



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

Bill No. and Title: Senate Bill No. 1423, Relating to Payment of Bail.

Purpose: Senate Bill No. 1423 permits defendants for whom a monetary amount of bail has been set to pay the bail amount on a twenty-four hours a day, seven days a week basis and be released from custody forthwith upon posting or payment of bail.

Judiciary’s Position:

The Judiciary respectfully supports Senate Bill No. 1423, which adopts the recommendation of the Criminal Pretrial Procedures Task Force to allow payment of bail and defendant’s subsequent release, at any time.

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



Senate Bill No. 1423, Relating to Payment of Bail
Senate Committee on Public Safety, Intergovernmental, and Military Affairs
Friday, February 8, 2019, 10:05 a.m.
Page 2

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 804-7 of the Hawaii Revised Statutes to allow criminal defendants to post bail and be released from detention at any time. The Task Force concluded that defendants should not be detained simply because of an administrative barrier requiring that bail or bond be payable only during normal business days/hours. The Judiciary respectfully supports Senate Bill No. 1423 in so far as it adopts the recommendation of the Criminal Pretrial Task Force.

Thank you for the opportunity to submit testimony.