



**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. 3142, S.D. 1, RELATING TO DANGEROUS INTOXICATION.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY

DATE: Thursday, March 5, 2026

TIME: 10:01 a.m.

LOCATION: State Capitol, Room 016

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

(For more information, contact Michelle M.L. Puu,
Deputy Attorney General, at (808)586-1160)

Chair Rhoads and Members of the Committee:

The Department of the Attorney General strongly supports this bill.

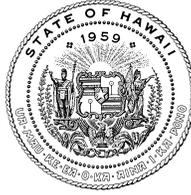
The bill establishes a new offense of dangerous intoxication. A person commits the offense if the person is under the influence of alcohol and/or drugs on public property and, due to substantial incapacitation, is unable to safely care for oneself, engages in conduct that creates an immediate and substantial risk of physical harm to the person or others, or obstructs the use of a public way. The bill classifies the offense of dangerous intoxication as a petty misdemeanor. However, the bill makes civil protective custody the default response and directs law enforcement officers, when reasonably able to do so, to transport the person for appropriate medical evaluation, including an emergency examination pursuant to chapter 334.

The bill preserves criminal enforcement in limited circumstances involving serious public safety concerns and also establishes the offense of habitual dangerous intoxication for repeat offenders. Together, these provisions would provide law enforcement with flexible tools to respond to intoxication-related safety risks while emphasizing early intervention, treatment, and accountability in a manner that promotes both individual safety and public welfare.

As part of the State's concerted efforts to provide additional pathways to medical evaluation and treatment for individuals suffering from substance use disorders,

creating options that prioritize care will help ensure early and appropriate intervention for those who need it most. When safety becomes an issue for these individuals or others around them, law enforcement officers need different tools to address different types of situations. This bill provides a tool that emphasizes diverting appropriate individuals to a medical setting, in lieu of sending them through the criminal justice system, while still preserving the possibility for criminal prosecution for more serious situations that call for judicial oversight.

The Department strongly supports, and respectfully requests the passage of, this bill.



EXECUTIVE CHAMBERS
KE KE'ENA O KE KIA'ĀINA

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

Committee on Judiciary

Thursday, March 5, 2026

10:01 a.m.

State Capitol, Conference Room 016 and Videoconference

In Support

Senate Bill No. 3142, SD1, Relating to Dangerous Intoxication

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

The Office of the Governor strongly supports S.B. No. 3142, SD1, Relating to Dangerous Intoxication.

This bill establishes a narrowly defined offense of dangerous intoxication, focused not on intoxication itself, but on observable danger and substantial incapacitation in public spaces. When a person's intoxication creates an immediate risk of harm to themselves or others, the bill authorizes early, health-oriented intervention.

S.B. 3142, SD1, is explicitly health-first and diversion-oriented. It directs law enforcement, whenever reasonably possible, to use civil protective custody and transport individuals for medical stabilization and emergency examination under existing HRS Chapter 334 procedures. When this health-oriented pathway is used, the bill prohibits criminal prosecution, reinforcing diversion rather than punishment.

At the same time, the bill is firmly grounded in public safety. It applies only when there is observable danger, and it preserves arrest authority in cases involving felonies, violent crime, DUI, outstanding felony warrants, or situations that cannot be safely managed by medical personnel.

Foundationally, the bill prioritizes civil protective custody and medical or psychiatric evaluation over arrest whenever feasible. For individuals who demonstrate repeated dangerous behavior, the bill establishes a structured accountability mechanism that requires treatment and supervision, with incarceration used only as a last resort following probation violations. This ensures that public safety concerns are addressed without defaulting to unnecessary incarceration.

Testimony of the Office of the Governor
S.B. No. 3142, SD1
March 05, 2026
Page 2

The Office of the Governor believes that S.B. 3142, SD1, reflects a humane and pragmatic approach to a complex issue. It provides a balanced solution by aligning public safety authority with Hawai'i's behavioral-health framework. It intervenes before tragedy occurs, prioritizes treatment over punishment, and strengthens public safety through clarity, accountability, and alignment with Hawai'i's behavioral-health goals.

For these reasons, The Office of the Governor strongly supports, and respectfully requests that the Committee pass S.B. 3142, SD1.

Mahalo for the opportunity to provide testimony on this measure.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII
**DEPARTMENT OF CORRECTIONS
AND REHABILITATION**
*Ka 'Oihana Ho'omalua Kalaima
a Ho'oponopono Ola*
1177 Alakea Street
Honolulu, Hawaii 96813

TOMMY JOHNSON
DIRECTOR

Melanie Martin
Deputy Director
Administration

Vacant
Deputy Director
Correctional Institutions

Sanna Muñoz
Deputy Director
Rehabilitation Services
and
Programs

No. _____

TESTIMONY ON SENATE BILL 3142, SENATE DRAFT 1
RELATING TO DANGEROUS INTOXICATION.

by
Tommy Johnson, Director
Department of Corrections and Rehabilitation

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

Thursday, March 5, 2026; 10:01 a.m.
State Capitol, Conference Room 016 & Via Video Conference

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

The Department of Corrections and Rehabilitation (DCR) **supports** Senate Bill (SB) 3142, Senate Draft (SD) 1, which proposes to establish the offenses of dangerous intoxication and habitual dangerous intoxication, provides for civil protective custody and transport for emergency examination under section 334-45, HRS, in lieu of arrest for dangerous intoxication in specified circumstances, and bars prosecution when civil protective custody is used. Requires probation with mandatory treatment for habitual dangerous intoxication, with incarceration only upon probation violation.

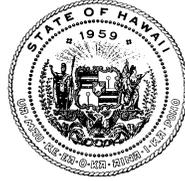
DCR supports law enforcement's efforts that prioritizes diversion and deflection of individuals struggling with substance abuse and/or mental health challenges, to community-based treatment interventions, in lieu of incarceration. This bill balances public safety while it allows for timely interventions and promotes an appropriate health-oriented response rather than a punitive one.

Studies have shown that spending even brief periods in jail can make it more difficult for a person to keep or find a job or housing, as well as increase the likelihood of recidivism and future incarceration. This measure enhances safety, health, and equity

by offering community-based alternatives to prosecution for people whose behavior stems from unmet needs related to substance use and/or mental health challenges.

DCR encourages practices that promote access to appropriate treatment in the community instead of being arrested or booked into jail, where a person's illness is generally exacerbated during their stay.

Thank you for the opportunity to provide testimony in **support** of SB 3142, SD 1.



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

**Testimony in SUPPORT of SB3142 SD1
RELATING TO DANGEROUS INTOXICATION**

SENATOR KARL RHOADS, CHAIR
SENATOR MIKE GABBARD, VICE CHAIR
SENATE COMMITTEE ON JUDICIARY

Hearing Date: Thursday, March 5, 2026 10:01 a.m. Room Number: 016 & Video

1 **Fiscal Implications:** Undetermined.

2 **Department Position:** The Department of Health (“Department”) supports this measure.

3 **Department Testimony:** The Adult Mental Health Division offers the following testimony on
4 behalf of the Department.

5 The Department supports SB 3142, SD1, which establishes the offenses of dangerous
6 intoxication and habitual dangerous intoxication and prioritizes a health-oriented, treatment-
7 focused response to individuals whose substance use results in substantial incapacitation and
8 immediate risk in public spaces. The bill focuses on dangerous conduct and inability to self-care,
9 rather than intoxication alone, ensuring that intervention is triggered by observable risk and
10 functional impairment.

11 SB 3142, SD1, recognizes that severe intoxication resulting in substantial incapacitation
12 and immediate risk can be both a public safety concern and a medical and behavioral health
13 issue. In cases of incapacitation and altered mental status, the standard of care is typically to
14 first rule out medical causes and then conduct an emergency examination pursuant to HRS 334.

15 SB 3142, SD1, prioritizes civil protective custody in lieu of arrest whenever reasonably
16 feasible. Law enforcement officers’ transporting individuals who are in crisis for emergency

1 examination aligns with best practices in crisis response. This approach promotes timely
2 medical and psychiatric assessment, stabilization, and linkage to appropriate care during crises.

3 The Department recognizes the importance of patient motivation for successful
4 substance use treatment and appreciates the increased utilization of court-ordered substance
5 use treatment as a condition of probation. The Department also notes the need for increased
6 capacity for substance use treatment statewide.

7 SB 3142, SD1, represents a balanced approach to complex public health and public
8 safety issues. It enhances community safety and strengthens Hawaii's continuum of behavioral
9 health care by ensuring that individuals experiencing dangerous intoxication receive timely
10 intervention.

11 Thank you for the opportunity to testify.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



RYAN I. YAMANE
DIRECTOR
KA LUNA HO'OKELE

JOSEPH CAMPOS II
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

STATE OF HAWAII
KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF HUMAN SERVICES
KA 'OIHANA MĀLAMA LAWELAWE KANAKA
Office of the Director
P. O. Box 339
Honolulu, Hawaii 96809-0339

TRISTA SPEER
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

February 27, 2026

TO: The Honorable Senator Karl Rhoads, Chair
Senate Committee on Judiciary

FROM: Ryan I. Yamane, Director

SUBJECT: **SB 3142 SD1 – RELATING TO DANGEROUS INTOXICATION.**

Hearing: March 5, 2026, Time 10:01 a.m.
Conference Room 016 & Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) supports this administrative measure to establish the offenses of dangerous intoxication and habitual dangerous intoxication, and to authorize civil protective custody and transport for emergency examination. DHS defers to the testimony of implementing agencies.

Providing immediate safety and medical care for intoxicated individuals exhibiting dangerous behavior or substantial incapacity is aimed at preventing further injury to themselves and members of the public. Substance use disorder (SUD) is identified as an Adverse Childhood Experience (ACE), as children growing up with a household member(s) with SUD are subject to unreliable caregiving, experience traumatic events if they witness abuse, violence, or neglect, and are at higher risk of developing a substance abuse disorder later in life. DHS Child Welfare Services reported for calendar year 2023 that alcohol abuse and drug abuse were precipitating factors of 12.6% and 32.7%, respectively, in confirmed child abuse cases. Preventing and mitigating the negative consequences of dangerous intoxication may reduce or stop generational trauma and addiction.

Thank you for the opportunity to provide testimony on this measure.



STATE OF HAWAII
OFFICE OF WELLNESS AND RESILIENCE
OFFICE OF THE GOVERNOR
415 S. BERETANIA ST. #415
HONOLULU, HAWAII 96813

Testimony on S.B. 3142 SD1
RELATING TO DANGEROUS INTOXICATION

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

March 5, 2026, at 10:01 a.m.; Room Number: 016

The Office of Wellness and Resilience (OWR) **SUPPORTS** S.B. 3142 SD1, Relating to Dangerous Intoxication and offers comments.

Substance Use Is Rooted in Trauma

A trauma-informed approach recognizes that substance use disorders do not emerge in a vacuum—they are frequently rooted in adverse experiences. Research shows that individuals who experienced four or more categories of childhood adversity had a 4- to 12-fold increased risk of developing alcohol or drug abuse problems.¹ SAMHSA’s guidance on trauma-informed care identifies substance abuse as one of the most pronounced consequences of repeated or chronic trauma exposure.²

Research further demonstrates that incarceration alone has little impact on reducing recidivism among individuals with substance use disorders and may in fact produce

¹ Felitti, V. J., Anda, R. F., Nordenberg, D., et al. (1998). Relationship of childhood abuse and household dysfunction to many of the leading causes of death in adults: The Adverse Childhood Experiences (ACE) Study. *American Journal of Preventive Medicine*, 14(4), 245–258. [https://doi.org/10.1016/S0749-3797\(98\)00017-8](https://doi.org/10.1016/S0749-3797(98)00017-8)

² Substance Abuse and Mental Health Services Administration. (2014). *Trauma-Informed Care in Behavioral Health Services. Treatment Improvement Protocol (TIP) Series 57*. HHS Publication No. (SMA) 13-4801. Rockville, MD: SAMHSA.

criminogenic effects that worsen outcomes.³ Individuals carrying trauma who encounter the criminal legal system without access to treatment risk compounding that trauma rather than resolving it.

Bill Provisions Aligned with Trauma-Informed Principles

S.B. 3142 SD1 reflects establishes “habitual dangerous intoxication offender” in statute meaning a person who, within three years of the instant offence has three or more prior convictions and establishing it as a misdemeanor. The habitual dangerous intoxication provisions require courts to impose substance-use disorder treatment—including medication-assisted treatment and clinically indicated residential care—rather than defaulting to incarceration. This reflects the evidence that sustained, person-centered support is more effective than punishment alone.⁴

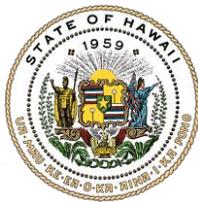
This measure takes a trauma-informed approach to substance-related crises by anticipating harm and creating a pathway to care. Mahalo for the opportunity to testify.

Tia L.R. Hartsock, MSW, MSCJA
Director, Office of Wellness & Resilience

³ Substance Abuse and Mental Health Services Administration. (2014). *Trauma-Informed Care in Behavioral Health Services. Treatment Improvement Protocol (TIP) Series 57*. HHS Publication No. (SMA) 13-4801. Rockville, MD: SAMHSA.

⁴ Oliveira, C., Bastos, D., Faria, M., et al. (2023). Criminal reactions to drug-using offenders: A systematic review of the effect of treatment and/or punishment on reduction of drug use and/or criminal recidivism. *Frontiers in Psychiatry, 14*, 935755. <https://doi.org/10.3389/fpsy.2023.935755>

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



MIKE LAMBERT
Director

ERNEST J. ROBELLO
Deputy Director
Administration

SYLVIA LUKE
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JARED K. REDULLA
Deputy Director
Law Enforcement

LATE

TESTIMONY ON SENATE BILL 3142, SENATE DRAFT 1
RELATING TO DANGEROUS INTOXICATION

Before the Senate Committee on
JUDICIARY

Thursday, March 5, 2026, 10:01 AM
State Capitol Conference Room 016

WRITTEN TESTIMONY ONLY

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

The Department of Law Enforcement (DLE) supports Senate Bill 3142, Senate Draft 1, which establishes the offenses of dangerous intoxication and habitual dangerous intoxication. The bill also authorizes law enforcement officers, in appropriate circumstances, to place individuals in civil protective custody and transport them for emergency examination under section 334-45, HRS, rather than making a criminal arrest.

The intent of this measure is to address dangerous public intoxication while balancing public safety with appropriate treatment interventions. The creation of a clearly defined offense of dangerous intoxication provides law enforcement officers with greater clarity when responding to situations where individuals, due to intoxication, pose a risk to themselves or others in public spaces. At the same time, the bill appropriately recognizes that many of these situations involve behavioral health or substance use issues that may be better addressed through medical evaluation and treatment rather than immediate criminal prosecution.

The measure's authorization of civil protective custody and transport for emergency examination under chapter 334, HRS, is an important tool that may help officers connect individuals with needed medical or behavioral health services. The DLE supports approaches that provide alternatives to arrest when appropriate and that prioritize treatment for individuals experiencing substance use disorders or severe intoxication.

The DLE respectfully notes that the successful implementation of this approach will depend on the availability of sufficient receiving facilities, behavioral health crisis centers, and mental health emergency workers to accept and evaluate individuals transported under these provisions. Ensuring adequate capacity will help prevent extended wait times for officers at receiving facilities and allow law enforcement personnel to return promptly to their core public safety responsibilities.

Finally, the DLE supports the bill's framework addressing habitual dangerous intoxication through probation with mandatory participation in substance use disorder treatment programs. Treatment-based responses for repeat offenders can play an important role in reducing recidivism and improving long-term public safety outcomes.

The Department appreciates the Legislature's efforts to address dangerous intoxication through a balanced approach that promotes both public safety and access to treatment.

Thank you for the opportunity to testify in support of this measure.

To: The Honorable Karl Rhoads, Chair
The Honorable Mike Gabbard, Vice Chair
Members, Senate Committee on Judiciary

From: Jace Mikulanec, Director, Government Relations, The Queen's Health Systems

Date: March 5, 2026

Re: Comments on SB3142 SD1 – Relating to Dangerous Intoxication.

The Queen's Health Systems (Queen's) is a nonprofit corporation that provides expanded health care capabilities to the people of Hawai'i and the Pacific Basin. Since the founding of the first Queen's hospital in 1859 by Queen Emma and King Kamehameha IV, it has been our mission to provide quality health care services in perpetuity for Native Hawaiians and all of the people of Hawai'i. Over the years, the organization has grown to four hospitals, and more than 10,000 affiliated physicians, caregivers, and dedicated medical staff statewide. As the preeminent health care system in Hawai'i, Queen's strives to provide superior patient care that is constantly advancing through education and research.

Queen's appreciates the opportunity to provide comments on SB3142 SD1, which establishes the offenses of dangerous intoxication and habitual dangerous intoxication and provides for civil protective custody and transport for emergency examination under section 334-45, HRS, in lieu of arrest for dangerous intoxication in specified circumstances, and bars prosecution when civil protective custody is used; and requires probation with mandatory treatment for habitual dangerous intoxication, with incarceration only upon probation violation.

We draw the Committee's attention to intended and unintended consequences of Section 1(4):

(4) ... [I]f the person requires emergency medical stabilization, the person shall be transported or caused to be transported to an appropriate medical facility for stabilization prior to any emergency examination pursuant to section 334-45.

Currently emergency medical stabilization takes place in two primary contexts – hospital emergency departments and behavioral health crisis centers. This bill will further direct persons to emergency departments that already operate at high-capacity by expanding examinations pursuant to HRS 334-45 (and associated 334-42, -43, -44). We question the benefit of this statutory change without first expanding community treatment programs and stabilization facilities; and evaluating the impact of the effectiveness of Act 219 (2025).

Thank you for allowing Queen's to provident comments on this measure.

The mission of The Queen's Health System is to fulfill the intent of Queen Emma and King Kamehameha IV to provide in perpetuity quality health care services to improve the well-being of Native Hawaiians and all of the people of Hawai'i.



Hawai'i Psychological Association

For a Healthy Hawai'i

P.O. Box 833
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Phone: (808) 521 -8995

SENATE COMMITTEE ON JUDICIARY

Senator Karl Rhoades, Chair
Senator Mike Gabbard, Vice Chair

Thursday, March 5, 2026, 10:01 AM
Conference Room 016 and Videoconference

SUPPORT FOR SB 3142, RELATING TO DANGEROUS INTOXICATION

The Hawai'i Psychological Association (HPA) strongly supports SB 3142 which establishes civil and treatment-oriented mechanisms for individuals who are dangerously intoxicated, including provisions for habitual dangerous intoxication. HPA is deeply concerned about the increasing prevalence of severe substance use disorders (SUD) and the barriers individuals face in accessing timely intervention. SB 3142 addresses a critical gap by providing a structured, treatment-focused response for individuals whose substance use places themselves or others at immediate risk.

HPA supports this bill for the following reasons:

1. Promoting Safety and Access to Treatment

Hawai'i faces significant challenges related to substance use and public safety. Individuals who are dangerously intoxicated often require immediate medical and behavioral health evaluation. SB 3142 allows law enforcement to place such individuals in civil protective custody for emergency examination under existing mental health statutes, ensuring they receive appropriate evaluation and care while avoiding unnecessary criminalization. This approach prioritizes health and safety over punitive measures, which aligns with best practices in behavioral health care.

2. Addressing Severe and Habitual SUD

For individuals who exhibit habitual dangerous intoxication, the bill provides for probation with mandatory treatment, reserving incarceration only for violations of probation conditions. This pathway creates opportunities for individuals with severe SUD to engage in evidence-based treatment, potentially stabilizing their condition and reducing risk to themselves and the community. Research consistently shows that early and sustained treatment interventions improve outcomes for individuals with SUD and reduce the long-term burden on the emergency, judicial, and health systems.

3. Behavioral Health Integration

SB 3142 integrates behavioral health expertise into public safety and judicial responses. By emphasizing civil evaluation, treatment, and supervision, the bill ensures that individuals are assessed by qualified mental health professionals and referred to appropriate services, reflecting contemporary models of harm reduction and interdisciplinary care.

In conclusion, SB 3142 represents an important step toward public safety, clinical intervention, and compassionate care for individuals affected by severe substance use disorders. By creating pathways for civil evaluation, emergency treatment, and structured probation with mandatory SUD care, the bill prioritizes health-focused solutions over criminalization while improving outcomes for individuals and communities.

For these reasons, the Hawai'i Psychological Association **strongly supports SB 3142** and respectfully urges the Committee to pass this measure.

Thank you for the opportunity to submit testimony and for your consideration of this important legislation.

Sincerely,

A handwritten signature in cursive script that reads "Alex Lichton, Ph.D." The signature is written in dark ink on a light-colored background.

Alex Lichton, Ph.D.
Chair, HPA Legislative Action Committee



The Institute for Human Services, Inc.
Ending the Cycle of Homelessness

TO: Honorable Senator Karl Rhoads
Chair, Senate Committee on Judiciary

Honorable Senator Mike Gabbard,
Vice Chair, Senate Committee on Judiciary

FROM: Connie Mitchell, Executive Director
IHS, The Institute for Human Services, Inc.

RE: SB3142 - Relating to Dangerous Intoxication

DATE: March 4, 2026

POSITION: IHS supports SB3142 SD1 with amendments

IHS, The Institute for Human Services, has been providing emergency shelter services to adult men, women, and families with children on Oahu for nearly 48 years. Over the years, we have witnessed an increase in conflicts and threats of bodily harm in our community among homeless individuals with substance use disorders, especially alcohol dependency, which tends to disinhibit individuals. Greater intervention is needed for those who continue to use such substances to the point of dangerous intoxication, whether that be court-mandated treatment, longer detention in cell block (to sober up), or the courts take into consideration habitual offenses rather than individual arrests before issuing their determination or sentencing.

Many of our clients and guests have done the hard work of choosing to turn away from old habits to live a clean and sober life; they've fought through withdrawal and are working toward sustained housing, participating in inpatient and outpatient treatment programs. However, we have also seen that without real consequences, some individuals will not recognize the danger or harm they are causing themselves and/or others. That said, it is of paramount importance that passage of this bill also be accompanied by the State's commitment to ensure sufficient capacity for mandated treatment is available in the community, as passage of this bill would likely increase the need for access to such treatment. Currently, there are few such venues for mandated treatment in the community, and the Hawaii State Hospital is overly full. **IHS requests amending the bill to include an additional funding allocation** to ensure beds are available for those who are mandated to substance use treatment, including inpatient and outpatient program beds for homeless individuals.

Passing this measure not only creates an avenue for critical intervention but also makes our community and public spaces safer for all; however, additional funding is necessary to provide opportunities for individuals subject to dangerous intoxication convictions receive appropriate treatment in community-based settings.

Mahalo for the opportunity to testify.



LATE

Hawaii Medical Association

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SENATE COMMITTEE ON JUDICIARY

Senator Karl Rhoads, Chair

Senator Mike Gabbard, Vice Chair

Date: March 5, 2026

From: Hawaii Medical Association (HMA)

Elizabeth Ann Ignacio MD - Chair, HMA Public Policy Committee

Christina Marzo MD and Robert Carlisle MD, Vice Chairs, HMA Public Policy Committee

RE SB 3142 SD1 RELATING TO DANGEROUS INTOXICATION. Penal Code; Offenses Against Public Order; Dangerous Intoxication

Position: Comments

This measure would establish the offenses of dangerous intoxication and habitual dangerous intoxication, provide for civil protective custody and transport for emergency examination under section 334-45, HRS, in lieu of arrest for dangerous intoxication in specified circumstances, bar prosecution when civil protective custody is used, require probation with mandatory treatment for habitual dangerous intoxication, with incarceration only upon probation violation, and make conforming amendments to chapter 334, HRS. Effective 1/30/2050. Implementation effective 7/1/36. (SD1)

While Hawai'i does not publish a single "dangerous intoxication" call count, Honolulu's own EMS statistics show thousands of 911 responses annually for altered mental status—one of the common field presentations associated with acute intoxication—underscoring real system strain. The impact associated with dangerous intoxication is real and consequential, even though it is not captured in a single, standardized dataset.

This measure provides a framework that moves away from traditional arrest-and-prosecution models and combines a de-criminalization focus for non-violent intoxication acts with diversion- and treatment-oriented handling of repeat offenders. This approach should be carefully implemented with clear clinical thresholds, due process protections, and timely reassessment. Treatment diversion will only be effective if sufficient detoxification, substance use treatment, and care coordination capacity exists.

HMA respectfully recommends the following:

- clarified definition of dangerous intoxication based on objective, imminent risk
- clear medical screening protocols for consistent triage
- standardized training for law enforcement and EMS
- funding for alternate destinations such as sobering or stabilization centers
- funding for treatment capacity, standardized training
- robust data analyses on destinations, length of stay, and repeat encounters

(continued)

2026 Hawaii Medical Association Public Policy Coordination Team

Elizabeth A Ignacio, MD, Chair • Robert Carlisle, MD, Vice Chair • Christina Marzo, MD, Vice Chair
Linda Rosehill, JD, Government Relations • Marc Alexander, Executive Director

2026 Hawaii Medical Association Officers

Nadine Tenn-Salle, MD, President • Jerald Garcia, MD, President Elect • Elizabeth Ann Ignacio, MD, Immediate Past President
Laeton Pang, MD, Treasurer • Thomas Kosasa, MD, Secretary • Marc Alexander, Executive Director

Given the complexity of dangerous intoxication and the significant operational, clinical, and civil liberties considerations involved, HMA recommends establishing a time-limited, multidisciplinary task force or working group prior to statewide implementation.

This group may be convened by our legislative Judiciary and/or Department of Health, and should include representatives from

- Emergency Medical Services (EMS), Law enforcement
- Hospitals, Healthcare Association of Hawaii
- Hawaii Department of Health
 - Behavioral Health Administration (BHA)
 - Alcohol and Drug Abuse Division (ADAD)
- Department of Human Services, Med-QUEST Division
- Hawaii Medical Association, including Emergency Medicine and Behavioral Health
- Hawaii State Center for Nursing, including Emergency Medicine and Behavioral Health
- Community-based organizations

A structured, stakeholder-driven process will allow Hawaii to advance this health-centered response, facilitate necessary diversion and improve safety and access to care without compromising civil liberties or overwhelming Hawaii's emergency care system.

Thank you for allowing the Hawaii Medical Association to submit comments on this measure.

REFERENCES AND QUICK LINKS

Nathaniel Counts. *Medicaid's Role in Mental Health and Substance Use Care*. Commonwealth Fund, May 7, 2025, <https://www.commonwealthfund.org/publications/explainer/2025/may/medicaids-role-mental-health-and-substance-use-care>

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"Data and Statistics." *Honolulu Emergency Services Department*, City and County of Honolulu, [emergencyservices.honolulu.gov/emergency-medical-services/data-and-statistics/](https://www.emergencyservices.honolulu.gov/emergency-medical-services/data-and-statistics/). Accessed 9 Feb. 2026.

"Emergency Medical Services & Injury Prevention Systems Branch." *Hawai'i State Department of Health*, [health.hawaii.gov/emsipsb/](https://www.health.hawaii.gov/emsipsb/). Accessed 9 Feb. 2026.

Marshall B et al. Sobering centers, emergency medical services, and emergency departments: A review of the literature, *The American Journal of Emergency Medicine*, Volume 40, 2021, Pages 37-40, <https://doi.org/10.1016/j.ajem.2020.11.031>.

2024 Hawaii Medical Association Officers

Elizabeth Ann Ignacio, MD, President • Nadine Tenn-Salle, MD, President Elect • Angela Pratt, MD, Immediate Past President
Jerris Hedges, MD, Treasurer • Thomas Kosasa, MD, Secretary • Marc Alexander, Executive Director

2024 Hawaii Medical Association Public Policy Coordination Team

Beth England, MD, Chair
Linda Rosehill, JD, Government Relations • Marc Alexander, Executive Director

Committee: Judiciary
Hearing Date/Time: Thursday, March 5, 2026, at 10:01am
Place: Conference Room 016 & Via Videoconference
Re: **Testimony of the ACLU of Hawai'i OPPOSING SB3142 SD1 Relating to Dangerous Intoxication**

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

The ACLU of Hawai'i (ACLU-HI) **opposes SB3142 SD1** Relating to Dangerous Intoxication, which establishes the offense of dangerous intoxication and habitual dangerous intoxication.

SB3142 SD1 creates the new criminal offense of dangerous intoxication and habitual intoxication which prohibits being intoxicated on public property and (a) being substantially incapacitated; (b) engaging in “affirmative conduct” that “creates an immediate and substantial risk of harm”; (c) exhibiting “signs of substantial incapacitation” while “obstruct[ing] or interfer[ing]” with the use of a public way. Multiple violations of “dangerous intoxication” statute results in a “habitual” offense, with mandatory probation and a mandatory 90-days incarceration for any probation violation (even technical ones).

As highlighted by The Queen's Health Systems, efforts should first be made to expand community treatment programs, and to ensure that our emergency departments and behavioral health crisis centers have the capacity to handle an influx of new patients brought in by law enforcement.

In its current form, the framing of new offenses and the resultant civil protective custody raise significant constitutional concerns.

Criminalization of Status is Unconstitutional

SB3142 SD1 criminalizes the status of being “dangerous[ly] intoxicated” and being “habitually” dangerously intoxicated. This is unconstitutional. In *Robinson v. California*, the United States Supreme Court held that criminalizing the status of being addicted to drugs violates the Eighth Amendment's prohibition on cruel and unusual punishment. *Robinson v. California*, 370 U.S. 660, 666 (1962). Moreover, “The Hawai'i Constitution often offers ‘greater protections’ than the federal constitution.” *State v. Wilson*, 154 Hawai'i 8, 13, 543 P.3d 440, 445, *cert. denied*, 145 S. Ct. 18, 220 L. Ed. 2d 266 (2024).

As the United States Supreme Court recently affirmed, under due process, commission of a crime has historically required both “proof of some act (or *actus reus*) undertaken with some measure of volition (*mens rea*).” *City of Grants Pass, Oregon v. Johnson*, 603 U.S. 520, 545 (2024). The criminalization of status raises due process concerns because it “require[s] proof of neither of those things.” *Id.*

Void for Vagueness

We also share the concerns raised by the Office of the Public Defender with regard to the wide discretion officers have to determine whether an individual is violating the new statutes. As the Hawai‘i Supreme Court explained, “Vague laws contravene the ‘first essential of due process of law’ that statutes must give people ‘of common intelligence’ fair notice of what the law demands of them,” and further, “[a] vague ordinance ‘impermissibly delegate[s] policy matters to the subjective and ad hoc decision making of police officers on the beat[.]’” *State v. Zowail*, 147 Haw. 242, 250-51, 465 P.3d 689, 697-98 (2020).

In its current form, SB3142 SD1 contains too many subjective and overly vague terms to be constitutional. “Observable signs of impairment,” “affirmative conduct” “obstructs or interferes” are not only undefined in SB 3142, but also subject to varying interpretations and “require[] the actor to view his or her conduct as a third person would, rather than informing the actor as to how to avoid violating the regulation.” *State v. Beltran*, 116 Hawai‘i 146, 154, 172 P.3d 458, 466 (2007) (holding anti-camping ordinance unconstitutionally vague).

SB3142 SD1’s Requirement of Civil Protective Custody Will Violate Due Process and Equal Protection

While SB3142 SD1 creates the criminal offense of “dangerous intoxication,” it also mandates “civil protective custody” for a violation. On one hand, for cases where civil commitment appropriate, it is admirable that SB3142 prohibits concurrent criminal prosecution. However, this mandatory protective custody also raises due process and policy concerns.

First, the criteria for civil protective custody in SB3142 SD1 sweeps far more broadly than the criteria necessary for civil commitment under HRS Chapter 334, raising constitutional concerns. Constitutionally, involuntary commitment can only occur if a person is dangerous to themselves or others. *O’Connor v. Donaldson*, 422 U.S. 563, 575 (1975). This constitutional standard is baked into our civil commitment statutes, which apply to substance abuse as well: Police may only detain a person for mental evaluation to determine whether the person is “imminently dangerous to self or others.” HRS

§ 334-42. And, to the extent practicable, police officers must consult with “a mental health emergency worker,” prior to detaining someone. But SB3142 waters-down the standard for anyone “substantially incapacitated” due to substance abuse, authorizing detention if an officer believes (without any medical consultation) that someone is “unable to safely care for oneself” or if they “[o]bstruct or interfere[]” with a public way.

The result is likely to be an influx of people detained under SB3142 SD1 who do not meet the civil commitment criteria of being imminently dangerous to themselves or others, particularly after being detained for the twenty-four-hour period SB3142 authorizes for an emergency examination.

This schema raises significant constitutional concerns of due process, as well as equal protection. It begs the question of how a police officer is supposed to know whether a person’s impairment is due to mental illness—in which case the higher standard under HRS § 334-42 would apply—or due to intoxication, in which case the lower SB3412 SD1 applies. And, it raises the equal protection question of why someone who is “substantially incapacitated” due to substance abuse should be afforded less process and protection than someone who is incapacitated due to mental illness.

The intent of SB3142 may be noble, but the content leaves much to be desired.

Mahalo,
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