



The Judiciary, State of Hawaii

Testimony to the Senate Committee on Public Safety, Intergovernmental and Military Affairs

Senator Will Espero, Chair
Senator Rosalyn H. Baker, Vice Chair

Thursday, February 13, 2014, 2:45 p.m.
State Capitol, Conference Room 224

by
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Bill No. and Title: Senate Bill No. 2358, Relating to Marijuana.

Purpose: Establishes a civil violation for possession of one ounce or less of marijuana that is subject to a fine of not more than \$100.

Judiciary's Position:

The Judiciary takes no position on the merits of Senate Bill No. 2358, however we have a few concerns.

1. The Judiciary is concerned that the purpose of this bill may be achieved without the necessity of creating a system of adjudicating what would be a "marijuana infraction." Hawaii Revised Statutes (HRS) Section 701-107 (5) Grades and classes of offenses provides that:

(5) An offense defined by this Code or by any other statute of this State constitutes a violation if it is so designated in this Code or in the law defining the offense or if no other sentence than a fine, or fine and forfeiture or other civil penalty, is authorized upon conviction or if it is defined by a statute other than this Code, which provides that the offense shall not constitute a crime. **A violation does not constitute a crime, and conviction of a violation shall not give rise to any civil disability based on conviction of a criminal offense.** (Emphasis added)



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Although a violation does not constitute a crime, it constitutes a penal offense and these cases would be processed through the courts in the same manner as a crime. A defendant would still be required to appear in court, be arraigned, enter a plea, and be sentenced. However, District Court would be better equipped to process these violations within its current procedures.

2. If this bill were to become effective in its current form, the Judiciary is concerned that this bill would not give the Judiciary enough time to create a “marijuana infraction” notice and summons. The Judiciary would ask that this bill not take effect until at least July 1, 2015 to allow for the creation of a notice and summons.

Thank you for the opportunity to testify on Senate Bill No. 2358.