

DEPARTMENT OF THE PROSECUTING ATTORNEY
KA 'OIHANA O KA LOIO HO'OPI'I
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
PHONE: (808) 768-7400 • FAX: (808) 768-7515 • WEB: <https://honoluluprosecutor.org/>

STEVEN S. ALM
PROSECUTING ATTORNEY
LOIO HO'OPI'I

THOMAS J. BRADY
FIRST DEPUTY PROSECUTING ATTORNEY
HOPE MUA LOIO HO'OPI'I



THE HONORABLE KARL RHOADS, CHAIR
SENATE COMMITTEE ON JUDICIARY
Thirty-Second State Legislature
Regular Session of 2026
State of Hawai'i

February 20, 2026

RE: S.B. 3281; RELATING TO GAMBLING ENFORCEMENT.

Chair Rhoads, Vice Chair Gabbard, and members of the Senate Committee on Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu (“Department”) submits the following testimony providing **comments** and **requesting improvements** regarding S.B. 3281.

As the Committee is aware, the Department has intensified efforts in cooperation with the Honolulu Police Department (“HPD”) to enforce gambling laws to close illegal gambling rooms. The Department and HPD have employed the new tools provided by the Hawai'i State Legislature to approach this issue from new angles. However, we have concerns that certain provisions of S.B. 3281, as currently drafted, may inadvertently complicate existing prosecutions.

The Department takes the position that “illegal electronic gambling device[s]” identified by S.B. 3281 are already criminalized as a “Gambling device” defined by Section 712-1220 of the Hawaii Revised Statutes (“HRS”). Indeed, all of the Department’s current gambling prosecutions under Chapter 712, Part III of the HRS involve the operation of *fish games*.

By specifically adding a separate definition to include *fish games*, the Legislature may inadvertently provide a defense argument that these devices were legal prior to this enactment. The key task at trial is proving these devices are *contests of chance* that are used for *gambling*, and this new definition will not lower the Department’s burden. If the Legislature intends to specifically identify *fish games*, the Department can provide language to codify these devices in a manner that avoids jeopardizing active prosecutions and eases future prosecutions.

As to the changes to nuisance abatement sections contained in Chapter 712, Part V of the HRS, the Department appreciates the Legislature’s intent to improve nuisance abatement. The Department has used the nuisance abatement section to successfully close illegal game rooms.¹ Part V as written, however, does not specify procedures and precise mechanisms for enforcement.

The Department asks that improvements not be limited “illegal electronic gambling device” enforcement but to apply to all nuisances as defined by Section 712-1270 of the HRS. The Department has received information that illegal operators are shifting to prostitution instead of gambling due to increased enforcement of gambling laws. Nuisance abatement can be an effective tool against prostitution nuisance. The addition of a civil penalty will serve as an effective deterrent, but the Department requests a mandatory minimum penalty of \$5,000 to compel compliance. The Department is prepared to provide statutory language to improve the operation of nuisance abatement.

As S.B. 3281 is intended to improve gambling enforcement, the Department wishes to raise an issue for the Committee’s consideration. The Department seeks an efficient mechanism to promptly dispose of seized illegal gambling devices. Currently, the City of Honolulu (“City”) is spending over \$1 million annually to store seized illegal gambling devices. Last year, HPD seized an estimated 600 illegal gambling devices.² A recent United States District Court District of Hawaii ruling held such devices are “contraband as used” limiting the use of summary forfeiture under Section 712A-5 of the HRS. The City faces litigation risk if machines are destroyed without a definitive determination that they are in fact contraband.

Last year, the Legislature enacted 2025 Haw. Sess. Laws Act 288 requiring criminal charges against the owner of property before it can be subject to asset forfeiture. Act 288 had the unintended effect of closing off an alternative mechanism for taking title from the anonymous owners of illegal gambling devices. The Department proposes adding a narrow exception to Act 288’s ownership requirement within Section 712-1230 of the HRS. This would allow the disposal of gambling devices and forfeiture of cash found in illegal game rooms, while ensuring such an exception could not be used to forfeit real property without charges. The Department can submit language and line edits, or propose alternative mechanisms.

For the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu supports the intent of S.B. 3281 but respectfully requests the Committee consider proposed amendments to address the Department’s concerns. Thank you for the opportunity to testify on this matter.

¹ The Department has shifted away from using nuisance abatement to target illegal game rooms because the 2024 Haw. Sess. Laws Act 249 provides a criminal mechanism to reach property owners. Recently, the Department initiated its first prosecution using this statute and has already received information from HPD that it is having a deterrent effect on other property owners.

² Revised Ordinances of Honolulu (ROH) § 34-18.1 to 34-18.15 enacted by the Honolulu City Council will allow HPD to increase those seizures.

JON N. IKENAGA
PUBLIC DEFENDER

DEFENDER COUNCIL
1130 NORTH NIMITZ HIGHWAY
SUITE A-254
HONOLULU, HAWAII 96817

HONOLULU OFFICE
1130 NORTH NIMITZ HIGHWAY
SUITE A-254
HONOLULU, HAWAII 96817

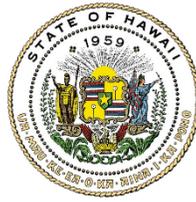
APPELLATE DIVISION
TEL. No. (808) 586-2080

DISTRICT COURT DIVISION
TEL. No. (808) 586-2100

FAMILY COURT DIVISION
TEL. No. (808) 586-2300

FELONY DIVISION
TEL. No. (808) 586-2200

FACSIMILE
(808) 586-2222



STATE OF HAWAII
OFFICE OF THE PUBLIC DEFENDER

HAYLEY Y. C. CHENG
ASSISTANT PUBLIC DEFENDER

HILO OFFICE

LATE

SUITE #209
KAILUA-KONA HI 96740
TEL. No. (808) 327-4650
FAX No. (808) 327-4651

KAUAI OFFICE
3060 EIWA STREET
SUITE 206
LIHUE, HAWAII 96766
TEL. No. (808) 241-7128
FAX No. (808) 274-3422

MAUI OFFICE
81 N. MARKET STREET
WAILUKU, HAWAII 96793
TEL. No. (808) 984-5018
FAX No. (808) 984-5022

February 23, 2026

SB 3281: RELATING TO GAMBLING ENFORCEMENT

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

The Office of the Public Defender (OPD) opposes SB 3281. The OPD's opposition to this measure is solely as to Section 2, which makes the offense of "Promoting an Illegal Electronic Gambling Device" a Class C felony.

The Definition of "Illegal Electronic Gambling Device" Is Overbroad

Section 2(4) defines "illegal electronic gambling device" as: "any machine; table; device commonly known as a fish game...; sweepstakes gaming machine; or a similar electronic gambling device that awards or allows the exchange of points, credits, tokens, prizes, merchandise, gift cards, cash equivalents, or anything of value based in whole or in part upon chance or a combination of chance and skill."

This definition raises substantial concerns:

"In Whole or in Part Upon Chance" Is Extremely Broad

Nearly all amusement-based games contain some element of chance. The phrase "in whole or in part upon chance or a combination of chance and skill" could sweep in devices that have traditionally been viewed as legal amusement games.

"Inclusion of "Anything of Value"

The definition includes the awarding or exchange of "points, credits, tokens, prizes, merchandise, gift cards, cash equivalents, or anything of value."

Without careful limitation, this language could encompass:

- Arcade-style redemption games
- Promotional sweepstakes with consumer products
- Skill-based competitive gaming devices
- Entertainment venues awarding merchandise based on accumulated points

If even arguable ambiguity exists as to whether a device falls within the definition, the bill converts that uncertainty into felony exposure.

Express Rejection of Skill-Based Distinctions

Section 2(2) explicitly provides that a device is not excluded “solely because the device includes an element of skill, requires user interaction, or does not directly dispense cash.” This removes an important limiting principle. By expressly disregarding the presence of skill, the bill broadens liability in a way that risks criminalizing conduct that operators may reasonably believe to be lawful.

Risk of Felony Prosecution for Property Owners and Peripheral Actors

The statute criminalizes not only operation, but possession, display, manufacture, sale, lease, distribution, or permitting operation on one’s premises. Because the definition of the device itself is broad, peripheral actors, including landlords, business owners, or distributors, could face felony prosecution based on disputes about whether a device qualifies under this statute.

Vagueness and Due Process Concerns

Criminal statutes must provide clear notice of prohibited conduct. This measure:

- Covers devices involving any combination of chance and skill,
- Broadly defines “anything of value,” and
- Applies regardless of whether cash is dispensed.

The vague and overboard definitions and characterization of conduct create risk of arbitrary or inconsistent enforcement.

For these reasons, the Office of the Public Defender **opposes** SB 3281.

Thank you for the opportunity to comment on this measure.



The Nation of Hawai'i
Independent & Sovereign

NATION OF HAWAI'I
IN SUPPORT OF SB3281
RELATING TO GAMBLING ENFORCEMENT

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

My name is Brandon Maka'awa'awa, and I submit this testimony on behalf of the Nation of Hawai'i in support of SB3281.

The Nation supports this measure as a practical step that helps address ongoing concerns related to illegal electronic gambling within our communities. At the community level, people are simply looking for stability and clarity. They want to know that when unlawful activity occurs, it can be addressed in a way that allows neighborhoods to remain safe and consistent for families and for our keiki. Measures that strengthen the ability to respond clearly and consistently help maintain that sense of stability.

SB3281 reflects something communities have been asking for, which is both action and follow through. Enforcement agencies are already responding to these situations, and measures such as this help provide clearer tools so that those efforts can lead to more consistent outcomes over time. When expectations are clear and agencies have the ability to see issues through to resolution, it helps maintain stability in neighborhoods and reinforces confidence that concerns raised at the community level are being addressed in a steady and responsible way.

The Nation recognizes that maintaining healthy communities is shared work, and that property owners, residents, and public institutions all play a role in ensuring that what happens in our neighborhoods reflects care for one another. Our support for SB3281 comes from that place. This bill does not attempt to answer broader policy questions. Rather, it represents a practical step that supports enforcement in addressing unlawful activity in a measured and consistent manner, helping ensure that activity taking place in our neighborhoods and on our 'āina is handled responsibly and with consideration for the communities affected.

Mahalo for the opportunity to testify in support of SB3281.

Respectfully submitted,

Brandon Maka'awa'awa

Vice President
Nation of Hawai'i

SB-3281

Submitted on: 2/20/2026 9:15:00 AM

Testimony for JDC on 2/24/2026 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Glen Kagamida	Individual	Support	Written Testimony Only

Comments:

SUPPORT