

**HB1660**

**HD1**

NEIL ABERCROMBIE  
GOVERNOR



Testimony of  
GLENN M. OKIMOTO  
DIRECTOR

Deputy Directors  
FORD N. FUCHIGAMI  
RANDY GRUNE  
AUDREY HIDANO  
JADINE URASAKI

IN REPLY REFER TO:

**STATE OF HAWAII**  
**DEPARTMENT OF TRANSPORTATION**  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

March 19, 2014  
10:00 a.m.  
State Capitol, Room 16

**H.B. 1660, H.D. 1**  
**RELATING TO SIDEWALKS**

Senate Committee on Judiciary and Labor

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The Department of Transportation (DOT) **supports the intent** of H.B. 1660, H.D. 1 to remove obstructions on highways or public passages. To comply with the Americans with Disability Act, the DOT would recommend the following amendment to Section 1 of the bill:

(1), (b) Provides less than 36 inches of space for passage on any paved public sidewalk.

Thank you for the opportunity to provide testimony.



Committee: Committee on Judiciary and Labor  
Hearing Date/Time: Wednesday, March 19, 2014, 10:00 a.m.  
Place: Conference Room 016  
Re: Testimony of the ACLU of Hawaii with Comments on H.B.1660, HD 1, Relating to Sidewalks

Dear Chair Hee and Members of the Committee on Judiciary and Labor:

The American Civil Liberties Union of Hawaii (ACLU of Hawaii) writes to offer comments on H.B. 1660, HD 1, which would prohibit obstructing a public sidewalk by leaving less than one meter of space unoccupied. This bill appears to target the homeless population, and, if enacted, would likely be enforced unequally.

The current bill is one of several pending in the legislature that seeks to criminalize the status of homelessness. As the Ninth Circuit found in *Jones v. City of Los Angeles*, 444 F.3d 1118, 1132 (9th Cir. 2006), *vacated pursuant to settlement*, 505 F.3d 1006 (9th Cir. 2007), criminalization of basic human functions in the absence of options for shelter violates the Eighth Amendment prohibition against cruel and unusual punishment. As the available spaces and facilities for the homeless decrease, the likelihood for action under *Jones* increases. Moreover, the ACLU of Hawaii cautions that discriminatory enforcement of any such law could give rise to an Equal Protection challenge.

Thank you for the opportunity to testify.

Sincerely,

Lois K. Perrin  
Legal Director  
ACLU of Hawaii

American Civil Liberties Union of Hawai'i  
P.O. Box 3410  
Honolulu, Hawai'i 96801  
T: 808.522-5900  
F: 808.522-5909  
E: [office@acluhawaii.org](mailto:office@acluhawaii.org)  
[www.acluhawaii.org](http://www.acluhawaii.org)



Committee: Committee on Judiciary and Labor  
Hearing Date/Time: Wednesday, March 19, 2014, 10:00 a.m.  
Place: Conference Room 016  
Re: Supplemental Testimony of the ACLU of Hawaii with Comments on H.B.1660, HD 1, Relating to Sidewalks

Dear Chair Hee and Members of the Committee on Judiciary and Labor:

Upon further review of H.B. 1660, H.D. 1, a ban on leaving less than one meter of space on a public sidewalk, we believe this bill unconstitutionally limits the First Amendment right to free speech.

If H.B. 1660, H.D. 1 were enacted, a protestor standing on a sidewalk less than one meter in width (or a sidewalk that is only slightly more than one meter in width) could be cited for blocking the path. This would be a violation of the protestor's right to free speech.

Thank you for the opportunity to submit supplemental testimony.

Sincerely,

Lois K. Perrin  
Legal Director  
ACLU of Hawaii



March 15, 2014

**COMMITTEE ON JUDICIARY**

Senator Clayton Hee, Chair  
Senator Maile S.L. Shimabukuro, Vice Chair  
Senator Mike Gabbard  
Senator Brickwood Galuteria  
Senator Les Ihara Jr.  
Senator Malama Solomon  
Senator Sam Slom

**NOTICE OF HEARING**

DATE: Wednesday, March 19, 2014  
TIME: 10:00am  
PLACE: Conference Room 016, State Capitol

**RE: TESTIMONY IN STRONG OPPOSITION TO HB1660  
RELATING TO SIDEWALKS**

Aloha, Committee on Judiciary:

While we support the intent to maintain public safety, the Pacific Alliance to Stop Slavery is in strong opposition to HB1660 and kindly urge you to defer this unnecessary measure seeking to further criminalize and dehumanize the houseless through its application. There is no need to amend current law in this way.

The application of laws that disproportionately criminalize the houseless for finding respite on the sidewalk, because everywhere else has been outlawed, has resulted in many abuses of innocent people by law enforcement and city officials. These abuses include: verbal harassment, physical assault, and the unconstitutional seizure of property belonging to houseless persons and families.

These measures seeking to directly or indirectly criminalize the houseless do not succeed in increasing public safety and only succeed in wasting taxpayer dollars and clogging up our already overloaded criminal justice system. We must enact measures that have been proven to work and we must support current legislation seeking to provide affordable housing and funding for services. Let's now focus on the empirical argument for the fiscal irresponsibility of HB1660.

I present examples that have been implemented in other U.S. municipalities and provide a statistical picture of the unsheltered houseless population on O'ahu.

## Houselessness in other U.S. municipalities

### Costly measures to incarcerate and fine houseless individuals:

- **Issuing citations to houseless persons is expensive.** San Francisco spent \$9.8 million between 2004 and 2008 on over 56,000 “quality of life” citations, like the one proposed in Bill 6.
- **Incarcerating houseless people costs twice as much as providing them permanent housing.** In Cleveland, incarceration costs \$65 per day, versus \$30 per day for shelter. Seattle’s “Housing First” program indicated that provided permanent housing for houseless people was 53% less expensive than having them live on the street. This marginal cost saving increased over time as program participants became financially stable and independent.
- **Issuing citations does not prevent houselessness.** Minneapolis spent an estimated \$2.6 million between 1994 and 2005 issuing citations and incarcerating 33 chronically houseless individuals, with minimal desired results.
- **It may in fact make people more likely to remain houseless.** Indianapolis spends \$3 to \$7 million annually on its population of 500 houseless individuals (similar in size to Honolulu’s unsheltered houseless population estimate of 505 in 2013). The Indianapolis study notably linked contact with law enforcement with longer periods of houselessness and higher costs associated with healthcare.

### Measures that have succeeded in other municipalities:

- **Seattle’s** programs to place the chronically houseless into permanent housing cost \$1.1 annually and saved a total of \$2.5 million per year (\$2,400 per person), which was previously spent on medical expenses, bookings, and shelter.
- **Portland’s** “A Key not a Card” initiative placed 936 houseless people into permanent housing between 2005 and 2009 at a cost of \$1.9 million per year.
- A **Palo Alto, Calif.** program created kits that other municipalities could purchase to establish their own employment and housing support services for houseless individuals. **Daytona Beach, Fla.** has recently implemented its kit with success.



### **Houseless population on O'ahu**

Between 2012 and 2013, the houseless population in Honolulu County increased 4.7%, more than any other county in Hawai'i. Among O'ahu's houseless, the portion that live unsheltered is growing rapidly, by a margin of 11% since 2012 and 23% since 2009. The rate of unsheltered families with children also rose 5% since 2012.

This issue of "sidewalks" begs a compassionate response since its real target is the increase in houseless persons. It behooves this committee to defer HB1660 in consideration of the several measures on Housing and the Homeless currently moving through the legislative process that more appropriately and effectively address this concern.

Sincerely,

Kathryn Xian  
Executive Director

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**Subject:** \*Submitted testimony for HB1660 on Mar 19, 2014 10:00AM\*  
**Date:** Friday, March 14, 2014 5:23:43 PM

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**HB1660**

Submitted on: 3/14/2014

Testimony for JDL on Mar 19, 2014 10:00AM in Conference Room 016

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Brad Parsons        | Individual          | Oppose                    | No                        |

Comments:

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**Date:** Saturday, March 15, 2014 10:32:46 AM

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**HB1660**

Submitted on: 3/15/2014

Testimony for JDL on Mar 19, 2014 10:00AM in Conference Room 016

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Rick Morse          | Individual          | Oppose                    | No                        |

Comments: In Adam Smith's 'Wealth Of Nations', he offers up his own cockamamie theory as to why poverty is unavoidable in society, (even though we more than enough resources to provide for every single person on Earth). "Every species of animals naturally multiplies in proportion to the means of their subsistence, and no species can ever multiply beyond it. But in civilized society it is only among the inferior ranks of people that the scantiness of subsistence can set limits to the further multiplication of the human species; and it can do so in no other way than by destroying a great part of the children which their fruitful marriages produce." Are we gonna continue to fulfill Smith's prophecy? Or are we gonna do the right thing and take responsibility for each others well being? As Representatives of the people, you have the authority to directly vote on such an issue. Choose wisely..

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**Cc:** [lynneronderko@gmail.com](mailto:lynneronderko@gmail.com)  
**Subject:** \*Submitted testimony for HB1660 on Mar 19, 2014 10:00AM\*  
**Date:** Saturday, March 15, 2014 10:55:18 AM

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**HB1660**

Submitted on: 3/15/2014

Testimony for JDL on Mar 19, 2014 10:00AM in Conference Room 016

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Lynn Onderko        | Individual          | Oppose                    | No                        |

Comments:

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**Date:** Saturday, March 15, 2014 12:48:17 PM

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**HB1660**

Submitted on: 3/15/2014

Testimony for JDL on Mar 19, 2014 10:00AM in Conference Room 016

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Mitsuko Hayakawa    | Individual          | Oppose                    | No                        |

Comments: Please stop criminalizing the houseless.

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**Date:** Saturday, March 15, 2014 2:51:19 PM

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**HB1660**

Submitted on: 3/15/2014

Testimony for JDL on Mar 19, 2014 10:00AM in Conference Room 016

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Sherry Pollack      | Individual          | Oppose                    | No                        |

Comments: Hawaii needs a compassionate and effective way to solve problems of poverty, including homelessness. While I'm relieved that Rep. Brower has put down his hammer, criminalization policies are not only wrong, they waste taxpayer dollars. Let's put our efforts and dollars toward real solutions such as housing-first programs. It's worked in other cities and it can work here too.

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**Subject:** \*Submitted testimony for HB1660 on Mar 19, 2014 10:00AM\*  
**Date:** Saturday, March 15, 2014 5:54:25 PM

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**HB1660**

Submitted on: 3/15/2014

Testimony for JDL on Mar 19, 2014 10:00AM in Conference Room 016

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| sherrian witt       | Individual          | Oppose                    | No                        |

Comments:

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**Date:** Saturday, March 15, 2014 9:13:05 PM

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**HB1660**

Submitted on: 3/15/2014

Testimony for JDL on Mar 19, 2014 10:00AM in Conference Room 016

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Shannon Rudolph     | Individual          | Oppose                    | No                        |

Comments: Oppose. Shameful how we treat homeless people. Look to Utah's model and save money! It's not rocket science.

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**Date:** Sunday, March 16, 2014 6:25:29 AM

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**HB1660**

Submitted on: 3/16/2014

Testimony for JDL on Mar 19, 2014 10:00AM in Conference Room 016

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Karen Murray        | Individual          | Oppose                    | No                        |

Comments:

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**Date:** Sunday, March 16, 2014 6:54:41 AM

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**HB1660**

Submitted on: 3/16/2014

Testimony for JDL on Mar 19, 2014 10:00AM in Conference Room 016

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Graham Ellis        | Individual          | Oppose                    | No                        |

Comments:

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**Subject:** Submitted testimony for HB1660 on Mar 19, 2014 10:00AM  
**Date:** Sunday, March 16, 2014 11:54:41 AM

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**HB1660**

Submitted on: 3/16/2014

Testimony for JDL on Mar 19, 2014 10:00AM in Conference Room 016

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| lynne matusow       | Individual          | Support                   | No                        |

Comments: I am in strong support of this bill and urge you to move it forward. As an avid pedestrian, I often find my passage obstructed and at times have been forced to walk in the street, in a lane of traffic, endangering my life and safety. Not only are pedestrians blocked, so are those using wheelchairs and other mobility assistance devices. The streets are for the public to use, unencumbered, and must remain so.  
lynne matusow, 60 n. beretania, #1804, honolulu, hi 96817, 531-4260

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**HB1660**

Submitted on: 3/16/2014

Testimony for JDL on Mar 19, 2014 10:00AM in Conference Room 016

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Josh Coolidge       | Individual          | Oppose                    | No                        |

Comments: ceasing property or arresting, giving tickets ect will only keep people down longer. please, why not help these people instead of making there hard life even worse...

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Senator Clayton Hee - Chairman  
Senate District 23  
Hawaii State Capitol, Room 407  
Honolulu, Hawaii

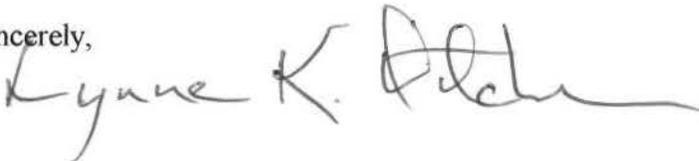
Reference: HB 33  
HB 1498  
HB 1660  
HB 2409

Dear Senator Hee,

It has come to my attention that these reference bills are of a constitutional nature. As a tax payer for 49 years I am wondering what are my constitutional rights regarding these bills. As I understand, these bills go on constitutional rights for the homeless; however, I think this is wrong. All of these people, which I can testify to have either have been thrown out of their homes, messed up by substance abuse or have chosen this lifestyle.

You folks talk about constitutional rights for the homeless, where is my constitutional rights as a tax payer versus homelessness. These people do not contribute to the State in any way, shape or form!!!! So, therefore I am wondering do we have a double edge sword here???? The way I am thinking I am a voter and a tax payer \_\_\_\_\_ how rude! I am being dealt in this manner, when our constitution says, "FOR THE PEOPLE AND BY THE PEOPLE"?

Sincerely,

A handwritten signature in black ink that reads "L. Ditchen". The signature is written in a cursive style with a large, stylized initial "L" and a long, sweeping underline.

L. Ditchen

From: [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
To: [JDLTestimony](mailto:JDLTestimony)  
Cc: [davemoskowitz10@hotmail.com](mailto:davemoskowitz10@hotmail.com)  
Subject: Submitted testimony for HB1660 on Mar 19, 2014 10:00AM  
Date: Monday, March 17, 2014 12:35:59 PM

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## **HB1660**

Submitted on: 3/17/2014

Testimony for JDL on Mar 19, 2014 10:00AM in Conference Room 016

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| david               | Individual          | Oppose                    | Yes                       |

Comments: I oppose this bill because its unnessecary and wrong and unenforceable all at the same time! I am the individual who championed the city and county of honolulus bill 39 a similar bill and also bill 6 a laying down on the sidewalk bill ,the first one is law yet pretty much not enforced ,why you ask ? That ordinance and this bill require a legal and thorough survey of all sidewalks and marking or plaques placed to note the differentiation between public and private sidewalks. It will cost according to the city and county of honolulu approximately one week to survey one block and as of four years ago a cost of \$10,000.00 ( ten thousand dollars and no cents) a block to perform. If you want to clean up our sidewalks we should undertake immediate alternative housing solutions not this ridiculous game that has gone on for years,achieving next to nothing. Houseless need to be treated as people and talked to accordingly not with a officer of the law and a dump truck and a guy handing our flyers with cell phone numbers attached to it to people who don't own nor will be leant a cell phone,stupid and cruel all at the same time. I changed my mind after a discussion with Councilman Breene Harimoto of the Honolulu City Council ,he noted this wont work and is a waste of taxpayer money. This bill could be supported by "Corrections Corporation of America" who has donated tens of thousands to legislators in a attempt to influence the writing and passage of new laws to incarcerate people . We cannot afford this ,it seems camps ala arizona are in our future if these plunderers of our taxpayer wealth have their way. If you want bus stops cleared out changed the design policy make benches different . This also places a unfair burden on our local police departments as they have enough to do and cannot and will be exhausted in any attempt to do so. Recently at a hearing on Bill 6 Ross Sassamur1660a Director of Facilities Maintenance of the City and County of Honolulu stated if Bill 6 passed it would cost the city two to three times as much as they are currently spending on picking up stored property . So unknowingly he let out that in fact the program is only performing at 25 to 30 % approximately of what could be done. It won't work houseless are survivors they adapt and now as i predicted they are just laying down on sidewalks and their property is stored out of sight. This law as written will not work as they don't block the sidewalk and it also conflicts with HPD interpretation of the law as well. Develop working solutions not grandstanding for political campaigning purposes in a election year. Dave Moskowitz Waikiki

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## **TESTIMONY IN OPPOSITION TO HB1660 HD1**

Aloha:

My name is Michael Tada and I stand in opposition to HB1660 HD1. I strongly believe that this bill targets the houseless population trying to survive on the streets. It is my firm belief that to criminalize houselessness in this type of economic environment where jobs paying minimum wages are not adequate enough to maintain monthly expenses (Rent, food, clothes, medications, and other basic necessities). Being that we live in one of the most expensive places in America, I believe that to have these types of bills without the infrastructure to adequately address Low income affordable dwelling units that can accommodate the more than 6,000 unsheltered individuals(according to recent statistics), to criminalize sleeping in parks, on sidewalks, under bridges, etc, is morally wrong. Therefore I strongly urge you not to pass this bill! Mahalo!

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**Date:** Monday, March 17, 2014 11:15:16 PM

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**HB1660**

Submitted on: 3/17/2014

Testimony for JDL on Mar 19, 2014 10:00AM in Conference Room 016

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Ronnie Perry        | Individual          | Oppose                    | No                        |

Comments:

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**HB1660**

Submitted on: 3/18/2014

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| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Paul A. komara, Jr. | Individual          | Oppose                    | No                        |

Comments: The Creator instructed us to take care of our brothers and sisters. The State and Counties have Parks. I suggest a portion of the parks be set aside for "homeless persons". Practice Aloha. This bill HB1660 is evil. Aloha, Paul

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To the Committee on Judiciary and Labor:

I urge the senators to oppose the passage of HB 1660. I am a graduate student at the University of Hawaii at Manoa, and have been conducting in-depth research on homelessness in Honolulu since 2009. I fear that this bill will disproportionately affect the homeless, who are the most vulnerable members of our society.

This bill is only the most recent among a number of laws in the past few years that have attempted to cleanse public areas from the visible presence of poverty. Unfortunately, like these earlier laws, the proposed legislation attempts to remedy poverty by criminalizing it. While this may be the most efficient way to make it look like we do not have a problem with homelessness, it is far from effective. The sidewalks and bus stops are now clogged with homeless people because we have already outlawed them from parks and beaches. The legislative focus is not on what to do with our fellow citizens in need, but only with how to get rid of them. This is morally reprehensible, and does not represent the will of your constituents. As such, it represents the most dangerous form of usurpation of the democratic process, that which is conducted by lawmakers themselves. I write this testimony because I refuse to be silent while you hijack our democracy, and to warn you of the moral danger you willfully enter into while considering the passage of this bill.

One of the earliest contacts I made when conducting my research was an elderly woman in her seventies named Mimi. At first I did not understand why she would refuse offers to help her go to a hospital or to a homeless shelter. Over time, the answer became more clear: Mimi had a complete lack of trust for “the system”. Back in 2009 and 2010, Mimi was routinely picked up by the police and forced to go to a hospital against her will. The officers who moved her would “misplace” her belongings every time they moved her, which was about once a month. She was forced to start all over every month. Her complaints about being harassed, assaulted, and raped were never taken up by the authorities. Instead, she was the criminal. Her lack of trust is exemplary of many of the homeless people I have spoken to who refuse to enter shelters. They have been treated as less than human, and as criminals for years. Now, with this recent slew of bills, like HB 1660, you are attempting to codify these practices into law. This will do nothing to help you reach the homeless members of our society.

The Department of Transportation has already recommended that you rescind the requirement of “one meter” unobstructed space on sidewalks because, in many areas, there is already less than one meter of space due to infrastructure. The fact that this requirement remains is further proof that this bill is meant to affect the homeless. Are you prepared to re-vamp the sidewalk infrastructure for the whole state to allow one meter passage throughout? This would be an unnecessarily expensive process, but one which you would be required to undergo if you pass this bill. If you would accept the claim that others have made, that this bill is not intended to target the homeless, then it is incumbent upon you to require an amendment to the bill which makes this clear: “an exception will be made for homeless persons”. If such an amendment were made, then it may be plausible that this bill is really about public safety. By not requiring such an exception, you are making it clear that the safety of homeless people is not your concern, and that they do not constitute members of the public.

In the January 28<sup>th</sup> testimony, I read only one piece of testimony which support this bill. That testimony is very telling. The argument made there is that visitors to the islands will be discouraged by the obstruction of sidewalks. Let's not mince words here. The concern is that we will lose tourist dollars if visitors to our paradise see that we have a lot of poor people living in the streets. The tourist economy of our state is no doubt the engine driving our ship, but at what cost? Will we be free of conscience in displaying a false paradise to visitors, knowing that we have only pushed the homeless out of sight?

The testimony you have received, the voice of your constituency, is overwhelmingly against this bill. How can you, then, in good conscience pass a bill that is so overwhelmingly opposed by the people you are elected to represent? This is a dangerous subversion of democracy, selling out the people you represent to keep the tourist money flowing. The taxpayers will pay for the enforcement of this bill, is that fair when they are opposed to it?

We are all in favor of public safety, and many of us want to help the homeless. But we cannot, because we are spending all of our time fighting bill after bill that attempts to make criminals out of poor people. Help us help you. Stop this bill, and stop all other bills like it. Turn to your conscience; seek out an answer for the best way to help the poor. Work with us to get these people off the streets. Let us lift them up, not push them away.

Thank you for hearing my testimony.

Sincerely,  
Aashish Hemrajani