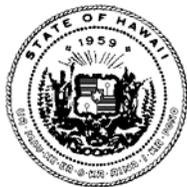


JOSH GREEN, M.D.  
GOVERNOR  
KE KIA'ĀINA



RYAN I. YAMANE  
DIRECTOR  
KA LUNA HO'ŌKELE

JOSEPH CAMPOS II  
DEPUTY DIRECTOR  
KA HOPE LUNA HO'ŌKELE

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'ŌKELE

February 8, 2026

TO: The Honorable Senator Joy A. San Buenaventura, Chair  
Senate Committee on Health and Human Services

FROM: Ryan I. Yamane, Director

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

**Hearing:** February 11, 2026, Time 1:00 p.m.  
Conference Room 225 & 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.

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  
RELATING TO DANGEROUS INTOXICATION.

by  
Tommy Johnson, Director  
Department of Corrections and Rehabilitation

Senate Committee on Health and Human Services  
Senator Joy A. San Buenaventura, Chair  
Senator Angus L.K. McKelvey, Vice Chair

Wednesday, February 11, 2026; 1:00 p.m.  
State Capitol, Conference Room 225 & Via Video Conference

Chair San Buenaventura, Vice Chair McKelvey, and Members of the Committee:

The Department of Corrections and Rehabilitation (DCR) **supports** Senate Bill (SB) 3142, which proposes to establish the offenses of dangerous intoxication and habitual 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. The bill also requires probation with mandatory treatment for habitual dangerous intoxication, with incarceration only upon a violation of probation.

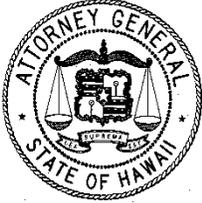
DCR supports law enforcement's efforts that prioritizes deflection and diversion of individuals struggling with substance abuse and/or mental health challenges to community-based treatment interventions, in lieu of incarceration. This bill seeks to balance public safety while simultaneously allowing for timely interventions and promoting a 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 future incarceration. This measure enhances safety, health, and equity by offering

community-based alternatives to prosecution and jail for individuals whose behaviors may stem from unmet needs related to substance use disorders and/or mental health challenges.

DCR encourages practices that promote access to appropriate community-based treatment rather than arrest, booking and incarceration, which could potentially worsen a person's illness and destabilize their employment and financial situation.

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



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

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 3142, RELATING TO DANGEROUS INTOXICATION.

**BEFORE THE:**

SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

**DATE:** Wednesday, February 11, 2026      **TIME:** 1:00 p.m.

**LOCATION:** State Capitol, Room 225

**TESTIFIER(S):** Anne E. Lopez, Attorney General, or  
Tricia M. Nakamatsu, Deputy Attorney General

---

Chair San Buenaventura 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 Health and Human Services**

Wednesday, February 11, 2026

1:00 p.m.

State Capitol, Conference Room 225 and Videoconference

**In Support**

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

Chair San Buenaventura, Vice Chair McKelvey, and Members of the Committee on Health and Human Services:

The Office of the Governor strongly supports S.B. No. 3142, 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 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.

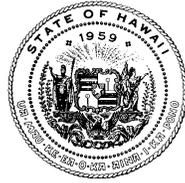
Foundationally, the bill prioritizes civil protective custody and medical or psychiatric evaluation over arrest whenever feasible. For individuals who demonstrate repeated dangerous behavior, the bill establishes a structured accountability mechanism that requires treatment and supervision, with incarceration 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  
February 11, 2026  
Page 2

The Office of the Governor believes that S.B. 3142 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.

Mahalo for the opportunity to provide testimony on this measure.



**STATE OF HAWAII  
DEPARTMENT OF HEALTH**

P. O. Box 3378  
Honolulu, HI 96801-3378  
doh.testimony@doh.hawaii.gov

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

SENATOR JOY SAN BUENAVENTURA, CHAIR  
SENATOR ANGUS L.K. McKELVEY, VICE CHAIR  
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

Hearing Date: Wednesday, February 11, 2026 1:00 p.m. Room Number: 225 & 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, 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 recognizes that severe intoxication resulting in substantial incapacitation and  
12 immediate risk can be both a public safety concern and a medical and behavioral health issue.  
13 In cases of incapacitation and altered mental status, the standard of care is typically to first rule  
14 out medical causes and then conduct an emergency examination pursuant to HRS 334.

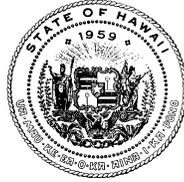
15 SB 3142 prioritizes civil protective custody in lieu of arrest whenever reasonably  
16 feasible. Law enforcement officers’ transporting individuals who are in crisis for emergency

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 of substance use treatment statewide.

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

11 Thank you for the opportunity to testify.



**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**  
**RELATING TO DANGEROUS INTOXICATION**

Senator Joy San Buenaventura, Chair  
Senator Angus McKelvey, Vice Chair  
Senate Committee on Health and Human Services

February 11, 2026, at 1:00 p.m.; Room Number: 225

The Office of Wellness and Resilience (OWR) **SUPPORTS** S.B. 3142, 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.<sup>1</sup> SAMHSA’s guidance on trauma-informed care identifies substance abuse as one of the most pronounced consequences of repeated or chronic trauma exposure.<sup>2</sup>

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

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<sup>1</sup> 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)

<sup>2</sup> 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.<sup>3</sup> 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 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.<sup>4</sup>

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

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<sup>3</sup> 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.

<sup>4</sup> 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>

## Testimony in Support of SB 3142

### BOARD OF DIRECTORS

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Gene Albano  
*Honolulu Dept. of Facility Maintenance*

Andrew Kawano  
*Honolulu Dept. of Budget and Fiscal Services*

Robert Finley  
*Waikiki Neighborhood Board*

My name is **Trevor Abarzua** and I serve as the **Executive Director of the Waikiki Business Improvement District (WBID)**. The WBID is the official entity representing commercial property owners, businesses, and stakeholders throughout Waikiki — a community that depends on safe, welcoming public spaces for residents, workers, and visitors alike.

I am **submitting testimony in support of Senate Bill 3142**, which would establish the offenses of *dangerous intoxication* and *habitual dangerous intoxication*, and authorize civil protective custody and emergency transport for individuals in crisis in lieu of arrest under specific circumstances.

#### Public Safety & Community Impact

Waikiki — as a major tourism and residential district — continues to grapple with issues related to public intoxication that often escalate into behaviors that threaten both personal and public safety. Businesses, our workforce, and visitors should not have to navigate unsafe conditions on sidewalks, beach areas, transit stops, or in and around commercial corridors due to extreme intoxication.

#### Humane, Health-Centered Approach to Mental Illness and Addiction

Importantly, SB3142 advances a more humane and compassionate approach to individuals experiencing severe intoxication, many of whom are also struggling with underlying mental illness, trauma, or substance use disorders. By authorizing civil protective custody and emergency medical or psychiatric evaluation in appropriate circumstances, this bill shifts the response away from criminalization and toward care. This approach recognizes that dangerous intoxication is often a symptom of deeper, untreated health conditions — not simply willful misconduct. When individuals are stabilized and connected to medical, behavioral health, and substance use treatment services, communities are safer, emergency systems are used more effectively, and people are given a meaningful opportunity to break cycles of crisis, relapse, and repeated public harm.

By clarifying dangerous intoxication as a defined offense and incorporating structured response options such as **civil protective custody and emergency examination**, SB3142 provides tools for law enforcement and health responders to:

- **Intervene earlier and with more clarity** when intoxication rises to a level that endangers the individual or others;
- **Prioritize health-oriented responses** (including assessment and transport) rather than relying solely on punitive arrest and detention; and
- **Reduce cycles of harm and repeated disruptive behavior** that can destabilize neighborhoods and economic activity.

Mahalo,



Trevor Abarzua





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

**TO:** Honorable Senator Joy A. San Buenaventura  
Chair, Senate Committee on Health and Human Services

Honorable Senator Angus L.K. McKelvey,  
Vice Chair, Senate Committee on Health and Human Services

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

**RE:** SB3142 - Relating to Dangerous Intoxication

**DATE:** February 9, 2026

**POSITION:** IHS supports SB3142

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, including alcohol dependency. 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 without firmer mandates for treatment. 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 our 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, and the Hawaii State Hospital is overly full.

Passing this measure not only creates an avenue for critical intervention but also works to make our community and public spaces safer for all.

Mahalo for the opportunity to testify.



# Hawai'i Psychological Association

*For a Healthy Hawai'i*

P.O. Box 833  
Honolulu, HI 96808

[www.hawaiiopsychology.org](http://www.hawaiiopsychology.org)

Phone: (808) 521-8995

## SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

Senator Joy A. San Buenaventura, Chair  
Senator Jarrett Keohokalole, Vice Chair

Wednesday, February 11, 2026  
Conference Room 225 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. HB 2322 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. HB 2322 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 emergency, judicial, and health systems.

### 3. Behavioral Health Integration

HB 2322 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, HB 2322 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 HB 2322** 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 black ink on a light-colored background.

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

To: The Honorable Joy San Buenaventura, Chair  
The Honorable Angus McKelvey, Vice Chair  
Members, Senate Committee on Health & Human Services

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

Date: February 11, 2026

Re: Comments on SB3142 – 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, 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.*



## Hawaii Medical Association

1360 South Beretania Street, Suite 200 • Honolulu, Hawaii 96814  
Phone: 808.536.7702 • Fax: 808.528.2376 • hawaiimedicalassociation.org

### SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

Senator Joy A. San Buenaventura, Chair  
Senator Angus L.K. McKelvey, Vice Chair

Date: February 11, 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** RELATING TO DANGEROUS INTOXICATION. Penal Code; Offenses Against Public Order; Dangerous Intoxication

#### **Position: Support with 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, and bar prosecution when civil protective custody is used, require probation with mandatory treatment for habitual dangerous intoxication, with incarceration only upon probation violation, make conforming amendments to chapter 334, HRS.

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>

Julia Zur, MaryBeth Musumeci, and Rachel Garfield. *Medicaid's Role in Financing Behavioral Health Services for Low-Income Individuals*. Kaiser Family Foundation, Mar. 28, 2024, <https://files.kff.org/attachment/Issue-Brief-Medicaids-Role-in-Financing-Behavioral-Health-Services-for-Low-Income-Individuals.pdf>

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#### **2024 Hawaii Medical Association Officers**

Elizabeth Ann Ignacio, MD, President • Nadine Tenn-Salle, MD, President Elect • Angela Pratt, MD, Immediate Past President  
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#### **2024 Hawaii Medical Association Public Policy Coordination Team**

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

**SB-3142**

Submitted on: 2/10/2026 2:43:17 AM

Testimony for HHS on 2/11/2026 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Mike Goodman	Individual	Support	Remotely Via Zoom

Comments:

I'm an attorney, and Chair of the Partners In Care Advocacy Committee. I also frequently serve as a Guardian ad Litem for severely mentally ill subjects of Assisted Community Treatment Act cases, most of whom are chronically homeless.

I'm testifying in strong support of SB3142. I also recommend a couple of minor textual amendments to help this bill withstand any constitutional challenges, and make its' application more practical.

The vast majority of unsheltered, chronically homeless individuals living on the streets of our cities, are either addicted to substances, severely mentally ill, and usually a combination of both. They frequently refuse psychiatric care and offers of shelter, either because powerful addictions overwhelm their ability to act in their own best-interests, or because their psychosis is so severe, they're literally incapable of knowing they're mentally ill and need help, a condition called "Anosognosia".

Exposed to the elements, most of them live under unspeakable conditions, and die about 20 years sooner than the rest of us. Nonetheless, some people argue they should be afforded the same constitutional autonomy the rest of us have to refuse medical care, and live as we choose. The problem is that most are incapable of living untreated and unsheltered, without violating the rights of others, by committing dozens and sometimes hundreds of non-violent petty misdemeanors, and occasionally more serious crimes. The most common crimes are petty theft, illegal dumping, creating public disturbances, trespassing and violating park-closure rules.

No one wants to punish people who are addicted or severely mentally ill; The point is that there's no constitutional right to refuse treatment for a condition that makes it impossible for you to live untreated and unsheltered, without violating the constitutional rights of others; The U.S. Supreme Court, in *Jones v. U.S.*, clearly held that non-violent crimes can be used to show a person is imminently dangerous to others or property, thus providing a constitutional justification for involuntary care (See *Jones v. United States*, 463 U.S. 354, 364—65, 103 S. Ct. 3043, 3049—50 (1983)).

I urge all of you to vote for this bill, because it uses the penal code, not to punish, but as a tool to get these people the help they need, while mitigating chaos in our communities. However, this bill does contain language which rests on a shaky constitutional foundation, and would make its' real-world application difficult.

Specifically, §711-A (a) “Is unable to safely care for oneself by reason of substantial intoxication;” and §711-(b) “Engages in affirmative conduct, that because of substantial incapacitation, creates an immediate and substantial risk of physical harm to the person or to others;” are problematic for two reasons:

First, as a constitutional matter, conduct can be criminalized, but a person’s state of being (such as being an addict) can’t. (See *Robinson v. California*, 370 U.S. 660, 82 S.Ct 1417 (1962). Conduct which is the result of being intoxicated can also be criminalized. *City of Grants Pass v. Johnson*, 603 U.S. 520, 144 S. Ct 2202 (2024). For instance, a motorist who injures a pedestrian while intoxicated, can be subjected to more severe penalties than a motorist who does the same thing while sober.

Second: As a practical matter, requiring a police officer to determine whether a person does not have the ability to care for themselves, and whether their poor self-care is the result of intoxication, or whether a person poses a “substantial risk” of physical harm to themselves or others, are problematic because they require the officer to make an arrest based on a **prediction the person is going to do something harmful. Moreover, the issue of self-harm is not “criminal”** but instead could trigger involuntary hospitalization under HRS Part IV Chapter 334.

To solve the foregoing problems, I recommend changing the language of the following subsections to:

§711-A (a) Change to: “Engages in conduct while intoxicated that constitutes a crime of any degree.”

The language of §711-A (c) is fine, but I would re-number it §711-A (b), & eliminate the stuff about self-harm. These minor changes will place the bill squarely in the realm of observable conduct that has already taken place, instead of trying to predict what the person is going to do.

Mahalo for the opportunity to testify.

**SB-3142**

Submitted on: 2/6/2026 9:15:22 PM

Testimony for HHS on 2/11/2026 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
John Deutzman	Individual	Support	Written Testimony Only

Comments:

**Aloha Chair San Buenaventura, Vice Chair McKelvey, and members of the Senate HHS Committee,**

**I strongly support the dangerous intoxication bill. It's an innovative, compassionate approach to help people who are suffering from deeply entrenched abuse disorders.**

**For the past five years, I've been following thousands of arrests in my Waikiki neighborhood and have concluded that the underlying cause of most anti-social behavior is alcohol and drug abuse disorders. This bill creates pathways to get people the help they need with the ultimate goal of improving their lives and ending the revolving door of despair that hurts our community.**

**It's time to be bold and try something different.**

**Mahalo,**

**John Deutzman**

**Waikiki**

**SB-3142**

Submitted on: 2/7/2026 3:47:19 PM

Testimony for HHS on 2/11/2026 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
David Fukuzawa	Individual	Oppose	Written Testimony Only

Comments:

Dear Honorable Senators:

After reading the intent of this revised statute, one would think that as a substance abuse counselor, I would be in favor of this. But I am not. I must respectfully oppose this bill as I believe many would use this as a way of getting around the system from being held accountable for the behavior associated with habitual use of substances that would impair one's ability to make good choices and driving while under the influence. I agree someone of this nature should be in treatment, but to give them a way from being persecuted according to legal ramifications is wrong. I worked in the field of addictions treatment for close to 25 years in Hawaii for the US Navy first, then several private treatment centers, and then for the Department of Public Safety for the last 14 years of my career. Most of the time working close with the judiciary many times. I think if we give the addict a way out of being responsible and make it easy for them, we only enable the behavior associated with that addiction, and will probably enable that addict to death or the death of someone who will be victimized by this addict. We should not lessen criminal prosecution because the prisons are too full. Create new facilities to hold these individuals and place them in a lock down treatment facility and have them fulfill sentences that will create rehabilitation.

Thank you for your time and consideration in this matter.

Sincerely,

David Fukuzawa, CSAC, CJSAP, CCS, NCAC-2 (Retired)

JOSH GREEN, M.D.  
GOVERNOR  
KE KIA'ĀINA



MIKE LAMBERT  
Director

ERNEST J. ROBELLO  
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KA HOPE KIA'ĀINA

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**DEPARTMENT OF LAW ENFORCEMENT**  
*Ka 'Oihana Ho'okō Kānāwai*  
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TESTIMONY ON SENATE BILL 3142  
RELATING TO DANGEROUS INTOXICATION  
Before the Senate Committee on  
HEALTH AND HUMAN SERVICES  
Wednesday, February 11, 2026, 1:00 PM  
State Capitol Conference Room 225  
Testifier: Mike Lambert

Chair San Buenaventura, Vice Chair McKelvey, and members of the Committee:

The Department of Law Enforcement (DLE) supports Senate Bill 3142. This bill establishes the offenses of dangerous intoxication and habitual dangerous intoxication. It 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. The bill also requires probation with mandatory treatment for habitual dangerous intoxication, with incarceration only upon probation violation, and makes conforming amendments to chapter 334, HRS.

The DLE recognizes this bill as a significant step toward addressing public health and safety concerns related to dangerous intoxication while providing appropriate alternatives to criminal prosecution. Law enforcement officers frequently encounter individuals who are dangerously intoxicated and pose risks to themselves or others. Currently, these encounters often result in either arrest and entry into the criminal justice system or leaving the individual without necessary intervention, neither of which

adequately addresses the underlying issues.

This bill aligns with modern approaches to crisis intervention by offering law enforcement officers the option to place individuals in civil protective custody and transport them for emergency examination rather than making an arrest. This approach recognizes that substance use disorders are health issues that often require treatment rather than incarceration. The provision barring prosecution when civil protective custody is utilized encourages officers to choose the treatment-focused option when appropriate.

Additionally, the requirement for probation with mandatory treatment for habitual dangerous intoxication, with incarceration only as a consequence of probation violation, supports rehabilitation while maintaining accountability. This balanced approach provides individuals with substance use disorders the opportunity to receive the treatment they need while protecting public safety.

The DLE has been supportive of similar measures that provide law enforcement with tools to address public health crises, including crisis intervention training and options for diverting individuals from the criminal justice system to appropriate healthcare resources. SB 3142 represents a continuation of these efforts and provides law enforcement with an important tool to address dangerous intoxication in a manner that balances public safety concerns with the need for treatment and rehabilitation.

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

JON N. IKENAGA  
PUBLIC DEFENDER

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STATE OF HAWAII  
**OFFICE OF THE PUBLIC DEFENDER**

**March 16, 2025**

**SB3142: RELATING TO DANGEROUS INTOXICATION**

**Chair San Buenaventura, Vice Chair McKelvey and Members of the Committee on Health and Human Services**

The Office of the Public Defender **opposes SB3142** which seeks to amend Chapter 711 of the Hawai'i Revised Statutes (HRS) to create the petty misdemeanor offense of "Dangerous Intoxication" (HRS § 711-A) and the misdemeanor offense of "Habitual Dangerous Intoxication" (HRS § 711-B). The proposed amendment would also allow a law enforcement officer to place a person under "civil protective custody," in lieu of arrest or citation, upon probable cause that the person has committed the offense of dangerous intoxication and transport the person for an emergency examination to determine suitability for involuntary civil commitment or assisted community treatment. While the OPD supports the spirit of SB3142 to the extent that it would allow officers the discretion to seek treatment for a person in lieu of criminal charges, the OPD believes that the implementation of the dangerous intoxication statute will create issues.

The first issue is the term "under the influence." In DUI cases officers receive specific training and have objective bases to make the assessment that a person is under the influence of alcohol, including performance on the standardized field sobriety test, and breathalyzer or blood tests. In many DUI cases, the officer's determination of probable cause that a person is "under the influence" as defined by HRS § 291E-1 is based on a combination of driving performance, objective indicia of alcohol consumption (smell of alcohol on breath, bloodshot eyes, swaying, nystagmus) and the SFST results.<sup>1</sup> The determination of intoxication by drug use is

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<sup>1</sup> See e.g. State v. Ferrer, 95 Hawai'i 409, 23 P.3d 744 (App. 2001) (finding that probable cause for arrest for OVUII existed where the defendant was traveling at an excessive rate of speed, had

even more complex and generally requires the testimony of a specially trained drug recognition expert.<sup>2</sup> By contrast, SB3142 would apparently allow an untrained officer to make the determination that a person is “under the influence” simply by the amorphous standard of “observable signs of impairment” caused by alcohol, a drug or both. The same untrained officer would also make a subjective determination that the signs that they observed were not attributed to physical, medical or psychological issues.<sup>3</sup> As “observable signs of impairment” could include indicia as innocuous and ambiguous as red, bloodshot eyes, issues with balance, speech issues, or behaviors, allowing a person to be cited, arrested or taken into “civil protective custody” base on less-than-expert opinion is troubling. The lack of specificity in the term “under the influence” is also ripe for a constitutional challenges to the statute for vagueness<sup>4</sup> or overbreadth<sup>5</sup>.

A second issue with SB3142 is the low, ambiguous and amorphous standards set by the Dangerous Intoxication statute. Under the low standard of “under the influence,” law enforcement officers could stop a moderately intoxicated person, ostensibly to determine whether they are “substantially incapacitated,” and search the person for contraband or arrest them to facilitate street sweeps of the homeless. Law enforcement officers could also use the statute as a pretext to detain and arrest a person and then conduct searches which could lead to felony charges or to conduct

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red eyes, an odor of alcohol on his breath, his demeanor was slow, his speech was slurred in and he exhibited psychomotor discrepancies on the SFST).

<sup>2</sup> See e.g. State v. Coffee, 104 Hawai‘i 193, 86 P.3d 1002 (App. 2004) (officer was qualified as a Drug Recognition Expert by the court and testified to the 12-Step Drug Recognition Evaluation Matrix he used to recognize drug impairment).

<sup>3</sup> Under HRS § 334-42, Emergency Transportaton Initiated by a Law Enforcement Officer, the trained opinion of a mental health emergency worker or crisis intervention officer is necessary to detain the person for transportation to a facility for an emergency examination. Under SB3142, an untrained officer can detain the person and transport them to a facility for an emergency examination.

<sup>4</sup> A statute is unconstitutionally vague where it fails to describe with reasonable clarity the acts that it proscribes, fails to provide fixed standard for adjudging guilt, and fails to give a person of ordinary intelligence a reasonable opportunity to know what conduct is prohibited so that they may choose between lawful and unlawful conduct. State v. Kane, 87 Hawai‘i 71, 77, 951 P.2d 934, 940 (1998) (citation omitted).

<sup>5</sup> “The doctrine of overbreadth, although closely related to a vagueness claim, is distinct in that while a statute may be clear and precise in its terms, it may sweep so broadly that constitutionally protected conduct as well as unprotected conduct is included in its proscriptions.” Kane, 87 Hawai‘i at 77, 951 P.2d at 940 (citation omitted).

warrant checks. SB3142 also gives officers discretion in whether to arrest, cite or place a person in civil protective custody. While the default is civil protective custody in lieu of arrest or citation, this is only “if the law enforcement officer is reasonably able to do so.” This leaves an officer the ability to justify an arrest simply by stating that he did not think he was “reasonably able” to take the person into civil protective custody – there are no standards by which the officer is required to make this determination or justify their decision.

A third issue with SB3142 is that it morphs an arrest based on probable cause for a criminal offense with a emergency hospitalization. Initially, the officer must make a finding of probable cause that Dangerous Intoxication, a petty misdemeanor, has occurred. If the officer finds probable cause, then they may take the person into custody, then, at the discretion of the officer, the arrest can morph into “civil protective custody.” While the opinion of a trained mental health worker or crisis intervention officer that a person is imminently dangerous to self or others and needs to be detained for emergency examination is generally necessary to initiate an emergency examination (HRS § 334-42), SB3142 would substitute instead the opinion of an officer that there is probable cause that Dangerous Intoxication has been committed to detain the person for emergency examination. This mixing of standards between criminal custody and civil commitment raises constitutional due process concerns.

The OPD appreciates the good intentions behind SB3142. However, the reality is that it may be used to criminalize rather than assist homeless individuals. There is the distinct possibility that the low bar set by the statute will be used by law enforcement as a pretext to conduct searches or warrant checks and as a tool to facilitate homeless sweeps. The scheme used is also problematic because it allows untrained officers to make the determination of “substantial incapacitation” without clear, objective standards and mixes criminal custody and civil commitment. The OPD opposes SB3142.

Thank you for the opportunity to comment on this measure.

**LATE**

**SB-3142**

Submitted on: 2/11/2026 8:45:28 AM

Testimony for HHS on 2/11/2026 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Scott J Miscovich MD	Testifying for Premier Medical Group	Support	Written Testimony Only

Comments:

**Chair and Members of the Committee,**

Thank you for the opportunity to testify in strong support of S.B. 3142.

Since 2001, I have dedicated much of my life to serving individuals experiencing homelessness in our state. This bill represents an essential next step in preventing vulnerable citizens from dying needlessly on our streets. S.B. 3142 does not recklessly strip civil liberties. Instead, it offers individuals suffering from Substance Use Disorder and Severe Mental Illness a meaningful opportunity to receive appropriate medical and psychiatric care — rather than cycling repeatedly through incarceration.

The bill prioritizes civil protective custody and medical or psychiatric evaluation over arrest whenever feasible. For individuals who repeatedly demonstrate dangerous behavior, it establishes a structured accountability framework that requires treatment and supervision. Incarceration becomes a last resort, used only after probation violations. This approach strikes a necessary balance between compassion and accountability.

We must be honest: the public is frustrated with our current “catch and release” system. Citizens routinely see the same severely mentally ill individuals — often also under the influence of methamphetamine — removed for a day or two, only to return to the same street corner shortly thereafter. That cycle serves no one. It does not protect the public, and it does not help the individual.

S.B. 3142 creates a narrowly defined offense of dangerous intoxication. It is not aimed at punishing intoxication itself. Rather, it addresses situations in which a person is clearly impaired in a public place and presents an immediate danger to themselves or others. The goal is early intervention — not punishment.

I encourage each of you, if you have not already, to visit the A‘ala Respite on King Street. There, we have successfully treated more than 180 individuals over the age of 60 who were struggling with methamphetamine use and severe mental illness. More than 25 of them — many displaced from their families for 15 to 25 years — have now been reunited with loved ones. With proper treatment, they have stable friendships, consistent healthcare, and are no longer revolving through emergency rooms and hospital beds. Most importantly, they are safe and treated with dignity and respect.

Since its inception, the program has generated an estimated return on investment exceeding \$25 million — demonstrating that compassionate, health-centered intervention is not only morally right but fiscally responsible.

S.B. 3142 advances the same health-first, diversion-oriented approach that A‘ala has proven effective. Whenever reasonably possible, it directs law enforcement to use civil protective custody and transport individuals for medical stabilization and emergency evaluation under existing HRS Chapter 334 procedures. When this health-based pathway is used — including appropriate medication for severe mental illness and treatment for methamphetamine and other substance withdrawal — the bill prohibits criminal prosecution. This ensures we are prioritizing treatment and diversion rather than criminalizing individuals in crisis, while still giving them a structured opportunity to change their lives.

For these reasons, I respectfully and strongly urge your support of S.B. 3142.

Thank you for your consideration.

**Scott J. Miscovich, MD**

President & CEO

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