes** SB 3072 which would require a mandatory minimum term of twelve months of incarceration for a conviction of Theft in the First Degree where the value of the property or services exceeds \$250,000.

While the OPD recognizes the seriousness of high-value theft offenses and the significant harm that financial crimes can inflict on victims, we respectfully oppose the imposition of a mandatory minimum sentence that removes judicial discretion and limits the courts' ability to tailor sentences to the unique facts of each case.

Judges Already Have Authority to Impose Significant Incarceration

Under current law, Theft in the First Degree is a class B felony, punishable by up to ten years of imprisonment. Courts already have the authority to impose lengthy prison sentences when the facts warrant incarceration. Judges may also impose jail as a condition of probation. This measure would eliminate the court's discretion to suspend or reduce incarceration even in compelling circumstances.

Judges are uniquely positioned to weigh aggravating and mitigating factors, including:

- The defendant's criminal history (or lack thereof);
- The defendant's age and health;
- Whether restitution is realistic and ongoing;
- The defendant's role in the offense;
- The likelihood of reoffending;
- The needs and wishes of the victim.

By mandating a minimum period of incarceration in every qualifying case, regardless of circumstances, the bill substitutes a categorical rule for individualized justice.

Mandatory Minimums Undermine Individualized Sentencing and Judicial Function

Hawai‘i’s sentencing framework is built on principles of proportionality and individualized assessment. Mandatory minimum sentencing removes the court’s ability to impose a sentence that is proportionate to the offender as well as the offense.

Not all cases exceeding \$250,000 are identical. These cases can arise in varied contexts, including:

- Business disputes that cross the line into criminal liability;
- Complex financial transactions;
- Family or intra-organizational conflicts;
- Situations where restitution has already been substantially repaid prior to sentencing.

A rigid twelve-month incarceration requirement disregards this spectrum of culpability and circumstance. Accountability does not require automatic incarceration in every case. Hawai‘i courts already have the authority to impose prison terms where appropriate. In the most egregious cases, judges routinely impose incarceration.

What this bill removes is the ability of the court to determine when alternatives such as probation with intensive supervision, restitution enforcement, community-based sanctions, and employment retention, better serve justice.

Incarceration May Undermine Restitution and Victim Recovery

In many high-value theft cases, victims’ primary interest is restitution and financial recovery. Mandatory incarceration can directly undermine that goal.

For some defendants, maintaining employment or business operations may be the only realistic path to repaying six-figure losses. A year of incarceration may terminate employment, dissolve professional licenses, collapse small businesses, and eliminate income streams that support restitution payments.

A defendant who is employed and subject to structured probation supervision may be far better positioned to make victims whole than one who is incarcerated and

unemployed. Judges should retain discretion to determine when restitution-focused sentencing better serves victims and community interests.

The Bill Is Not Necessary to Address Perceived Disparities

The justification sheet references concerns regarding perceived inequities in sentencing outcomes and comparisons to habitual property crime statutes. However, disparities between different statutes reflect legislative policy choices regarding repeat offending versus single high-value offenses. Expanding mandatory minimums in one context does not resolve broader systemic concerns; it simply adds another mandatory sentencing requirement to an already complex sentencing scheme.

Moreover, increasing mandatory incarceration expands correctional costs and reduces flexibility within the justice system without a demonstrated showing that such rigidity improves deterrence.

For these reasons, the OPD **opposes** SB 3072.

Thank you for the opportunity to comment.

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

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NĀ HOPE LUNA NUI MĀKA'I KŪIKAWA

OUR REFERENCE **MH-GK**

February 18, 2026

The Honorable Karl Rhoads, Chair
and Members
Committee on Judiciary
State Senate
415 South Beretania Street, Room 016
Honolulu, Hawai'i 96813

Dear Chair Rhoads and Members:

SUBJECT: Senate Bill No. 3072, Relating to Theft

I am Manuel Hernandez, Major of District 3 ('Aiea/Pearl City/Waipahu) of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports Senate Bill No. 3072, Relating to Theft. This bill will impose a mandatory minimum sentence for a conviction of Theft in the First Degree involving property or services stolen in excess of \$250,000. This mandatory sentence both highlights the seriousness of the offense as well as provides a deterrent to the commission of the offense.

The HPD urges you to support Senate Bill No. 3072, Relating to Theft.

Thank you for the opportunity to testify.

APPROVED:

Handwritten signature of Rade K. Vanic in black ink.

For _____
Rade K. Vanic
Interim Chief of Police

Sincerely,

Handwritten signature of Manuel Hernandez in black ink.
Manuel Hernandez, Major
District 3

SB-3072

Submitted on: 2/12/2026 9:55:43 AM

Testimony for JDC on 2/18/2026 9:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Vivian S. Toellner	Individual	Comments	Written Testimony Only

Comments:

I would normally support stiff penalties for crimes.... but what if the person is terminally ill, etc. What do we gain by this "mandatory" law?

February 18, 2026

Committee on Judiciary
State Capitol
415 South Beretania Street
Honolulu, HI 96813

TESTIMONY IN SUPPORT OF SB3072

Chair Karl Rhoads, Vice Chair Mike Gabbard, and Committee Members:

I write to express my **strong support** for SB3072 and ask the Committee to pass it.

Under current law, a person can steal \$50,000, \$100,000, \$500,000, or \$1 million and receive the same punishment. There is no statutory differentiation in the sentence. This bill would correct that by providing a minimum of one year in prison for thefts over \$250,000.

Thefts that exceed \$250,000 cause immense harm to the victim, and stealing that much is rarely the product of a one-off, impulsive act. Thefts where the amount stolen is in the hundreds of thousands are nearly always the result of deliberate, prolonged conduct, frequently by someone in a position of trust or someone who has convinced the victim of the truth in some scam.

The case of the Mililani High School Athletic Director Glenn Nitta illustrates the weakness in the current law. Nitta pled no contest to multiple theft and tax charges for a long-running scheme to steal from the high school's booster club, an organization that was supposed to benefit students, funded by the generosity of members of the community. Instead, Nitta took money from the organization and used it to pay his own bills, airfare, and even withdraw cash from the organization's account while in Las Vegas. Nitta was sentenced to probation and a fine of \$155,000 and was required to pay restitution of \$406,000. No period of incarceration was ordered by the judge.¹

The case also illustrates a fundamental unfairness in the current law. Someone who steals hundreds of thousands of dollars and can afford to pay a fine and restitution receives no prison. But, someone who commits Habitual Property Crime, HRS § 708-803, on a third instance of petty theft, regardless of the value of the property stolen, must receive 12 months in prison. That disparity should be fixed.

Federal resources have been directed away from white collar crime to focus on other priorities of the current administration. State law enforcement and prosecutors are ready to fill in the gap, and this Bill would assist them. The community's trust in its institutions—nationally and locally—has been shaken by recent events. By providing consequences for those who abuse their positions or con their way into other peoples' money, this Bill could help restore that trust. I therefore urge the Committee to pass SB3072 and ask their colleagues to do the same.

Thank you for the opportunity to be heard.

Thomas J. Michener, Esq.

¹ *State v. Nitta*, 1CPC-23-0000268.

To: Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair
Committee on Judiciary

From: Veronica Moore, Individual Citizen

Date: February 17, 2026

RE: Senate Bill 3072
Measure Title: RELATING TO THEFT.
Report Title: Penal Code; Theft in the First Degree; Penalty

To All Concerned,

My name is Veronica Moore and I support Senate Bill 3072. Thank you for introducing this bill.

Sincerely,

Veronica M. Moore

LATE

SB-3072

Submitted on: 2/18/2026 12:15:58 AM

Testimony for JDC on 2/18/2026 9:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Gregory Misakian	Individual	Support	Written Testimony Only

Comments:

I strongly support SB3072 and ask that the threshold amount be reduced from \$250,000 to \$100,000.

Gregory Misakian