

# CLEAN SLATE

## What is “Clean Slate”?

Under Clean Slate, people are eligible to have past arrest and conviction records automatically erased after a period of time has passed without a new conviction and they have shown they can successfully reenter society.

## Why “Clean Slate”?

- People should be able to live with a Clean Slate after they have paid their debt to society.
- People with greater access to jobs, housing, and higher education are less likely to recidivate and are better able to provide for themselves and their families.
- *Studies show that those with older conviction records are about as likely to commit a new crime as those with no criminal history.<sup>1</sup>*

## What does a “Clean Slate” bill look like?

- This measure will expand eligibility for expungement beyond arrests and limited number of offenses.
- It requires the State to create a system that automates record clearance and requires automatic clearance upon eligibility of the record, including arrest records, misdemeanor records, and eligibility of at least one felony record.

<sup>1</sup> Megan C. Kurlychek, et al., *Scarlet Letters and Recidivism: Does an Old Criminal Record Predict Future Offending?*, 5 CRIMINOLOGY & PUB. POL'Y 483, 498-500 (2006).

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# PRETRIAL FAIRNESS

## Pretrial Reform in Hawai'i

- 50 percent of the people in Hawai'i jails have not been convicted of a crime. These high pretrial detention rates mean hundreds of people are locked up simply because they cannot afford the amount of bail set by the judge.
- Individuals awaiting trial in jail are more likely to receive jail or prison sentences, and longer sentences, than those released before their trial. The loss of income, possible loss of employment and housing, disruption of prescribed medications, and stresses on one's family drive many people to accept plea bargains, just get to out.

## Why is Pretrial Reform Needed?

A person's financial resources should never determine whether they sit behind bars. Under our federal and state constitutions, liberty is the norm and detention prior to trial or without trial is the carefully limited exception.

- Pretrial detention violates constitutional protections, including the Eighth Amendment (prohibits excessive bail and cruel and unusual punishment), due process, and equal protection.
- It is contrary to the fundamental American principle that one is innocent until proven guilty.
- Setting unaffordable cash bail amounts permanently destroys the lives and livelihoods of thousands of families in Hawai'i.

## What a Pretrial Reform bill will do?

- It establishes a presumption that a person charged with a crime is entitled to unconditional release.
- It requires the State to prove by clear and convincing evidence that detention is necessary to prevent willful flight, specific danger to a person/s, and/or obstruction of justice.
- It ensures detention is imposed through a fair process that includes a prompt hearing and appeal, notice of issues and evidence, proper counsel, public access to hearings and datasets, and no algorithms.
- It will result in the release of people awaiting trial, more equitable sentences, and fewer people in already overcrowded jails and prisons.

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# POLICING DATA

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## The State of Policing Data in Hawai'i

Our laws give police extraordinary authority. Police can stop anyone, search them, and even use lethal force. An increasing number of states are calling for more transparency and accountability from police departments and officers when they abuse their authority.

Current policing data collection in Hawai'i is inadequate. The data available lacks uniformity and varies from county to county, making it hard to understand, decipher, and evaluate the efficacy of policing practices.

## Why is Policing Data Collection needed?

Police must be transparent, accountable, and responsive to the communities they serve. A data collection bill is a measured step in advancing transparency and accountability related to policing in Hawai'i.

- Comprehensive data will enhance transparency by providing a better understanding of the reasons for police stops and arrests.
- Data can identify and reduce racial profiling and improve relationships between law enforcement and the communities they serve.
- This measure promotes equal protection, helps to prevent unreasonable search and seizure, and could potentially reduce police violence.

## What a Policing Data Collection bill will do?

- Police departments in all counties would be required to: 1) submit an annual report to the state legislature, 2) post the report on each department's website, and 3) make underlying data accessible to the public.
- The bill would outline the collection of data related to: traffic and detention stops, arrests, use of force, felony arrests, police complaints, misconduct, and demographic data.

