

**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 • WEBSITE: www.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 CHRIS TODD, CHAIR
HOUSE COMMITTEE ON FINANCE
Thirty-Third State Legislature
Regular Session of 2026
State of Hawai`i**

April 07, 2026

**REGARDING S.B. 3294, S.D. 2, H.D.2 — RELATING TO WRONGFUL
IMPRISONMENT.**

Chair Todd, Vice-Chair Takenouchi, and members of the House Committees on Finance, the Department of the Prosecuting Attorney of the City and County of Honolulu (“Department”) submits the following testimony in **opposition** of S.B. 3294, S.D. 2, H.D.2.

The Department appreciates the intent behind S.B. 3294, S.D. 2, H.D.2 Individuals who are truly wrongfully convicted and imprisoned deserve a fair, efficient, and dignified process for compensation. Justice requires that the State provide meaningful redress in those rare and tragic cases. However, while we support the principle of compensating the actually innocent, we respectfully oppose this bill and for the following reasons.

Shift of the Burden of Proof to the State

S.B. 3294, S.D. 2, H.D.2 fundamentally alters the structure of Hawaii’s wrongful conviction statute by shifting the burden of proof to the State to demonstrate, by a preponderance of the evidence, that the reversal, vacation of judgment, or pardon was “inconsistent with innocence.”

Traditionally, wrongful conviction statutes require the claimant to affirmatively demonstrate factual innocence. This bill instead requires the State to prove the negative — that the reversal was not consistent with innocence — potentially years after the underlying prosecution.

This creates practical and legal concerns:

- Evidence may be stale or unavailable.
- Witnesses may no longer be locatable.
- Prosecutors may be required to effectively re-litigate complex cases long after convictions were set aside.

Reversals occur for many reasons — procedural error, ineffective assistance of counsel, evidentiary rulings, jury instruction issues — that do not equate to factual innocence. This bill risks awarding compensation in cases where innocence has not been affirmatively established.

Replacement of “Actual Innocence” with “Grounds Consistent with Innocence”

The bill replaces the clearer “actually innocent” language with “grounds consistent with innocence.”

This phrase is broader and more ambiguous. A dismissal following reversal or a judgment that has been vacated does not necessarily mean a person did not commit the offense; dismissals can occur for practical reasons, including:

- Unavailable witnesses,
- Passage of time,
- Evidentiary rulings that affect retrial viability.

Without requiring a finding that the petitioner “did not commit the crime,” the eligibility threshold is significantly lowered.

Mandatory Advance Compensation Before Final Determination

The bill requires the State to issue an advance compensation amount determined by the court, regardless of whether a petition has been fully adjudicated. Payment begins upon eligibility determination, with final adjudication occurring afterward. Importantly, if the petition is later denied, the funds are *not recoverable*.

Most states require a final adjudication before compensation is paid. Advance, non-recoverable payments represent a significant departure from traditional models.

Immediate Court Findings at Time of Reversal

The bill requires trial courts to make findings related to innocence and compensation contemporaneously with reversal or when a conviction is vacated.

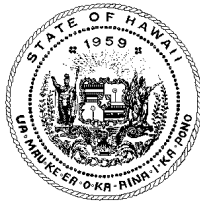
At that stage:

- The record may not be fully developed for civil compensation purposes.
- Prosecutors may have limited opportunity to present evidence relevant to eligibility.
- Courts may be placed in the position of making compensation-related findings before the matter is fully litigated.

This could blur the line between criminal appellate relief and civil compensation proceedings.

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu **opposes** the passage of S.B. 3294, S.D. 2, H.D.2. Thank you for the opportunity to provide written testimony on this matter.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



TOMMY JOHNSON
DIRECTOR

Melanie Martin
Deputy Director
Administration

Vacant
Deputy Director
Correctional Institutions

Sanna Muñoz
Deputy Director
Rehabilitation Services
and
Programs

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

No. _____

TESTIMONY ON SENATE BILL 3294, SENATE DRAFT 2, HOUSE DRAFT 2
RELATING TO WRONGFUL IMPRISONMENT.

by
Tommy Johnson, Director
Department of Corrections and Rehabilitation

House Committee on Finance
Representative Chris Todd, Chair
Representative Jenna Takenouchi, Vice Chair

Tuesday, April 7, 2026; 2:00 p.m.
State Capitol, Conference Room 308 & via Videoconference

Chair Todd, Vice Chair Takenouchi, and Members of the Committee:

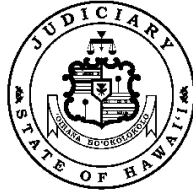
The Department of Corrections and Rehabilitation (DCR) **supports** Senate Bill (SB) 3294, Senate Draft (SD) 2, House Draft (HD) 2, relating to wrongful imprisonment. DCR appreciates the Legislature amending Section 2 - §661-D Case manager; appointment (Page 8 – Lines 15 through 20 and Page 9 – Lines 1 and 2). The amendment appropriately addresses and resolves DCR's jurisdictional concerns with the Department of Human Services. However, DCR recommends an additional amendment to the measure. Recommended amendment to be deleted is bracketed and stricken through.

Specifically, Section 2 **§661B-F Jurisdiction over the person** (Page 9, Lines 20 and 21 and Page 10, Lines 1 and 2) should be amended as follows:

The judiciary [~~and department of corrections and rehabilitation~~] shall retain jurisdiction over the person for the purposes of effectuating this chapter.

DCR respectfully recommends this Committee adopt the proposed amendment because once released from custody, the DCR has no jurisdiction over the person's case nor any authority over the released person.

Thank you for the opportunity to provide testimony in **support of** SB 3294, SD2, HD2, with one recommended amendment.



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

Testimony to the Thirty-Third Legislature, 2026 Regular Session

House Committee on Finance
Representative Chris Todd, Chair
Representative Jenna Takenouchi, Vice Chair

Tuesday, April 7, 2026, 2:00 p.m.
State Capitol, Conference Room 308 & Via Videoconference

By

Jennifer Awong
Staff Attorney, First Circuit Criminal and Judiciary Administration

Bill No. and Title: Senate Bill No. 3294, S.D. 2, H.D. 2, Relating to Wrongful Imprisonment.

Purpose: Establishes the procedure that a circuit court shall follow upon the reversal or vacation of a person's judgment of conviction on grounds consistent with innocence, and where the charges were dismissed. Requires the State to pay, through a warrant for payment issued by the Comptroller, advance compensation to any petitioner who was convicted in a court of the State, imprisoned for at least one year, and whose judgment of conviction was reversed or vacated, or was pardoned, on grounds consistent with innocence. Requires the Department of Corrections and Rehabilitation to immediately notify the Department of Human Services so the Department of Human Services may assign a case manager to a petitioner upon the petitioner's release. Requires the State to provide medical coverage to a person for a certain duration upon the reversal or vacation of the person's judgment of conviction on grounds consistent with innocence and where the charges were dismissed. Provides that the Judiciary and Department of Corrections and Rehabilitation shall retain jurisdiction over the person for the purposes of effectuating this process. Authorizes the State to seek reimbursement from the applicable county for any losses incurred by the State pursuant to this process. Requires the Department of the Attorney General to submit an annual report to the Legislature. Clarifies eligibility to seek compensation for persons whose judgment of conviction was reversed or vacated, or who were pardoned, on grounds consistent with innocence, and where the charges were dismissed. Shifts the burden of proof to the State to prove by a preponderance of evidence that the reversal or vacation of the judgment of conviction for a petitioner, or the pardoning of the petitioner, was inconsistent with innocence. Effective 7/1/3000. (HD2)



Judiciary's Position:

The Judiciary takes no position on the proposed legislation. The Judiciary provides the following comments regarding the implementation of the new provisions of Chapter 661B of the Hawai'i Revised Statutes ("H.R.S."). First, there is a likelihood that the vacating of a conviction by the circuit court under the provisions of Rule 40 of the Hawai'i Rules of Penal Procedure ("HRPP") will result in an appeal pursuant to HRPP Rule 40(h), leading to the potential for conflicting court actions.

Additionally, the Judiciary would note that the new provisions set forth in section 661B-B ("Upon reversal or vacation of conviction on grounds consistent with innocence...") appear to require the court to immediately make a finding that the defendant's conviction was vacated on grounds consistent with innocence. The provision also requires the court to make a finding of "[w]hether the grounds for the reversal or vacation of the crime or crimes support the conclusion that the person did not commit the crime or crimes." These findings are the ultimate issues that are required to be litigated H.R.S. § 661B-2 and the proposed revisions to H.R.S. § 661B-3.¹ These ultimate findings should have a full and fair hearing under the provisions of H.R.S. §§ 661B-1 – 3.² Respectfully, these matters are not the subject of a petition for post-conviction relief under HRPP Rule 40 and would not be fully litigated there, nor would they be litigated when a conviction is reversed or vacated by the appellate court. It appears that these ultimate findings are being sought to be determined by the circuit court without the process of H.R.S. § 661B-1 – 3 as proposed section 661B-B(5) requires that the court immediately award the entire amount that would be due the petitioner (had a petition been filed, heard, and granted) under H.R.S. § 661B-3(c) if the court at the time of the reversal or vacation finds that the grounds "support the conclusion that the person did not commit the crime or crimes."

The Judiciary continues to review the proposed measure to determine how the new provisions will be implemented operationally and may have further comments. This includes the provisions seemingly requiring the criminal court to grant monetary and equitable relief, such as immediate payments (either partial or in total) to the defendant in a criminal action wherein the "State" (the payor) is not a party to either the HRPP Rule 40 case, or the underlying criminal action in the case of an appeal.³ Thus, at a minimum, a new civil action will have to be immediately initiated and the provisions of the current measure leave it to the court to initiate such a proceeding and serve the appropriate parties.

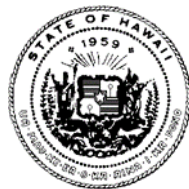
Thank you for the opportunity to testify on this measure.

¹ If either of these findings are answered in the negative, as is contemplated by proposed section 661B-B(5), it could have the unintended consequence of hindering any future relief under H.R.S. § 661B-3.

² To effectuate the intent of the legislation, some form of lesser finding than the ultimate issue to be litigated should be the trigger for the relief set forth in proposed section 661B-B(a)(1)-(2).

³ In those instances the "State" is generally represented by the county prosecutors and not the Attorney General. Further, neither the Department of Corrections and Rehabilitation, nor the Department of Human Services, are parties to criminal actions or HRPP Rule 40 proceedings. Those proceedings are not civil actions wherein the court could order legal remedies such as monetary damages or other equitable relief.

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

April 6, 2026

TO: The Honorable Representative Chris Todd, Chair
House Committee on Finance

FROM: Ryan I. Yamane, Director

SUBJECT: **SB 3294 SD2 HD2 – RELATING TO WRONGFUL IMPRISONMENT.**

Hearing: April 7, 2026, 2:00 p.m.
Conference Room 308 & Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent of this measure and provides comments, concerns and requests amendments. DHS notes that Committee Report 1480-26 does not recognize the submission of comments by DHS.

For the committee's information, DHS is working with the Department of Corrections and Rehabilitation (DCR) to facilitate Medicaid applications for individuals pending release from DCR institutions to help provide access to health care coverage in support of their reentry to society. These individuals as well as the individuals contemplated in this bill still need to meet Medicaid eligibility requirements.

DHS notes that "advance compensation" that the individual would receive under this bill would likely affect eligibility for Medicaid under current rules. "Advanced compensation" of \$5,000 per month would be a factor for Medicaid eligibility depending upon the individual's age, household size, coverage group, and needs such as long-term care services.

DHS also informs the committee that if the individual is eligible for Medicaid and receives health care services paid by Medicaid related to injuries sustained while incarcerated,

and the individual is pursuing civil compensation, Medicaid rules require a lien on any settlement for services Medicaid paid for.

Importantly, DHS Med-QUEST Division does not currently contract case management services and would need a general fund appropriation to contract these services. DHS would also need information about the number of individuals that the bill contemplates will require case management services per year.

Also, if the person is not qualified for Medicaid or meet any of the program requirements to receive premium subsidy assistance, the only state funded alternative is the Aged, Blind and Disabled program for adults 65+ and individuals with a disability who meet income and asset limits.

Lastly, due to the late addition of DHS into this measure, for the committee's information, DHS MQD is currently focused on implementing changes required by the One Big Beautiful Bill Act (OBBBA), Public Law 119-21, and does not have current capacity to devote to developing a new program at this time. Additionally, DHS is concerned that there is no appropriation included in the measure.

DHS will require additional time to confer with DCR, the Judiciary and other stakeholders to understand the scope and magnitude of the bill, and therefore, respectfully requests an extended effective date on relevant sections to allow time to collaborate and develop a program, seek an appropriation, and draft and pass administrative rules.

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

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

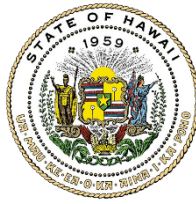
APPELLATE DIVISION
TEL. No. (808) 586-2080

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
275 PONAHAHAWAI STREET
SUITE 201
HILO, HAWAII 96720
TEL. No. (808) 974-4571
FAX No. (808) 974-4574

KONA OFFICE
75-1000 HENRY STREET
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

April 6, 2026

SB 3294, SD2, HD2: RELATING TO WRONGFUL IMPRISONMENT

Chair Todd, Vice-Chair Takenouchi, and Members of the Committee on Finance:

The Office of the Public Defender (OPD) **strongly supports** SB 3294 SD2 HD2 which makes long overdue and necessary reforms to Hawai'i's wrongful conviction and imprisonment compensation framework.

As the agency charged with representing indigent individuals accused and convicted of crimes, the OPD sees firsthand the profound human cost when the criminal legal system fails. For those who have been wrongfully convicted and imprisoned, the harm does not end with release from custody. Individuals often reenter the community without housing, income, identification, medical care, or meaningful support after years of confinement for crimes they did not commit.

Although Hawai'i enacted Act 156 (2016) to provide compensation for wrongful imprisonment, the Legislature itself has recognized that, eight years later, no claimant has received compensation, and claims have been subject to years of delay and adversarial litigation. This reality underscores the urgent need for a system that is not only available in theory, but functional in practice.

This measure responds directly to these failures by establishing clear procedures, timelines, and obligations that promote fairness, efficiency, and dignity for individuals wrongfully imprisoned.

The OPD strongly supports the bill's core reforms, including:

- **Immediate judicial findings and streamlined procedures** at the time a conviction is reversed or vacated on grounds consistent with innocence, which will significantly reduce unnecessary delay and duplicative litigation;
- **Advance compensation** for eligible individuals immediately following reversal or vacation of conviction, recognizing that release without resources is not meaningful justice;
- **Assignment of a case manager upon release**, to assist with housing, identification, healthcare, employment, and reentry needs;
- **Temporary medical coverage**, for a period tied to the length of wrongful imprisonment including any period during which the person was released on parole;
- **Clear statutory guidance** implementing the Hawai‘i Supreme Court’s decision in *Jardine v. State*, 155 Haw. 60 (2024), ensuring that relief does not hinge on magic words but on whether the reversal supports innocence;
- **Shifting the burden to the State**, by a preponderance of evidence, to prove that a reversal or pardon was inconsistent with innocence which reflects the reality that the State is best positioned to carry that burden.

These provisions directly address the systemic barriers that have prevented wrongfully convicted individuals from obtaining timely and meaningful relief. By requiring courts to make findings at the time of reversal and enabling compensation to begin immediately, this bill helps ensure that individuals are not forced to relitigate their innocence for years simply to survive.

The measure also promotes fairness and fiscal responsibility by reducing prolonged litigation, providing greater certainty to the State, and resolving claims in a more structured and transparent manner.

For these reasons, the OPD strongly supports SB 3294 SD2 HD2.

Thank you for the opportunity to comment.

COMMUNITY ALLIANCE ON PRISONS

P.O. Box 37158, Honolulu, HI 96837-0158

Phone/E-Mail: [\(808\) 927-1214](tel:(808)927-1214) / kat.caphi@gmail.com

Today's Inmate; Tomorrow's Neighbor



COMMITTEE ON FINANCE

Representative Chris Todd, Chair

Representative Jenna Takenouchi, Vice Chair

Tuesday, April 7, 2026

2:00 PM

Room 308 and VIDEOCONFERENCE

STRONG SUPPORT for SB3294 SD2,HD2 - WRONGFUL IMPRISONMENT

Aloha Chair Todd, Vice Chair Takenouchi and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies in Hawai'i for almost three decades. This testimony is respectfully offered on behalf of the 3,626 Hawai'i individuals living behind bars¹ and under the "care and custody" of the Department of Corrections and Rehabilitation on March 23, 2026. We are always mindful that 795 of Hawai'i's imprisoned male population are serving their sentences abroad -- thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Kanaka Maoli, far, far from their ancestral lands.

Community Alliance on Prisons appreciates the opportunity to express our **STRONG SUPPORT for SB3294 SD1,HD1** that establishes the procedure that a circuit court shall follow upon the reversal or vacation of a person's judgment of conviction on grounds consistent with innocence, and where the charges were dismissed. This bill requires the State to pay, through a warrant for payment issued by the Comptroller, advance compensation to any petitioner who was convicted in a court of the State, imprisoned for at least one year, and whose judgment of conviction was reversed or vacated, or was pardoned, on grounds consistent with innocence. Requires the DCR to immediately notify the DHS so the DHS may assign a case manager to a petitioner upon the petitioner's release. It also requires the State to provide medical coverage to a person for a certain duration upon the reversal or vacation of the person's judgment

¹ DCR Weekly Population Report, March 23, 2026

[Pop-Reports-Weekly-2026-03-23.pdf](#)

of conviction on grounds consistent with innocence and where the charges were dismissed and provides that the Judiciary and DCR shall retain jurisdiction over the person for the purposes of effectuating this process as well as authorizing the State to seek reimbursement from the applicable county for any losses incurred by the State pursuant to this process and requires the Department of the Attorney General to submit an annual report to the Legislature. It clarifies eligibility to seek compensation for persons whose judgment of conviction was reversed or vacated, or who were pardoned, on grounds consistent with innocence, and where the charges were dismissed and shifts the burden of proof to the State to prove by a preponderance of evidence that the reversal or vacation of the judgment of conviction for a petitioner, or the pardoning of the petitioner, was inconsistent with innocence. Effective 7/1/3000. (HD2)

This bill is so important because it rights a wrong committed by the state. It is not broad-based and its eligibility will be applicable only to a small number of people. We are pleased that the contents of the bill contain the language of HB 2493 HD2 on which the Chair of PBS worked hard and in collaboration with the Judiciary, Probation, and the community.

Thirty-eight states have wrongful imprisonment laws, and most require that people prove their innocence in some way, said **Jeffrey Gutman, a professor of clinical law at George Washington University who works with the [National Registry of Exonerations](#)**². But he characterized Hawai‘i’s law as **more stringent than many states.**

The consequences of Hawai‘i’s broken compensation law are not abstract. They are measured in human suffering.

Alvin Jardine III spent twenty years in prison for a 1990 sexual assault on Maui after being convicted at his third trial. DNA testing in 2008 excluded him as the source of bodily fluids at the crime scene. His conviction was vacated in 2011, and charges were dismissed. Jardine’s case was the very impetus for the Legislature’s enactment of the compensation statute. Yet he spent the next decade fighting the State for compensation he never received. He was released into a world that had moved on without him—no money, no support, no resources. He struggled with poverty, substance abuse, and the lasting psychological trauma of two decades of wrongful incarceration. On December 27, 2025, Alvin Jardine was found dead in Ha‘ikū, Maui at age 56—homeless, without ever receiving a single dollar from the State that wrongfully imprisoned him for twenty years of his life. His death is a moral indictment of a system that failed him at every turn.

² **National Registry of Exonerations**
[Home | National Registry of Exonerations](#)

Albert Ian Schweitzer spent over twenty-three years in prison for the 1991 rape and murder of Dana Ireland on the Big Island – a crime DNA evidence now conclusively shows was committed by another man, Albert Lauro Jr. Ian was a nurse at a Kauaʻi hospital when he was arrested. His brother, Shawn Schweitzer, was only sixteen years old when he was falsely implicated. Their convictions were overturned in 2023. Despite definitive proof of innocence, the Schweitzer brothers remain locked in litigation. Ian walked out of court after twenty-three years behind bars with no money, no job, and no resources. As he has said: “The state and county give me nothing, absolutely nothing. I didn’t even get a sorry yet.”

Roynes Dural was convicted of sexual assault in 2003 and served eight and a half years in prison. He was a twenty-seven-year-old Navy sailor who maintained his innocence throughout his incarceration, refusing plea deals that could have reduced his sentence. In 2019, the Hawaiʻi Supreme Court set aside his conviction, and the case was dismissed with prejudice. In addition to the eight years in prison, Dural served eight more years on parole. In December 2025, after years of litigation against the Attorney General’s office, Dural finally settled his compensation claim for \$420,833 – making him the first person in Hawaiʻi’s history to receive compensation under a law that has been on the books for nearly a decade. As Roynes himself said: “It’s definitely not enough. Losing my family, losing loved ones, you can never get that back. Losing my career.”

Gordon Cordeiro spent thirty years in prison – sentenced to life without parole – for a 1994 murder on Maui that DNA evidence now shows he did not commit. His first trial ended in a hung jury with eleven of twelve jurors favoring acquittal. At his second trial, the State secured a conviction using the testimony of four jailhouse informants who fabricated evidence in exchange for reduced sentences. On February 21, 2025, his conviction was vacated after new DNA testing excluded him from the crime scene. Gordon’s mother died of ALS the same year he was incarcerated; his first act upon release was to visit her grave. Gordon now faces the prospect of rebuilding his life at age 51 with no compensation and no services from the State.

No statute can restore lost years and decades. But the State *can* decide whether to compound the injury with procedural resistance.

It is never too late to do the right thing. It is about time that the government of Hawaiʻi models the behavior that they expect from the people in their care and custody...honesty, admitting their wrongdoing, and adhering to our community values of forgiveness and caring for each other.

Passing this bill would be a start to somewhat ameliorate the harm caused by the state’s wrongful imprisonment.

It is about time that the government of Hawai`i models the behavior that they expect from the people in their care and custody...honesty, admitting their wrongdoing, and adhering to our community values of forgiveness and caring for each other. Mahalo for scheduling this important bill and considering our testimony.

IT IS NEVER TOO LATE TO DO THE RIGHT THING!

LAW OFFICES OF
SETSUKO REGINA GORMLEY, LLC

P.O. Box 6220, Kahului, Maui, Hawaii 96733 • Telephone/Fax: (808) 463-3744
Email: ginagormleylaw@gmail.com

TO: Chair Todd, Vice Takenouchi, and Members of the Committee on Finance

FROM: Setsuko Regina Gormley, Esq.

DATE: 04/06/2026

RE: SUPPORT for SB 3294, SD2, HD2, Relating to Wrongful Imprisonment.

Dear Honorable Chair, Vice Chair, and Members of the Committee:

I submit this testimony in strong support of SB 3294, SD2, HD2. I am a solo practitioner on Maui and have practiced both family law and criminal defense law in Hawaii for almost twenty years. I am a volunteer attorney with the Hawaii Innocence Project.

For an innocent person, the nightmare does not end when the prison gates open. While Hawaii has existing laws to compensate those who have been wrongfully convicted, the current process is often marred by years of litigation and unnecessary delay. SB 3294, SD2, HD2 is a compassionate and common-sense fix that ensures the State meets its moral obligation to those it has failed.

Alvin Jardine III spent twenty years in prison for a 1990 Maui sexual assault after being convicted at his third trial—a crime he did not commit. Despite being excluded by DNA evidence in 2008 and having his conviction officially vacated in 2011, his ordeal did not end with his release. Instead, Jardine spent the next decade in a heartbreaking struggle against the State for the compensation he was owed. He re-entered society with nothing: no financial safety net, no institutional support, and the heavy psychological scars of two decades of wrongful incarceration. Though Jardine’s plight eventually inspired the State Legislature to enact a compensation statute, the help came far too late. On December 27, 2025, Jardine was found dead in Haikū at the age of 56. He died homeless and destitute, never seeing a single dollar from the government that had stolen twenty years of his life. Today, as lawmakers finally move to approve a \$600,000 payout, his death stands as a devastating indictment of a system that offered him "justice" on paper but abandoned him in reality.

Albert Ian Schweitzer served over twenty-three years in prison for the 1991 assault and murder of Dana Ireland on the Big Island—a crime he did not commit. At the time of his arrest, Ian was a nurse on Kauai, and his sixteen-year-old brother, Shawn, was also wrongly accused. It wasn’t until 2023 that their convictions were finally vacated. A year later, genetic genealogy experts identified the actual perpetrator as Albert Lauro Jr., a local resident who took his own life after providing a DNA sample to the police. Despite

this absolute proof of his innocence, Ian’s struggle continues; he is currently embroiled in a legal battle with the Attorney General for restitution, with a trial not expected until early 2026. Having re-entered society with no financial support or official apology, Ian describes his situation as a total abandonment by the state and county.

Roynes Dural, a 27-year-old Navy sailor serving aboard the USS Port Royal, was convicted of sexual assault in 2003—a crime he did not commit. Arrested at Pearl Harbor following a post-9/11 deployment, Dural was sentenced to 20 years based solely on the uncorroborated testimony of a teenager and her mother. The conviction resulted in a dishonorable discharge, stripping him of a ten-year military career just as he was due for a promotion. Dural spent eight and a half years in an Arizona prison and another eight years on parole, steadfastly maintaining his innocence and passing a polygraph exam while behind bars. His path to justice was paved by the Hawaii Innocence Project, which uncovered startling new evidence: the mother’s recantation, the accuser’s own failed polygraph, and confessions from two other men regarding their involvement with the accuser. Ultimately, the Hawai‘i Supreme Court vacated his conviction in 2019. In a historic turn in December 2025, Dural became the first individual in the state to receive compensation under its restitution statute, settling for \$420,833. Despite this, Dural remains clear that no sum can restore the career, family time, and years of life that were stolen from him.

Gordon Cordeiro was sentenced to life without parole and spent over thirty years in prison for a 1994 murder on Maui—a crime he did not commit, and which DNA evidence now shows he did not commit. His first trial ended in a hung jury with eleven of twelve jurors favoring acquittal. At his second trial, the State secured a conviction using the testimony of four jailhouse informants who fabricated evidence in exchange for reduced sentences. On February 21, 2025, Judge Kirstin Hamman vacated his conviction after new DNA testing excluded him from the crime scene, and after finding that the gunshot residue evidence did not meet current scientific standards. Gordon’s mother died of ALS the same year he was incarcerated; his first act upon release was to visit her grave. I was part of his legal team that worked tirelessly to have his conviction vacated. His case is now up on appeal which further delays Gordon receiving any compensation. Gordon now faces the prospect of rebuilding his life at age 51 with no compensation and no services from the State.

I support this bill for these primary reasons:

1. **Replacing “actual innocence” with “grounds consistent with innocence”:** The “actual innocence” standard has been the single greatest barrier to compensation in Hawai‘i. No other state that has a compensation statute has been as ineffective as Hawai‘i’s. The “grounds consistent with innocence” standard is used in model legislation promoted by the national Innocence Project and adopted in other states. As the Hawai‘i Supreme Court recognized in *Jardine v. Hawai‘i*, 155 Haw. 60 (2024), this standard is “nearly impossible to satisfy” because “that is not the legal standard under which [a court] vacates a conviction or orders a new trial.”

2. **Immediate relief via advance compensation:** Currently, wrongfully convicted individuals may wait years for a final court judgment while struggling to afford basic necessities. They have no savings, no credit history, no employment, and often no identification. SD 2493, SD2, HD 2 reinstated the provision for advance compensation of \$5,000 per month upon release. I respectfully urge this Committee to keep this advance compensation mechanism to this bill. The Innocence Project's model compensation statute recommends immediate subsistence funds for exactly this reason. Multiple states, including Virginia and others that reformed their laws in 2024–2025, have introduced lump-sum or advance payment mechanisms. A monthly advance payment is modest and humane, and if deducted from the final award, creates no windfall. The stories set out below make painfully clear what happens when we delay financial assistance to exonerees.
3. **Interest on delayed payments:** This enforcement mechanism is necessary to prevent the delay of payments that has occurred for no reason other than to withhold payment. Wrongfully convicted individuals should not have to relitigate their case for years just to be compensated for years lost for a crime they did not commit.
4. **County reimbursement:** This puts financial accountability where misconduct has actually happened.
5. **Essential re-entry services:** Freedom alone is not enough to rebuild a life. By assigning a case manager and providing medical coverage, SB 3294, SD2, HD2 addresses the physical, mental, psychological, social, and logistical hurdles of re-entry. These services—including help with housing, ID, and employment—are the bare minimum we should provide to someone who has lost years of their life to a wrongful conviction. Individuals released through the normal parole process receive more transitional support than exonerees, who did nothing wrong. State ID should be provided upon release. **This needs to be reinstated.**
6. **Shifting the burden to the state:** We have seen one case where a wrongfully convicted individual, Alvin Jardine III, passed away before ever receiving the compensation he was owed. This is an injustice on top of an injustice. This bill streamlines the procedure, shifting the burden of proof to the State to show why a person *shouldn't* be compensated if their conviction was vacated on grounds consistent with innocence.
7. **The liberal construction clause:** The addition of a liberal construction clause ensures the law serves its purpose – to help those who have been wrongfully convicted. SB 3294, SD2, HD2 recognizes that when the State makes a mistake of this magnitude, it has a duty to make the victim whole as quickly and effectively as possible.
8. **Medical coverage for the duration of wrongful imprisonment:** Wrongful incarceration causes lasting physical and psychological harm. The trauma of imprisonment, the deprivation of adequate health care while incarcerated, and the stress of fighting for exoneration take a devastating toll. Providing medical coverage for a period equal to the wrongful imprisonment— including for spouses and dependents—is consistent with best practices in other jurisdictions and reflects the true scope of the harm the State has caused. **Medical coverage for**


spouses and dependents needs to be reinstated. Wrongful incarceration devastates entire families.

9. **Exclusive Remedy: This provision was taken out and needs to be reinstated.** This provision is necessary because 661B shall not preclude, limit, or prejudice any claims against any other person or entity. To ensure the integrity of this compensation, the award must remain immune to any third-party setoff, lien enforcement, or recoupment. Statutory compensation is intended as a reparative floor, establishing a baseline for the grave injustice suffered; it is not, and shall not be construed as, a liability ceiling. The State's fulfillment of its compensatory obligation must not preclude, limit, or prejudice the claimant's right to pursue full accountability from any other liable person or entity. State compensation and federal civil rights claims are separate, and one should never cancel out the other.

I urge this committee to pass SB 3294, SD2, HD2 including advance compensation. It is consistent with what other states are doing. The current law has failed. It failed Alvin Jardine, who died homeless after twenty years of wrongful imprisonment and a decade of futile litigation. It has failed Ian and Shawn Schweitzer, who are still waiting. It nearly failed Roynes Dural, whose settlement came only after years of resistance. Gordon Cordeiro is still waiting after thirty years of wrongful imprisonment.

Thank you for the opportunity to testify.

Sincerely,



Setsuko Regina Gormley, Esq.

Law Offices of Setsuko Regina Gormley, LLC
Volunteer Attorney, Hawaii Innocence Project

SB-3294-HD-2

Submitted on: 4/3/2026 11:53:08 AM

Testimony for FIN on 4/7/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
William Caron	Individual	Support	Written Testimony Only

Comments:

Aloha Chair, Vice Chair, and Members of the Committee,

I am writing in **strong support** of SB3294, a comprehensive and long-overdue measure to provide compensation and support to individuals who have been wrongfully convicted and imprisoned by the State of Hawai‘i. When the state gets it wrong—when an innocent person is convicted, incarcerated, and then exonerated—it has a moral and legal obligation to make them whole. This bill finally begins to fulfill that obligation.

The Injustice of Wrongful Conviction Cannot Be Undone with an Apology

Wrongful conviction is not a theoretical concern. In Hawai‘i and across the nation, innocent people have spent years—sometimes decades—behind bars for crimes they did not commit. The state took their freedom, their livelihoods, their relationships, and often their health. When a conviction is reversed on grounds consistent with innocence, a simple "we're sorry" is not enough. The state must provide the resources these individuals need to rebuild lives that were stolen from them.

SB3294 establishes a clear, compassionate, and efficient process for doing exactly that.

What SB3294 Does

This bill creates a comprehensive framework for supporting exonerees from the moment they are released:

- **Advance Compensation:** The bill requires the State to pay advance compensation to any petitioner who was convicted in a Hawai‘i court, imprisoned for at least one year, and whose judgment of conviction was reversed, vacated, or pardoned on grounds consistent with innocence. The Comptroller must issue a warrant for payment, ensuring that funds are delivered without unnecessary delay.
- **Case Management:** Recognizing that returning to society after years of wrongful imprisonment is an overwhelming challenge, the bill requires the Department of Corrections and Rehabilitation to immediately notify the Department of Human Services so the Department of Human Services may assign a case manager to the person. This case

manager will help navigate housing, employment, healthcare, and other essential needs.

- **Medical Coverage:** The state has a duty to address the physical and mental health consequences of wrongful imprisonment. SB3294 requires the State to provide medical coverage to exonerees for a specified duration following the reversal or vacation of their conviction.
- **Clear Procedures and Burden of Proof:** The bill establishes the procedure circuit courts shall follow upon the reversal or vacation of a conviction on innocence-related grounds. Importantly, it shifts the burden of proof to the State to prove by a preponderance of evidence that the reversal or vacation was inconsistent with innocence. This ensures that exonerees are not forced to prove their innocence all over again after the state has already released them.
- **Retained Jurisdiction:** The Judiciary and Department of Corrections and Rehabilitation retain jurisdiction over the person for the purposes of effectuating this process, ensuring continuity of care and support.
- **Reimbursement and Reporting:** The bill authorizes the State to seek reimbursement from applicable counties for any losses incurred, and requires the Department of the Attorney General to submit an annual report to the Legislature on the implementation of the program.

Why This Bill Is Necessary

Currently, Hawai‘i lacks a comprehensive system for compensating the wrongfully convicted. Exonerees often leave prison with nothing—no money, no job, no housing, no healthcare, and no support network. The state that imprisoned them offers little more than the clothes on their backs. This is not justice. It is abandonment.

SB3294 recognizes that the harm of wrongful conviction extends far beyond the prison walls. Years lost cannot be returned, but the state can provide the resources to help exonerees build new lives. It can provide medical care for conditions that developed or worsened in custody. It can provide a case manager to help navigate a world that has moved on without them.

A National Model

Comprehensive wrongful conviction compensation laws exist in states across the country. Hawai‘i has an opportunity to join them with a bill that goes beyond simple monetary compensation to include the wraparound supports that exonerees desperately need. The case management provision is particularly important—it acknowledges that money alone cannot solve the complex challenges of reentry after years of incarceration.

When the state exercises its immense power to deprive someone of their liberty, it must accept the immense responsibility that comes with that power. When that power is exercised in error—

when an innocent person is convicted and imprisoned—the state's responsibility does not end at the prison gate. It continues until that person is made whole to the greatest extent possible.

SB3294 honors that responsibility. It provides not just compensation, but comprehensive support. It treats exonerees not as a burden, but as people who have suffered a profound injustice at the hands of the state and deserve our help in rebuilding their lives.

I urge this committee to pass SB3294 and finally provide Hawai'i's wrongfully convicted with the justice they have been denied for far too long.

Mahalo for the opportunity to testify.

SB-3294-HD-2

Submitted on: 4/5/2026 6:46:13 AM

Testimony for FIN on 4/7/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Gordon cordeiro	Individual	Support	Remotely Via Zoom

Comments:

Good afternoon,

My name is Gordon J. Cordeiro. On February 21, 2025, I was released from prison after 31 years for a crime I did not commit.

Thirty-one years.

When I was finally exonerated, the Department of Public Safety gave me a 30-day supply of medication, walked me to the gate, opened it—and left me there.

No plan.

No support.

No guidance.

Just a gate closing behind me... and a world I was expected to figure out on my own.

I stood there as a free man—but with nothing. No ID. No money. No transportation. No place to go. No understanding of how to rebuild a life that had been taken from me decades earlier.

I was lucky.

My family was there. They brought me clothes so I wouldn't walk out wearing prison-issued clothing. They handed me a phone—because communication is essential in today's world. They gave me a ride, a place to sleep, and the first sense that I might survive what came next.

They helped me apply for medical coverage and food assistance. They took me to get an ID. They gave me a starting point.

But let me be clear: without them, I would have been free—and completely abandoned.

And that is the reality for too many people.

We already know what happens when an innocent person is released without support. It leads to homelessness. Instability. Desperation. And sometimes, tragedy.

That is why this bill is not optional. It is necessary.

And let me also be clear about something else—this bill will not impact a large number of people.

Cases like mine—where someone is proven actually innocent—are rare. Very rare. Only a handful of people will ever qualify for this kind of compensation.

But rarity does not lessen responsibility.

If anything, it makes it easier to do what is right.

Advance payments are not a windfall. They are not a reward. They are survival.

Something as simple as \$5,000 a month can mean the difference between having a roof over your head—or sleeping on the street. Between being able to eat—or going hungry. Between rebuilding a life—or falling into crisis.

The State spends tens of thousands of dollars every year to incarcerate a person. When that person is innocent, we should not hesitate—not for a second—to invest in helping them recover from the harm that was done.

This bill must also protect fundamental rights.

An innocent person should never be forced to choose between accepting compensation and pursuing justice in court. Those are constitutional rights. They must be preserved.

And we cannot forget the families.

Wrongful incarceration does not just punish one person—it devastates entire families. Spouses lose partners. Children grow up without parents. Households lose income, stability, and access to care.

And when their loved one finally comes home, everyone is trying to rebuild—together.

No one walks out of prison and steps into a stable life. There is always a gap. A painful, overwhelming period of rebuilding.

Without support, that gap becomes a crisis.

Freedom without support is not justice.

It is neglect.

When the State takes 31 years from an innocent person, it takes birthdays, memories, families, and futures that can never be returned.

And when that innocence is finally recognized, the State cannot simply open a gate and walk away.

Because if we know this is happening—and we choose not to fix it—then we are not delivering justice.

We are continuing the harm.

No innocent person should ever have to stand at that gate and wonder, “How am I going to survive?”

Pass this bill.

Take responsibility.

And make sure that when the State finally does the right thing, it doesn't stop at opening the gate—it helps people walk through it, rebuild their lives, and truly live again.

Thank you.

SB-3294-HD-2

Submitted on: 4/5/2026 11:13:50 AM

Testimony for FIN on 4/7/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Sarah Cordeiro	Individual	Support	Remotely Via Zoom

Comments:

TO: Committee on Finance

FROM: Sarah Cordeiro

DATE: April 5, 2026

RE: SUPPORT for SB 3294, Relating to Wrongful Imprisonment.

Honorable Committee Members,

I am testifying in strong support of SB 3294.

For an innocent person, the nightmare does not end when the prison gates open. While Hawaii has existing laws to compensate those who have been wrongfully convicted, the current process is often marred by years of litigation and bureaucratic delay. SB 3294 is a compassionate and common-sense fix that ensures the State meets its moral obligation to those it has failed.

I support this bill for three primary reasons:

Immediate Relief via Advance Compensation: Currently, wrongfully convicted individuals may wait years for a final court judgment while struggling to afford basic necessities. This bill's provision for "advance compensation" provides a vital bridge, allowing these individuals to stabilize their lives immediately upon release rather than falling into poverty.

Essential Re-entry Services: Freedom alone is not enough to rebuild a life. By requiring the Department of Corrections and Rehabilitation to assign a case manager and providing medical coverage, SB 3294 addresses the physical, mental, and logistical hurdles of re-entry. These services—including help with housing, ID, and employment—are the bare minimum we should provide to someone who has lost years of their life to a wrongful conviction.

Humanity Over Bureaucracy: We have seen one case where a wrongfully convicted individual passed away before ever receiving the compensation they were owed. This is an injustice on top of an injustice. This bill streamlines the procedure, shifting the burden of proof to the State to show why a person shouldn't be compensated if their conviction was vacated on grounds consistent with innocence.

SB 3294 recognizes that when the State makes a mistake of this magnitude, it has a duty to make the victim whole as quickly and effectively as possible.

I urge this committee to pass SB 3294 and give certainty to both the State's budgeting process and, more importantly, to the lives of the innocent.

Thank you for the opportunity to testify.

Sincerely,

Sarah Cordeiro

Makawao, Hawaii

Aloha Chair Todd, Vice Chair Takenouchi, and members of the FIN committee:

I'm writing in strong support of SB3294 SD2 HD2.

Simply put, this bill would help the state take the very minimal and decent step to right a wrong. The bill would help those who have been wrongfully imprisoned seek some modicum of restitution. Act 156, enacted in 2016, was meant to provide a pathway for restitution, but it has been a complete failure. Quoting from the Hawai'i Innocence Project's testimony on HB2493: "The reality has been devastating. According to the National Registry of Exonerations, of the thirty-eight states that have wrongful conviction compensation statutes, Hawai'i was the only state that had never paid a single claimant. It took nearly a decade—and the death of an exoneree—before the first payment was finally agreed to in late 2025."

The current interpretation of the Act that those who've been exonerated have to actually prove their innocence to obtain restitution goes against the fundamental principle of our judicial system: one is innocent until proven guilty. By definition, if one has been exonerated, then this person has NOT been proven guilty; and therefore, must be assumed to be innocent.

Again, since the current Act is being incorrectly interpreted or not being executed as intended or both, SB3294 SD2 HD2 is necessary for Hawai'i to be pono. Please pass this bill out of your committee.

Mahalo for the opportunity to testify.

Mahalo nui,
Paul Bernstein
Honolulu