

**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-EIGHTH LEGISLATURE, 2016**

ON THE FOLLOWING MEASURE:

S.B. NO. 2816, RELATING TO CRIMINAL TRESPASS.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY AND LABOR

DATE: Thursday, February 25, 2016 **TIME:** 9:00 a.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Lance M. Goto, Deputy Attorney General

Chair Keith-Agaran and Members of the Committee:

The Department of the Attorney General supports this bill.

The purpose of this administration bill, is to address the problem of people remaining on: (1) improved state land when it is closed or otherwise restricted; or (2) state land on or under any highway, by creating the new offense of criminal trespass onto state lands under chapter 708, Hawaii Revised Statutes. The bill also amends the offense of criminal trespass in the second degree to clarify that it includes government agricultural lands that are not fenced, enclosed, or secured in a manner designed to exclude intruders.

Current criminal trespass laws apply to dwellings, hotels, apartment buildings, public and private schools, fenced or enclosed properties, commercial properties, certain agricultural lands, unimproved or unused lands, public housing projects and low-income housing projects, and public parks and recreational grounds. It is not clear, however, that current criminal trespass laws would apply to improved state lands, state land on or under any highway, or unfenced, unenclosed, or unsecured agricultural lands owned by the government. This effectively leaves a gap in the criminal trespass law that may leave certain state lands without protection from criminal trespass. This bill is intended to close that gap.

The Department respectfully requests that the Committee pass this bill.

DAVID Y. IGE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committee on
JUDICIARY AND LABOR**

**Thursday, February 25, 2016
9:00 AM
Hawaii State Capitol, Room 016**

**In consideration of
SENATE BILL 2816
RELATING TO CRIMINAL TRESPASS**

Senate Bill 2816 proposes to add the offense of criminal trespass onto state lands to part II of Chapter 708, Hawaii Revised Statutes, and amends criminal trespass in the second degree to include and apply to agricultural property owned by the government that is not fenced, enclosed or otherwise secured in a manner designed to exclude intruders. **The Department of Land and Natural Resources (Department) supports this Administration measure.**

The Department believes that this measure will clarify that criminal trespass will apply to all state lands. This will help the Department by providing a greater deterrence for illegal activities on state land.

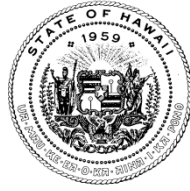
SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA W. KALUHIWA
FIRST DEPUTY

JEFFREY. T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

DAVID Y. IGE
GOVERNOR



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

February 25, 2016
9:00 a.m.
State Capitol, Room 016

S.B. 2816
RELATING TO CRIMINAL TRESPASS

Senate Committee on Judiciary and Labor

The Department of Transportation (DOT) **strongly supports** S.B. 2816. This Administration bill adds the offense of criminal trespass onto state lands to part II of chapter 708, Hawaii Revised Statutes, and amends criminal trespass in the second degree to include and apply to agricultural property owned by the government that is not fenced, enclosed or otherwise secured in a manner designed to exclude intruders.

This bill clarifies an important statute that will assist the DOT in protecting its lands, property, and facilities under its jurisdiction in providing a safe, efficient, accessible, and sustainable inter-modal transportation system that ensures the mobility of people and goods, and enhances and/or preserves economic prosperity and the quality of life.

Thank you for the opportunity to provide testimony.

Testimony by:
FORD N. FUCHIGAMI
DIRECTOR

Deputy Directors
JADE T. BUTAY
ROSS M. HIGASHI
EDWIN H. SNIFFEN
DARRELL T. YOUNG

IN REPLY REFER TO:



HAWAII

AMERICANS FOR DEMOCRATIC ACTION

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Feb. 22, 2016

TO: Honorable Chair Keith-Agaran and the Judiciary Committee

RE: SB 2816 Relating to Criminal Trespass
Oppose

HEARNG DATE: Feb. 25

Americans for Democratic Action is a national organization founded in the 1950s by leading supporters of the New Deal and led by Patsy Mink in the 1970s. We are devoted to the promotion of progressive public policies.

We oppose SB 2816 as it seems to criminalize homelessness. Of course we join in lamenting the scene of people living along an underpass. Yet we wonder what choice they have. Until we can provide housing for all our people, it does not seem fair to criminalize living on public spaces. Where will they go? Do we want them moving to parking lots of private buildings? This bill would allow for the arrest of indigent people for finding a place to pass their time of misery. Making them more miserable is possibly unconstitutional and certainly lacking in compassion.

Thank you for your consideration.

Sincerely,

John Bickel
President



Committee: Committee on Judiciary and Labor
Hearing Date/Time: Thursday, February 25, 2016 at 9:00 a.m.
Place: Conference Room 016
Re: Testimony of the ACLU of Hawaii in Opposition to S.B. 2816, Relating to Criminal Trespass

Dear Chair Keith-Agaran and Members of the Committee on Judiciary and Labor:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in opposition to S.B. 2816, which seeks to add an additional criminal trespass offense (“criminal trespass onto state lands”) to chapter 708 of the Hawaii Revised Statutes (“HRS”) and to broaden existing criminal trespass statutes.

Existing Hawaii law already penalizes several varieties of trespass, and adding an entirely new criminal trespass offense and broadening existing offenses would be unnecessarily cumulative. *See* HRS §§ 708-13 (criminal trespass in the first degree), -14 (criminal trespass in the second degree), -15 (simple trespass). Much of the conduct prohibited by the proposed offense of “criminal trespass onto state lands” is also covered under existing Hawaii law prohibiting sleeping or camping in a state park after park closure hours. *See* Hawaii Administrative Rule (“HAR”) §§ 13-146-5 (requiring permit for camping in a state park); HRS § 184-5 (violation of park rules constitutes a petty misdemeanor). Existing Hawaii law also covers the bill’s prohibition against remaining unlawfully on any highway. *See* HRS 711-1105(1) (prohibiting obstruction of “any highway or public passage”). This bill is therefore unnecessary.

Criminal trespass laws and other regulations prohibiting use of public lands disproportionately affect homeless individuals and families. Indeed, S.B. 2816 seemingly targets homeless individuals by adding redundant penalties for sleeping in state parks, lands, and highways. Criminalizing the poor does nothing to alleviate homelessness. S.B. 2816, if passed, would merely add to an existing body of law and practices that perpetuate the cycle of poverty and would result in overly harsh punishments, over-incarceration, and wasted state money. We strongly urge this committee to defer S.B. 2816.

Thank you for this opportunity to testify.

Sincerely,

Mandy Finlay
Advocacy Coordinator
ACLU of Hawaii

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for 50 years.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: *Submitted testimony for SB2816 on Feb 25, 2016 09:00AM*
Date: Saturday, February 20, 2016 8:40:36 PM

SB2816

Submitted on: 2/20/2016

Testimony for JDL on Feb 25, 2016 09:00AM in Conference Room CR016

Submitted By	Organization	Testifier Position	Present at Hearing
Rachel L. Kailianu	Ho`omana Pono, LLC	Oppose	Yes

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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