



## *The Judiciary, State of Hawaii*

### **Testimony to the Senate Committee on Judiciary and Labor**

Senator Gilbert S.C. Keith-Agaran, Chair  
Senator Maile S.L. Shimabukuro, Vice Chair

Monday, March 30, 2015, 9:20 a.m.  
State Capitol, Conference Room 016

By

Calvin Ching  
Deputy Chief Court Administrator  
First Circuit

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**Resolution No. and Title:** Senate Concurrent Resolution No. 98, Requesting the Judiciary to conduct a study to identify traffic offenses and crimes, petty misdemeanor offenses, and misdemeanor offenses that cause a disproportionate workload for the Judiciary and that may be appropriate for decriminalization as infractions.

### **Judiciary's Position:**

The Judiciary takes no position on the intent of Senate Concurrent Resolution No. 98 and respectfully offers the following comments.

- (1) A significant number of cases require court appearances not because of the level of the offense but because the statute or ordinance has a graduated penalty provision. This means that at the time the citation is issued the police officer does not have any information on whether or not it is the person's first, second or subsequent offense. This necessitates an appearance in court.
- (2) The Judiciary is capable of providing the legislature with data regarding the case types and the adjudication of those cases for the last four years. However, a determination of which offenses are "appropriate for decriminalization" is a policy decision which falls within the purview of the Legislature. Therefore, the Judiciary does not believe that it would be suitable for the Judiciary to propose any legislation to decriminalize certain offenses.

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- (3) The Judiciary would also like clarification on whether or not the data provided should include offenses that are based on county ordinances. It is possible that in certain circuits, a high percentage of cases are violations of county ordinances, which would require changes by the respective counties. Any state legislation would not be applicable to these ordinances.

Thank you.



## **Office of the Public Defender State of Hawaii**



**Timothy Ho, Chief Deputy Public Defender**  
**Testimony of the Office of the Public Defender,**  
**State of Hawaii to the Senate Committee on Judiciary and Labor**

March 30, 2015, 9:20 a.m.

RE: SCR 98: REQUESTING THE JUDICIARY TO CONDUCT A STUDY TO IDENTIFY TRAFFIC OFFENSES AND CRIMES, PETTY MISDEMEANOR OFFENSES THAT CAUSE A DISPROPORTIONATE WORKLOAD FOR THE JUDICIARY THAT MAY BE APPROPRIATE FOR DECRIMINALIZATION AS INFRACTIONS

Chair Keith-Agaran and Members of the Committee:

The Office of the Public Defender supports SCR 98. There are many traffic and criminal petty misdemeanors that if reduced to infractions and violations, will reduce the amount of cases and court appearances.

For example, excessive speeding (§291C-105, HRS), an offense for which in practice, jail time is never imposed, is classified as a petty misdemeanor, and punishable by up to five days of jail for a first offense, and up to thirty days jail for a third offense. Court appearances, and referrals to the public defender are required, adding to court congestion. Since jail is never imposed for excessive speeding, it should be decriminalized, obviating the need for court appearances and referrals to attorneys.

There are many other offenses, city ordinances, in particular, that are surprisingly criminal in nature. Failing to maintain accurate taxi trip records (§12-1.12, Rev. Ord.) and a taxi improperly parked awaiting a fare (§12-4.4, Rev. Ord.) are misdemeanor offenses, punishable by up to a year in jail, and therefore eligible for a jury trial.

We applaud this committee for recognizing the heavy burden that obscure and unnecessary cases impose in the judiciary. Our concern however, is that while on the one hand the legislature recognizes, the problem, on the other hand, it criminalizes formerly decriminalized offenses and adds new offenses every year, increasing the burden on the courts.

Thank you for the opportunity to comment on this bill.

Charlotte A. Carter-Yamauchi  
Acting Director

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LEGISLATIVE REFERENCE BUREAU  
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State Capitol, Room 446  
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Written Testimony

## **SCR98**

### **REQUESTING THE JUDICIARY TO CONDUCT A STUDY TO IDENTIFY TRAFFIC OFFENSES AND CRIMES, PETTY MISDEMEANOR OFFENSES, AND MISDEMEANOR OFFENSES THAT CAUSE A DISPROPORTIONATE WORKLOAD FOR THE JUDICIARY AND THAT MAY BE APPROPRIATE FOR DECRIMINALIZATION AS INFRACTIONS.**

Testimony by the Legislative Reference Bureau  
Charlotte A. Carter-Yamauchi, Acting Director

Presented to the Senate Committee on Judiciary and Labor

Monday, March 30, 2015, 9:20 a.m.  
Conference Room 016

Chair Keith-Agaran and Members of the Committee:

Good morning Chair Keith-Agaran and members of the Committee, my name is Charlotte Carter-Yamauchi and I am the Acting Director of the Legislative Reference Bureau. Thank you for providing the opportunity to submit written comments on Senate Concurrent Resolution No. 98, Requesting the Judiciary to Conduct a Study to Identify Traffic Offenses and Crimes, Petty Misdemeanor Offenses, Misdemeanor Offenses, and Other Violations of Law that Cause a Disproportionate Workload for the Judiciary and That May Be Appropriate for Decriminalization as Infractions. The measure also requests that the Legislative Reference Bureau assist the Judiciary in drafting any proposed legislation.

The Bureau takes no position on this measure, but believes that the services requested of the Bureau under this measure, as currently drafted, are manageable and that the Bureau will be able to provide the services in the time allotted; provided that the Bureau's interim workload is not adversely impacted by too many other studies or additional responsibilities, such as conducting, writing, or finalizing other reports, drafting legislation, or both, for other state agencies, task forces, or working groups that may be requested or required under other legislative measures.

Thank you again for the opportunity to provide written comments.

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [JDLTestimony](#)  
**Cc:**  
**Subject:** \*Submitted testimony for SCR98 on Mar 30, 2015 09:20AM\*  
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**SCR98**

Submitted on: 3/25/2015

Testimony for JDL on Mar 30, 2015 09:20AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Javier Mendez-Alvarez	Individual	Support	No

Comments:

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