



*The Judiciary, State of Hawai‘i*

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

Senator Clarence K. Nishihara, Chair  
Senator Glenn Wakai, Vice Chair

Tuesday, January 30, 2018 1:15 PM  
State Capitol, Conference Room 229

By  
The Honorable Rom A. Trader  
Chair  
Criminal Pretrial Task Force

**WRITTEN TESTIMONY ONLY**

---

**Bill No. and Title:** Senate Bill No. 2860, Relating to the Pretrial Release.

**Purpose:** Requires courts to order any person charged with a criminal offense to be released on personal recognizance or on the execution of an unsecured bond, unless the person is unlikely to appear for trial. Requires the Judiciary to establish statewide court appearance reminder system. Establishes requirements for any pretrial risk assessment tool used by the Judiciary.

**Judiciary's Position:**

The Judiciary takes no position on Senate Bill No. 2860 and respectfully suggests that the Committee defer consideration of criminal pretrial procedures until receiving the report of the Criminal Pretrial Task Force (HCR 134 Task Force) no later than twenty days prior to the 2019 Regular Session of the Legislature.

The HCR 134 Task Force was convened in August 2017 pursuant to 2017 House Concurrent Resolution Number 134, House Draft 1, Requesting the Judiciary to Convene a Task Force to Examine and Make Recommendations Regarding Criminal Pretrial Practices and Procedures to Maximize Public Safety, Maximize Court Appearances, and Maximize Pretrial Release of the Accused and Presumed Innocent (HCR 134). (Attachment A) The Judiciary supported HCR 134, noting that “[p]articularly in recent years, a growing number of states and



localities have reconsidered criminal pretrial release practices and have undergone reforms to increase—indeed, maximize—public safety, court appearances, and pretrial release.”

Chief Justice Mark E. Recktenwald appointed the current Criminal Pretrial Task Force (HCR134 Task Force), comprised of 31 members representing County and State agencies involved in criminal pretrial procedures. A list of Task Force members and affiliations is also attached.

As directed in HCR 134, the HCR 134 Task Force is scheduled to submit its report of findings and recommendations, including any proposed legislation, to the Legislative Reference Bureau no later than August 1, 2018, with the report to be finalized for submission to the Legislature prior to the 2019 Regular Session.

Chaired by First Circuit Judge Rom A. Trader, the Task Force has begun study and deliberations to address issues named in HCR 134: (1) Examine and, as needed, recommend legislation and revisions to criminal pretrial practices and procedures to increase public safety while maximizing pretrial release of those who do not pose a danger or a flight risk; and (2) Identify and define best practices metrics to measure the relative effectiveness of the criminal pretrial system, and establish ongoing procedures to take such measurements at appropriate time intervals.

Following presentations on national and state pretrial procedures and a public comment session, Judge Trader appointed six subcommittees, with a mix of stakeholders on each subcommittee. Subcommittees are currently conducting further study in their respective subject areas:

1. Arrest/Booking Subcommittee
2. Jail Screening and Intake Assessment Subcommittee
3. Prosecutorial Decision-Making & Discretion Subcommittee
4. Initial Appearance / Defense Counsel Subcommittee
5. Pretrial Services - Risk Assessment / Supervision Subcommittee (Pretrial Services Operations)
6. Judicial Release & Detention Decision-Making Subcommittee

The Judiciary and the HCR 134 Task Force will reserve comments on proposed changes to current pretrial procedures until after the Task Force Report is submitted in December 2018.

In the event this bill moves forward, the Judiciary respectfully requests a delayed effective date to allow the Judiciary additional time to make modifications to the Judiciary’s Information Management System (JIMS) to satisfy the basic requirements of this bill which are currently not available, and to determine the funding for vendor services necessary for these changes.

Thank you for the opportunity to testify on this measure.



**HCR134 Task Force Members:**

Judge Rom A. Trader, Circuit Court, First Circuit, Chair  
Judge Shirley Kawamura, Circuit Court, First Circuit, Recorder  
William C. Bagasol, Supervising Deputy, Office of the Public Defender  
Myles S. Breiner, Hawai'i Association of Criminal Defense Lawyers - Honolulu  
Michael Champion, M.D., State Department of Health  
Craig A. De Costa, Hawai'i Association of Criminal Defense Lawyers - Kaua'i  
Chief Tivoli S. Faaumu, Maui County Police Department  
Chief Paul K. Ferreira, Hawai'i County Police Department  
Janice Futa, Office of the Prosecuting Attorney, City & County of Honolulu  
Judge Colette Y. Garibaldi, Circuit Court, Admin. Judge, Criminal Division, First Circuit  
Wendy Hudson, Hawai'i Association of Criminal Defense Lawyers - Maui  
John D. Kim, Maui County Prosecuting Attorney  
Justin Kollar, Prosecuting Attorney, County of Kaua'i  
Milton Kotsubo, Public Member  
Judge Rhonda I. L. Loo, Circuit Court, Second Circuit  
Kamaile Maldonado, Office of Hawaiian Affairs  
Brook Mamizuka, Intake Administrator, Adult Client Services Branch, First Circuit  
Deputy Chief John McCarthy, Honolulu Police Department  
Judge Greg K. Nakamura, Circuit Court / Chief Judge, Third Circuit  
Senator Clarence K. Nishihara, State Senate, Public Safety Committee Chair  
Representative Scott Y. Nishimoto, House of Representatives, Judiciary Comm. Chair  
Shelley D. Nobriga, Intake Service Center, PSD  
Lester Oshiro, Chief Court Administrator, Third Circuit  
Chief Darryl D. Perry, Kaua'i County Police Dept.  
Michelle M.L. Puu, Deputy Attorney General, Dept. of the Attorney General  
Deputy Chief Victor Ramos, Maui County Police Department  
Mitchell D. Roth, Prosecuting Attorney, County of Hawai'i  
Judge Michael K. Soong, District Court, Fifth Circuit  
Kari Yamashiro, Deputy Chief Court Administrator, Fifth Circuit  
Marsha Yamada, Deputy Chief Court Administrator, Second Circuit  
Michael S. Zola, Hawai'i Association of Criminal Defense Lawyers - Hawai'i Island