



DEPARTMENT OF THE ATTORNEY GENERAL

News Release

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**HAWAII LAW ENFORCEMENT COALITION
PROPOSES TWO CONSTITUTIONAL AMENDMENTS**

HONOLULU – The Hawai`i Law Enforcement Coalition today announced a legislative package of two bills proposing amendments to Hawai`i's Constitution.

The Coalition comprises the Attorney General, the Prosecuting Attorneys and Police Chiefs of Hawai`i's four counties, and the United States Attorney for the District of Hawai`i. The Coalition supports a broad range of measures to protect the public and restore balance in Hawai`i's criminal justice system. Both bills in the Coalition's legislative package have the unanimous support of every Coalition member.

If approved by the Legislature, these bills will place the two proposed constitutional amendments on the 2010 general election ballot for Hawai`i's voters to decide.

"During the 2008 Con Con debates, the law enforcement community strongly supported a constitutional convention," said Peter Carlisle, Prosecuting Attorney of the City and County of Honolulu. "But some legislators told voters a Con Con was unnecessary because the Legislature is the place to put important constitutional questions on the ballot. This year we will ask the legislators to put two important Constitutional Amendments on the ballot in 2010 that will have a direct impact public safety."

Relevant Evidence

- Amends Hawai`i's Constitution to provide that relevant evidence shall never be excluded in criminal cases except pursuant to the laws or Constitution of the United States or a State of Hawai`i statute.

The purpose of criminal trials ought to be to find the truth, to convict the guilty, and to free the innocent. Admission, not exclusion, of relevant evidence furthers these goals. But the Hawai`i Supreme Court has broadly interpreted Hawai`i's Constitution to require

the exclusion of relevant evidence in state criminal trials that would be admissible in any federal court and in the courts of many other states. As a result, in Hawai'i, the truth-finding function of trials suffers.

This amendment makes clear that relevant evidence shall always be admitted in criminal trials unless exclusion of that evidence is required by the laws or Constitution of the United States or a State of Hawai'i statute. The Constitution and laws of the United States, and the statutes of the State of Hawai'i duly enacted by the Legislature, will appropriately control the admission of relevant evidence. This amendment will not affect the current Hawai'i rules of evidence because those rules are State statutes.

"The Hawai'i Supreme Court has interpreted Hawai'i's Constitution to give protections to defendants in criminal cases that stretch far beyond the protections provided by the United States Constitution and many other states," Attorney General Mark Bennett said. "This amendment will restore a fair balance between the rights of defendants in criminal cases, and the rights of victims and the public to have relevant evidence presented to judges and juries."

"Yes" means "Yes", "No" means "No", "Blank" means "Blank"

- Amends Hawai'i's Constitution to prohibit the counting of blank votes and overvotes in determining whether a proposed constitutional amendment has been ratified.

Because of a 1997 Hawai'i Supreme Court decision, blank votes and overvotes are currently counted as negative or "no" votes in determining whether a constitutional amendment has been ratified by the electorate.

This bill proposes an amendment to Hawai'i's Constitution to clarify how votes on constitutional questions are to be counted. Under the proposed revision, only "yes" and "no" votes will be counted, with a simple majority of votes deciding the question. This amendment will ensure that the will of the electorate is followed, and that the decision of those voters who choose to take no position on a constitutional question is respected.

"I'm extremely pleased with this proposal to clarify that only 'yes' and 'no' votes will be counted on constitutional questions," said Shaylene Carvalho, Prosecuting Attorney of the County of Kauai. "I strongly supported this change when I served as a Councilmember, and the people of Kauai were very supportive of a counting method consistent with the method used for votes on County Charter amendments."

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____.B. NO. _____

A BILL FOR AN ACT

PROPOSING AN AMENDMENT TO ARTICLE I OF THE HAWAII CONSTITUTION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The purpose of criminal trials in the State of
2 Hawaii ought to be to find the truth, to convict the guilty, and
3 to free the innocent. Admission, not exclusion, of relevant
4 evidence furthers these goals. The Constitution and laws of the
5 United States, and statutes of the State of Hawaii duly enacted
6 by the legislature, appropriately restrict the admission of
7 relevant evidence in some circumstances. The supreme court of
8 Hawaii, however, has broadly interpreted Hawaii's Constitution
9 to require the exclusion of relevant evidence in criminal cases
10 in ways that impede the truth-finding function of criminal
11 trials. This amendment prevents that type of exclusion of
12 evidence, and makes clear that relevant evidence shall always be
13 admitted in criminal trials unless exclusion of that evidence is
14 pursuant to the United States Constitution or the laws of the
15 United States or the State of Hawaii.

16 Because the rules of evidence of the State of Hawaii are
17 statutes of the State of Hawaii, this amendment will not affect
18 the current rules of evidence.

____.B. NO. _____

1 SECTION 2. Article I of the Constitution of the State of
2 Hawaii is amended by adding a new section to be appropriately
3 designated and to read as follows:

4 "ADMISSIBILITY OF RELEVANT EVIDENCE IN CRIMINAL CASES
5 Section . Any other provision of this constitution
6 notwithstanding, relevant evidence shall never be excluded from
7 evidence in criminal cases except pursuant to the laws or
8 Constitution of the United States or a State of Hawaii statute."

9 SECTION 3. The question to be printed on the ballot shall
10 be as follows:

11 "Shall Hawaii's constitution be amended to provide that
12 relevant evidence shall never be excluded from evidence in
13 criminal cases except pursuant to the laws or Constitution of
14 the United States or a State of Hawaii statute?"

15 SECTION 4. New constitutional material is underscored.

16 SECTION 5. This amendment shall take effect upon compliance
17 with article XVII, section 3, of the Constitution of the State
18 of Hawaii.

19 INTRODUCED BY: _____

____.B. NO. _____

1 The convention shall, as provided by law, be responsible
2 for a program of voter education concerning each proposed
3 revision or amendment to be submitted to the electorate.

4 The revision or amendments shall be effective only if
5 approved at a general election by a majority of all the votes
6 [~~tallied~~] cast upon the question, [~~this majority constituting at~~
7 ~~least fifty percent of the total vote cast at the election,~~] or
8 at a special election by a majority of all the votes [~~tallied~~]
9 cast upon the question, this special election majority
10 constituting at least thirty per cent of the total number of
11 registered voters. Only ballots that are voted either YES or NO
12 shall be tallied as votes cast upon the question.

13 The provisions of this section shall be self-executing, but
14 the legislature shall make the necessary appropriations and may
15 enact legislation to facilitate their operation."

16 SECTION 3. The question to be printed on the ballot shall
17 be as follows:

18 "Shall the Constitution of the State of Hawaii be amended
19 to provide that only ballots that are voted either YES or NO
20 shall be counted in determining whether a proposed
21 constitutional amendment has been adopted?"

____.B. NO. _____

1 SECTION 4. Constitutional material to be repealed is
2 bracketed and stricken. New constitutional material is
3 underscored.

4 SECTION 5. This amendment shall take effect upon compliance
5 with article XVII, section 3, of the Constitution of the State
6 of Hawaii.

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INTRODUCED BY: _____

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