



The Judiciary, State of Hawai‘i

Testimony to the House Committee on Public Safety, Veterans, and Military Affairs

Representative Gregg Takayama, Chair

Representative Cedric Asuega-Gates, Vice Chair

Wednesday, March 13, 2019, 10:30 AM
State Capitol, Conference Room 430

by

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WRITTEN TESTIMONY ONLY

Bill No. and Title: Senate Bill No. 192, S.D. 1, Relating to Bail.

Purpose: Authorizes a defendant in custody to petition a court for unsecured bail.

Judiciary's Position:

The Judiciary appreciates the intent of this proposed bill but respectfully suggests that the Committee defer consideration of this bill. The HCR 134 Criminal Pretrial Practices Task Force proposed significant legislation regarding pretrial release, which may alleviate some of the concerns underlying this bill.

Senate Bill No. 192 authorizes a defendant in custody to petition a court for unsecured bail bond. However, the proposed bill does not set forth any procedures with respect to implementation of the unsecured bond.

The bill proposes “[i]n event that a defendant fails to appear in court as required or breaches any other condition of release, the court shall take appropriate steps to collect the amount of the unsecured financial bond from the defendant or any additional obligors originally required by the court.” The court currently is not equipped to collect funds from a defendant or



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an obligor. Such a responsibility will require significant and appropriate resources for implementation. Without the ability to enforce collection, any incentive for defendants to return to court would be lost.

Moreover, unsecured bonds may be unnecessary. In state court, defendants eligible for supervised release are already released without any financial obligation. Non-financial release alternatives are already utilized. Defendants can be release on their own recognizance, on supervised release to the Department of Public Safety's Intake Service Center, on supervised release to a sponsor (often a family member or friend with a stable residence), or on supervised release to a treatment program. Because non-financial release alternatives are already available, there is little need for unsecured bonds.

Thank you for the opportunity to testify on this matter.