



*The Judiciary, State of Hawai‘i*

**Senate Committee on Public Safety, Intergovernmental, and Military Affairs**

Senator Clarence K. Nishihara, Chair

Senator Glenn Wakai, Vice-Chair

and

**Senate Committee on Judiciary**

Senator Karl Rhoads, Chair

Senator Glenn Wakai, Vice Chair

Friday, February 8, 2019, 10:05a.m.  
State Capitol, Conference Room 016

**WRITTEN TESTIMONY ONLY**

By

Shirley M. Kawamura

Deputy Chief Judge, Criminal Administrative Judge, Circuit Court of the First Circuit  
Reporter, Criminal Pretrial Task Force

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**Bill No. and Title:** Senate Bill No. 1422, Relating to Law Enforcement.

**Purpose:** Senate Bill No. 1422 specifies that law enforcement officers have the discretion to issue citations, in lieu of making an arrest, for non-violent class C felonies, misdemeanors, petty misdemeanors, and violations.

**Judiciary's Position:**

The Judiciary respectfully supports Senate Bill No. 1422, which adopts the recommendation of the Criminal Pretrial Procedures Task Force to allow law enforcement officers broader discretion to issue citations.

Pursuant to House Concurrent Resolution No. 134, H. D. 1 Regular Session of 2017, Chief Justice Mark E. Recktenwald established the Criminal Pretrial Procedures Task Force to examine and recommend legislation to reform Hawai‘i’s criminal pretrial system. The Task Force embarked on its yearlong journey in August 2017. It began with an in-depth study of the



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history of bail and the three major generations of American bail reform of the 1960s, 1980s, and the last decade. The Task Force members researched the legal framework underlying current practices, which are firmly rooted in our most basic constitutional principles of presumption of innocence, due process, equal protection, the right to counsel, the right to confrontation and that in America, liberty is the norm and detention is the very limited exception. We invited national experts and delved into the latest research and evidence-based principles and learned from other jurisdictions where pretrial reforms are well underway. We reviewed previous studies conducted in our state, engaged with community experts and heard the views of our local stakeholders. We visited our cellblocks, jails, ISC offices and arraignment courts in an effort to investigate and present an unbridled view of our criminal pretrial process.

The recommendations set forth in the report seek to improve our current practices, with the goal of achieving a more just and fair pretrial release and detention system, maximizing defendants' release, court appearance and protecting community safety. With these goals in mind, the Task Force submitted twenty-five recommendations, to include amending Section 803-6 of the Hawaii Revised Statutes to allow law enforcement officers to issue citations in lieu of arrest for certain offenses, including non-violent Class C felonies. The Judiciary respectfully supports Senate Bill No. 1422 in so far as it adopts the recommendation of the Criminal Pretrial Task Force.

Thank you for the opportunity to submit testimony.